

Title 13

POLICE AND FIREMEN¹

- Ch. I. In General, §§ 13.1--13.25**
- Ch. II. Salaries, §§ 13.26--13.43**
- Ch. III. Tenure, §§ 13.44--13.62**
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CHAPTER I. IN GENERAL

Sec. 13.1. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1901, Ch. 432, § 57, as amended by Priv. Acts 1911, Ch. 10, § 13, relating to the powers of the chief of police generally.

Sec. 13.2. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1901, Ch. 432, § 58, relating to the powers of policemen generally.

Sec. 13.2.1. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1969, Ch. 155, § 2, relating to a table of organization for the fire department.

Sec. 13.3. Special policemen.

The chief of police, with the approval of the city council, may, in case of need, appoint special policemen to do special duty at any place within the city, and on such terms as the city council may deem proper. (Priv. Acts 1901, Ch. 432, § 59; Priv. Acts 1911, Ch. 10, §§ 13, 17, 20; Ord. No. 10743, § 1(2), 8-18-98)

Editor's note-Ord. No. 10743, § 1(2), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. The provisions of section 13.3 became effective January 2, 1999.

¹ **Cross references-**General authority to regulate police, § 2.1(40); authority to provide police and fire departments, § 2.1(41); appointment of fire and police chief, § 3.76; nomination of police and fire department chiefs, § 3.79.

Sec. 13.4. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1901, Ch. 432, § 56, as amended by Priv. Acts 1911, Ch. 10, § 13, relating to qualifications for firemen and policemen.

Sec. 13.5. Reserved.

Editor's note-Former Sec. 13.5. was repealed by Ord. No. 9767, § 1, 8-11-92.

Sec. 13.6. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1967, Ch. 299, § 3, relating to requiring persons employed by the City as firemen or policemen to furnish a birth certificate.

Sec. 13.7. Political activities.

No officer or any member of the fire or police department shall be called on for any contribution or assessment by any political organization or member or committee thereof. No officer or member of either of said departments shall be allowed to solicit any contribution, or to sell any ticket, or to procure money by any device from the public without consent of the city council. Any person violating any of the provisions of this section shall, upon conviction in the city court, be fined not exceeding fifty dollars (\$50.00). (Priv. Acts 1901, Ch. 432, § 60; Priv. Acts 1901, Ch. 495, § 3; Priv. Acts 1911, Ch. 10, § 13)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 3 or 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Sec. 13.8. Gratuities prohibited.

No policeman, fireman or other officer in either of said departments shall, without the consent of the city council, receive any money or gratuity or compensation in addition to his salary, for any service he may render as an officer. (Priv. Acts 1901, Ch. 432, § 61; Priv. Acts 1911, Ch. 10, § 13; Ord. No. 10743, § 1(2), 8-18-98)

Editor's note-Ord. No. 10743, § 1(2), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. The provisions of section 13.8 became effective January 2, 1999.

Sec. 13.9. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1923, Ch. 580, § 1, relating to requiring two platoon systems for the fire department and setting maximum hours of service per day.

Sec. 13.10. Vacation for fire department members.

Every member of the fire department shall be entitled, without deduction of pay, to at least fifteen (15) days' annual vacation which shall be enjoyed at such time or times as may be designated by the chief of the fire department. (Acts 1923, Ch. 580, § 2)

Sec. 13.11. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1967, Ch. 52, § 2, relating to the work week and vacations for policemen and detectives.

Sec. 13.12. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1949, Ch. 127, § 2, relating to giving members of the police and fire departments one day per week off with pay.

Sec. 13.13. City to pay for repairs of uniforms damaged in discharge of duty.

The Charter of the City of Chattanooga and all acts amendatory thereof be and the same are hereby amended to require the city to pay the expenses of repairing or replacing the uniform of any policeman or fireman damaged while engaged in the performance of his duty. (Priv. Acts 1941, Ch. 472, § 1)

Sec. 13.14. Uniform and equipment allowance.

The City of Chattanooga shall provide in each fiscal budget hereafter a uniform and equipment allowance for every city fireman and policeman, and that same be paid annually thereafter to each and every city fireman and policeman beginning July 1, 1963. (Priv. Acts 1963, Ch. 30, § 2; Ord. No. 10743, § 1(4), 8-18-98)

Editor's note-Ord. No. 10743, § 1(4), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. The provisions of section 13.14 became effective January 2, 1999.

Sec. 13.15. Reserved.

(Ord. No. 10743, § 1(1), 8-18-98)

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1901, Ch. 432, § 56, as amended by Priv. Acts 1911, Ch. 10, § 13, relating to a manual of instructions.

Sec. 13.16. Political activities of members of the fire and police departments.

No officer or any member of the fire or police department(s) shall be called on for any contribution or assessment by any political organization or member or committee thereof. No officer or member of either of said departments shall be allowed to solicit any contribution, or to sell any ticket, or procure money by any device from the public while on duty or while in uniform. Any person violating any of the provisions of this Section shall, upon conviction in the City Court, be fined not exceed five hundred dollars (\$500.00) and shall be subject to disciplinary action.

(Ord. No. 10743, § 1(3), 8-18-98)

Editor's note-Ord. No. 10743, § 1(4), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. The provisions of section 13.16 became effective January 2, 1999.

Secs. 13.17 – 13.25. Reserved.

CHAPTER II. SALARIES

Secs. 13.26 – 13.30. Reserved.

Editor's note-Ord. No. 10743, § 1(1), adopted August 18, 1998, proposed an amendment to the charter, subsequently approved at a referendum of the electorate November 3, 1998. Said ordinance repealed Priv. Acts 1951, Ch. 139, relating to minimum salaries for certain members of the fire and police departments.

Secs. 13.31 -- 13.43. Reserved.

Editor's note-Section 1, Ch. 155, Private Acts 1969 repealed: Priv. Acts 1951, Ch. 9; Priv. Acts 1963, Ch. 150; Priv. Acts of 1967, Ch. 51, formerly codified as §§ 13.31 through 13.33, pertaining to the salary and additional pay for police and fire personnel.

CHAPTER III. TENURE

Sec. 13.44. Grant of tenure; arbitrary, etc., dismissal, etc., prohibited; effective date.

All firemen and policemen of the City of Chattanooga shall have safe tenure on their jobs so long as they properly and efficiently fulfill the duties of their respective positions. They shall not be discharged, or suspended for political or religious reasons or for any other unjust or arbitrary cause. This Act [chapter] shall apply to all firemen and policemen of the City of Chattanooga serving as of the effective date of this Act [chapter]; provided, however, that this Act [chapter] shall apply only to those firemen and policemen who have been employed for more than one year. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.45. Maximum period of suspension.

No suspension of any such employee [fireman or policeman] shall be of a longer period than thirty (30) days. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.46. Political activity.

Each fireman and policeman shall be free to vote for and support any political candidate he or she chooses, without interference, coercion, pressure or dictation by any superior of such employee. No fireman or policeman shall engage in political activities while on duty or while wearing his uniform. As private citizens, and while not on official duty and not in uniform, firemen and policemen shall have a right to work for and support any political candidate whom they choose so long as they do not use their official positions in connection therewith. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.47. Dismissal, suspension, etc.-To be in accord with chapter.

No fireman or policeman shall be dismissed, or suspended, except as provided herein. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.48. Same-Written charges to be filed.

Any fireman or policeman who shall be discharged, suspended, or laid off, shall be furnished with written charges within twenty-four (24) hours from such discharge, suspension, or layoff action, specifically stating the offense or offenses with which he is charged, which shall be signed by the department head. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 9437, § 1(3), 8-21-90; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.49. Same-Hearing.

Any fireman or policeman who is discharged, suspended, or laid off and who claims that such discharge, suspension, or lay off, was made for political or religious reasons, or otherwise in violation of the provisions of this Act [chapter], may request, and shall have the right to have a hearing before the committee, and such employee, or employees will have the right to have witnesses subpoenaed for such hearing without discrimination, or coercion being used against them for serving as witnesses in such hearing. A copy of said request shall be furnished to the department head. Said committee shall, within fifteen (15) days after said appeal, set a time and place for a hearing. Upon such hearing both the employee and his superior authority whose action is reviewed shall have the right to appear at the hearing and plead his cause in person or by counsel; and the right to present proof. The mayor shall have the right and duty to administer oaths, subpoena witnesses, compel the production of books and papers pertinent to any hearing, and shall have the right to file proceedings in the circuit court of Hamilton County for appropriate action for contempt against any person failing or refusing to answer or obey a summons, and to give and produce testimony before said board. Any person who shall fail to appear in response to a subpoena or to answer any questions or produce any books or papers pertinent to any such proceeding or proceedings, or hearing or who shall knowingly give false testimony in connection therein shall be guilty of a misdemeanor.

The hearing may be private or public, in the discretion of the committee. If the committee finds that the employee was discharged, suspended, or laid off for a political or a religious motive, or in violation of the provisions of this Act, the appealing employee shall be reinstated without loss of faith. The committee shall have the duty and power to affirm, reverse, set aside or modify the order of discharge, suspension or layoff, as theretofore made by the superior officer of such employee. Any and all employees discharged, or suspended in the event that such employee or employees are proven innocent of said charges by the committee or any other of the courts will be reinstated at his position he held when charges were made, with full retroactive pay for the time lost. A copy of the order of the committee shall be furnished to the proper city official. In the event said order directs the reinstatement of said employee, or retroactive pay, it shall be the ministerial duty of the cognizant officials of the City of Chattanooga to comply with the terms thereof. As used herein, the term "committee" shall mean the committee which the city council is authorized to establish, or if no such committee is established, it shall mean the city council, itself. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 9437, § 1(3)(4), 8-21-90; Ord. No. 10744, § 1(1), 8-18-98)

Sec. 13.50. Reinstated employees.

Nothing in this Act will prohibit any discharged employee from being reinstated to his former position and rank at the same salary he was receiving when discharged. (Priv. Acts 1953, Ch. 141, § 2)

Sec. 13.51. Rights of appeal under general state law.

No employee will be discharged or suspended without full rights of appealing the case in accordance with section 9008 of the Tennessee Code [T.C.A. §§ 27-9-101--27-9-103]. (Priv. Acts 1953, Ch. 141, § 3)

Sec. 13.52. Applicability of chapter.

All provisions of the Charter of the City of Chattanooga in conflict herewith be, and the same hereby are repealed. This Act shall not be construed to amend, repeal, supersede or modify chapter 301, Private Acts of 1913, except to the extent of irreconcilable conflict therewith. (Priv. Acts 1953, Ch. 141, § 4)

Secs. 13.53 -- 13.62. Reserved.

CHAPTER IV. PENSIONS²

Sec. 13.63. ["Firemen's and policemen's insurance and pension fund" established.]

The Charter of the City of Chattanooga, Tennessee and all acts heretofore passed by the General Assembly of the State of Tennessee amendatory thereof, be and the same are, hereby amended so as to authorize and require the city council of the said city to create a fund, in the manner hereinafter provided, to be known as the "firemen's and policemen's insurance and pension fund," which fund shall be for the benefit of the members of the fire and police department of said city, and their beneficiaries, as provided by this. (Priv. Acts 1949, Ch. 165, § 1; Ord. No. 9778, § 1(14), 8-18-92)

²**Cross reference**-For pension and death benefits for city employees generally, see § 3.29 et seq.

Sec. 13.64. [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 department 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 per cent (10%) of each monthly payroll of those persons who are participants in the pension system, which sum so added shall be placed in the Firemen's and Policemen's Insurance and Pension Fund. Said pension and trust fund from all sources herein provided shall be paid to the trustee. The trustee shall be a national 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 Act. The funds coming into the hands of the trustee shall be under the direction and control of the board of directors of the Firemen's and Policemen's Insurance and 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)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Sec. 13.65. [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)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 13.66. Assessment of employees.

Each and every firefighter and 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 Firemen's and Policemen's Insurance and Pension Fund which shall not be less than eight percent (8%) of each member's actual salary.

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 Firemen's and Policemen's Insurance and Pension Fund at the times regular salaries are paid, and said funds shall be kept by the said Trustee as part of the Firemen's and Policemen's Insurance and Pension Fund in accordance with the provisions of the Charter of the City of Chattanooga. (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)

Sec. 13.67. [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 of this Act [section 13.64. hereof], 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 4 [section 13.66 hereof] 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)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 13.68. [Proceeds from sale of unclaimed property to be placed in pension fund.]

If any personal property comes into the possession of the department 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 firemen's and policemen's insurance and pension fund, as provided in sections 2 and 4 of this Act [sections 13.64 and 13.66 hereof]. (Priv. Acts 1949, Ch. 165, § 6)

Sec. 13.69. Reserved.

Editor's note-Former § 13.69, which pertained to the transfer of certain funds under the prior Act, was repealed by § 1(12) of Ord. No. 8688, enacted Aug. 19, 1986. The repealed provisions derived from Priv. Acts 1949, Ch. 165, § 9.

Sec. 13.70. [Board of directors of pension fund-Created; membership; term of office; vacancies.]

There is hereby created a board to be known as the board of directors of the firemen's and policemen's insurance and pension fund, consisting of six (6) members, three (3) of which shall be active members from the fire department and three (3) from the police department. The present board of directors as elected under the provisions of section 7, chapter 509, of the Private Acts of Tennessee for the year 1935, shall continue in office until their respective terms expire. Each year after the passage of this Act 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 from the police department, for a term of three (3) years.

Said election shall be held at each of the different firehalls and at police headquarters between the hours of 6:00 a.m. and 6:00 p.m. The votes shall be counted openly and publicly and the firemen and policemen receiving 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. If a vacancy should occur in said board for any reason such vacancy shall be filled by the remaining members of said board for the unexpired term. In addition to the six (6) members hereinbefore provided

for, the mayor, by virtue of this office, shall be a member of said board. (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)

Sec. 13.71. [Same-Organization; officers; compensation of secretary.]

As soon as may be 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 firemen and policemen 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 Act, 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)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Sec. 13.72. [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 Act [chapter], and its decision on such applications shall be final and conclusive. (Priv. Acts 1949, Ch. 165, § 12)

Sec. 13.73. [Same-Supervision of retired, disabled, etc., employees.]

Upon organization of the board of directors, the board shall assume supervision of all members of the department of fire and police 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 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)

Sec. 13.74. 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 and police department who shall become disabled from causes arising outside of the course of his or her employment with the fire and police department shall so long as they remain disabled be paid a monthly sum equal to thirty percent (30%) of the disability benefit the member would have been entitled to if same member's disability was the result of a disability resulting from injuries received in the performance of his or her duty in the fire and police department; plus two percent (2%) of the said service connected disability benefit for each year's active service in the fire and police department over ten (10) years but not to exceed fifty percent (50%) of such benefit. 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. Notwithstanding the foregoing, in no event shall a retired member's monthly benefit be less than seven hundred fifty dollars (\$750.00).

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 and narcotics unless such member is actively and continuously undergoing treatment 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 employment has been terminated.
- (5) Injury or disease sustained by the plan member working for anyone other than the City and arising out of such employment.
- (6) Intentional, self-inflicted injury.

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 can 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.

- (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 and police department, there shall be paid to their beneficiary the death benefit of \$10,000.00 and to the surviving spouse the sum of \$500.00 per month until death, remarriage or age of majority, 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 fire and police department, there shall be paid to their beneficiary a death benefit of \$10,000.00 and to the surviving spouse until death or remarriage that benefit which said spouse would have been entitled to receive under Option D., Section 13.82 of this fund, 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, remarriage or age of majority if said member has not designated the spouse as a beneficiary under one of the options listed in Section 13.82. If there is no

election, the surviving spouse shall receive the benefit paid under Option D., Section 13.82.

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 13.82.

(c) If there be no surviving spouse or if the surviving spouse becomes disqualified, 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 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.

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

Editor's note-Pursuant to Section 13.75(d), Ord. No. 9785, adopted September 8, 1992, provides a death benefit for beneficiaries of certain retired employees who might not otherwise be entitled to receive same.

Sec. 13.75. 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 actual salary. 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 actual salary for a minimum of eight (8) years preceding the effective date of their retirement to be eligible for any increase in benefits.

(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 and 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 13.82, and the surviving spouse shall be paid, the sum of \$500.00 per month until death, remarriage or age of majority if said spouse is not a beneficiary under one of the options listed in Section 13.82. 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 13.82.

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 13.82.

(d) The City Council, City of Chattanooga, in its discretion, only after a recommendation of the Board of Directors of the Firemen's and Policemen's Insurance and 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; 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 Firemen's and Policemen's Insurance and 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)

Editor's note-Pursuant to Section 13.75(d) herein, Ord. No. 9839, adopted February 9, 1993, the retirement benefits are based upon the salary of a "Sergeant" rather than a "Private".

Sec. 13.76. Disability or death benefits from cause resulting from performance of duty.

(a) If any member of the department of fire and 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, but in no event in excess of a maximum pension, 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. Notwithstanding the foregoing, in no event shall a retired member's monthly benefit be less than Seven Hundred Fifty Dollars (\$750.00). 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. 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 can 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 13.82, to receive until his or her death or remarriage 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 or if the surviving spouse becomes disqualified, 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 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)

Editor's note-Pursuant to Section 13.75(d), Ord. No. 9785, adopted September 8, 1992, provides a "widow's benefit" for spouses of certain retired employees who might not otherwise be entitled to receive same.

Sec. 13.77. Refund to member terminating employment.

If the employment of a member is terminated for any reason, and said member cannot qualify for benefits under any provisions of this Plan, said member shall be entitled to receive at the time of said termination 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 plan 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)

Sec. 13.78. [Benefits exempt from debts of employee, may not be garnished, etc.]

The insurance or 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)

Sec. 13.79. Termination of employment after ten years of service; vesting; death after termination.

A member who has completed ten (10) or more years of active service at the time of his or her termination of employment 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.

(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 monthly 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, but not to exceed 2.4% of the monthly salary of such member of the Police Department who receives the maximum salary in the salary range and step of the grade of Private in the police department classification as set forth in the classification of positions.

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, benefits shall be payable according to the terms elected under Section 13.82. If there is no election a surviving spouse shall receive the benefit paid under Option D. (Ord. No. 9778, § 1(8), 8-18-92)

Editor's note-Pursuant to Section 13.75(d) herein, Ord. No. 9839, adopted February 9, 1993, the retirement benefits are based upon the salary of a "Sergeant" rather than a "Private".

Sec. 13.80. Reserved.
(Ord. No. 9778, § 1(15), 8-18-92)

Sec. 13.81. Cost of living adjustments to pension benefits.

The benefits payable to retired members or the surviving spouses or beneficiaries of retired members who retired between January 1, 1988 and December 31, 1992 and who have never received a cost of living adjustment shall receive, upon the passage of this amendment, a one (1) time three percent (3%) benefit increase.

The benefits payable to retired members who are retired on the passage of this amendment, and those who retire following the passage of this amendment or any of their survivors or beneficiaries shall be increased upon the passage of this amendment, and following twelve (12) months after the date such benefits commenced for those members who retire following the passage of this amendment, each January 1, by three percent (3%). (Ord. No. 9778, § 1(10), 8-18-92; Ord. No. 11012, § 1(11), 5-9-00)

Sec. 13.82. Optional retirement benefits.

1. When a member reaches the conditions for retirement benefits under Section 13.75; or qualifies to reach the conditions for retirement benefits under Section 13.75 and qualified for retirement benefits under Section 13.76; or is eligible to commence receiving retirement benefits under Section 13.79, 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 or 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 \$300.00 per month for life or until remarriage, 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

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

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)

Sec. 13.83. Definition of terms.

1. The term "Member" shall mean an employee of the Chattanooga Police and Fire Department who is a regular fireman, policeman, or detective. An employee hired into the Safety Department to be a regular fireman, policeman, or detective 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 Firemen's and Policemen's Insurance and Pension Fund.

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

4. The term "Maximum Pension" shall mean a pension equal to sixty percent (60%) of the average base salary of a member of the Chattanooga Police Department who receives the maximum salary in the salary range and step to Private in the police department classification as set forth in the classification of positions in the police department during the three (3) years of the member's service which yield the highest average. In the event of change of the name of said classification of Private in the police department, it shall mean that position by whatever name it may hereafter be called.

5. 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.

6. 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 Chattanooga Fire and Police Department.

7. The term "Service Retirement Pension" shall mean the pension of a member who is employed on November 3, 1992, in the Chattanooga Fire and Police Department, shall be entitled to receive upon completion of twenty-five (25) years of active service; or the pension of a member who becomes employed by the fire and police department after November 3, 1992, shall be entitled to receive after attaining fifty-five (55) years of age and the completion of twenty-five (25) years of active service in the Chattanooga Fire and Police Department. (Ord. No. 9778, § 1(4), 8-18-92)

Editor's note-Pursuant to Section 13.75(d) herein, Ord. No. 9839, adopted February 9, 1993, the retirement benefits are based upon the salary of a "Sergeant" rather than a "Private".

Sec. 13.84. [City court costs for benefit of firemen's and policemen's insurance and 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 firemen's and policemen's insurance and 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)

Sec. 13.85. [Credited service under general pension plan.]

Notwithstanding any provisions to the contrary, the Firemen's and Policemen's Insurance and Pension Plan (Pr. Acts 1949, Ch. 165, as amended) is hereby amended to provide that a participant in the General Pension Plan who has transferred employment from the provisions of the Firemen's and Policemen's Insurance and Pension Plan shall have the right to have his service under the Firemen's and Policemen's Insurance and 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)

Sec. 13.86. Deferred retirement optional plan.

A retroactive deferred retirement option plan providing alternative benefits for up to three (3) years of credited service to eligible members who have at least twenty-five (25) but no more than thirty (30) years of credited service is adopted effective July 1, 1999. A member with more

than thirty (30) years of credited service or a current retiree may elect to participate in the deferred retirement option plan provided such member elects to retire no later than December 31, 2000, or if retired elect to receive said alternate benefit by that date. The Board of Directors of the Firemen's and Policemen's Insurance and Pension Fund shall make a specific recommendation to the City Council detailing the provisions of said deferred retirement option plan.

(Ord. No. 11012, § 1(12), 5-9-00)