

## ADMINISTRATION

### DIVISION 18. FIRE AND POLICE PENSION FUND

#### **Sec. 2-400. Appropriation to pension fund of percentage of salaries; control of fund; investments.**

The City Council of said city, after it has adopted a budget for the salaries of the departments of fire and police each year, shall add a sum to be fixed by a majority vote of the City Council of said city, which shall not be less than ten percent (10%) of each monthly payroll of those persons who are participants in the pension system, which sum so added shall be placed in the Fire and Police Pension Fund. Said pension and trust fund from all sources herein provided shall be paid to the trustee. The trustee shall be a national or state chartered bank, under a suitable bond, designated, from time to time, as the trustee of this fund by the Board of Directors. The trustee shall hold said funds for the purposes stated in this Article. The funds coming into the hands of the trustee shall be under the direction and control of the Board of Directors of the Fire and Police Pension Fund. Any and all investments made under the direction and control of the Board of Directors, and all other acts done in the administration of the plan in good faith, shall be without liability on their part. (Priv. Acts 1949, Ch. 165, #2; Priv. Acts 1971, Ch. 149, #1; Priv. Acts 1972, Ch. 406, #1; Ord. No. 8688, #1(7), 8-19-86; Ord. No. 9778, #14, 8-19-92; Ord. No. 11377, §1, 02-04-03)

#### **Sec. 2-401. Tax levy for pensions.**

The City Council of said city be and is hereby required to levy a sufficient annual tax upon all taxable property and taxable privileges within the City of Chattanooga for the purposes of raising revenue for the payment of pensions to members of said department of fire and police and appropriate same for such purpose. (Priv. Acts 1949, Ch. 165, § 3; Ord. No. 11377, §1, 02-04-03)

#### **Sec. 2-402. Assessment of employees.**

Each and every sworn firefighter and sworn police officer, excluding those employees of said departments who are not now contributing to the Pension Fund, shall be assessed a sum to be fixed by a majority vote of the Board of Directors of the Fire and Police Pension Fund which shall not be less than eight percent (8%) of each member's Base Salary.

Notwithstanding the foregoing, a member hired prior to July 1, 1999 whose Average Base Salary as of July 1, 1999 was less than \$41,138 and whose Average Base Salary as of July 1, 2007 is less than \$41,138, shall be assessed a sum, beginning July 1, 2007 and thereafter, to be fixed by a majority vote of the Board of Directors of the Fire and Police Pension Fund which shall not be less than eight percent (8%) of such member's Base Salary, but in no event less than eight percent (8%) of \$41,138, annually.

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Said amounts shall be deducted and withheld from the salary of each member during all the time such employee may be a member of said fire and police department and it shall be the duty of the city officer to pay the total amount of deduction so withheld to the Fire and Police Pension Fund at the times regular salaries are paid, and said funds shall be kept by the said Trustee as part of the Fire and Police Pension Fund. (Priv. Acts 1949, Ch. 165, § 4; Priv. Acts 1953, Ch. 90, § 1; Priv. Acts 1961, Ch. 222, § 1; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 8688, § 1 (8), 8-19-86; Ord. No. 9778, § 1(5), 8-18-92; Ord. No. 10463, § 1(2), 8-20-96; Ord. No. 11012, § 1(1), 5-9-00; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-403. Sum to be collected, paid over to trustee when employee contribution deducted.**

An amount equal to the sum fixed by the City Council, as provided in Section 2-400 of this Article, shall be collected by the tax collector and treasurer and paid over to said trustee when the contribution by the employees as provided in Section 2-402 is deducted from the payroll. (Priv. Acts 1949, Ch. 165, § 7; Priv. Acts 1969, Ch. 82, § 6; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 9778, § 1(12), 8-18-92; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-404. Proceeds from sale of unclaimed property to be placed in pension fund.**

If any personal property comes into the possession of the departments of fire and police, if the owner cannot be found, or if no person shall claim such property after six (6) months, the property shall be sold, the net proceeds derived from the sale thereof shall be turned over to said trustee to be placed in said special Fire and Police Pension Fund, as provided in Sections 2-400 and 2-402 of this Article. (Priv. Acts 1949, Ch. 165, § 6; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-405. Reserved.**

(Ord. No. 11377, §1, 02-04-03)

**Editor's note**-Former Charter § 13.69, a prior State Act, was repealed by Charter § 1(12) of Ord. No. 8688, enacted Aug. 19, 1986. The repealed provisions derived from Priv. Acts 1949, Ch. 165, § 9.

### **Sec. 2-406. Board of directors of pension fund-Created; membership; term of office; vacancies.**

(a) There is hereby created a board to be known as the Board of Directors of the Fire and Police Pension Fund, consisting of eight (8) members, three of whom shall be active members from the fire department, three of whom shall be active members of the police department, one of whom shall be the Mayor, by virtue of his office, or if the Mayor so chooses, he may replace himself with a City employee knowledgeable of pensions, investments, and financial matters appointed by the mayor, and one of whom shall not be a City employee but shall be knowledgeable of pensions, investments and financial matters to be appointed by the City Council.

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(b) The present Board of Directors shall continue in office until their respective terms expire. The members to be appointed by the mayor and city council shall have terms contemporaneous with the mayor's and council's terms of office, but shall continue to serve until their replacements are appointed.

(c) Each year on the first Tuesday of September there shall be held an election for the purpose of electing one member of said board from the fire department, and one member from the police department, for a term of three years. Said election shall be held at the fire department training center, at police headquarters, and at the Pension Fund Office between the hours established by the Board of Directors. The votes shall be counted openly and publicly and the firefighter and police officer who received the highest number of votes shall be elected for a term of three (3) years. At no time shall more than one member of any one rank of the fire department be elected to serve as a member of said Board, and at no time shall more than one member of any one rank of the police department be elected to serve as a member of said Board.

(d) If a vacancy of a firefighter or police officer should occur in said Board, the vacancy shall be filled by the remaining firefighters and police officers on said board for the unexpired term. If a vacancy should occur in the Board by the member appointed the mayor or the city council, the vacancy shall be filled by the mayor or city council respectively. (Priv. Acts 1949, Ch. 165, § 10; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 8688, § 1 (14), 8-19-86; Ord. No. 9778, § 1(11), 8-18-92; Ord. No. 11377, §1, 02-04-03; Ord. No. 11863, § 1, 8-8-06; Ord. No. 12155, § 1, 9-2-08)

### **Sec. 2-407. Same-Organization; officers; compensation of secretary.**

As soon as may be practical following such election the Board shall meet and organize. There shall be elected for a term of one year from the membership a president, vice-president and secretary, who shall respectively discharge the customary duties of such office. The secretary and president shall receive pay for his services, amount of such pay to be fixed by the Board, commensurate with the amount of time and work required of him to fulfill his duties. The secretary shall maintain a record or document to be known as the list of retired firefighters, police officers and their spouses; which record or document shall give a full and complete record of all pensions being paid; the action of the Board in retiring any and all persons under this Article, including the names, dates of employment in the department, date of retirement, and the reasons therefore as to all persons retired. The compensation of each of the members of the Board of Directors, except the secretary and president, shall be fixed from time to time by the City Council, City of Chattanooga, and paid from the fund. The Directors shall pay from the fund the fees, charges or expenses for consultants, actuary or legal services as well as such expenses as may be necessary for the administration of the fund. (Priv. Acts 1949, Ch. 165, § 11; Ord. No. 8688, § 1 (15), 8-19-87; Ord. No. 9778, § 1(17), 8-18-92; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-408. Same-To hear and decide applications for pensions and benefits.**

The said Board of Directors shall hear and decide all applications for pensions and death benefits under this Article, and its decision on such applications shall be final and conclusive. The said Board shall have the power to make and enforce such reasonable rules and regulations, not inconsistent with the Article, as in its opinion may be necessary or desirable for the carrying out of its duties and shall have the authority to interpret the provisions of the Article. (Priv. Acts 1949, Ch. 165, § 12; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-409. Same-Supervision of retired, disabled, etc., employees.**

Upon organization of the Board of Directors, the Board shall assume supervision of all members of the Fire Department and Police Department who have heretofore been placed on the existing pension roll, including the ones placed thereon as the result of a disability or injuries causing disability, and said Board, on the advice of competent physicians, shall determine whether or not such members have again become able to perform duties in the Fire Department and Police Department and are eligible for reinstatement. In the event the Board of Directors shall determine, on the advice of competent physicians, that an employee retired on disability is again able to work, then such employee shall be re-employed and placed on active duty. (Priv. Acts 1949, Ch. 165, § 14; Ord. No. 8688, § 1 (11), 8-19-86; Ord. No. 9778, § 1(16), 8-18-92; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-410. Disability or death benefits from cause not resulting from performance of duties.**

(a) Any member with not less than three (3) years nor more than ten (10) years of active service in the Fire Department and Police Department who shall become disabled from causes arising outside of the course of his or her employment with the said department shall so long as they remain disabled be paid a monthly sum equal to thirty percent (30%) of the Average Base Salary of such member during the three (3) years of member's service which yields the highest average; plus two percent (2%) of the said defined Average Base Salary for each year's active service in the said departments over ten (10) years but not to exceed sixty percent (60%) of the above defined Average Base Salary. Payment under this Section shall commence after the member's sick days, annual days, accumulated days, compensatory days, and annual leave days have been exhausted.

Any member with less than three (3) years of service, who shall become disabled from causes arising outside of the course of his or her employment with the said department, shall be refunded his or her contributions under the provisions of Section 2-413. In the event of death of

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any member with less than three (3) years of service, the \$10,000.00 death benefit shall be paid to his or her beneficiary and his or her contributions shall be refunded to his or her estate.

A member will not be eligible for disability benefits nor their spouse eligible for periodic death benefits under this Section if disability or death is a result of any of the following:

- (1) Excessive and habitual use by the plan member of drugs, intoxicating liquors, or narcotics unless, at the time of disability or death, such member is actively and continuously undergoing treatment for substance abuse at an approved clinic or treatment center for drug addicts and alcoholics.
- (2) Injury or disease sustained by the plan member while willfully and illegally participating in acts of violence, riots, civil insurrections, or while committing an unlawful act.
- (3) Injury or disease sustained by the plan member while serving in any Armed Forces or as the result of warfare.
- (4) Injury or disease sustained by the plan member after his or her employment has been terminated or while the plan member has been on leave without pay for a period exceeding forty-five (45) consecutive days.
- (5) Intentional, self-inflicted injury.

If a member is not qualified for benefits under this Section, he or she shall receive a refund of his or her contributions. In the event of the death of a member, when the death is a direct result of any of the above stipulations, his or her contributions shall be refunded to his or her estate.

Before approving any disability retirement request, the Board may request proof of disability or the verification by one or more competent physicians selected by the Board that the member has become disabled in accordance with the Pension Fund provisions. The Board may further require continued medical examinations of the disabled member from time to time and at its discretion. No member shall be given disability benefits under this Section if the Board finds that said disability could probably be successfully corrected by competent medical treatment, and said member fails or refuses to be so treated.

The term "disabled" or "disability" in this Section shall mean a medically determinable impairment which in the opinion of the Board prevents such member from meeting the normal and reasonable demands of his regularly assigned job or any other job in city government which the City may offer said member for which he or she is reasonably qualified by experience, training, or education.

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- (b)(1) If any member with less than ten (10) years of active service dies before retirement from any cause not growing out of and not in consequence of his or her duty in the Fire Department or Police Department, there shall be paid to his or her beneficiary the death benefit of \$10,000.00 and to the surviving spouse the sum of \$500.00 per month until death, subject to the conditions of Section "(a)" of this Section.
- (2) If a member has more than ten (10) years of active service but less than the time required for a service retirement pension and dies before retirement from any cause not growing out of and not in consequence of his or her duty in the said departments, there shall be paid to his or her beneficiary a death benefit of \$10,000.00 and to the surviving spouse until death that benefit which said spouse would have been entitled to receive under Option D, Section 2-418 of this Article, subject to the conditions of Section "(a)" of this Section.
- (3) If any member dies before retirement and has reached the conditions for a service retirement pension, there shall be paid to said member's beneficiary a death benefit of \$10,000.00, and if said member was an employee on November 3, 1992, the surviving spouse shall be paid the sum of \$500.00 per month until death, if said member has not designated the spouse as a beneficiary under one of the options listed in Section 2-418. If there is no election, the surviving spouse shall receive the benefit paid under Option D, Section 2-418.

If a member who is employed after November 3, 1992, shall die before retirement and has reached the conditions for a service retirement pension, there shall be paid to the beneficiary of said member a death benefit of \$10,000.00 and the benefits elected under Section 2-418.

(c) If there be no surviving spouse, then the dependent's minor child or children shall each receive \$500.00 per month during their minority, provided that the total amount payable to all of such children shall not exceed the member's maximum pension. If such deceased member is not survived by spouse or minor children, but is survived by two parents solely dependent upon said member, each parent, so long as he or she has no other means of support, shall receive one-half (1/2) of the benefits which a surviving spouse would receive under this Section. If there is only one parent dependent upon such member for support, such parent shall be paid the same benefits which a surviving spouse would receive under this Section.

(Ord. No. 9778, § 1(2), 8-18-92; Ord. No. 9785, adopted September 8, 1992; Ord. No. 11012, §§ 1(2)-1(4), 5-9-00)

(d) At the death, hereafter, of any retired employee of the departments of Fire and Police, who was a participant in the Fire and Police Pension Fund, and whose beneficiaries for any

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reason do not receive the \$10,000.00 death benefit in Section 2-411, or the monthly spouse's benefit in Section 2-412 of this Article, there shall be paid from the said Fire and Police Pension Fund to the member's Estate, whichever said benefits have not been received.  
(Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-411. Service retirement pension; maximum pension benefits; death benefit.**

(a) From and after July 1, 1999, a member of the Fund who was employed in the Fire Department or Police Department may at his or her election retire upon completion of twenty-five (25) years of active service in the Fire or Police Departments, and upon notifying the Board in writing of such election, receive an annual Service Retirement Pension payable in twelve (12) monthly installments in an amount equal to two and three-quarters percent (2.75%) of the average pay for such member during the highest three (3) years that such member is employed in the Fire or Police Department multiplied by said member's years of active service up to twenty-five (25) years of active service plus one and one-quarter percent (1.25%) of the aforesaid average pay for each year of active service between twenty-five (25) and thirty (30) years. Such benefit shall be based upon such member's Average Base Salary. Notwithstanding the foregoing, the Service Retirement Pension of any member who elects to take the Deferred Retirement Option Plan (DROP) shall be adjusted as provided in Sec. 2-416 below. Provided that members whose benefits would have heretofore been based upon the maximum salary of a Sergeant in the Police Department shall be required to have previously paid or to retroactively pay to the Board of Directors a sum sufficient to equal eight percent (8%) of their Average Base Salary for a minimum of three (3) years preceding the effective date of their retirement to be eligible for any increase in benefits. Notwithstanding the foregoing, the annual Service Retirement Pension payable to a member who was hired prior to July 1, 1999, shall not be less than the annual Service Retirement Pension of a Police Sergeant who retired as of July 1, 1999.

(b) From and after July 1, 1999, a member who becomes employed in the Fire or Police Departments after November 3, 1992, may at his or her election retire after the completion of twenty-five (25) years of active service in the Fire or Police Department and upon notifying the Board in writing of such election, will receive an annual Service Retirement Pension payable in twelve (12) monthly installments in an amount paid to retirees in Part "(a)" of this Section who complete twenty-five (25) years of active service in the Fire or Police Departments; plus one and one-quarter percent (1.25%) of the salary set out in Part "(a)" for each year in active service following eligibility for retirement, not to exceed five (5) years.

(c) Upon the death of any member employed on November 3, 1992, who is retired under the provisions of this Section, or upon the death of such member prior to retirement, but eligible for benefits under this Section, there shall be paid to said member's beneficiary a death benefit of \$10,000.00, and the benefits under Section 2-418, and the surviving spouse shall be paid, the sum of \$500.00 per month until death if said spouse is not a beneficiary under one of the

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options listed in Section 2-418. If the member has not elected any option prior to his or her death, a benefit shall be payable to the deceased's surviving spouse, if any, as though he or she had elected Option D., Section 2-418. If a member who is employed after November 3, 1992, shall die before retirement and has reached the conditions for a service retirement pension, there shall be paid to his or her beneficiary, or beneficiaries the death benefit of \$10,000.00 and such benefits elected under Section 2-418.

(d) The City Council, City of Chattanooga, in its discretion, only after a recommendation of the Board of Directors of the Fire and Police Pension Fund, upon advice by the Mayor, may, by ordinance, passed on three separate readings, amend any section of the Private Acts of 1949, as amended, or this Article XIII; provided that such amendment is not inconsistent with sound actuarial principles, methods, and actuarial assumptions and further provided that such amendment shall not in any way decrease any vested financial benefits accrued by any participant or beneficiary of the Fire and Police Pension Fund.

(e) Those benefits payable to participants retired prior to the date of the passage of this amendment or beneficiaries of those members retired prior to the date of the passage of this amendment shall continue under the provisions in effect at the time such benefit was granted except where specifically amended or modified to include such participants or beneficiaries. No participant or beneficiary vested as of July 1, 1999, or the effective date of this amendment, shall receive an amount that would be less than the amount payable to a participant or beneficiary with equivalent service retiring as of July 1, 1999 or the effective date of this amendment, whichever is more beneficial to the participant.

(Ord. No. 9778, § 1(3), 8-18-92; Ord. No. 11012, §§ 1(2), 1(5)-1(8), 5-9-00; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-412. Disability or death benefits from cause resulting from performance of duty.**

(a) If any member of the departments of Fire or Police while engaged in the discharge of his or her duties shall receive injuries resulting in such employee becoming disabled from performing duties in the Fire or Police Department, he or she shall be placed on a pension and paid sixty percent (60%) of the member's Base Salary as computed over the highest three (3) years of Base Salary during the member's years of active service, regardless of the length of time served; provided, however, that the member shall make application to the Board on a form to be provided by said Board, which application shall be accompanied by proof of facts entitling disability retirement, or proper medical proof of disability; provided further that before such member shall be retired on a pension the Board may have him or her examined by competent physicians to determine whether or not such disabled member is unable to discharge his or her regular duty or any other duty that may be required of him or her by officials of the Department of the Fire and Police. Due notice of application shall be recorded by the Secretary and the applicant shall be notified five (5) days in advance, unless waived by applicant, of the hearing by the Board on his or

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her application. Notwithstanding the foregoing, in no event shall a retired member's monthly benefit be less than Seven Hundred Fifty Dollars (\$750.00). No member shall be retired on a pension under this Section because of injury until six (6) months after such injury was received. Any employee retired on a pension because of an injury, in the event of recovery to the extent that he or she is again able to perform any duty required of him or her, shall be removed from the pension roll and reinstated in service. If such employee who has been placed on the pension roll refuses to allow himself or herself to be examined by physicians selected by the Board, the Board shall have the right to suspend his or her pension until such time as he or she may permit an examination by the physicians selected by the Board. No member shall be given disability benefits under this Section if the Board finds that said disability could probably be successfully corrected by competent medical treatment, and said member fails or refuses to be so treated.

(b) If any member shall die prior to retirement from any injury suffered in line of duty, or receive injuries while engaged in the performance of their duties resulting in death within six (6) months thereafter, and shall leave a surviving spouse, said surviving spouse shall be entitled, unless receiving benefits under Section 2-418, to receive until his or her death the benefit herein provided for a member receiving a disability benefit under this Section. Said surviving spouse shall in no event receive a monthly benefit of less than Five Hundred Dollars (\$500.00).

If there be no surviving spouse, then the dependent child or children shall each receive \$500.00 per month during the minority, provided that the total amount payable to all of such children shall not exceed the member's maximum pension. If such deceased member is not survived by spouse or minor children, but is survived by two parents solely dependent upon said member, each parent so long as he or she has no other means of support, shall receive one-half (1/2) of the benefits to which a surviving spouse would receive under this Section. If there is only one parent dependent upon such member for support, such parent shall be paid the same benefits which a surviving spouse would receive under this Section.

(c) Upon death of any member who retires under the provision of this Section, there shall be paid to his or her beneficiary or beneficiaries the sum of \$10,000.00. (Ord. No. 9778, § 1(6), 8-18-92; Ord. No. 10747, § 1(1), 8-18-98; Ord. No. 11012, §§ 1(3), 1(9)-1(10), 5-9-00; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-413. Refund to member terminating employment.**

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, if the employment of a member is terminated for any reason, or if the member is on leave without pay for a period in excess of ninety (90) consecutive days, said member shall be entitled to receive at the time of said termination or leave 100% of whatever sums he or she contributed to the fund. If such member is subsequently reemployed in the fire and police department, he or she shall at the time of reemployment reimburse the fund to the full extent of the amount he or she received from the fund upon said termination with interest compounded annually

and computed at the rate utilized in the actuarial evaluation of the Pension Fund during their periods of absence from the date of said withdrawal to the date of reemployment. Any such employee withdrawing monies from the fund pursuant to the provisions herein shall not be eligible for reinstatement or reemployment in the fire and police department until they shall have paid back the said monies. (Ord. No. 9778, § 1(7), 8-18-92; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-414. Benefits exempt from debts of employee, may not be garnished, etc.**

The Pension Fund, either before or after its distribution by the trustee to disabled or retired employees of said fire and police department, and their widows, or the beneficiary of any deceased employee, shall be exempt from the debts of such employee and shall not be assignable nor subject to attachment, garnishment, execution or other legal process, but the same shall be received by such employee or beneficiary, free from debts, judgments and demands of such employee or beneficiary. (Priv. Acts 1949, Ch. 165, § 18; Ord. No. 9778, § 1(13), 8-18-92; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-415. Termination of employment after ten years of service; vesting; death after termination.**

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, a member who has completed ten (10) or more years of active service at the time of his or her termination of employment, or at the time he or she has been on leave without pay for a period in excess of ninety (90) consecutive days, shall have the right to either (1) or (2) as follows:

(1) A right to receive a 100% refund of whatever sums he or she contributed to the Fund. If such member is subsequently reemployed in the Fire and Police Department, he or she shall at the time of reemployment reimburse the Fund to the full extent of the amount he or she received from the Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial valuation of the Fund from the date of withdrawal to the date of reemployment.

(2) A right to leave his or her contribution in the Fund and be eligible to receive after reaching fifty-five (55) years of age a monthly deferred vested retirement benefit equal to 2.4% of his or her Average Base Salary as computed over the highest three (3) years of pay during the member's years of service for each year of active service, subject to a maximum of twenty-five (25) years.

If the death of such member occurs prior to commencement of the payment of any benefits under this Section, a refund of whatever sums such member contributed to the Fund shall be paid to the member's estate, and his or her beneficiary shall be paid a death benefit sum of \$10,000.00. If death occurs following the commencement of eligibility to receive benefits under this Section,

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benefits shall be payable according to the terms elected under Section 2-410. If there is no election a surviving spouse shall receive the benefit paid under Option D.  
(Priv. Acts. 1949, Ch. 165, #19; Ord. No. 8688, #1(18), 8-19-86; Ord. No. 9778, #8, 8-18-92; Ord. No. 9839, #3, 2-9-93; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-416. Permanent and Total Disability**

(a) From and after July 1, 1999, if an active member of the departments of Fire or Police shall become Permanently and Totally Disabled, he or she shall be placed on a pension and paid sixty-eight and 75/100 percent (68.75%) of the member's Base Salary as computed over the highest three (3) years of Base Salary during the member's years of active service, regardless of the length of time served, provided, however, that the member shall make application to the Board on a form to be provided by said Board, which application shall be accompanied by proof of facts entitling the member to Permanent and Total Disability retirement, or proper medical proof of Permanent and Total Disability; provided further that before such member shall be retired on a pension the Board may have him or her examined by competent licensed physicians to determine whether or not such member is Permanently and Totally Disabled. Due notice of application shall be recorded by the Secretary and the applicant shall be notified five (5) days in advance, unless waived by applicant, of the hearing by the Board on his or her application. Notwithstanding the foregoing, in no event shall a retired member's monthly benefit be less than Seven Hundred Fifty Dollars (\$750.00).

(b) In the event that a member who was Permanently and Totally Disabled recovers to the extent that he or she is able to engage in gainful employment again, he or she shall notify the Board of such change of condition and such Permanent and Total Disability retirement pension shall be discontinued. Such member may reapply for such other disability pension as such member may be eligible for. If such member who has been placed on the pension roll refuses to allow himself or herself to be examined by physicians selected by the Board, the Board shall have the right to suspend his or her pension until such time as he or she may permit an examination by physicians selected by the Board.

(c) In addition to any other Permanent and Total Disability Benefit to which a member is entitled under this Section, if a member has one or more minor children at the time he or she begins to receive a Permanent and Total Disability retirement pension, he or she shall receive Five Hundred Dollars (\$500.00) per month, per minor child, not to exceed a total of One Thousand Dollars (\$1,000.00) during the minority of such children.

(d) The Board shall provide to the Mayor and City Council on or before April 1 of each year an annual report of the action of the Board on applications for Permanent and Total Disability pensions during the preceding calendar year.

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(e) The City Council declares its intent to review the effect of increasing Disability benefits as provided by this section, and to sunset said increases effective December 31, 2008. The Board shall submit a report by an actuary or such other information as may be available to evaluate said effects to be prepared not less than 90 days nor more than 180 days prior to December 31, 2008. The benefits provided by this section which are over and above any benefits that have heretofore been authorized by Section 13.74 or 13.76 of the Chattanooga City Code, Part I, shall terminate effective December 31, 2008, unless they are renewed by the City Council on or before said date. Any application for Permanent and Total Disability benefits presented prior to December 31, 2008, shall be governed by the provisions of this section. Any application presented after that date shall be governed by any applicable enactment of the City Council. If the City Council fails to act, then the provisions of Chattanooga City Code, Part I, Sections 13.74 or 13.76 as amended and existing prior to the enactment of this provision shall apply to applications submitted on and after January 1, 2009, supplanting the benefits provided by this section. (Ord. No. 11377, §1, 02-04-03; Ord. No. 12067, 1-15-08)

### **Sec. 2-417. Cost of living adjustments to pension benefits.**

The benefits payable to retired members or any of their survivors or beneficiaries shall be increased each January 1, following the first twelve (12) months of benefit, by three percent (3%). (Ord. No. 9778, § 1(10), 8-18-92; Ord. No. 11012, § 1(11), 5-9-00; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-418. Optional retirement benefits.**

1. When a member reaches the conditions for retirement benefits under Section 2-411; or qualifies to reach the conditions for retirement benefits under Section 2-411 and qualified for retirement benefits under Section 2-412; or is eligible to commence receiving retirement benefits under Section 2-415, he or she may elect to have the pension benefits under said Sections converted into an optional retirement benefit which is the actuarial equivalent of such benefit based upon mortality basis approved from time to time by the Board, and the age of the member and of the beneficiary as of the date the member becomes eligible to exercise the election.

The optional retirement benefits may take one of the forms listed below and for members who become employed after November 3, 1992 there shall be paid to the beneficiary the option selected by such member under this Section; but for a member who was an employee on November 3, 1992, the surviving spouse shall receive the sum of \$500.00 per month for life, if the said member has not designated the spouse as a beneficiary under one of the option forms listed below.

OPTION A: 120 Payments Certain and Life Option

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A decreased retirement benefit payable for life with the first 120 payments guaranteed. Any guaranteed payments due after the death of the retired participant shall be payable to the designated beneficiary, if any who survives the retired participant, or the estate of the retired participant if there is no surviving designated beneficiary.

### OPTION B: Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 100% of that payable to the retired participant.

### OPTION C: Modified Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life which shall continue after his or her death to their surviving beneficiary at 75% of that payable to the retired participant.

### OPTION D: Modified Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life which shall continue after his or her death to their surviving beneficiary at 50% of that payable to the retired participant.

### OPTION E: Modification of Option B

A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 100% of that payable to the retired participant provided, that if such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

### OPTION F: Modification of Option C

A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 75% of that payable to the retired participant provided, that if such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

### OPTION G: Modification of Option D

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A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 50% of that payable to the retired participant provided, that if such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

2. Application for any optional retirement benefit shall be in writing, duly executed, and filed with the Board. Such application shall contain all information required by the Board, including such proofs of age as are deemed necessary by the Board. A retirement option selected at the time of eligibility may only be changed by written notice of the new election filed with or prior to his or her application for retirement and subject to such requirement as the Board may require.

3. If an active member dies after he or she has reached the aforesaid conditions for retirement benefits, any option they may have elected, in lieu of their otherwise retirement benefit, shall be payable as though he or she had been entitled to have such optional benefit commence on their date of death. (Ord. No. 9778, § 1(9), 8-18-92)

4. In the event of a divorce of a member who retired under an optional retirement plan, where the spouse is the designated beneficiary, the beneficiary may be cancelled upon the written request of the member and proper documentation, which shall include the final decree and marital dissolution agreement of the parties; provided, that such cancellation is not in conflict with the decree or marital dissolution agreement. The retirement allowance payable to the retiree after the cancellation of the designated beneficiary shall not be affected by such cancellation. (Ord. No. 10463, § 1(4), 8-20-96; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-419. Definition of terms.**

1. The term "Member" shall mean an employee of the Chattanooga Fire or Police Department who is a sworn Firefighter or Police Officer. An employee hired into the said department to be a sworn Firefighter or Police Officer shall not become a member until he or she completes all training required for the position and is sworn, nor shall he or she be eligible for participation in the General Pension Plan.

2. The term "Board" shall mean the Board of Directors of the Chattanooga Fire and Police Pension Fund.

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3. The term "Fund" shall mean the Chattanooga Fire and Police Pension Fund, formerly called the Firemen's and Policemen's Insurance and Pension Fund, created by Chapter 165 of the Private Acts of 1949, as amended.

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.

5. The term "Active Service" shall mean that period of time after the date of permanent employment as a sworn officer with POST certification in the Chattanooga Police Department or a sworn officer with permanent employment in the Chattanooga Fire Department, that the member serves and is paid from the payroll of the said departments.

6. The term "Service Retirement Pension" shall mean the pension a member shall be entitled to receive upon completion of twenty-five (25) years of active service.

7. The term "Surviving Spouse" shall mean the spouse who is married to a member at the member's death and who has been continuously married to the member for a period of at least eighteen (18) months prior to the date of the member's death.

8. The term "Permanent and Total Disability" or "Permanently and Totally Disabled" shall mean the medically determinable consequences of a catastrophic injury or illness that permanently prevents a member from performing any gainful work.  
(Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-420. City court costs for benefit of Fire and Police Pension Fund.**

The sum of five dollars (\$5.00) [shall] be added as and in the nature of court costs to the cost incurred in the City Court of the City of Chattanooga on all forfeitures of fines or monies for or on conviction for violation of any city ordinances and that said increase in court costs for the City Court of the City of Chattanooga be collected by the clerk of said court and paid over to the treasurer the City of Chattanooga who will account for said funds and pay same over to the trustees of the Fire and Police Pension Fund together with all other monies properly collected for credit to said fund as herein before set out. (Priv. Acts 1969, Ch. 165, § 1; Ord. No. 11377, §1, 02-04-03)

### **Sec. 2-421. Credited service under general pension plan.**

A participant in the General Pension Plan who has transferred employment from the provisions of the Fire and Police Pension Plan shall have the right to have his service under the Fire and Police Pension Plan vested if it amounts to five (5) years or more and said participant has more than five (5) years credited service under the General Pension Plan. Such employee shall be entitled to receive at age fifty-five (55), if not employed by the City of Chattanooga, ten (10%)

percent of the pension he or she could have received if employed for twenty-five (25) years that was paid at the time of transfer, for five (5) years of service, and if any employee transfers after serving more than five (5) years and less than ten (10) years, the vested percent of said pension paid at the time of transfer shall be increased by three (3%) percent for each additional year of service up to ten (10) years of service. (Ord. No. 8688, § 1(2)(a), 8-19-86; Ord. No. 11377, §1, 02-04-03)

**Sec. 2-422. Deferred Retirement Option Provision.**

(a) From and after July 1, 1999, a member of the Fire Department and Police Department with more than twenty-five (25) years of active service, but no more than thirty (30) years of active service, may elect the Deferred Retirement Option Provision (DROP) at the time of retirement, to cover a retroactive period not to exceed thirty-six (36) months.

(b) A member shall elect to take the DROP by completing a written form provided by the Board of Directors. If a member elects to take the DROP, his or her Service Retirement Pension shall be adjusted as follows: Upon retirement, the eligible member's Service Retirement Pension shall be calculated as provided in Section 2-411 above, and further adjusted as provided in Section 2-418, if applicable, except that, for purposes of the calculation under Section 2-411, the member's active service shall be reduced by the number of months elected by the member hereunder. The number of months elected by the member hereunder shall not exceed the lesser of: (A) the number of months of active service accumulated by the member beginning on the date the member attains twenty-five (25) years of active service and ending on the member's actual retirement date; and (B) thirty-six (36) months.

(c) The member's monthly Service Retirement Pension, calculated in accordance with the provisions of subsection (b), above, shall be added together with an amount that is equal to the average of the member's monthly employee assessment, required by Section 2-402, above, for the thirty-six (36) month period immediately prior to the member's retirement. The resulting sum shall then be multiplied by the number of months elected by the member pursuant to subsection (b), above. The resulting product shall be credited with interest at seven percent (7%) annually, compounded monthly, for the same number of months. The total amount so derived shall constitute the DROP benefit, which shall be paid in a single lump sum.

(d) The DROP payment shall be paid as soon as practicable after the retirement of the member.

(e) A member's right to participate in the DROP shall not be vested until the member retires and elects to take the DROP. The DROP may be discontinued or modified at any time.

(Ord. No. 11377, 02-04-03)

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### **Sec. 2-423. Modified Deferred Retirement Option Provision.**

(a) The Deferred Retirement Option Provision (“DROP”) set forth in Section 2-422 shall be modified as provided herein for retirements occurring hereafter.

(b) Following an actuarial study by the Board’s actuary, the Board of Directors shall create a new DROP option for new firefighters and police officers, not including cadets hired for training in the Fire and Police Academies as of the effective date of this ordinance. The DROP option shall be developed using reasonable assumptions and methods such that, at the time of its effective date, the City’s required contribution to the Plan will be the same as if the DROP option were not available for new hires.

(c) The Board of Directors shall also create for current members, including cadets hired for training in the Fire and Police Academies as of the effective date of this ordinance, a new Forward DROP plan which is based upon Final Average Earnings at the beginning of the DROP period. The interest to be applied during the DROP period shall be based upon the existing actuarial earnings assumption of the Fund minus three percent (3%), not to exceed seven percent (7%). The cost of living adjustment shall not be applied to the DROP account during the DROP period, but the cost of living provisions will be restored to the monthly benefits at retirement.

(d) Current members shall have the option of continuing to utilize the DROP provided in Section 2-422 if they file a written election with the Board on or before December 31, 2008, agreeing to contribute an additional one (1%) of their average base salary to the Fund. Cadets in Fire and Police Academies as of the effective date of this ordinance shall file a written election on or before February 27, 2009. In the event that the DROP is discontinued or modified, the member shall receive a lump sum at the time of retirement or other separation from service of the additional one (1%) of the average base salary payments.

(Ord. No. 12155, §2, 9-2-08)

### **Sec. 2-424. Actuarial and Experience Study Review.**

(a) Once every five years, the first report being due on or before March 31, 2011, the Board shall submit to the City Council a full actuarial study, including an experience study, of the financial impact of the DROP on the Fund. The report should state whether or not the DROP plan is moving towards cost neutrality and when cost neutrality is expected.

(b) The Fire Chief and the Police Chief shall contemporaneously with the report set forth Paragraph (a) with assistance from the Personnel Director prepare a report to the City Council as to the impact that the DROP appears to be having on the retirement pattern of members. They shall make recommendations as to whether to continue or discontinue the DROP based upon

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whether the DROP appears to be having an adverse impact upon retirement patterns of members of either department.

(c) In the event the DROP is not moving towards cost neutrality in a reasonable period of time or the DROP is having an adverse impact upon retirement patterns of members of either department, then the City Council shall proceed in accordance with Section 2-411(d) above.

(d) In addition to the required reports set forth above, the Board shall submit quarterly performance evaluations to the City Council.

(e) Any current member making an election under Section 2-422(d) by December 31, 2008, shall contribute an additional One Percent (1%) on salary earned after January 30, 2009, to be withheld beginning with the payroll check dated February 26, 2009. (Ord. No. 12212, § 1, 2-17-09)

(f) Any cadet making an election under Section 2-422(d) by February 27, 2009, shall contribute an additional One Percent (1%) on salary earned after February 27, 2009, to be withheld beginning with the payroll check dated March 26, 2009. (Ord. No. 12212, § 1, 2-17-09) (Ord. No. 12155, §2, 9-2-08; Ord. No. 12212, § 1, 2-17-09)