

**AN ORDINANCE TO AMEND CITY CODE  
CHAPTER 19  
SECTION 19.91 - DEFINITIONS**

**WHEREAS**, participants of the City Defined Benefit Plan may elect a contingent beneficiary for death benefits. This election reduces the participant's monthly pension but allows a beneficiary to continue to receive the pension payment following the participant's death. A mortality table is used to determine the amount that the participant's pension is reduced. Current City Code language requires the use of the UP-84 Mortality Table. Since 1984, mortality experience has improved significantly. The proposed code amendment will update the definition of actuarial equivalence in City Code to allow the Retirement Commission to use updated mortality tables as they become available; and

**WHEREAS**, the required public hearings on the proposed amendment have been conducted; and

**WHEREAS**, this City Council has considered staff recommendations; and

**WHEREAS**, this Council finds that the proposed definition change will allow the Retirement Commission to use updated mortality tables as available ensuring the most up-to-date calculation for pension plan death benefits; now, therefore,

**BE IT ORDAINED** by the Council of the City of Charlottesville, Virginia that Chapter 19, Section 19.91, Definitions, of the Code of the City of Charlottesville, 1990, as amended, be and hereby is amended and reenacted as follows:

**Sec. 19-91. - Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed to them by this section, unless a different meaning is plainly required by the text:

*Accumulated contributions* means the sum of all amounts deducted from the compensation of a member and credited to their individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service and all interest credited to the member's contribution account pursuant to section 19-92(g).

*Actuarial equivalent* means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the commission. The actuarial equivalents and all actuarial calculations shall be determined on the basis of interest at an assumed rate of **7.5%**. 8%, ~~and the UP84 Mortality Table for the member, and the UP84 Mortality Table with a five year setback in age for spouses and/or beneficiaries.~~

*Appointing authority* means the city council in the case of city council appointees; the commissioner of revenue, the city treasurer, the city sheriff, the clerk of the circuit court and the commonwealth's attorney in the case of their employees; and the city manager in the case of all other members of the plan, except for such elected constitutional officers.

*Average final compensation* means the average annual creditable compensation of a member during the three (3) consecutive years of creditable service in which such compensation was at its greatest amount. However, for any person who becomes a member after June 30, 2012, average final compensation means the average annual creditable compensation of a member during the five (5) consecutive years of creditable service in which such compensation was at its greatest amount.

*Beneficiary* means any person entitled to receive benefits under this article. A beneficiary for purposes of a payment made in the event of death (other than a contingent beneficiary under an annuity option form or the survivor allowance payable pursuant to section 19-105(b) or (c)) shall be that person named by the member in a beneficiary designation form filed with the city. If no designation is filed, the beneficiary shall be the members' spouse or, if none, the member's estate.

*Commission* means the retirement plan commission provided for in article III of this chapter.

*Creditable compensation* means the full compensation payable annually to an employee working the full normal working time for their position exclusive of overtime. The creditable compensation of an employee paid on an hourly basis shall be computed at their regular hourly rate multiplied by the regular number of working hours per week multiplied by fifty-two (52). In cases where compensation includes maintenance and other perquisites, the city manager shall fix the value of the part of the compensation not paid in money. Notwithstanding the foregoing, creditable

compensation taken into account for purposes of determining benefits under the plan shall be limited by the compensation limit pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended. For purposes hereof, the compensation limit, for years beginning on or after January 1, 1986 but before December 31, 1992, is two hundred thousand dollars (\$200,000.00) as adjusted by the cost of living adjustment factor prescribed by the Secretary of the Treasury or their delegate under Section 415(d) of the Internal Revenue Code of 1986, as amended, the "adjustment factor"; and for years beginning on or after January 1, 1993, is one hundred fifty thousand dollars (\$150,000.00) (as adjusted by the adjustment factor in ten thousand dollars (\$10,000.00) increments on the basis of a base period of the calendar quarter beginning October 1, 1993). For purposes of applying the limitation applicable to each year, the limit for a plan year shall be the limitation in effect for the calendar year in which the plan year begins determined without increases in the limitation for subsequent years.

*Creditable service* means, for any member who is in service at any time after July 1, 1982, their total service as an employee, whether or not continuous, exclusive of any separate period of service of less than nine (9) months in duration, but inclusive of official leave for military service, to the extent required by federal or state law. Creditable service shall be counted in terms of calendar years, with completed months of creditable service in excess of complete years being counted as a fractional part of a year.

For any employee eligible to retire pursuant to the provisions of section 19-95(a), (e), (g) or section 19-100 of this chapter, creditable service shall include, for purposes of computing the retirement allowance, one-half ( $\frac{1}{2}$ ) of the employee's accumulated and unused sick leave as of the date of retirement, up to a maximum of two thousand (2,000) hours.

*Employee* means any person who is employed by the city on a full-time, year-round basis, whether paid by the hour, week, month or otherwise. Such term shall not include any person, judicial, professional or otherwise, employed either on a part-time basis or on a seasonal basis; nor shall it include any official elected by the people or any person employed in the office of such official; except, that it shall include the commissioner of revenue, the city treasurer, the city sheriff, the clerk of the circuit court, the commonwealth's attorney and their full-time employees. Such term shall not include the employees of any office, department or agency which participates in the Virginia Supplemental Retirement System, regardless of whether such office, department or agency is funded wholly or partly by the city; provided, that any clerk

or employee of the district court employed in such capacity on June 30, 1973, who elected not to participate in the Virginia Supplemental Retirement System shall continue to be considered an employee, for purposes of this article only, and be eligible for benefits hereunder to the full extent of their salary. Such term shall include the employees of any multi-jurisdictional agency in which the city is a participating jurisdiction, when such employees are not covered under the Virginia Supplemental Retirement System, or in any other retirement plan, and when the city has contractually agreed to include such employees in the retirement plan provided by this article. Notwithstanding the foregoing definition, "employee" also includes any person who meets the foregoing definition, except that they:

- (1) Works less than full-time but at least half-time;
- (2) Works less than year-round but at least thirty-six (36) weeks per year; and
- (3) Is in service on or after July 1, 1987.

In case of dispute, the commission shall determine who is an employee within the meaning of this article.

*Member* means any employee or former employee who is currently, or shall in the future, be recognized as having membership in the plan.

*Member contribution* account means the account established under the plan to hold the member's contributions and earnings thereon required and credited pursuant to section 19-92.

*Normal retirement date* means the first day of the month coinciding with or next following:

- (1) For a member who is a police officer, firefighter, sheriff or sheriff's deputy, the sixtieth (60th) birthday of the member, and
- (2) For a member who is not a police officer, firefighter, sheriff or sheriff's deputy, the sixty-fifth (65th) birthday of the member.

*Person who becomes a member after June 30, 2012* means a person who is not a member of a plan described in section 19-94(a) or (c) who is hired or rehired after June 30, 2012 as an employee as defined herein. In the case of an employee who is rehired after such date and whose credited service attributable to employment prior to July 1, 2012 is reinstated or is otherwise not disregarded, shall not be treated as a person who becomes a member after June 30, 2012 if such employee elects to be a

member of a plan described in section 19-94(a) or (c) at the time of their rehire. Any benefit accumulated under the plan based on employment prior to July 1, 2012 shall remain frozen as though their employment after June 30, 2012 had not occurred. If such employee does not elect to be a member of a plan described in section 19-94(a) or (c) at the time of their rehire, their benefit under the plan shall be determined based on the provisions applicable to a person who becomes a member after June 30, 2012, except that no employee contribution shall be required or collected with respect to service performed prior to July 1, 2012.

*Plan* means "The Supplemental Retirement or Pension Plan of the City of Charlottesville," as set forth in this article.

*Retirement allowance* means the retirement payments to which a member is entitled, as provided in this article.

*Service* means service as an employee for which compensation is paid.

(Code 1976, § 20-19; 12-21-92; 10-16-00(1); 5-5-03(2); 1-3-12; 9-7-21(1), § 2)

Cross reference— Definitions and rules of construction generally, § 1-2.

	<u>Aye</u>	<u>No</u>
Payne		
Pinkston		
Snook		
Wade		
Puryear		

Approved By Council  
July \_\_\_\_, 2024

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Kyna Thomas, MMC  
Clerk of Council

Suggested Motion: I move that Chapter 19, Section 19.91, Definitions, of the Code of the City of Charlottesville be amended.

Legend: Deleted language  
New language