

ORDINANCE NO. 13239

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

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

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

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

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Chattanooga City Code, Part II, Chapter 2, Section 2-425, is hereby amended by deleting Subsection (E)(a) in its entirety and replacing it with the following language:

(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 Treas. Reg. Section 1.415(c)-2(d)(2). The definition of compensation shall include any differential wage payments made after December 31, 2008. The limitation year shall be the calendar year.

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

SECTION 2. BE IT FURTHER ORDAINED, That the Chattanooga City Code, Part II, Chapter 2, Section 2-425 be and is hereby amended by adding a new Subsection (G) thereto, as follows:

(G) Direct Rollover.

- a. Notwithstanding any provision of the Fund to the contrary that would otherwise limit a "distributee's" election under this Section, a "distributee" may elect, at the time and in the manner prescribed by the Board, to have any portion of an "eligible rollover distribution" that is equal to at least \$1,000 paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover".
- b. For purposes of this Subsection the following definitions shall apply:
 1. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the "distributee", except that an "eligible rollover distribution" does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code

Section 401(a)(9); the portion of any other distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution that is reasonably expected to total less than \$500 during a year.

2. An "eligible retirement plan" is an individual retirement account described in Code Section 408(a), (other than an endowment contract), a qualified trust (an employees' trust) described in Code Section 401(a) which is exempt from tax under Code Section 501(a), an annuity plan described in Code Section 403(a), an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and an annuity contract described in Code Section 403(b), that accepts the "distributee's" "eligible rollover distribution". However, in the case of an "eligible rollover distribution" to the surviving spouse, an "eligible retirement plan" is an individual retirement account or individual retirement annuity. In addition, a Member may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code Section 408A, or to a qualified plan or a 403(b) plan that agrees to account separately for amounts and the portion of such distribution which is not includible in gross income.
3. A "distributee" includes a Member or former Member. In addition, the Member's or former Member's surviving spouse and the Member's or former Member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are "distributees" with regard to the interest of the spouse or former spouse. In addition, a non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E) and the Regulations thereunder, may by a direct trustee-to-trustee transfer ("direct rollover") roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution. If the Member's named beneficiary is a trust, the Fund may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfied the requirements to be a designated beneficiary within the meaning of Code Section 401(a)(9)(E).
4. A "direct rollover" is a payment by the Fund to the "eligible retirement plan" specified by the "distributee".

- (c) Member Notice. A Member entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The notice must be provided within 30-to-180 days of the date of distribution. The direct rollover notice must be provided to all Members, unless the total amount the Member will receive as a distribution during the calendar year is expected to be less than \$200. The description of a Member's right, if any, to defer receipt of a distribution also will describe the consequences of failing to defer receipt of the distribution, in a manner consistent with Treasury Department requirements.

SECTION 3. BE IT FURTHER ORDAINED, That the Chattanooga City Code, Part II, Chapter 2, Section 2-425 be and is hereby amended by adding a new Subsection (H) thereto, as follows:

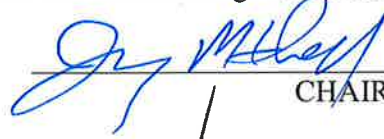
- (H) **Vesting Upon Fund Termination.** Upon termination of the Fund or upon the complete discontinuance of contributions, under the Fund, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are nonforfeitable.

SECTION 4. BE IT FURTHER ORDAINED, That the Chattanooga City Code, Part II, Chapter 2, Section 2-414 be and is hereby amended by adding the following language to the end thereof:

Notwithstanding the foregoing, effective July 1, 2016, the language of this Section 2-414 shall not apply to an "alternate payee" under a "qualified domestic relations order" as defined in Section 414(p) of the Code. The Board shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified domestic relations orders.

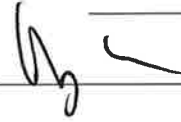
SECTION 5. BE IT FURTHER ORDAINED, That this Ordinance shall take effect immediately upon its passage.

Passed on second and final reading: November 14, 2017



CHAIRPERSON

APPROVED: DISAPPROVED:



MAYOR

/mem/v2