

ORDINANCE NO. 13274

AN ORDINANCE AMENDING CHATTANOOGA CITY CODE,
CHAPTER 2, SECTIONS 2-321 AND 2-322, RELATIVE TO THE
GENERAL PENSION PLAN.

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

SECTION 1. That the Chattanooga City Code, Chapter 2, be and hereby is amended by
adding new Sections 2-321 and 2-322 thereto, as follows:

Sec. 2-321. Amendments at Request of Internal Revenue Service.

The following provisions are intended to cause the Plan to comply with the requirements of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, pursuant to the request of the Internal Revenue Service in connection with the Plan's Application for Determination for Employee Benefit Plan (Form 5300), filed with the IRS on January 29, 2016.

(a) For years beginning after December 31, 2008: (i) an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an employee of the employer making the payment; (ii) the differential wage payment is treated as compensation for purposes of Code §415(c)(3) and Treasury Reg. §1.415(c)-2; and (iii) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

(b) Notwithstanding any provision of the Plan to the contrary, a distributee may elect to have all or only a portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, if less than the entire amount of an eligible rollover distribution is paid directly to an eligible retirement plan, the minimum partial rollover must equal at least \$500.

(c) For purposes of subsections (b)-(e) of this Section 2-321, the following definitions shall apply:

- (1) Eligible rollover distribution. An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic

payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); the portion of any other distribution(s) that is not includible in gross income; and any other distribution that is reasonably expected to total less than \$200 during a year.

- (2) Eligible retirement plan. An "eligible retirement plan" is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a) and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality thereof which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee. Effective for distributions after December 31, 2006, in the case of a "distributee" who is a non-spouse designated beneficiary, (1) the direct rollover may be made only to a traditional or Roth individual retirement account that is established on behalf of the designated non-spouse beneficiary for the purpose of receiving that distribution and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (2) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

Roth IRA rollover. For distributions made after December 31, 2007, a participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b).

- (3) Distributee. A "distributee" includes an Employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternate payee, are distributees with regard to the interest of the spouse or former spouse.
- (4) Direct rollover. A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the distributee.

(d) For distributions after December 31, 2006, a non-spouse beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must be an "eligible rollover distribution."

- (1) Any distribution made prior to January 1, 2010 is not subject to the "direct rollover" requirements of Code §401(a)(31) (including Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c).
- (2) If the participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated beneficiary."

(e) A participant entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The notice must be provided no less than thirty (30) days and no more than 180 days (90 days for Plan Years beginning before January 1, 2007) before such distribution. The direct rollover notice must be provided to all participants, unless the total amount the participant will receive as a distribution during the calendar year is expected to be less than \$200.

(f) In case of termination of the Plan, the rights of participants to the benefits accrued under the Plan to the date of termination, to the extent then funded, shall be nonforfeitable.

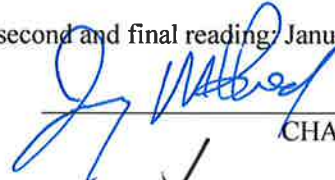
Sec. 2-322. Qualified Domestic Relations Orders and Orders for Assignment of Support.

(a) The Plan will honor claims presented under a qualified domestic relations order ("QDRO") as provided in T.C.A. Section 26-2-105. A QDRO is defined in Section 414(p) of the Internal Revenue Code. If a QDRO pertains to a participant who has not commenced receiving benefits at the time the QDRO is received by the Board of Trustees, the alternate payee under said QDRO will begin receiving a portion of the benefits otherwise payable to the participant, as specified by the order, at the time the participant commences benefits. If a QDRO pertains to a participant who is already receiving benefits under the Plan at the time the QDRO is received by the Board of Trustees, the alternate payee shall receive a portion of the payments being made to the participant, as specified by the order, at the time the order is determined by the Board of Trustees to be a QDRO that complies with T.C.A. Section 26-2-105. In no event will the alternate payee be allowed to change the payment method or the timing of the payments.

(b) As provided in T.C.A. Section 26-2-105, the Plan shall honor orders for assignment of support issued under T.C.A. Section 36-5-501.


SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: January 30, 2018



CHAIRPERSON

APPROVED: DISAPPROVED:



MAYOR

VLM/mem