

**AN ORDINANCE  
AMENDING AND REORDAINING SECTIONS 19-91 AND 19-94 OF ARTICLE  
IV OF CHAPTER 19**

**AND AMENDING AND REORDAINING SECTION 19-151, 19-152, 19-154, AND  
19-156 OF ARTICLE VI OF CHAPTER 19**

**OF THE CITY CODE OF CHARLOTTESVILLE, 1990,**

**AS AMENDED, RELATING TO CHANGES TO THE**

**RETIREMENT PLAN AND PUBLIC SAFETY DISABILITY RETIREMENT**

**BE IT ORDAINED** by the Council of the City of Charlottesville, Virginia that Sections 19-91 and 19-94 of Article IV are hereby amended and reordained and Sections 19-151, 19-152, 19-154 and 19-156 of Article VI of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained 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 seven and one-half (7.5) percent.

*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 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 a 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 birthday of the member, and
- (2) For a member who is not a police officer, firefighter, sheriff or sheriff's deputy, the sixty-fifth 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. If such employee elected to be a member of a plan described in section 19-94(a) or (c), later received a disability retirement under article VI of this chapter, and then recovers and is rehired by the city,

they will not be eligible to elect to be a member of a plan described in section 19-94(a) or (c) and their benefit under the plan shall be determined based on the provisions applicable to a person who becomes a member after June 30, 2012 [and is rehired after June 30, 2017](#), subject to the applicable offset provided under section 19-156, and except that no employee contribution shall be required or collected with respect to service performed prior to their rehire.

*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; [Ord. No. O-24-091](#), 7-15-24)

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

Sec. 19-94. - Participation in defined contribution and deferred compensation plans.

- (a) The city manager may approve the withdrawal from membership in the plan of any employee who is exempt from the personnel appeals system as set forth in section 19-36(b) and may execute an agreement for such employee to participate in an optional defined contribution plan approved by the Internal Revenue Service as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code of 1986, as amended. Such agreement may provide that the city shall contribute to such plan an annual amount no greater than the total amount which the city would contribute to the city plan on behalf of such employee for such year pursuant to section 19-92(b). The contribution shall not include any contribution made to fund the city’s post-employment benefits trust in accordance with section 19-141. Any employee who enters into such an agreement shall be deemed to have terminated all membership in the supplemental retirement or pension plan of the city and to have waived any rights whatsoever to any benefits thereunder. Upon execution of any such agreement, the retirement plan commission is authorized to make the payments called for therein, but in no event shall the

payment for any period exceed the amount contributed by the city to the city plan for such employee for such period. A copy of such plan shall be kept on file in the city's personnel department, and it may be amended from time to time. Any employee who is a public safety employee (as defined in section 19-150), whose active membership under the plan was terminated under such an agreement, and who later received~~ds~~a disability retirement under article VI of this chapter shall again be an active member of the plan as provided in section 19-151 and section 19-156, subject in all events to the applicable offset referenced therein.

- (b) The city council may likewise approve participation by the city manager in a supplemental defined contribution plan approved by the Internal Revenue Service as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code of 1986, as amended, in which case the city's annual contribution thereto shall likewise equal the amount which would have been contributed to the city plan, unless the council shall determine a greater or lesser amount. A copy of such plan shall be kept on file in the city's personnel department, and it may be amended from time to time.
- (c) Effective July 1, 2001, the city manager may approve the withdrawal from membership in the plan of any employee and may execute an agreement for such employee to participate in an optional defined contribution plan approved by the Internal Revenue Service as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code of 1986, as amended. Such agreement may provide that the city shall contribute to such plan an annual amount determined by the retirement commission with the approval of the city manager on behalf of such employee for such year. Any employee who enters into such an agreement shall be deemed to have terminated all active membership in the supplemental retirement or pension plan of the city and to have waived any rights whatsoever to accrue additional benefits thereunder. Upon execution of any such agreement, the retirement plan commission is authorized to make the payments called for therein. A copy of such plan shall be kept on file in the city's personnel department, and it may be amended from time to time. Any employee who is a public safety

employee (as defined in section 19-150), whose active membership under the plan was terminated under such an agreement, and who later received a disability retirement under article VI of this chapter shall again be an active member of the plan as provided in section 19-151 and section 19-156, subject in all events to the applicable offset referenced therein.

- (d) Effective November 1, 1987, all regular city employees, including city council members, who work at least twenty (20) hours per week shall be eligible to participate in a deferred compensation plan, whether or not they participate in the supplemental retirement or pension plan of the city or the defined contribution plans described in subsections (a) through (c) of this section. Such new plan shall enable employees to defer part of their compensation if they choose to do so to provide for their retirement. Participation in this new plan shall have no effect on eligibility for participation in the supplemental retirement or pension plan of the city or the defined contribution plans described in subsections (a) through (c) of this section. A copy of such plan shall be kept on file in the city's human resources department, and it may be amended from time to time.

(Code 1976, § 20-21.1; 10-16-00(1); 6-5-17(1))

## ARTICLE VI. - PUBLIC SAFETY DISABILITY RETIREMENT

### Sec. 19-151. - Disability retirement.

- (a) Any public safety employee in service may retire, or may be retired by their appointing authority, at any time prior to the employee's normal retirement date on account of a work related disability upon written notification to the commission made by the member or by the appointing authority setting forth at which date the retirement is to become effective. The effective date of retirement shall be after the employee's last day of performing their usual and customary duties on a full time basis but shall not be more than ninety (90) days prior to the filing of the notice of retirement. The commission may waive the ninety-day requirement upon a showing of good cause.

- (b) A candidate for disability retirement pursuant to this article shall be considered disabled if:
- (1) As a result of an examination of the candidate by the medical examiners and/or by means of other satisfactory evidence the commission finds that the candidate meets the definition of disability set forth in this article, and that the employee's incapacitating injury or illness is compensable under the provisions of the Virginia Workers' Compensation Act; or,
  - (2) The commission has satisfactory evidence that the candidate is eligible for and is, or soon will be, receiving total and permanent disability benefits under the provisions of the federal Social Security Act as the result of a work related disability.
- (c) If a public safety employee who is participating in the optional defined contribution plan under section 19-94(a) or (c) should retire under section 19-151, their participation in the optional defined contribution plan shall permanently cease and their disability retirement benefits shall be offset as provided under section 19-152(a)(4). For purposes of calculating their disability retirement allowance under section 19-152 and, when such disability retirement ends, their retirement, such public safety employee's years of creditable service shall be calculated under section 19-91 and shall include creditable service while actively participating in the optional defined contribution plan (but in no event shall any service be counted more than once). Upon a public safety employee's retirement under section 19-151, the public safety employee shall be treated as if they had always participated in the retirement plan subject in all events to the applicable offset and shall not be treated as a member who elected to be a member of a plan described in section 19-94(a) or (c).

(9-19-05(2); 9-7-21(1), § 2)

Sec. 19-152. - Disability retirement allowance.

- (a) Upon retirement for a work related disability, a public safety employee shall receive an annual retirement allowance during their lifetime and continued



disability, until ending as provided in section 19-156(b). The amount of the disability retirement allowance shall be equal to the following:

- (1) Sixty-six and two-thirds (66.6667) percent of the employee's final salary if the employee does not qualify for primary Social Security benefits under the provisions of the Social Security Act in effect on the date of their retirement;
- (2) Fifty (50) percent of the employee's final salary if the employee qualifies for primary Social Security benefits under the provisions of the Social Security Act in effect on the date of their retirement; or,
- (3) One and seventy one-hundredths (1.70) percent of their final salary multiplied by the smaller of (a) twice the amount of their creditable service or (b) the amount of creditable service they would have completed at age sixty (60) if they had remained in service to that age. If the employee has already attained age sixty (60), the amount of creditable service at their date of retirement shall be used. This subsection (3) shall only be used if it results in a greater allowance than either subsection (1) or (2), as applicable.
- (4) Notwithstanding the foregoing, the disability retirement allowance of a public safety employee who participated in the optional defined contribution plan under section 19-94(a) or (c) shall be offset by the actuarial equivalent of their account balance in the optional defined contribution plan as of the effective date of the disability retirement under section 19-151.

- (b) The annual disability retirement allowance shall also include any post retirement cost of living supplement provided for all city retirees pursuant to section 19-107.

(9-19-05(2); 9-7-21(1), § 2)

Sec. 19-154. - Reduction of allowance for workers' compensation benefits.

- (a) Any disability retirement allowance payable pursuant to the provisions of this article shall be reduced by the amount of any payments under the provisions of the Virginia Workers' Compensation Act in effect on the date of retirement of the employee, and the excess of the allowance shall be paid to the employee. When the time for compensation payments under the Act has elapsed, the employee shall receive the full amount of the allowance payable during their lifetime and continued disability, until eligible to retire under age and service requirements.
- (b) If the employee's workers' compensation payments are adjusted or terminated for refusal to work or to comply with the requirements of Code of Virginia, § 65.2-603, the disability retirement allowance shall be computed as if the employee was receiving the compensation to which they would otherwise be entitled.
- (c) The disability retirement allowance of any employee who elects to receive a lump-sum settlement in lieu of periodic payments under the Virginia Workers' Compensation Act shall be adjusted by an amount determined by dividing the workers' compensation benefit which such employee would have received had the lump-sum settlement not been consummated, into the settlement actually accepted by the employee.

(9-19-05(2); 9-7-21(1), § 2)

Sec. 19-156. - Age and service retirement.

- (a) Any person receiving a disability retirement allowance pursuant to this article shall continue to accrue creditable service for purposes of determining eligibility for retirement and, if applicable, the amount of any retirement benefit, regardless of whether the employee continues in active service with the city.
- (b) The disability retirement allowance provided pursuant to this article shall end at such time as the employee reaches their normal retirement date as defined in section 19-91, or, at the option of the employee, at such time as the employee has completed five (5) or more years of creditable service and is at least fifty-five (55)

years of age, or has completed twenty-five (25) years of creditable service and is at least fifty (50) years of age.

- (c) At such time as the disability retirement allowance ends pursuant to subsection (b), the employee shall be entitled to receive the same pension and benefits to which they would have been entitled had they not been injured, and remained a regular full time employee of the city; provided, however, that the employee will be entitled to the additional annual allowance under section 1996(c) only if they have completed twenty (20) years or more of creditable service, including creditable service accruing pursuant to subsection (a) for time not actually worked for the city. Notwithstanding the above, for a public safety employee who participated in the optional defined contribution plan under section 19-94(a) or (c) prior to receiving a disability retirement, at such time as the disability retirement allowance ends pursuant to subsection (b), the public safety employee who participated in the optional defined contribution plan under section 19-94(a) or (c) shall be entitled to receive the same pension and benefits to which they would have been entitled had they not participated in such optional defined contribution plan, not been injured, and remained a regular full time employee of the city; provided, however, that (1) such pension and benefits shall be subject to the same offset described in section 19-152(a)(4), and (2) the public safety employee will be entitled to the additional annual allowance under section 1996(c) only if they have completed twenty (20) years or more of creditable service, including creditable service accruing pursuant to subsection (a) for time not actually worked for the city.

(9-19-05(2); 9-7-21(1), § 2)

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