

ORDINANCE NO. 13414

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

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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 streamline and update the disability benefit provisions, 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,

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

SECTION 1. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-409, is hereby amended by deleting it in its entirety and replacing it with the following language:

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

Upon organization of the Board of Trustees, 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 removed from the pension rolls and his or her disability pension discontinued. (Priv. Acts 1949, Ch. 165, § 14; Ord. No. 8688, § 1 (11), 8-19-86; Ord. No. 9778, § 1(16), 8-18-92; Ord. No. 11377, §1, 02-04-03)

SECTION 2. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-410, is hereby amended by deleting it in its entirety and replacing it with the following language:

**Section 2-410. Disability or death benefits.**

(a) **Categories of disability and applicable rules and procedures.** There are three categories of disability for which disability benefits may be available:

- (1) a disability from injury or illness not resulting from performance of duties, hereafter referred to as a "non-job related disability",
- (2) a disability from injury or illness resulting from performance of duties, hereafter referred to as a "job related disability", and
- (3) permanent and total disability;

and rules, policies, and procedures for the investigation, adjudication, and determination of a claim for such benefits are set forth in subsection (f) of this Section.

(b) **Cause not resulting from performance of duties, a non-job related disability.**

- (1) Any member of the Fire Department or Police Department with not less than three (3) years nor more than ten (10) years of active service in said department who becomes disabled while employed, but from causes arising outside of and unrelated to the course of his or her employment with said department, shall so long as he or she remains 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. The benefit of any such member with more than ten (10) years of active service shall be increased by two percent (2%) of the above defined Average Base Salary for each year's active service in the said department 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.
- (2) Any member with less than three (3) years of service, who becomes disabled while employed, but 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.
- (3) If any member with more than three (3) years of active service, but less than ten (10) years of active service dies before retirement from any disability

occurring while employed, but from causes arising outside of the course of his or her employment with the said 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 from and after July 1, 1999 until death, subject to the conditions of this Section.

- (4) 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 disability occurring while employed, but from causes arising outside of the course of his or her employment with the said department, 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 this Section

(c) **Cause resulting from performance of duties, a job related disability.**

- (1) Any member of the Fire Department and Police Department who, while engaged in the discharge of his or her duties, becomes disabled, 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.
- (2) No member may be retired on a pension under this subsection (c) until at least six (6) months after such disability was incurred.
- (3)
  - (i) If any member shall die prior to retirement from any injury suffered, or receive a disability while engaged in the performance of his or her 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 from and after July 1, 1999.
  - (ii) 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 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 (1/2) 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.

- (4) Notwithstanding the provisions of subsection (c)(3), if any Member employed by the Fire Department or Police Department on or after April 1, 2011, is killed as a direct and proximate result of a personal and traumatic injury involving external forces sustained in the line of duty, 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. Notwithstanding the foregoing, if a member's spouse receives a federal death benefit, as determined under the Public Safety Officers' Benefits Act (generally codified at 34 U.S.C. sections 10281 - 10288) and under related regulations promulgated by the U.S. Department of Justice (codified at 28 C.F.R. sections 32.0 - 32.55 (2018)) he or she shall be entitled to the benefit described in this subsection (4).
- (5) Upon the death of any member who retires under the provisions of subsection (c)(1), there shall be paid to his or her beneficiary or beneficiaries the sum of ten thousand dollars (\$10,000.00).

**(d) Permanent and Total Disability, either non-job related or job related.**

- (1) From and after July 1, 1999, if an active member of the Fire Department or Police Department 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. Notwithstanding the foregoing, in no event shall a retired member's monthly benefit be less than Seven Hundred Fifty Dollars (\$750.00).
- (2) 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 must 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 for which such member may be eligible.
- (3) 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) per month during the minority of such children.

**(e) Death benefits.**

- (1) If a member dies 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.
- (2) If there be no surviving spouse, then the member'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 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.
- (3) 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.

**(f) Rules, policies, and procedures for benefit claims.**

- (1) A member seeking benefits under this Section 2-410 shall submit to the Board on a form to be provided by the Board an application accompanied by objective proof satisfactory to the Board of facts entitling the member to such benefits. Receipt of the application shall be recorded by the Secretary, and the applicant shall be notified five (5) days in advance, unless waived by applicant, of any hearing by the Board on his or her application.
- (2) It is the applicant's burden and responsibility to prove entitlement to benefits by providing satisfactory, objective proof of disability to the Board and to cooperate fully in the Board's investigation and adjudication of the claim for benefits. Taking into consideration that each claim for benefits is unique and based on the individual circumstances and personal medical history of the claimant, the Board may request proof of disability from one (1) or more competent physicians selected by the Board, in addition to any medical information provided by the member, and otherwise investigate the claim for benefits as the Board determines is reasonable under the circumstances.

- (3) At its sole discretion and from time to time, such as, but not limited to, prior to a member's being retired on a pension, the Board may require satisfactory, objective proof of continued disability and require up-to-date, current medical examinations of the disabled member.
- (4) 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 refuses to cooperate or otherwise fails or refuses to be so treated.
- (5) The term "disabled" or "disability" in this Section shall, for purposes of a non-job related disability, mean a medically determinable impairment proven by satisfactory, objective proof, which, in the sole opinion of the Board, prevents such member from meeting the normal and reasonable demands of his or her regularly assigned job or any other job which the City, or officials of the Fire Department or Police Department, may offer said member for which he or she is reasonably qualified by experience, training, or education. For purposes of a job related disability, the term "disabled" or "disability" shall mean a medically determinable impairment proven by satisfactory, objective proof, which in the sole opinion of the Board prevents such member from performing duties in the Fire or Police Department. Notwithstanding the foregoing, if a member is granted a disability for a mental health disorder, including but not limited to Post-Traumatic Stress Disorder, such member shall be removed from the pension rolls if such member goes to work, either on a paid or volunteer basis, as a paramedic, emergency medical technician, rescuer or in any other position referred to as a "first responder".
- (6) The term "Permanently and Totally Disabled" or "Permanent and Total Disability" in this Section shall have the same meaning as found in Section 2-419(8).
- (7) Any member retired on a pension because of a disability, in the event of recovery to the extent that he or she is again able to perform any duty required of him or her by the Fire Department or Police Department, shall be removed from the pension roll; if such member refuses to cooperate with the Board in its investigation of the disability, the Board shall have the right to suspend his or her pension until such time as he or she cooperates with the Board and provides satisfactory proof of continued disability.
- (8) A member will not be eligible for disability benefits nor the member's spouse eligible for periodic death benefits under this Section if disability or death is a result of any of the following:
  - (i) Excessive and habitual use by the 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;

(ii) Injury or disease sustained by the member while willfully and illegally participating in acts of violence, riots, or civil insurrections, or while committing an unlawful act;

(iii) 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;

(iv) Injury or disease sustained by the member after his or her employment has been terminated or while the member has been on leave without pay for a period exceeding forty-five (45) consecutive days; or

(v) 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.

SECTION 4. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-412, 2-416 is hereby amended by deleting it in its entirety.

SECTION 5. That the Chattanooga City Code Part II, Chapter 2, Sec. 2-416 is hereby amended by deleting it in its entirety.

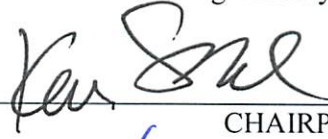
SECTION 6. That the Chattanooga City Code, Part II, Chapter 2, Sec. 2-420 is hereby amended by deleting it in its entirety and replacing it with the following language:

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

A sum determined by the City of Chattanooga, but in no event less than 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 of the City of Chattanooga who will account for said funds and pay same over to the Custodian Bank of the Fire and Police Pension Fund together with all other monies properly collected for credit to said Fund as herein before set out.

SECTION 7. BE IT FURTHER ORDAINED, That this Ordinance shall take effect immediately from and after its passage.

Passed on second and final reading: January 8, 2019

  
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CHAIRPERSON

APPROVED:  DISAPPROVED:

  
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MAYOR