

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHATTANOOGA CITY  
CODE PART II, CHAPTER 2, RELATIVE TO THE FIRE  
AND POLICE PENSION FUND.**

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Whereas, the Board of Directors of the Fire and Police Pension Fund have recommended to the City Council the adoption of certain changes relating to the Chattanooga Fire and Police Pension Fund to bring it into compliance with the requirements of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, and to make certain technical corrections, as set forth herein;

Whereas, the changes to the Chattanooga Fire and Police Pension Fund adopted herein are not inconsistent with sound actuarial principles, methods, and actuarial assumptions; and

Whereas, these changes shall not in any way decrease any vested financial benefits accrued by any participant or beneficiary of the Fire and Police Pension Fund.

NOW, THEREFORE,

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

SECTION 1. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-415, is hereby amended by designating the first paragraph thereof as Subsection (a), designating the second paragraph thereof as Subsection (b), and adding the following language as new Subsection (c):

(c)

- (1) If all or any portion of the distribution payable to a member or beneficiary under this Section or any other Section shall

remain unpaid because the Board has been unable to ascertain the whereabouts of the member or beneficiary after sending a registered letter, return receipt requested, to the last known address of such member or beneficiary, the amount so distributable may be forfeited and used to reduce the cost of the Fund. Notwithstanding the foregoing, if a claim is subsequently made by the member or beneficiary for the forfeited benefit, and such claim is determined to be valid by the Board, in its sole discretion, such benefit shall be reinstated without any other actuarial adjustment.

- (2) Claims for reinstated benefit payments shall only be payable to the member or beneficiary to whom the payment was originally payable. Eligibility for benefits ends with the death of the member or beneficiary.

SECTION 2. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-410(b)(1) be and is hereby amended by replacing the “sum of \$500.00 per month” with “an amount equal to \$500.00 per month, increased by all appropriate cost of living adjustments under this Division from and after July 1, 1999”.

SECTION 3. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-419 be and is hereby amended by deleting Subsection 4 and replacing it with the following language:

4. The term “Average Base Salary” or “Base Salary” shall mean the regular wages or salary paid on a monthly basis, but shall not include overtime pay or any supplements, including but not limited to supplements for years of service or education.

- A. Notwithstanding any other provision of law, the amount of Average Base Salary or Base Salary used to determine the benefits payable under the Fund must not exceed the amount of compensation permitted to be taken into account under Code Section 401(a)(17) as such existed on January 1, 1986.
- B. Average Base Salary or Base Salary, for purposes of the limitations under Code Sections 415 and 401(a)(17), the computation of benefits payable from the Fund and contributions, shall include any elective deferral, as defined under Code Section 402(g)(3), and any amount that is contributed or deferred by the City of Chattanooga at the election of a member and which, by reason of Sections 125 and 457 of the Code, is not includible in his gross income.

The annual Base Salary described in Subsection B. above, taken into account in determining benefit accruals in any year beginning after December 31, 2001 shall not exceed the limit set out in Code Section 401(a)(17). For this purpose, annual compensation means compensation during the calendar year or such other consecutive twelve (12) month period over which compensation is determined under the Fund (the “determination period”). The limit on annual compensation shall be adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 4. That the Chattanooga City Code, Part II, Chapter, 2, Section 2-419 be and is hereby amended by adding a new Subsection 10, as follows:

10. The term “Code” means the Internal Revenue Code of 1986, as amended.

SECTION 5. That the Chattanooga City Code, Part II, Chapter 2, be and hereby is amended by adding a new Section 2-425 thereto, as follows:

**Section 2-425. Compliance with Requirements of Internal Revenue Code**

The following provisions are intended to cause the Fund to comply with the requirements of the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

- A. **Exclusive Benefit to Employees.** All assets in the Fund must be used exclusively for the benefit of members or their beneficiaries or to defray the reasonable expenses of administration of the Fund.
- B. **Actuarial Methods.** In establishing the liabilities under the Fund and contributions thereto, the enrolled actuary will use such methods and assumptions as will reasonably reflect the cost of the benefits. The assets of the Fund are to be valued on the last day of the year (or on any other date determined by the Administrator) using any reasonable method of valuation that takes into account fair market value pursuant to regulations. There must be an actuarial valuation of the Fund at least once every year.
- C. **Mandatory Commencement of Benefits.** Notwithstanding any provision of the Fund to the contrary, the Fund will begin benefit payments to a member by the Required Beginning Date, whether or not he applies for benefits. The “Required Beginning Date” is April 1 of the calendar year following the calendar year in which the member attains age 70 ½.
- D. **Claims Procedure.** The Board shall make all determinations as to the right of any person to a benefit. Any denial by the Board of a claim for benefits under the Fund by a member or his beneficiary shall be stated in writing by the Board and delivered or mailed to the member or his beneficiary, and such notice shall set

forth the specific reasons for the denial, reference pertinent Fund provisions, describe any additional information needed and the steps to be taken to submit the claim for review, all written to the best of the Board's ability in a manner that may be understood without legal or actuarial counsel. Should the member or his beneficiary receive no response to a claim for benefits within 90 days of making the claim, it shall be deemed to be denied and the member or his beneficiary may proceed to have the claim reviewed. The claimant may, within 60 days after receiving such denial notice, request a repeal of the denial in writing, submit issues and comments, and may review pertinent documents. The Board shall reach a decision as to the claimant's appeal not later than 60 days after receiving the request for review.

**E. Maximum Limitation.**

- a. Aggregate Limits. For any limitation year the annual benefit cannot exceed the limitations set forth under Code Section 415(b) and the regulations thereunder, as applicable to a governmental plan (as defined in Code Section 414(d)), as indexed in accordance with Code Section 415(d), which are hereby incorporated by reference, including the definition of compensation under Code Section 415(c). The limitation year shall be the calendar year.

If the Fund must be aggregated with another plan to determine the effect of Code Section 415 on a member's annual benefit, and if the benefit must be reduced to comply with Code Section 415, then such reduction shall be made pro rata between the two plans, in proportion to the member's credited service in each plan.

- b. Definition. The member's accrued benefit shall not exceed the maximum permissible benefit, as defined below.
1. Defined Benefit Dollar Limitation. The "defined benefit dollar limitation" is \$160,000, as adjusted, effective January 1 of each year, under Code Section 415(d) in such manner as the Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code Section 415(d) will apply to calendar years ending with or within the calendar year for which the adjustment applies.
  2. Maximum Permissible Benefit. The "maximum permissible benefit" is the defined benefit dollar limitation, adjusted where required, as provided in subparagraphs (a), (b) and (c) below.
    - (a) Fewer Than 10 Years of Participation. If the member has fewer than 10 years of participation in the Fund, the defined benefit dollar limitation shall be multiplied by a fraction, the numerator of which is the number of years

(or part thereof) of participation in the Fund and the denominator of which is 10.

- (b) Benefits Beginning After Age 65. If the benefit of a member begins after the member attains age 65, the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age 65 (adjusted under subparagraph (a) above, if required).
- (c) Benefits Not Payable As A Straight Life Annuity. Where a benefit from the Fund is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit.

For purposes of subparagraphs (a), (b), and (c) above, the determination of actuarial equivalent shall be made in accordance with the applicable provision of Code Section 415(b)(2)(E) and related regulations and rulings.

- F. **Qualified Military Service.** Notwithstanding any provision of this Fund to the contrary, contributions, benefits and service credit for the purpose of vesting with respect to qualified military service will be provided in accordance with and to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and Code Section 414(u), under rules adopted by the Board.

That this Ordinance shall take effect immediately after its passage.

Passed on second and final reading:\_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON

APPROVED:\_\_\_\_ DISAPPROVED:\_\_\_\_

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MAYOR