

DIVISION 5. - 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, 2-4-03)

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

Sec. 2-402. - Assessment of employees.

- (a) Beginning on the effective date of this ordinance and continuing until June 30, 2015, each Member will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than nine percent (9%) of the Member's Base Salary. However, each Member eligible for and who has elected to participate in the DROP provided for in Section 2-422 will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than ten percent (10%) of the Member's Base Salary.
- (b) Beginning July 1, 2015, and continuing until June 30, 2016, each Member will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than ten percent (10%) of the Member's Base Salary. However, each Member eligible for and electing to participate in the DROP provided for in Section 2-422 will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than eleven percent (11%) of the Member's Base Salary.
- (c) Beginning July 1, 2016, and continuing thereafter, each Member will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than eleven percent (11%) of the Member's Base Salary. However, each Member eligible for and electing to participate in the DROP provided for in Section 2-422 will be assessed a contribution to the Fund in an amount, fixed by majority vote of the Board, not less than twelve percent (12%) of the Member's Base Salary.
- (d) Notwithstanding the provisions of subsection (a), (b), and (c), a Member hired prior to July 1, 1999, whose Average Base Salary as of that date was less than forty-one thousand one hundred thirty-eight dollars (\$41,138.00) and whose Average Base Salary as of July 1, 2007, was less than forty-one thousand one hundred thirty-eight dollars (\$41,138.00), will be assessed a sum, beginning July

1, 2007 and continuing thereafter, to be fixed by a majority vote of the Board, which will not be less than eight percent (8%) of that Member's Base Salary, and in no event will be less than eight percent (8%) of forty-one thousand one hundred thirty-eight dollars (\$41,138.00), annually.

- (e) The contribution amounts set forth in this Section 2-402 will be deducted and withheld from the salary of each Member during the time that the Member is employed by the Chattanooga Fire or Police Department. The city officer responsible for disbursing salary payments to Members will make the appropriate deductions and withholdings of contribution amounts and will pay all such amounts to the Fund at the time deducted and withheld to be kept by its trustee in accordance with the provisions of Section 2-400 of the Chattanooga City Code.

(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, 2-4-03; Ord. No. 12813, § 1, 3-11-14)

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, 2-4-03)

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

Sec. 2-405. - Reserved.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

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 (3) of whom shall be active members from the fire department, three (3) of whom shall be active members of the police department, one (1) 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 (1) 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.

- (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 (1) member of said board from the fire department, and one (1) member from the police department, for a term of three (3) 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 (1) member of any one (1) rank of the fire department be elected to serve as a member of said Board, and at no time shall more than one (1) member of any one (1) 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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-19-86; Ord. No. 9778, § 1(11), 8-18-92; Ord. No. 11377, § 1, 2-4-03; 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 (1) 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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-19-87; Ord. No. 9778, § 1(17), 8-18-92; Ord. No. 11377, § 1, 2-4-03)

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-19-86; Ord. No. 9778, § 1(16), 8-18-92; Ord. No. 11377, § 1, 2-4-03)

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 any member with less than three (3) years of service, the ten thousand dollars (\$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) Except as hereinafter provided, injury or disease sustained by the Pension Fund member while serving in any Armed Forces or as the result of warfare. Notwithstanding the foregoing, in the case of a death or disability occurring on or after January 1, 2007, if a member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Fund as if the member had resumed and then terminated employment on account of death.
- (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 (1) 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.

- (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 ten thousand dollars (\$10,000.00) and to the surviving spouse an amount equal to \$500.00 per month, increased by all appropriate cost of living adjustments under this Division from and after July 1, 1999 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 ten thousand dollars (\$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 ten thousand dollars (\$10,000.00), and if said member was an employee on November 3, 1992, and made no election of benefits under Section 2-418, the surviving spouse will receive the benefit paid under Option D of 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 ten thousand dollars (\$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 an amount equal to five hundred dollars (\$500.00) per month, increased by all appropriate cost of living adjustments under this Division from and after July 1, 1999, 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 (2) parents solely dependent upon said member, each parent, so long as he or she has no other means of support, shall receive one-half (½) of the benefits which a surviving spouse would receive under this Section. If there is only one (1) parent dependent upon such member for support, such parent shall be paid the same benefits which a surviving spouse would receive under this Section.
- (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 reason do not receive the ten thousand dollars (\$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. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 9785, 9-8-92; Ord. No. 11012, §§ 1(2)—(4), 5-9-00; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12674, § 1, 12-11-12; Ord. No. 12813, § 2, 3-11-14; Ord. No. [13024](#), § 2, 1-26-16)

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

- (a) Minimum Age and Service Requirements for Service Retirement Pension.
- (1) Any Member who has completed ten (10) or more years of Active Service with the Chattanooga Fire or Police Department as of the effective date of this ordinance may, at his or her election, retire upon completing twenty-five (25) years of Active Service with the Chattanooga Fire or Police Department and, upon notifying the Board of his or her election pursuant to this subsection, will be entitled to receive the annual Service Retirement Pension provided in subsection (b) to be distributed in twelve (12) equal payments as benefits become payable each month.
 - (2) Any Member who has completed fewer than ten (10) years of Active Service with the Chattanooga Fire or Police Department as of the effective date of this ordinance, including, for purposes of this subsection, any person who is a fire or police academy cadet as of the effective date of this ordinance and subsequently becomes a Member, may, at his or her election, retire upon (i) completing twenty-five (25) years of Active Service with the Chattanooga Fire or Police Department and attaining the age of fifty (50) years or (ii) completing twenty-eight (28) years of Active Service with the Chattanooga Fire or Police Department and, upon notifying the Board of his or her election pursuant to (i) or (ii) of this subsection, will be entitled to receive the annual Service Retirement Pension provided in subsection (b) to be distributed in twelve (12) equal payments as benefits become payable each month.
 - (3) Any Member hired by the Chattanooga Fire or Police Department after the effective date of this ordinance (except current fire and police academy cadets covered under subsection (a)(2)) may, at his or her election, retire upon (i) completing twenty-five (25) years of Active Service with the Chattanooga Fire or Police Department and attaining the age of fifty-five (55) years or (ii) completing thirty (30) years of Active Service with the Chattanooga Fire or Police Department and, upon notifying the Board of his or her election pursuant to (i) or (ii) of this subsection, will be entitled to receive an annual Service Retirement Pension. The total annual pension for the Member will be an amount equal to two-and-one-half percent (2½%) of the average Base Salary paid to the Member during his or her three (3) highest-earning years of Active Service in the Chattanooga Fire or Police Department multiplied by the Member's years of Active Service up to a maximum annual payment equal to no more than seventy-five percent (75%) of the average Base Salary paid to the Member during his or her three (3) highest-earning years of Active Service in the Chattanooga Fire or Police Department. The annual pension will be distributed in twelve (12) equal payments as benefits become payable each month.
 - (4) Notwithstanding the foregoing, the age and service requirements of paragraphs (1), (2), and (3) of this subsection (a) must comply with the rules and regulations of the Internal Revenue Service relating to normal retirement as they may change from time to time. If the age and service requirements do not comply with these rules and regulations, then they will change automatically to comply.
- (b) 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 to be distributed in twelve (12) equal payments as benefits become payable each month in an amount equal to two and three-quarters percent (2¾%) 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 (1¼%) 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.
- (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 ten thousand dollars (\$10,000.00), and the benefits under Section 2-418, and the surviving spouse shall be paid the sum of five hundred dollars (\$500.00) per month, increased by all appropriate cost of living adjustments

under this Division from and after July 1, 1999, until death if said spouse is not a beneficiary under one of the options listed in Section 2-418. Effective January 1, 2013, upon the death of such member who is eligible for benefits under this Section, there shall be paid to said member's beneficiary a death benefit of ten thousand dollars (\$10,000.00), and the benefits, if any, elected by the member under 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. Notwithstanding the foregoing, if a member who is employed on November 3, 1992, but is not eligible for benefits under this Section on January 1, 2013, or is employed after November 3, 1992, shall die before retirement and after reaching the conditions to be eligible for benefits under this Section or shall die after retirement, there shall be paid to his or her beneficiary or beneficiaries the benefit of ten thousand dollars (\$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 (3) 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 July 1, 1999, or beneficiaries of those members retired prior to July 1, 1999, 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, will 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.
- (f) For years beginning after December 31, 2008, (i) a member receiving a differential wage payment, as defined by Section 3401(h)(2) of the Internal Revenue Code of 1986, as amended, shall be treated as an employee of the City of Chattanooga, (ii) the differential wage payment shall be treated as compensation, and (iii) the Pension Fund shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code of 1986, as amended, by reason of any contribution or benefit which is based on the differential wage payment.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 11012, §§ 1(2), 1(5)—(8), 5-9-00; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12674, §§ 2, 3, 12-11-12; Ord. No. 12813, § 3, 3-11-14)

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 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), increased by all appropriate cost of living adjustments under this Division from and after July 1, 1999.

If there be no surviving spouse, then the dependent child or children shall each receive five hundred dollars (\$500.00) per month increased by all appropriate cost of living adjustments under this Division from and after July 1, 1999, 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 (2) parents solely dependent upon said member, each parent so long as he or she has no other means of support, shall receive one-half (½) of the benefits to which a surviving spouse would receive under this Section. If there is only one (1) 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) Notwithstanding the provisions of subsection (b), if any Member employed by the Chattanooga Fire or Police Department on or after April 1, 2011, is killed in the line of duty prior to retirement, the Member's surviving spouse will be placed on an annual pension calculated as one hundred percent (100%) of the average Base Salary paid to the Member during his or her three (3) highest-earning years of Active Service in the Chattanooga Fire or Police Department. This pension will be distributed in twelve (12) equal payments as benefits become payable each month until the death of the Member's surviving spouse.

- (d) Upon death of any member who retires under the provisions of subsection (a), there shall be paid to his or her beneficiary or beneficiaries the sum of ten thousand dollars (\$10,000.00).

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 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, 2-4-03; Ord. No. 12813, § 4, 3-11-14)

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 one hundred percent (100%) of whatever sums he or she contributed to the Pension Fund. If such member is subsequently reemployed in the Fire or Police Department, he or she may at the time of reemployment reimburse the Pension Fund to the full extent of the amount he or she received from the Pension 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 reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may not be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12674, § 4, 12-11-12)

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 11377, § 1, 2-4-03)

Sec. 2-415. - Termination of employment after ten (10) years of service; vesting; death after termination.

- (a) 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 one hundred percent (100%) refund of whatever sums he or she contributed to the Pension Fund. If such member is subsequently reemployed in the Fire or Police Department, he or she may at the time of reemployment reimburse the Pension Fund to the full extent of the amount he or she received from the Pension Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial valuation of the Pension Fund from the date of withdrawal to the date of reemployment. Any reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may not be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.
 - (2) A right to leave his or her contribution in the Pension Fund and be eligible to receive after reaching fifty-five (55) years of age a monthly deferred vested retirement benefit equal to two and four-tenths percent (2 4/10 %) 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.
- (b) 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 Pension Fund shall be paid to the member's estate, and his or her beneficiary shall be paid a death benefit sum of ten thousand dollars (\$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 2-418.
- (c) (1) If all or any portion of the distribution payable to a member or beneficiary under this section or any other section shall remain unpaid because the board has been unable to ascertain the whereabouts of the member or beneficiary after sending a registered letter, return receipt requested, to the last known address of such member or beneficiary, the amount so distributable may be forfeited and used to reduce the cost of the fund. Notwithstanding the foregoing, if a claim is subsequently made by the member or beneficiary for the forfeited benefit, and such claim is determined to be valid by the board, in its sole discretion, such benefit shall be reinstated without any other actuarial adjustment.
- (2) Claims for reinstated benefit payments shall only be payable to the member or beneficiary to whom the payment was originally payable. Eligibility for benefits ends with the death of the member or beneficiary.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-19-86; Ord. No. 9778, § 8, 8-18-92; Ord. No. 9839, § 3, 2-9-93; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12674, § 5, 12-11-12; Ord. No. [13024](#), § 1, 1-26-16)

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 seventy-five-hundredths 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 (1) 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.
- (e) The City Council declares its intent to rescind the sunset provisions of Section 2-416(e) of the Chattanooga City Code.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

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

- (a) The annual pension to a Member retired before the effective date of this ordinance, or to any qualified survivor or beneficiary of such Member will be increased in the manner described in subsection (b) or (c), whichever is applicable, each January 1 after the twelfth monthly benefit payable.
- (b) Any time the Fund is less than eighty percent (80%) funded on a market value basis as determined by the Fund's most recently completed annual actuarial valuation and review, the total amount payable from the Fund to eligible recipients will be increased effective each January 1, beginning as soon as practicable after January 1, 2015, by one and one-half percent (1½%). This increase will be allocated among eligible retired Members receiving annual pensions and the qualified survivors or beneficiaries of such Members by the Board, after consultation with the Fund's actuary, to provide higher cost of living adjustments to those receiving lower monthly benefits payable. In no event,

however, will any annual pension be increased by greater than two percent (2%) or less than one percent (1%) of the monthly benefit payable.

- (c) Any time the Fund is at least eighty percent (80%) funded on a market value basis as determined by the Fund's most recently completed annual actuarial valuation and review, all cost of living adjustments beginning the following January 1 will correspond to the Consumer Price Index up to a maximum cost of living adjustment of three percent (3%), provided that the Fund, inclusive of this change, would not be less than eighty percent (80%) funded on a market value basis.
- (d) The cost of living adjustment for the annual pension to a Member retiring on or after the effective date of this ordinance, or to any qualified survivor or beneficiary of such Member, will be as follows:
 - (1) The annual pension to a Member retiring on or after the effective date of this ordinance, or to any qualified survivor or beneficiary of such Member, will not be increased until the January 1 after the thirty-sixth (36th) monthly benefit payable, at which time the annual pension will be increased in the manner described in subsection (b) or (c), whichever is applicable, except as provided in subsection (d)(2).
 - (2) If after the twelfth monthly benefit payable but before the thirty-sixth (36th) monthly benefit payable to a Member retiring on or after the effective date of this ordinance, or to any qualified survivor or beneficiary of such Member, the Fund is at least seventy percent (70%) funded on a market value basis as determined by the Fund's most recently completed annual actuarial valuation and review, the annual pension will be increased, beginning the following January 1, in the manner described in subsection (b) or (c), whichever is applicable, so long as the increase would not cause the Fund to fall below seventy percent (70%) funded on a market value basis. If the increase is applied, but the Fund subsequently falls below seventy percent (70%) funded on a market value basis before the thirty-sixth (36th) monthly benefit payable, then the increase for these Members will be discontinued until the January 1 following the first thirty-sixth (36th) monthly benefit payable.
- (e) For individuals eligible for cost of living adjustments effective January 1, 2015, and January 1, 2016, such cost of living adjustments will be dividend cost of living adjustments and will not be compounded or placed into the base pension amount in subsequent years. Nothing in this Section 2-417 should be construed to affect benefits payable as of the effective date of this ordinance.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 11012, § 1(11), 5-9-00; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12813, § 6, 3-11-14)

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 (1) 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, and eligible to retire on or before December 31, 2012, the surviving spouse shall receive the sum of seven hundred fifty dollars (\$750.00), increased by all appropriate cost of living adjustments under this Division, if the said member has not designated the spouse as a beneficiary under one (1) of the option forms listed below:

OPTION A: 120 Payments Certain and Life Option

A decreased retirement benefit payable for life with the first one hundred twenty (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 one hundred percent (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 seventy-five percent (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 fifty percent (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 one hundred percent (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.

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 seventy-five percent (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.

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 fifty percent (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.

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.
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. 12983, §§ 2, 3, 8-25-15](#)), 8-18-92; Ord. No. 10463, §§ 1(3), (4), 8-20-96; Ord. No. 11377, § 1, 2-4-03; Ord. No. 12813, § 7, 3-11-14)

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

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

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" means the annual pension that a Member who has elected to retire upon meeting the applicable minimum age and service requirements of Section 2-411(a) is entitled to receive and which will be distributed in twelve (12) monthly benefits payable subject to adjustment as provided in Sections 2-418, 2-422, and 2-423, if applicable.
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. Effective April 1, 2013, the term "Surviving Spouse" shall mean any spouse who meets the requirements of the preceding sentence and who is married to a member on April 1, 2013, or, the spouse who is married to a member at the member's retirement 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 and who is married to the member upon his or her 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.
9. The term "Consumer Price Index" means the percent change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) as reported by the Bureau of Labor Statistics of the United States Department of Labor for the twelve (12) months ending the previous September.
10. The term "Code" means the Internal Revenue Code of 1986, as amended.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#); Ord. No. [13024](#), §§ 3, 4, 1-26-16)

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.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

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 percent (10%) 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 percent (3%) for each additional year of service up to ten (10) years of service.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))(a), 8-19-86; Ord. No. 11377, § 1, 2-4-03)

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

- (a) Only Members who have completed at least twenty-four (24) years of Active Service with the Chattanooga Fire Department or Police Department as of the effective date of this ordinance and filed a written election with the Board on or before December 31, 2008, agreeing to contribute an additional one percent (1%) of their Average Base Salary to the Fund will be eligible for the Deferred Retirement Option Provision (DROP) described in this Section 2-422 so long as the Member complies with the contribution requirements of Section 2-402.
- (b) From and after July 1, 1999, a member of the Fire Department or 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.
- (c) 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.
- (d) The member's monthly Service Retirement Pension, calculated in accordance with the provisions of subsection (c), 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 (c), 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.
- (e) The DROP payment shall be paid as soon as practicable after the retirement of the member.
- (f) 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. 12983, §§ 2, 3, 8-25-15](#))

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

- (a) Members who do not meet the requirements of Section 2-422(a) are eligible only for the DROP described in this Section 2-423. A Member may elect to receive, and may receive, only one (1) DROP. Any Member not eligible for the DROP described in Section 2-422 who, as of the effective date of this ordinance, filed a written election with the Board on or before December 31, 2008, agreeing to contribute an additional one percent (1%) of their Average Base Salary to the Fund will have the total amount of their additional one percent (1%) contributions refunded to them as soon as practicable after the effective date of this ordinance.
- (b) Beginning on the effective date of this ordinance, a Member of the Chattanooga Fire Department or Police Department currently employed in such capacity with the City who serves at least twenty-five (25) years of Active Service, but no more than thirty-three (33) years of Active Service (the DROP Period), may elect to receive the DROP described in this Section 2-423. Any Member hired by the Chattanooga Fire or Police Department after the effective date of this ordinance who reaches the age and service requirement for a normal retirement as noted in section 2-411(a)(3), but has achieved no more than thirty-three (33) years of Active Service (the DROP Period), may elect to receive the DROP described in this Section 2-423. The Service Retirement Pension for a Member who has elected to receive the DROP described in this Section 2-423 will be adjusted as follows:

Upon retiring and providing written notice of retirement to the Board, the Member's Service Retirement Pension will be calculated as provided in Section 2-411, 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 will be reduced by the number of months elected by the Member on his or her DROP election form. The number of months elected by the Member may not exceed the lesser of (i) the number of months of Active Service accumulated by the Member beginning on the date the Member completes twenty-five (25) years of Active Service and ending on the Member's actual retirement date or (ii) thirty-six (36) months.

- (c) The DROP will be calculated by multiplying the number of months elected by the Member as provided in subsection (b) by the Member's Average Base Salary at the time the Member first becomes eligible to elect to receive the DROP as provided in subsection (b). The resulting dollar amount will be paid, in a single lump sum, from the Fund as soon as practicable after the Member's retirement. No cost of living adjustment or interest will be applied to or earned by the DROP payment.
- (d) To elect to receive the DROP described in this Section 2-423, an eligible Member must complete a written election form provided by the Board and file it with the Board during the DROP Period. The right of a Member who elects to receive the DROP described in this Section 2-423 will not accrue or vest until the Member retires.
- (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. 12983, §§ 2, 3, 8-25-15](#))

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

- (a) Immediately upon the effective date of this ordinance and once every five (5) years thereafter, the Board will commission a full actuarial study of the financial impact and cost neutrality of the DROPs on the Fund. The study will be performed by a third party actuary (an actuary or actuarial firm holding membership in the Academy of American Actuaries that does not serve as actuary for either the Board or the Fund), which will prepare a report of the study and its findings. The study and report will be submitted to the Mayor, the City Council, and the Board and will include an assessment of whether the DROP provided for in Section 2-423 is cost neutral to the Fund. The first report required by this subsection (a) is due as soon as practicable after the effective date of this ordinance. In the event that a report indicates that the DROP provided for in Section 2-423 is not cost neutral to the Fund, the Board will modify the DROP to ensure its cost neutrality to the Fund.
- (b) The Board will submit to the Mayor and City Council quarterly performance evaluations of the Fund.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

Sec. 2-425. - Compliance with requirements of Internal Revenue Code.

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

- A. Exclusive benefit to employees. All assets in the Fund must be used exclusively for the benefit of members or their beneficiaries or to defray the reasonable expenses of administration of the Fund.
- B. Actuarial methods. In establishing the liabilities under the Fund and contributions thereto, the enrolled actuary will use such methods and assumptions as will reasonably reflect the cost of the benefits. The assets of the Fund are to be valued on the last day of the year (or on any other date determined by the Administrator) using any reasonable method of valuation that

takes into account fair market value pursuant to regulations. There must be an actuarial valuation of the Fund at least once every year.

- C. Mandatory commencement of benefits . Notwithstanding any provision of the Fund to the contrary, the Fund will begin benefit payments to a member by the Required Beginning Date, whether or not he applies for benefits. The "Required Beginning Date" is April 1 of the calendar year following the calendar year in which the member attains age seventy and one-half (70 ½).
- D. Claims procedure . The Board shall make all determinations as to the right of any person to a benefit. Any denial by the Board of a claim for benefits under the Fund by a member or his beneficiary shall be stated in writing by the Board and delivered or mailed to the member or his beneficiary, and such notice shall set forth the specific reasons for the denial, reference pertinent Fund provisions, describe any additional information needed and the steps to be taken to submit the claim for review, all written to the best of the Board's ability in a manner that may be understood without legal or actuarial counsel. Should the member or his beneficiary receive no response to a claim for benefits within ninety (90) days of making the claim, it shall be deemed to be denied and the member or his beneficiary may proceed to have the claim reviewed. The claimant may, within sixty (60) days after receiving such denial notice, request a repeal of the denial in writing, submit issues and comments, and may review pertinent documents. The Board shall reach a decision as to the claimant's appeal not later than sixty (60) days after receiving the request for review.
- E. Maximum limitation .
 - a. Aggregate limits. For any limitation year the annual benefit cannot exceed the limitations set forth under Code Section 415(b) and the regulations thereunder, as applicable to a governmental plan (as defined in Code Section 414(d)), as indexed in accordance with Code Section 415(d), which are hereby incorporated by reference, including the definition of compensation under Code Section 415(c). The limitation year shall be the calendar year.

If the Fund must be aggregated with another plan to determine the effect of Code Section 415 on a member's annual benefit, and if the benefit must be reduced to comply with Code Section 415, then such reduction shall be made pro rata between the two (2) plans, in proportion to the member's credited service in each plan.
 - b. Definition. The member's accrued benefit shall not exceed the maximum permissible benefit, as defined below.
 - 1. Defined benefit dollar limitation. The "defined benefit dollar limitation" is one hundred sixty thousand dollars (\$160,000.00), as adjusted, effective January 1 of each year, under Code Section 415(d) in such manner as the Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code Section 415(d) will apply to calendar years ending with or within the calendar year for which the adjustment applies.
 - 2. Maximum permissible benefit. The "maximum permissible benefit" is the defined benefit dollar limitation, adjusted where required, as provided in subparagraphs (a), (b) and (c) below.
 - (a) Fewer than ten (10) years of participation. If the member has fewer than ten (10) years of participation in the Fund, the defined benefit dollar limitation shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Fund and the denominator of which is ten (10).
 - (b) Benefits beginning after age sixty-five (65). If the benefit of a member begins after the member attains age sixty-five (65), the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age sixty-five (65) (adjusted under subparagraph (a) above, if required).

- (c) Benefits not payable as a straight life annuity. Where a benefit from the Fund is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit.

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

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

(Ord. No. [13024](#), § 5, 1-26-16)

Secs. 2-426—2-500. - Reserved.

([Ord. No. 12983, §§ 2, 3, 8-25-15](#))

See footnote below. ^[12]

Footnotes:

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Note— The specific intent of the City Council in passing this ordinance is to create a structure for the Fund that ensures its long-term actuarial integrity and ability to pay benefits while preserving the City's fiscal health. This ordinance must be construed to effectuate this specific intent.