

First Reading: _____
Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, ARTICLE III, DIVISION 17, TO MAKE CERTAIN CHANGES TO THE GENERAL PENSION PLAN RELATIVE TO RETIRED PARTICIPANTS.

WHEREAS, the City of Chattanooga General Pension Plan provides retirement benefits to City employees who are not members of the Chattanooga Fire and Police Pension Fund and their designated beneficiaries; and

WHEREAS, three retired participants currently receiving pension benefits have been re-employed by the City of Chattanooga (the “City”) between April 15, 2013 and April 1, 2014; and

WHEREAS, Internal Revenue Code Sec. 411(a) requires that a qualified pension plan treat a vested employee’s benefit as non-forfeitable upon attainment of the normal retirement age stated in the plan; and

WHEREAS, the plan neither prohibits retired participants from applying for future jobs with the City nor from running for an elected office; and

WHEREAS, the plan does not address plan participation of retired participants who are receiving pension benefits and who are subsequently re-employed by the City; and

WHEREAS, the Trustees of the General Pension Board (the “Board of Trustees”) has recommended that the three retirees re-employed by the City between April 15, 2013 and April 1, 2014 (the “2013 Active Retirees”) continue to receive their pension benefit payments during their current re-employment with the City; and

WHEREAS, the Board of Trustees has further recommended that the 2013 Active Retirees be allowed to either (i) opt out of participation in the plan for their current period of re-employment and receive a refund of all contributions made for their current re-employment period or (ii) make the mandatory employee contributions at the plan’s stated percentage rate thereby entitling them to accrue credited service for the period of re-employment; and

WHEREAS, the Board of Trustees has further recommended that beginning April 1, 2014, any retired participant who (i) terminated their employment with the City, (ii) is receiving retirement benefits provided by the plan, and (iii) is re-employed by the City shall not be entitled to contribute to or participate in the plan but shall be entitled to participate in the deferred compensation program offered by the City; and

WHEREAS, the plan's actuary has acknowledged that the Board of Trustees' recommendations are consistent with sound actuarial principles, methods and assumptions and will not decrease any vested financial benefits accrued by any participant or beneficiary.

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE,

SECTION 1. That Part I, Chattanooga City Code, Chapter 2, Article III, Division 17, Section 2-303 is amended by deleting the definitions of "Employee" and "Participant" and substituting the following in lieu thereof:

Sec. 2-303. Definitions.

(6) Employee shall mean any person regularly employed by the City and paid on an hourly basis or on a weekly, semimonthly or monthly salary (but not including temporary or seasonal employees or persons rendering a service under a contract) whether employed on a full-time or a part-time basis. However, the term "employee" shall not include (i) any person employed by the City in the Department of Fire or Police who is eligible for or is participating in the [Firemen's and Policemen's Insurance and Pension Fund, created by Chapter 165 of the 1949 Private Acts], as amended in § 2-400, *et seq.* hereof, (ii) any person who is eligible for or who is participating in the Tennessee Teachers Retirement System, as contained in Section 49-1501, *et seq.* [repealed], of Tennessee Code Annotated, or (iii) any Active Retired Participant as herein defined in subsection (24). In all cases of doubt, the Board of Trustees shall determine whether or not a person is an employee as herein defined.

(7) Participant shall mean any employee or any of the 2013 Active Retirees as defined in subsections (6) and (23) of this Section 2-303 or a former employee who completed five (5) years of credited service and thereby has a vested interest in the general pension plan.

SECTION 2. BE IT FURTHER ORDAINED that Part I, Chattanooga City Code, Chapter 2, Article III, Division 17, Section 2-303 is amended by adding the following new definitions as numbers (23) and (24), respectively:

Sec. 2-303. Definitions.

(23) 2013 Active Retirees shall mean those retired participants who (i) have terminated their employment with the City, (ii) are receiving retirement benefits provided by the plan, and (iii) were re-employed by the City between April 15, 2013 and April 1, 2014; and (iv) are paid on an hourly basis or on a weekly, semimonthly or monthly salary (but not including temporary

or seasonal employees or persons rendering a service under a contract) whether employed on a full-time or a part-time basis. However, the term “2013 Active Retirees” shall not include (i) any person employed by the City in the Department of Fire or Police who is eligible for or is participating in the [Firemen’s and Policemen’s Insurance and Pension Fund, created by Chapter 165 of the 1949 Private Acts], as amended in § 2-400, *et seq.* hereof, or (ii) any person who is eligible for or who is participating in the Tennessee Teachers Retirement System, as contained in Section 49-1501, *et seq.* [repealed], of Tennessee Code Annotated.

(24) Active Retired Participant shall mean any retired participant who (i) has terminated his/her employment with the City, (ii) is receiving retirement benefits provided by the plan, (iii) is re-employed by the City on or after April 1, 2014, and (iv) is paid on an hourly basis or on a weekly, semimonthly or monthly salary (but not including temporary or seasonal employees or persons rendering a service under a contract) whether employed on a full-time or a part-time basis. However, the term “Active Retired Participant” shall not include (i) any person employed by the City in the Department of Fire or Police who is eligible for or is participating in the [Firemen’s and Policemen’s Insurance and Pension Fund, created by Chapter 165 of the 1949 Private Acts], as amended in § 2-400, *et seq.* hereof, or (ii) any person who is eligible for or who is participating in the Tennessee Teachers Retirement System, as contained in Section 49-1501, *et seq.* [repealed], of Tennessee Code Annotated. In all cases of doubt, the trustees shall determine whether or not a person is an Active Retired Participant as herein defined.

SECTION 3. BE IT FURTHER ORDAINED that Part I, Chattanooga City Code, Chapter 2, Article III, Division 17, Section 2-304 is deleted in its entirety and the following substituted in lieu thereof:

Sec. 2-304. Conditions of eligibility; non-eligibility

- (a) Except for an Active Retired Participant as that term is defined in Section 2-303(24), each employee hired after February 1, 1979, and each of the 2013 Active Retirees shall be a participant of this plan as a condition of employment. Participation in the plan shall commence with the first payroll period.
- (b) Each of the 2013 Active Retirees as that term is defined in Section 2-303(23) shall be allowed to either (i) opt out of participation in the plan for their current re-employment, receive a refund of all contributions made for their current re-employment and be eligible to participate in the deferred compensation program offered by the City or (ii) make the mandatory employee contributions at the plan’s stated percentage rate and be entitled to accrue credited service for the period of re-employment in the same manner and subject to the same vesting rules applicable to newly hired employees with any benefit earned being treated as a new and independent retirement benefit.¹

¹ It is the opinion of the City Attorney that this provision is not inconsistent with Chattanooga City Charter, Appendix 1, ¶ 35.

- (c) Except for an Active Retired Participant as that term is defined in Section 2-303(24), each employee or 2013 Active Retiree shall continue to be a participant as long as he/she continues employment with the City.
- (d) Beginning April 1, 2014, and continuing thereafter, any Active Retired Participant who has terminated his/her employment with the City and who is receiving pension benefit payments during his/her re-employment period with the City (which represents benefits accrued for periods of employment before his/her re-employment) shall continue to receive his/her pension benefit payments but shall not be entitled to participate in the plan during the period of re-employment with the City. However, during the period of re-employment, an Active Retired Participant may participate in the deferred compensation program offered by the City.

SECTION 4. BE IT FURTHER ORDAINED that this Ordinance shall take effect two

(2) weeks from and after its passage.

Passed on second and final reading: _____

CHAIRPERSON

APPROVED: _____ DISAPPROVED: _____

MAYOR

VLM/kac