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**Title:** CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN - For the purpose of adopting the City of Annapolis Police and Fire Retirement Plan Amendment and Restatement, effective July 1, 2015.

**Sponsors:** Sheila Finlayson, Ross Arnett, Michael J. Pantelides

**Indexes:** Finance Committee, Rules and City Government Committee

**Code sections:**

**Attachments:** 1. O-35-15 Police Fire Retirement Plan Ord.pdf, 2. O-35-15 Police and Fire Retirement Plan.pdf, 3. O-35-15 Staff Report.pdf, 4. O-35-15 Fiscal Impact.pdf, 5. O-35-15 Signed.pdf

| Date      | Ver. | Action By                         | Action                 | Result |
|-----------|------|-----------------------------------|------------------------|--------|
| 9/21/2015 | 1    | City Council                      | adopt on second reader | Pass   |
| 9/21/2015 | 1    | City Council                      | adopt on third reader  | Pass   |
| 9/15/2015 | 1    | Finance Committee                 | recommend favorably    | Pass   |
| 9/8/2015  | 1    | Rules & City Government Committee | recommend favorably    | Pass   |
| 9/1/2015  | 1    | Finance Committee                 | postpone               | Pass   |
| 7/27/2015 | 1    | City Council                      |                        |        |
| 7/13/2015 | 1    | City Council                      | adopt on first reader  | Pass   |
| 7/13/2015 | 1    | City Council                      | refer                  |        |
| 7/13/2015 | 1    | City Council                      | refer                  |        |

**CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN** - For the purpose of adopting the City of Annapolis Police and Fire Retirement Plan Amendment and Restatement, effective July 1, 2015.

### CITY COUNCIL OF THE City of Annapolis

#### Ordinance 35-15

**Sponsored by: Mayor Pantelides**

#### Referred to

Finance  
Rules and City Government

**AN ORDINANCE** concerning

## **CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN**

**FOR** the purpose of adopting the City of Annapolis Police and Fire Retirement Plan Amendment and Restatement, effective July 1, 2015.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2014 Edition  
Section 3.36.010

**BY** repealing the following portions of the Code of the City of Annapolis, 2014 Edition  
Section 3.36.020  
Section 3.36.030  
Section 3.36.040  
Section 3.36.050  
Section 3.36.060  
Section 3.36.070  
Section 3.36.090  
Section 3.36.115  
Section 3.36.116  
Section 3.36.117  
Section 3.36.118  
Section 3.36.120  
Section 3.36.130  
Section 3.36.140  
Section 3.36.150  
Section 3.36.160  
Section 3.36.170  
Section 3.36.175  
Section 3.36.180  
Section 3.36.190  
Section 3.36.200  
Section 3.36.210  
Section 3.36.220  
Section 3.36.230  
Section 3.36.240  
Section 3.36.250  
Section 3.36.260  
Section 3.36.270  
Section 3.36.280  
Section 3.36.290

**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

### **Chapter 3.36 - POLICE AND FIRE RETIREMENT**

#### **3.36.010 - Plan established.**

A retirement plan for eligible firemen and policemen of this City is hereby established effective July 1, 1980. AN AMENDED AND RESTATED PLAN, THE CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN EFFECTIVE JULY 1 2015, IS HEREBY ESTABLISHED AND ADOPTED BY REFERENCE. The terms of the pPlan are set forth in this chapter, IN A SEPARATE PLAN DOCUMENT MAINTAINED BY THE CITY, AND MAY BE AMENDED, FROM TIME TO TIME, BY RESOLUTION. The pPlan is a continuation, and a complete amendment and restatement, of the retirement plan for members of the Fire and Police Departments as maintained by the City immediately prior to the adoption BY REFERENCE of THE CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN EFFECTIVE JULY 1 2015.the ordinance from which this chapter derives.

### **3.36.020—Definitions.**

A. The following words and phrases as used in this plan, unless a different meaning plainly is required by the context, have the following meaning:

1. "Active service" means as follows:

- a. Service before August 15, 1963: A member's active service before August 14, 1963 is that period of time, commencing with the member's most recent date of hire and terminating on August 14, 1963, that the member was a full-time eligible employee of the City's Police Department or Fire Department.
- b. Service after August 14, 1963: A member's active service after August 14, 1963, is that period of time, commencing with the later of August 15, 1963 or the member's most recent date of hire, that the member (i) was a full-time eligible employee of the City's Police Department or Fire Department and (ii) made all required contributions to the City's police and fire retirement fund as specified in this chapter.
- c. Breaks in service: Except as set forth in this subparagraph, if a member terminates employment with the City's Police Department or Fire Department for reasons other than death, disability retirement or service retirement, the member will lose all credit for active service earned before his/her employment terminated. However, if the member is rehired and again becomes a member, and if when the employee becomes a member again, the employee has vested rights to a pension benefit under this plan, which rights derive from prior active service, then the employee's prior active service will be reinstated and will be added to active service earned after the employee's rehire. Furthermore, if a member terminates employment with the City's Police or Fire Department but remains an employee of the City, and if the employee subsequently becomes a member again without having terminated employment with the City in the interim, the employee's active service will include active service standing to the employee's credit when the employment with the Police or Fire Department terminated unless the member received a distribution of the member contributions, plus interest, attributable to such service, in which event such service shall be disregarded. Furthermore, if a member terminated employment with the City's Police Department before July 1, 1996 for reasons other than death, disability retirement or service retirement and after such termination was rehired by the Police Department and again became a member, the member shall be entitled to credit for any active service earned before his/her employment terminated for which the member received, at the time of termination, a distribution of the member's contributions, provided that, not later than December 31, 1996, the member: (1) retires; (2) completes a claim for the service credit in such form as the

City's Human Resources Director may require; (3) pays the retirement fund an amount equal to the distribution made to the employee at the time of termination plus interest thereon calculated at a rate to be determined by the Director of Finance in consultation with City pension consultants, compounded on each July 1st and calculated from the date of distribution through the date of payment hereunder. The provisions of the preceding sentence shall apply whether or not the member was vested at the time of the termination creating the break in service. Upon the foregoing payment to the retirement fund, the member shall be deemed to have never withdrawn any contribution as set forth in Section 3.36.020 (A)(16)(b).

- d. Active service shall be computed, for the purpose of determining benefits to be paid to the member from the retirement fund, to the nearest one-twelfth of a year.
  - e. Credit for military service: If a member's normal service retirement pension benefit is determined under either Section 3.36.040(A)(2) or Section 3.36.040(C), service on active duty with the Armed Forces of the United States will count as active service under the following circumstances and subject to the following conditions and limitations: Up to three years of active duty will be credited as active service if the member is drafted or called to active duty and returns to service under this plan within ninety days after becoming eligible for release from active duty. Active duty, not to exceed three years, with the Armed Forces of the United States which was completed honorable before employment began with the City will be counted as active service; provided, however, that (i) military service will not count for purposes of increasing the member's normal service pension benefit unless a member has completed twenty years of actual active service with the City; (ii) no military service credit will be awarded which would cause the member's total active service to exceed any applicable plan maximum; and (iii) military service will not count as active service for any purpose under the plan unless the member provides written verification of the military service which is satisfactory to the City's Human Resources Director.
- 2. "Annual earnings": A member's annual earnings shall equal twenty-six times the member's straight-time biweekly pay period salary as that salary is in effect on the date disability is incurred or death occurs.
  - 3. "Credited interest" means the interest earned on member contributions for the number of full months from the July 1st following the date the contribution was made to the date to which interest is being computed. Member contributions made for the time period ending June 30, 1980 shall accrue interest during the period described in the preceding sentence at the rate of two percent per annum compounded on each July 1st. Member contributions made for the time period beginning July 1, 1980 shall accrue interest during the time period described in the first sentence of this subdivision at the rate of five percent per annum compounded on each July 1st, except that the five percent per annum interest rate may be modified, with the prior approval of the City Council.
  - 4. "Disability retirement": Retirement granted pursuant to the provisions of Section 3.36.070.
  - 5. "Early service retirement date" of a member will be determined as follows:
    - a. If the member (i) was hired prior to August 1, 1972, and does not elect to be covered by the normal service retirement pension formula described in Section 3.36.040(A)(2), (ii) was hired on or after August 1, 1972 but before August 1, 1979 and neither elects to be covered by subparagraph ii of Paragraph e of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service) nor to be covered by the normal

service retirement pension formula described in Section 3.36.040(A)(2) or (iii) was hired on or after August 1, 1979 but before July 1, 1980 and does not elect to be covered by subparagraph ii of Paragraph d of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service); there shall be no provision in the law for, nor shall the member have any right to, early service retirement.

b. If the member (i) was hired on or after August 1, 1972 but before August 1, 1979 and elects to be covered by subparagraph ii of paragraph e of subdivision 11 of this subsection (pertaining to normal service retirement after twenty-five years of active service) or elects to be covered by the normal service retirement pension formula described in Section 3.36.040(A)(2), (ii) was hired on or after August 1, 1979, but before July 1, 1980, and elects to be covered by Subparagraph ii of Paragraph d of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service) or (iii) was hired on or after July 1, 1980, the member shall be eligible for early service retirement after twenty years of active service.

6. "Eligible spouse" means a spouse to whom the member is married on the date of the member's normal or early service retirement and to whom the member has been married during the entire one-year period ending on that date. Additionally, an "eligible spouse" is a spouse to whom the member is married as of the date a disability is incurred if disability retirement benefits are awarded as a result of the disability. A person will not qualify as an "eligible spouse" unless the marriage of the member to the spouse was performed before proper civil or religious authority.

7. "Final earnings": A member's final earnings shall equal twenty-six times the average straight-time salary of the highest consecutive seventy-eight biweekly pay periods during the ten-year period preceding the date of the member's normal or early service retirement or, if applicable, the date of the member's disability.

8. "Full time": A member shall be considered employed full time during any period in which the member is carried as a full-time employee on the employment records of the Police or Fire Department, as the case may be, or in which the member's straight-time employment is at a rate which, if annualized, would equal at least two thousand eighty straight-time hours per year.

9. "Highly compensated employees" means the Police Chief and Fire Chief.

10. "Member" means a full-time employee of the City and either:

a. A sworn member of the police force of the Police Department, exclusive of parking meter monitors but inclusive of police cadets; or

b. A member of the fire suppression force, fire prevention force or paramedic force of the Fire Department.

11. "Member contributions" means the amounts contributed by a member to the retirement fund as set forth in this subdivision. Every member shall contribute to the retirement fund as a condition of employment. The contribution shall be a percentage of the member's straight-time salary determined as follows:

a. The contribution shall be three percent of straight-time salary for the following categories of members: (i) members hired before August 1, 1972, who do not elect to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2), (ii) members

hired on or after August 1, 1972 but before August 1, 1979 who do not elect to be covered by Subparagraph ii of Paragraph e of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service) and who do not elect to be covered under the normal service retirement pension formula described in Section 3.36.040 (A)(2) and (iii) members hired on or after August 1, 1979 but before July 1, 1980 who do not elect to be covered by subparagraph ii of paragraph d of subdivision 11 of this subsection (pertaining to normal service retirement after twenty-five years of active service). A member's contribution under the preceding sentence shall start with the date of employment, but no earlier than July 1, 1966, and continue until the date of service retirement, disability retirement, termination of service, or death while on active service.

- b. For (i) members hired on or after August 1, 1972 but before August 1, 1979 who elect to be covered by Subparagraph ii of Paragraph e of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service) and who do not elect to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2); (ii) members hired on or after August 1, 1979 but before July 1, 1980 who elect to be covered by Subparagraph ii of Paragraph d of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service) and (iii) members hired on or after July 1, 1980, the contribution shall be, starting with the date of employment and continuing through June 30, 1980, three percent of the member's straight-time salary, and, starting with July 1, 1980 and continuing until June 30, 1998, six and one-half (6½) percent of the member's straight-time salary and starting with July 1, 1998 and continuing until the date of service retirement, disability retirement, termination of service, or death while on active service, five and one-half percent of the member's straight-time salary.
- c. For members hired before August 1, 1979 who elect to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2), the contribution shall be, starting with October 1, 1991 (or, if earlier, the date the member's election under Section 3.36.040(A)(2)) and continuing until the date of service retirement, disability retirement, termination of service, or death while on active service, five percent of the member's straight time salary. The contribution for any such member prior to October 1, 1991 (or, if earlier, the date of the member's election under Section 3.36.040(A)(2)) shall be determined under the terms of the plan which applied to such member prior to that date.

12. "Normal service retirement date" of a member will be determined as follows:

- a. If the member was hired on or before July 31, 1967 the member, at the sole determination of the City Council, may be permitted to retire after twenty years of active service. There shall be no provision in the law under which a member may apply for retirement or be retired at a certain age.
- b. If the member was hired on or after August 1, 1967 but prior to August 1, 1972 the member may elect either of the following:
  - i. The member, at the sole determination of the City Council, may be permitted to retire after twenty years of active service. If the member elects the preceding sentence, there shall be no provision in the law under which the member may apply for retirement or be retired at a certain age.



- ii. The member shall be eligible for retirement after completing twenty years of active service and attaining the age of fifty-five.
- e. If the member was hired on or after August 1, 1972 but prior to August 1, 1979, the member may elect either of the following, the election to be accomplished in writing with the City's Human Resources Director not later than June 30, 1981:
  - i. The member shall be eligible for retirement after completing twenty years of active service and attaining the age of fifty-five.
  - ii. Upon payment to the retirement fund of a total of six and one-half percent of the member's straight-time salary from July 1, 1980 to the date of election (this amount to include payments made for that period under Subdivision 10 of this subsection pertaining to member contributions); and upon payment thereafter of amounts required by PARAGRAPH b of subdivision 10 of this Subsection, the member shall be eligible for normal service retirement after twenty-five years of active service.

If the member does not make an election in writing by June 30, 1981, the member's retirement benefits shall be provided under subparagraph i. of this paragraph.

- d. If the member was hired on or after August 1, 1979 but before July 1, 1980, the member may elect either of the following, the election to be accomplished in writing with the City's Human Resources Director not later than June 30, 1981:
  - i. The member shall be eligible for retirement after thirty years of active service on an annual retirement income of five thousand dollars.
  - ii. Upon payment to the retirement fund of a total of six and one-half percent of the member's straight-time salary from July 1, 1980 to the date of election (this amount to include payments made for that period under Subdivision 10 of this Subsection pertaining to member contributions); and upon payment thereafter of amounts required by Paragraph b. of Subdivision 10 of this Subsection, the member shall be eligible for normal service retirement after twenty-five years of active service.

If the member does not make an election in writing by June 30, 1981, the member's retirement benefits shall be provided under subparagraph i. of this paragraph.

- e. If the member was hired on or after July 1, 1980, the member shall be eligible for normal service retirement after twenty-five years of active service.
- f. If a member elects to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2), upon payment to the retirement fund of a total of five percent of the member's straight time salary from October 1, 1991 through the date of election (this amount to include payments made for that period under Subdivision 10 of this Subsection pertaining to member contributions) and upon payment thereafter of amounts required by Paragraph e of this Subdivision 10 of this Subsection, the member shall be eligible for normal service retirement after twenty-five years of active service.

- g. In determining a member's active service for purposes of eligibility for normal service retirement

under Paragraphs a and b, Subparagraph i of Paragraph e, and Subparagraph i of Paragraph d of this Subdivision, a member shall receive credit for one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service. Unused sick leave shall not be counted in determining a member's eligibility for retirement benefits under Subparagraph ii of Paragraph e, Subparagraph ii of PARAGRAPH d, and paragraph e and Paragraph h of this subdivision.

h. This paragraph h shall apply only to members of the Police and Fire Departments defined in Section 3-36.020(A)(9)(a) who retire on or after July 1, 1994. In addition to being eligible for normal service retirement under paragraphs a through f of this subdivision 11, such a member shall be eligible for normal service retirement after twenty years of active service and attaining age fifty. The member contributions and the normal service retirement pension that would have been applicable to such a member had the member retired under another paragraph of this Subdivision 11 will continue to be applicable if the member retires under this Paragraph h.

13. "Retired member" means a former member who has satisfied the criteria for eligibility for service retirement or disability retirement.
14. "Retirement fund" means the fund maintained by the City with a legal life reserve insurance company, trustee, or other funding medium for the purpose of underwriting this plan.
15. "Salary" means earnings actually paid for normally scheduled duty hours of work including authorized sick leave and annual leave, but excluding overtime hours or emergency response hours while not on scheduled duty.
16. "Social security integration level" means, with respect to the calendar year in which a member retires or otherwise terminates employment, the average annual amount of earnings for which old age and survivors benefits would be provided under Title II of the Federal Social Security Act for a male employee sixty-five years old in that calendar year, (a) computed as though for each year before that calendar year annual earnings are at least equal to the maximum amount of annual earnings subject to tax under the Federal Insurance Contributions Act and (b) using in computing such average a maximum of thirty-five years and only years after calendar 1958. The average annual amount of earnings shall be rounded to the next lower multiple of one hundred dollars.
17. "Vested rights" means the right of a member, upon termination of employment for reasons other than retirement, disability or death, to receive a service retirement pension at a certain age after completion of a certain number of years of active service. "Vested rights" of a member are as follows:
  - a. If the member was hired before August 1, 1972, or if the member was hired on or after August 1, 1972 but before August 1, 1979 and does not elect to be covered by Subparagraph ii of Paragraph e of Subdivision 11 of this Subsection (pertaining to normal service retirement after twenty-five years of active service), or if the member was hired on or after August 1, 1979 but before July 1, 1980 and does not elect to be covered by Subparagraph ii of Paragraph d of Subdivision 11 of this subsection (pertaining to normal service retirement after twenty-five years of active service), the member shall have no vested rights. Accordingly, if he terminates employment prior to retirement, disability or death, the member shall not be entitled to any benefits under this plan, except for a refund of the member's contributions, plus interest, as set forth in this chapter.



b. If the member was hired on or after August 1, 1972 but before August 1, 1979 and elects to be covered by subparagraph ii of paragraph e of subdivision 11 of this subsection (pertaining to normal service retirement after twenty-five years of active service); or if the member was hired on or after August 1, 1979, but before July 1, 1980 and elects to be covered by subparagraph ii of paragraph d of subdivision 11 of this subsection (pertaining to normal service retirement after twenty-five years of active service); or if the member was hired on or after July 1, 1980, the member shall have full vested rights to a service retirement pension (calculated and payable as set forth in this chapter) upon completion of ten years of active service, but only as long as the member does not withdraw the member contributions.

18. "Widow(er)" means a spouse to whom a member is married on the date of the member's death while employed as a member, the marriage to have been performed before proper civil or religious authority.

19. "Yearly earnings" means the total amount of straight-time salary paid during the twenty-six biweekly pay periods immediately preceding the date of retirement or death.

B. Other terms used in this chapter which are defined by Sections 1.04.020 or 1.04.030 shall have the meanings assigned to them by that section.

### **3.36.030 – Participation and application for benefits.**

A. Eligibility to Participate. Each member who participated in this plan on June 30, 1980 shall continue to participate. Each other member will participate in and be covered by the provisions of this plan effective with the member's date of hire. Participation in this plan is a mandatory condition of employment.

B. Procedure to Establish Participation. A member shall obtain from, complete, and deliver to the City's Human Resources Director those forms pertaining to participation in this plan as, from time to time, may be prescribed.

C. Procedure for Obtaining Benefits. Any member who is eligible to receive benefits from the plan shall obtain from, complete, and deliver to the City's Human Resources Director those forms as, from time to time, may be prescribed.

D. Procedure for Withdrawal From Participation. Any member who withdraws from the plan because of termination of employment prior to the accrual of retirement or vested rights, shall obtain from, complete and deliver to the Human Resources Director those forms as, from time to time, may be prescribed.

E. Procedure for Obtaining Widow(er) or Surviving Spouse Annuity Benefits. Any person entitled to survivor's benefits under the plan, in order to obtain those benefits, shall obtain from, complete, and deliver to the Human Resources Director those forms as, from time to time, may be prescribed.

F. Highly compensated employees shall have the option to participate in this plan. In the event a highly compensated employee is not a member of the plan at the time of his or her appointment, he or she may elect to become a member retroactive to the date of his or her appointment. When such an election is made, the highly compensated employee shall pay for the purchase of service credits and any actuarial or other fees and costs, unless the City elects to fund all or a portion of the cost of purchasing such service credits or any actuarial or other fees and costs, in which case the City shall have the authority to determine the respective percentages that a highly compensated employee and the City shall contribute.

### **3.36.040—Normal service retirement.**

A member shall be eligible for a monthly normal service retirement pension upon attaining the normal service retirement date as defined in Section 3.36.020(A)(11). The member's monthly pension shall be one-twelfth of the annual pension computed as follows:

A. A member whose normal service retirement date is defined in Section 3.36.020(A)(11)(a), (b) or (c)(i), and who has not retired or otherwise terminated employment before July 1, 1991 may elect to be covered under either of the following normal service retirement pension formulas; the election to be accomplished in writing with the City's Human Resources Director not later than June 30, 1992;

1. If a member elects to be covered under this paragraph, the annual pension shall be two percent of the member's yearly earnings times the sum of (1) the member's years and fractions of active service and (2) the member's accumulated unused sick leave, to a maximum of sixty percent of yearly earnings. For purposes of this computation, a member will be credited with one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service.
2. If a member elects to be covered under this paragraph, the annual pension shall be two and one-quarter percent of the member's final earnings times the sum of (1) the member's years and fractions of active service and (2) the member's accumulated unused sick leave, to a maximum of sixty-seven and one-half percent of final earnings. For purposes of this computation, a member will be credited with one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service.
3. If the member does not make an election in writing by June 30, 1992, the member's retirement benefit will be determined under paragraph 1 above.

B. For a member who is hired before July 1, 1991, whose normal service retirement date is defined by Section 3.36.020(A)(11)(c)(2), (d)(2) or (e), and who has not elected to be covered under the normal service retirement pension formula described in Section 3.36.040(C), the annual pension shall be determined as follows:

1. Less than age sixty-five: Until the member attains age sixty-five, the member's annual pension shall be two percent of the member's final earnings times the sum of (a) the member's combined years and fractions of active service and (b) the member's accumulated unused sick leave, to a maximum of seventy-five percent of final earnings. For purposes of this computation, a member will be credited with one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service.
2. Age sixty-five and older: Beginning on the first day of the month coincident with or next following the member's sixty-fifth birthday, the member's annual pension shall be two percent of his/her final earnings in excess of the social security integration level applicable to the year of the member's retirement, plus one percent of final earnings up to and including the social security integration level, both multiplied by the sum of the member's years and fractions of active service and accumulated unused sick leave. For purposes of this computation, a member will be credited with one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service.

C. For a member who is hired on or after July 1, 1991, or who is hired before July 1, 1991 and makes the election described in the last sentence of this subparagraph C, the member's annual pension shall be two percent of the member's final earnings times the sum of (a) the member's combined years and fractions of active service

and (b) the member's accumulated unused sick leave, to a maximum of sixty percent of final earnings. For purposes of this computation, a member will be credited with one month of service for every twenty-two days of unused sick leave, to a maximum of twenty months of service. A member whose normal service retirement date is defined by Section 3.36.020(A)(11)(e)(2), (d)(2) or (e) may elect to have his/her normal service retirement pension determined under this subparagraph C, the election to be accomplished in writing with the City's Human Resources Director not later than June 30, 1992.

D. For a member whose normal service retirement date is defined by Section 3.36.020(A)(11) (d)(i), the annual pension shall be five thousand dollars.

### **3.36.050 – Early service retirement.**

A member shall be eligible for early service retirement upon having attained the early service retirement date defined in Section 3.36.020(A)(5)(b). If the member chooses to retire after the member's early service retirement date and before the member's normal service retirement date, the member's annual pension shall be the member's normal service retirement pension as computed under Section 3.36.040(A)(2) or (B), whichever is applicable, reduced by one-half of one percent for each month and fraction thereof that the member's active service is less than twenty-five years.

### **3.36.060 – Vested service retirement.**

A member shall be eligible for a vested service retirement pension upon having met the criteria contained in Section 3.36.020(A)(16)(b). The member's vested service retirement pension shall be payable upon the member attaining the age of fifty-five and shall be computed as for a normal service retirement in accordance with the provisions of Section 3.36.040(B), including the provisions governing integration with social security at the member's sixty-fifth birthday, but excluding sick leave, which will not be credited in computing the pension. In computing a member's vested service retirement pension, the amount of final earnings and the social security integration level will be as of the date that the member's active service terminated. If a member with vested rights dies before attaining age fifty-five, the member's vested rights will be forfeited and no benefits will be payable under this plan on account of the member's death, except that the member's contributions, plus interest as defined in Section 3.36.020(A)(3), shall be paid in a lump sum to the member's estate.

### **3.36.070 – Disability retirement-Inability to perform any employment.**

A. ~~Exclusions. Total and permanent disability does not include disability resulting from or consisting of:~~

- ~~1. Chronic alcoholism;~~
- ~~2. Addiction to narcotics;~~
- ~~3. Being found guilty of a felony;~~
- ~~4. A wilful effort on the part of the participant to bring about injury or illness to the participant or another person; or~~
- ~~5. Service in the Armed Forces of a county.~~

B. Service Connected Disability Retirement. A member may be retired by the Human Resources Director on a service connected disability retirement pension beginning on the first day of the month coinciding with or

next following the date all of the following conditions are met:

1. The Human Resources Director determines on the basis of a medical examination by one or more physicians selected by the Human Resources Director that:
  - a. The member has a total and permanent disability as the natural and proximate result of (i) bodily injury in the performance of the member's regular occupation at some definite time or place, occurring after July 1, 1994, without wilful negligence on the member's part or (ii) occupational disease incurred in the performance of the member's regular occupation, at some definite time or place, occurring after July 1, 1994, without wilful negligence on the member's part; and
  - b. The member is unable to engage in the member's regular occupation as a member or to be employed by the City in some other position for which the member is suited by, or which is appropriate to, the member's training and experience.
2. The member has exhausted sick leave and accident and sickness benefits from programs, exclusive of Federal Social Security, to which the City makes contributions;
3. The member was making member's contributions under this chapter immediately prior to the member's date of disability;
4. The member is not eligible for nonservice-connected disability retirement; and
5. The disability is the result of injury ruled compensable under the State workmen's compensation law and a claim is filed with the State Workmen's Compensation Commission.

C. Nonservice Connected Disability Retirement. A member may be retired by the Human Resources Director on a nonservice connected disability retirement pension beginning on the first day of the month coinciding with or next following the date the following conditions are met:

1. The member has exhausted sick leave and accident and sickness benefits from programs, exclusive of Federal Social Security, to which the City makes contributions;
2. The member was making member's contributions under this chapter immediately prior to the member's date of disability;
3. The member has five years of service;
4. The member is not eligible for service-connected retirement as provided in Subsection B above; and
5. The member has been determined to be eligible for disability benefits under the Social Security Act as constituted on the date the member becomes eligible for disability payments under this chapter, and on the basis of a medical examination by one or more physicians selected by the Human Resources Director, the Human Resources Director finds that, as a result of bodily injury or disease occurring after July 1, 1994, the member is totally and permanently prevented from:
  - a. Engaging in or an occupation or employment for remuneration or profit not as a result of (i) bodily injury in the performance of duty or (ii) occupational disease incurred in the performance of duty; or

- b. Continuing in the capacity of an employee not as a result of (i) bodily injury in the performance of duty or (ii) occupational disease incurred in the performance of duty.

**REVISOR'S NOTE: 3.36.080 - Disability retirement-Inability to perform employment with Fire or Police Department.**

Section was repealed by O-28-94.

**~~3.36.090 - Disability retirement-Exclusions.~~**

Disability resulting from or consisting of chronic alcoholism, addiction to narcotics, engaging in a felonious criminal act for which the member is found guilty, or a wilful effort on the member's part to bring about the injury or illness to the member, or another person, shall be excluded as an eligible justification for the award of disability retirement benefits.

**REVISOR'S NOTE: 3.36.100 - Disability retirement-Medical review.**

**3.36.110 - Disability retirement-Benefit limitations.**

Both sections were repealed by O-28-94.

**~~3.36.115 - Disability retirement-Termination of benefits.~~**

**A. ~~A member ceases to qualify for service-connected disability retirement pension benefits:~~**

- ~~1. If the Human Resources Director determines on the basis of a medical examination by one or more physicians selected by the Human Resources Director that the member no longer has a total permanent disability that incapacitates the member for duty and has sufficiently recovered but refuses to resume the member's regular occupation as a member or to be re-employed by the City in some other position; or~~
- ~~2. If the member refuses to undergo a medical examination requested by the Human Resources Director, provided the member may not be required to undergo a medical examination more than once a year; or~~
- ~~3. If the member fails to submit a report of total earnings from gainful employment or Social Security disability benefits to the Human Resources Director in accordance with Section 3.36.116.~~

**B. ~~A member ceases to qualify for nonservice-connected disability retirement pension benefits:~~**

- ~~1. If the Human Resources Director determines on the basis of a medical examination by one or more physicians selected by the Human Resources Director that the member no longer has a total permanent disability that prevents the member from engaging in an occupation or employment for remuneration or profit; or~~
- ~~2. If the member refuses to undergo a medical examination requested by the Human Resources Director, provided the member may not be required to undergo a medical examination more than once a year; or~~
- ~~3. If the member fails to report an occupation or employment for remuneration or profit or to report Social Security disability benefits to the Human Resources Director in accordance with Section 3.36.116; or~~
- ~~4. If the member is no longer eligible for disability benefits under the provisions of the Social Security Act.~~

C. Service connected and nonservice connected disability retirement pension benefits payable to a member shall continue after the member's normal retirement date, in lieu of, and not in addition to a normal retirement pension under this chapter.

### **~~3.36.116—Reporting employment, earnings and Social Security disability benefits.~~**

A. A member who is receiving service connected or nonservice connected disability retirement pension benefits shall report any occupation or employment for remuneration or profit, total earnings from gainful employment and Social Security disability benefits to the Human Resources Director as provided below.

B. If a member who is found to be totally and permanently disabled subsequently engages in an occupation or employment for remuneration or profit, other than for purposes of rehabilitation as approved by the Human Resources Director, the occupation or employment shall be considered as gainful employment. In order for a service connected disability pension to be paid under this chapter when the member is engaged in gainful employment, the member is required to report total earnings from the gainful employment received during the preceding calendar year and provide the Human Resources Director with documents satisfactory to the Human Resources Director that will substantiate the earnings being reported. These earnings include salary, wages, commissions or fees but exclude income from investments or savings for which the member is contributing neither time nor talent. The documents shall be made available to the Human Resources Director each year during the month of January but, in the event of delay, consideration shall be given to the continued payment of a disability pension through April 15, and adjustments shall be absorbed in the payments expected to be paid during the balance of the calendar year.

C. A member who is found to be totally and permanently disabled shall submit a report of all Social Security disability benefits received during the preceding calendar year and provide the Human Resources Director with documents satisfactory to the Human Resources Director that will substantiate the benefits being reported. The documents shall be made available to the Human Resources Director each year during the month of January but, in the event of delay, consideration shall be given to the continued payment of a disability pension through April 15, and adjustments shall be absorbed in the payments expected to be paid during the balance of the calendar year.

D. A member who is receiving service connected or nonservice connected disability benefits shall report to the Human Resources Director any gainful employment or any occupation or employment for remuneration or profit within thirty days after the commencement date of the employment or occupation.

E. If the member fails to advise the Human Resources Director of any occupation or employment for remuneration or profit or fails to provide the report of earnings or Social Security disability benefits or substantiating documents as provided in this section, then that member shall cease to qualify for a service connected or nonservice connected disability pension.

### **~~3.36.117—Amount of disability retirement benefit.~~**

The annual amount of disability pension payable to the eligible member shall be:

A. If the member is deemed to be totally and permanently disabled under Section 3.36.070(B) (service connected), the amount of disability pension payable to the eligible member shall be equal to sixty-six and two-thirds of the member's final earnings, less that portion of the combined annual amount of earnings received from gainful employment and social security disability benefits in the preceding calendar year that when added



to the amount of the disability pension is in excess of one hundred percent of the maximum step of the preceding July 1 salary range of employees in the same classification the member was in on the date of member's disability.

B. If the member is deemed to be totally and permanently disabled under Section 3.36.070(C) (non-service connected), the amount of disability pension payable to the eligible member shall be as computed for a normal service retirement pension in accordance with the provisions of Section 3.36.040 which apply to the member, less that portion of social security disability benefits in the preceding calendar year that when added to the amount of the disability pension is in excess of one hundred percent of the maximum step of the preceding July 1 salary range of employees in the same classification the member was in on the date of member's disability, but the disability retirement pension shall in no event be less than twenty percent of the member's final earnings.

C. The City shall have no obligation to pay benefits under Section 3.36.070(B) (service connected) before the member's disability has been ruled compensable under the State's worker's compensation law and all other conditions of the said subsection have been met. The member shall pay over to the City that portion of any worker's compensation benefits representing disability benefits previously paid by the City under Section 3.36.070(B).

D. The City shall have no obligation to pay benefits under Section 3.36.070(C) (non-service connected) before the member has been determined to be eligible for disability benefits under the social security act and all other conditions of the said subsection have been met.

### **3.36.118 – Payment of benefits.**

A members annual disability pension shall be paid monthly with each monthly payment equal to one-twelfth of the annual amount.

### **3.36.120 – Survivor benefits Death in the line of duty while in active service.**

A. This subsection applies to (i) a member hired before August 1, 1972, (ii) a member hired on or after August 1, 1972 but before August 1, 1979 who has not elected to be covered by Section 3.36.020(A)(11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (iii) a member hired on or after August 1, 1979 but before July 1, 1980 who has not elected to be covered by Section 3.36.020(A)(11)(d) (ii) (pertaining to normal service retirement after twenty-five years of active service). If a member belonging to one of these categories dies in the line of duty while in active service, then the following subdivisions 1 through 5 shall apply:

1. An annual annuity equal to fifty percent of the member's yearly earnings shall be paid to the member's widow(er) until remarriage or death.
2. If the widow(er) remarries at a time when there are one or more children (natural or legally adopted) of the member under eighteen years of age, the widow(er) will receive monthly annuity payments equal to fifty percent of the monthly annuity payments the widow(er) had been receiving immediately before remarriage, with annuity payments continuing until the youngest child attains age eighteen.
3. If the widow(er) dies at a time when there are one or more children (natural or legally adopted) of the member under the age of eighteen, then monthly annuity payments totaling fifty percent of the monthly annuity payments the widow(er) had been receiving immediately before death shall be paid in equal

shares to each child or children (or to the child's or children's legal guardian as determined by the City's Personnel Director), and the annuity payment shall terminate when the youngest such child attains age eighteen.

4. Upon the termination of annuity payments under this Subsection any excess of the member's contribution, plus interest as defined in Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member and his or her survivors will be paid in a lump sum to the widow(er) or the widow(er)'s estate, except that if annuity payments were being paid to a child or children of the member, the excess will be paid in a lump sum in equal shares to each child.

5. If a member covered by this subsection dies without a surviving widow(er), the member's contributions, plus interest as defined in Section 3.36.020(A)(3), will be paid to the member's estate in a lump sum.

B. This subsection applies to (1) a member hired on or after August 1, 1972 but before August 1, 1979 who has elected to be covered by Section 3.36.020(A)(11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service); (2) a member hired on or after August 1, 1979, but before July 1, 1980 who has elected to be covered by Section 3.36.020(A)(11)(d)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (3) a member hired on or after July 1, 1980. If a member belonging to one of those categories dies in the line of duty while in active service, and if the member was not covered under the normal service retirement pension formula described in Section 3.36.040(C), a monthly annuity providing payments each month equal to fifty percent of the member's monthly normal service retirement benefit, computed as of the date of death in accordance with Section 3.36.040(B) (including provisions governing integration with social security after the member's sixty-fifth birthday, but excluding accumulated unused sick leave), shall be paid to the widow(er) until his or her remarriage or death. The minimum amount of the annuity shall be thirty percent of the member's annual earnings as of date of death, plus five percent for each unmarried child (natural or legally adopted) of the member under eighteen years of age on that date to a maximum of forty percent of annual earnings. Additionally, upon the remarriage of the widow(er) the portion of the annual annuity attributable to an unmarried child shall continue to be paid to the widow(er) until that child marries or, if earlier, attains age eighteen. If the member was covered under the normal service retirement pension formula described in Section 3.36.040(C), a monthly annuity providing payments each month equal to fifty percent of the member's yearly earnings shall be paid to the widow(er) until his or her remarriage or death. If the widow(er) receiving annuity payments under this subparagraph B dies without remarrying and is survived by a child or children (natural or legally adopted) of the member under age eighteen, the annual annuity attributable to the widow(er) only shall be paid, in equal shares, to those children under age eighteen (or to their legal guardian as determined by the City's Personnel Director), and each child's annuity shall terminate when the child attains age eighteen. Upon the termination of annuity payments under this subsection any excess of the member's contribution, plus interest as defined in Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member and the member's survivors will be paid in a lump sum to the widow(er) or the widow(er)'s estate, except that if annuity payments were being paid to a child or children of the member, the excess will be paid in a lump sum in equal shares to each child. If a member covered by this subsection dies without a surviving widow(er), the member's contributions, plus interest as defined in Section 3.36.020(A)(3), shall be paid in a lump sum to the member's estate.

### **3.36.130 – Survivor benefits-Death while in active service from a non-duty-related cause.**

A. This subsection applies to (i) a member hired before August 1, 1972; (ii) a member hired on or after August 1, 1972 but before August 1, 1979 who has not elected to be covered by Section 3.36.010(A)(11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (iii) a member hired on or after August 1, 1979 but before July 1, 1980 who has not elected to be covered by Section 3.36.020(A)(11)(d)

(ii) (pertaining to normal service retirement after twenty-five years of active service). If a member dies while in active service from a non-duty-related cause, with:

1. Less than ten years of active service (not including accumulated unused sick leave in the calculation of active service), the contribution of the member, plus interest as defined in Section 3.36.020(A)(3), shall be paid, in a lump sum, to the estate of the deceased member;
2. Ten or more years of active service (not including accumulated sick leave in the calculation of active service); an annual annuity equal to a percentage of the member's yearly earnings will be paid to the member's widow(er) until death or remarriage. If the member did not elect to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2), the percentage of the member's yearly earnings to be paid shall be ten percent plus one percent for each year of active service (excluding accumulated unused sick leave in the calculation) in excess of ten standing to the credit of the member as of the date of the member's death; provided, that the maximum percentage shall be thirty percent. If the member elected to be covered under the normal service retirement pension formula described in Section 3.36.040(A)(2), the percentage of the member's yearly earnings to be paid shall be fifty percent. Upon the widow(er)'s death or remarriage, any excess of the member's contributions, plus interest as defined in Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member and the widow(er) shall be paid in a lump sum to the widow(er) or the widow(er)'s estate. Upon the death of a member covered by this subdivision who is not survived by a widow(er), the member contributions, plus interest as defined in Section 3.36.020(A)(3), of the member shall be paid in a lump sum to the member's estate.

B. This subsection applies to (i) a member hired on or after August 1, 1972 but before August 1, 1979 who has elected to be covered by Section 3.36.020(A)(11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service); (ii) a member hired on or after August 1, 1979 but before July 1, 1980 who elects to be covered by Section 3.36.020(A)(11)(d)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (iii) a member hired on or after July 1, 1980. If a member belonging to one of those categories dies while in active service from a non-duty-related cause with:

1. Less than ten years of active service, the contribution of the member, plus interest as defined in Section 3.36.020(A)(3), shall be paid to the estate of the deceased member in a lump sum;
2. Ten or more years of active service, an annual annuity providing payments each month equal to fifty percent of the member's normal service monthly retirement benefit, computed as of the date of death in accordance with Section 3.36.040(B) (including provisions governing integration with social security after the member's sixty-fifth birthday, but excluding accumulated unused sick leave), shall be paid to the widow(er) until remarriage or death. Additionally, upon the remarriage or death of the widow(er), any excess of the member's contribution, plus interest as defined in Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member and the widow(er), will be paid in lump sum to the widow(er) or the widow(er)'s estate. If a member covered by this subdivision dies without a surviving widow(er), the member's contributions, plus interest as defined in Section 3.36.020(A)(3), shall be paid in a lump sum to the member's estate.

### **3.36.140—Survivor benefits—Death of a member after retirement.**

A. This subsection applies to (1) a member hired before August 1, 1972; (2) a member hired on or after August 1, 1972 but before August 1, 1979 who did not elect to be covered by Section 3.36.020(A) (11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (iii) a member hired on or

after August 1, 1979 but before July 1, 1980 who did not elect to be covered by Section 3.36.020(A)(11)(d)(ii) (pertaining to normal service retirement after twenty-five years of active service). If a member belonging to one of those categories was receiving a service retirement pension or a disability retirement pension at the time of death, and if the member is survived by an eligible spouse, the eligible spouse shall receive an annual annuity equal to fifty percent of the member's annual retirement pension at the time of the member's death, the annuity to continue until the remarriage or death of the eligible spouse. Upon the remarriage of the eligible spouse the excess, if any, of the member's contributions, plus interest determined under Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member and the eligible spouse shall be paid in a lump sum to the eligible spouse. Upon the death of a member described in this subsection who is not survived by an eligible spouse, the excess, if any, of the member's contributions, plus interest as defined in Section 3.36.020(A)(3), over the sum of the annuity payments previously paid to the member shall be paid in a lump sum to the member's estate.

B. This subsection applies to (1) a member hired on or after August 1, 1972 but before August 1, 1979 who did elect to be covered by Section 3.36.020(A)(11)(c)(ii) (pertaining to normal service retirement after twenty-five years of active service), (2) a member hired on or after August 1, 1979 but before July 1, 1980 who did elect to be covered by Section 3.36.020(A)(11)(d)(ii) (pertaining to normal service retirement after twenty-five years of active service) and (3) members hired on or after July 1, 1980. A member belonging to one of those categories may elect, prior to the date of his or her retirement, to receive an actuarially reduced retirement pension during his or her lifetime which provides that following the death of the member, the member's eligible spouse, if surviving, shall receive a monthly annuity providing payments each month equal to fifty percent of the payment that would have been made to the member for that month had the member survived, the annuity to continue until the remarriage or death of the eligible spouse. Other actuarially equivalent options providing survivor's benefits, with the approval of the City's Human Resources Director, also may be elected before the member's retirement and if elected, the survivor terms of the option shall control at the member's death. If a member covered by this subsection does not elect to receive an actuarially reduced retirement pension with survivor benefits, all benefits shall cease upon the member's death.

### **3.36.150—Cost-of-living-adjustment.**

Effective July 1, 2013 and each July 1st thereafter, each Retired Member or survivor of any such Retired Member, entitled to receive a retirement benefit as of June 30th of any year, shall receive a fixed annual two-percent increase above the amount the Retired Member or survivor had received on June 30th of the same year.

### **3.36.160—Termination-of-employment-benefits.**

A. Termination Before Vesting. Any member whose employment terminates prior to the time the member becomes eligible for a retirement benefit, and prior to earning a vested benefit, shall receive a refund of the member contribution, plus interest to the date of termination computed in accordance with Section 3.36.020(A)(3), and the refund shall be in lieu of all other rights and benefits of the member under the plan.

B. Termination After Vesting. Any member whose employment terminates after the time the member becomes eligible for vested rights or retirement benefits and who requests a refund of the member contribution plus interest shall have the contribution, plus interest computed in accordance with Section 3.36.020(A)(3), refunded and the refund shall be in lieu of all other rights and benefits of the member under the plan.

### **3.36.170—Administration.**

A. The City's Human Resources Director shall administer this plan. The director is responsible for enrolling all eligible members. The director shall collect and maintain such information with respect to each member, retired member and survivor receiving benefits as the director considers necessary or appropriate to discharge the director's duties and to provide for the proper administration of the plan. The director shall resolve in the first instance all disputes under the plan, including all matters pertaining to eligibility to participate in the plan, and amount of benefits under the plan; provided, that any person aggrieved by the director's determination has the right to appeal to the City's Civil Service Board for reconsideration, except in the case of disability retirement pension determinations, which shall be appealed to the Public Safety Disability Retirement Board, as provided in Section 3-36.175. The Human Resources Director, under the supervision of the Mayor and upon advice of counsel when the director or the Mayor considers counsel's advice desirable, shall construe the plan, supply any omission therefrom and reconcile any inconsistency therein. The director, to the extent the director considers it desirable, shall establish rules and regulations for carrying out the provisions of the plan. However, the Human Resources Director in all matters pertaining to the plan, shall be subject to the directions of the City Council or such other persons as may be designated from time to time by the City Council. This plan in all events shall be administered on the basis of uniform rules and practices applied in a nondiscriminatory manner which will be binding on all persons affected by them.

B. The responsibility and duties of the Human Resources Director with respect to applications for service connected and nonservice-connected disability retirement pensions shall be as follows:

1. To review and decide all applications for service connected and nonservice connected disability retirement from members or from the appointing authority of the Police Department and Fire Department of the City of Annapolis;
2. To obtain, as part of that process, from one or more physicians selected by the Human Resources Director, such medical evaluations and examinations of the applicant's condition as the Human Resources Director considers appropriate;
3. To conduct hearings, as the Human Resources Director deems appropriate, for the review of applications for service-connected and nonservice-connected disability retirement;
4. Within thirty calendar days of the review of an application for service connected or nonservice connected disability retirement, the Human Resources Director shall decide:
  - a. To retire the member on a service-connected disability pension;
  - b. To retire the member on a nonservice-connected disability pension;
  - c. To deny a disability retirement pension;
  - d. To continue the review of the application for a disability retirement pension to a date not to exceed ninety days from the date of the continuance.
5. To review, annually, during the first five years of a disability retirement, the continuation of retirement status and allowances and thereafter at such times as the Human Resources Director deems appropriate;
6. To perform such other duties as are implicitly or explicitly imposed upon the Director of Personnel by Chapter 3-36.

C. If the Human Resources Director has conducted a hearing under the preceding subsection, the director may grant a rehearing of the application upon a new showing by the applicant that:



1. New medical evidence has become available that was not available during the initial review of the application; or
2. The Human Resources Director misinterpreted the evidence considered in the course of the director's original review.

### **3.36.175 – Public Safety Disability Retirement Board.**

A. There is established a Public Safety Disability Retirement Board. The Public Safety Disability Retirement Board shall be composed of five members who shall each serve a term of three years. The board members shall be appointed by the Mayor and confirmed by the aldermen, with the exception that one member shall be an active member of the Police Department or Fire Department with at least fifteen years of continuous service and shall be elected by a majority vote of the members of its respective department. The Police and Fire Departments shall alternate representation in their serving terms of the board. The board chairperson shall be an attorney admitted to practice law in the State of Maryland with experience and training in disability law. The presence of three members of the board shall constitute a quorum for all purposes.

B. The Public Safety Disability Retirement Board shall conduct a hearing on the record to review and decide all appeals from Police and Fire Department service connected and nonservice connected disability retirement pension decisions made by the Human Resources Director. Additionally, the board shall conduct hearings on the record and decide such other matters as may be assigned to it under this code from time to time. A party aggrieved by a decision of the board may file an appeal to the circuit court for Anne Arundel County pursuant to Maryland Rules, Title 7, Chapter 200 or its successors.

C. The City Attorney shall represent the City's interests in all contested hearings before the Public Safety Disability Retirement Board and shall not advise the board or act as legal counsel to it in regard to the hearing.

### **3.36.180 – No employment right.**

This plan does not entitle any person to initial or continued employment by the City.

### **3.36.190 – Annual appropriation and levy.**

For all retirements, the City Council shall appropriate and levy each year a sufficient sum to pay the pensions provided in this chapter for all members retired under the provisions of this plan. This appropriation shall be included the City's annual budget in an amount of not less than the amount recommended by any legal life reserve insurance company, trustee or other funding medium engaged by the City for the purpose of underwriting the plan, as set forth in the underwriter's latest actuarial report, after giving due allowance for any salary increases approved by the City Council.

### **3.36.200 – Spendthrift provisions.**

No benefit provided under the plan will be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge and any attempt to do so will be void. To the maximum extent permitted by law, no such benefit will be liable for or subject to attachment or other legal process for or against any payee. If the payee of any payment is a minor or incompetent person, payment may be made to the person or persons caring for or supporting such payee, in full discharge of all obligations.

### **3.36.210 – Amendment.**



This plan is established and maintained for the exclusive benefit of its members. Subject to this limitation, any provision of this plan may be amended by the City at any time if, with respect to payments resulting from annuities purchased before the effective date of the amendment, the amendment does not reduce the amount of any payment or the term of monthly payments, or delay the due date of any payment to the member. Any provision of this plan may be amended in any respect, without regard to the above limitation, if the amendment is required for qualification or continued qualification of the plan under income tax laws, or is necessary for this plan to meet the requirements of any other applicable law. No member's consent is required for any amendment to the plan.

### **3.36.220—Termination.**

A. Although it is intended that this plan be a permanent program of retirement benefits for eligible members, the plan may be terminated in whole or in part by the City at any time.

B. If the plan is terminated, the amount of each member's retirement benefit under the plan as of the date of termination (determined as set forth in this section), to the extent then funded, shall become fully vested. Upon termination, unapplied payments and other assets of the retirement fund will be disposed of through the purchase of annuities or otherwise for the exclusive benefit of members and their beneficiaries, in the order of priority stated at the end of this subsection. The necessary assets of the retirement fund, determined by the City on the basis of an actuarial valuation, will be fully allocated for all members of one class before any assets are allocated to the next class. The amount of retirement benefit will be determined as of the date of termination of the plan based, in the case of active members, on active service and final or annual earnings, whichever is applicable, as of the date of termination. If the assets are insufficient to provide the full retirement benefits for all persons in a class, a pro rata allocation will be made for that class and no retirement benefits will be provided for succeeding classes. If any balance remains after these priorities have been satisfied, the balance shall become the property of the City. The order of priority is as follows:

1. To provide retirement benefits for members and survivors then receiving retirement benefits for which annuities have not been purchased;
2. To provide retirement benefits, starting at age sixty-five, for active members who have completed thirty or more years of active service;
3. To provide retirement benefits, starting at age sixty-five, for active members who have completed twenty-five years but less than thirty years of active service;
4. To provide retirement benefits, starting at age sixty-five, for active members who have completed twenty years but less than twenty-five years of active service;
5. To provide retirement benefits, starting at age sixty-five, for all other active members.

C. If a partial termination of the plan, as determined under applicable provisions of the Internal Revenue Code and regulations issued under that code, occurs, the amount of retirement benefit, determined as in Subsection B of this section, of each member affected by the partial termination shall become fully vested to the extent then funded. The City shall have the right to take actions with respect to the provision of such benefits and the application of plan assets attributable to those benefits as are consistent with requirements of the Internal Revenue Code and regulations issued under that code and as are considered appropriate by the City.

### **~~3.36.230 – Reversion of funds to City.~~**

Under no circumstances shall amounts deposited by the City in the retirement fund revert to the City until all liabilities for benefits under this plan have been satisfied. The retirement fund shall be held and maintained for the exclusive benefit of members participating in this plan, subject however to the rights of the City upon plan termination set forth in Section 3.36.220.

### **~~3.36.240 – Forfeitures.~~**

Any forfeitures of benefits arising under this plan shall not increase the benefits of other members but shall be applied to reduce the City's contributions to the retirement fund.

### **~~3.36.250 – Internal Revenue Service requirements–Early termination.~~**

Internal Revenue Service regulations impose limitations upon the benefits payable to certain persons if the plan is terminated, or if full current costs are not met, within ten years after the effective date of the plan or within ten years after the effective date of an amendment to the plan liberalizing benefits. These limitations apply only to a person who is one of the twenty-five highest paid employees of the City on the latest effective date, and for whom a monthly annuity of one hundred and twenty-five dollars or more will be purchased by the City contributions alone on the member's normal service retirement date, assuming the member's compensation remains unchanged and the member remains in the City's service until that date. If the plan is so terminated or curtailed, any annuity or portion thereof purchased at or before termination or curtailment for that person by City contributions in excess of the member's "unrestricted maximum" is required to be canceled. The member's unrestricted maximum is the greatest of Subsections A, B and C:

A. The City contributions, if any, which would have been applied to provide benefits for that person if the plan had not been amended, but not greater than any unrestricted maximum previously applicable to such person;

B. Twenty thousand dollars;

C. The sum of:

1. An amount computed by multiplying the number of years for which current costs of the plan have been met since the effective date of the plan or the latest amendment liberalizing benefits times twenty percent of the person's average earnings for the last five years of the person's service with the City, or ten thousand dollars, whichever is smaller, and

2. The City contributions, if any, which would have been applied to provide benefits for that person if the plan had terminated immediately before the effective date of amendment, but not greater than any unrestricted maximum previously applicable to that person.

### **~~3.36.260 – Internal Revenue Service requirements–Maximum benefit.~~**

The maximum yearly pension benefit to which a retired member will be entitled, when combined with the benefits to which the member is entitled under any other qualified defined benefit plan maintained by the City, is the sum of the benefit attributable to member contributions and maximum benefit attributable to employer contributions. The maximum yearly pension benefit attributable to employer contributions is described as follows:

A. The yearly amount of pension benefit during any calendar year shall not exceed the maximum amount stated in subdivisions 1 through 5 of this subsection. The items are as follows:

1. The maximum amount shall be the lesser of (a) the maximum dollar limitation then in effect under Section 415 of the Internal Revenue Code or (b) one hundred percent of a member's average annual compensation by the City during the three consecutive calendar years of the member's highest compensation while he or she was a member of the plan.

2. The maximum amount in Subdivision 1 of this subsection shall be reduced actuarially pursuant to Federal regulations if pension benefit payments commence prior to the member's fifty-fifth birthday.

3. The maximum amount in Subdivision 1 of this subsection will be reduced actuarially to reflect the form of benefits provided, if benefits are paid in a form other than (a) a straight life annuity form, or (b) a joint annuity form with the member's spouse named as the joint annuitant.

4. The benefit payable to a member will not be considered to exceed such limitations if the aggregate annual amount of benefit for the member under all defined benefit plans maintained by the City for each year and all prior years is not more than ten thousand dollars, and the member has not at any time participated in a defined contribution plan maintained by the City.

5. The limitations stated in Subdivisions 1 and 4 of this subsection shall be reduced if during any limitation year the member's total years of active service is less than ten. The reduced limitation will equal the amount in Subdivisions 1 or 4 of this subsection, as applicable, multiplied by a fraction, the numerator of which is the number of years (or part of a year) of the member's active service and the denominator of which is ten.

B. In the event any member is also a member in a defined contribution plan maintained by the City, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any calendar year shall not exceed 1.4. The defined benefit plan fraction for any year is a fraction (1) the numerator of which is the projected annual benefit of the member under this plan (determined as of the close of the year), and (2) the denominator of which is the maximum benefit allowable by law. The defined contribution plan fraction for any year is a fraction (1) the numerator of which is the sum of the annual additions to the member's account as of the close of the year and (2) the denominator of which is the sum of the maximum allowable amount of the annual additions to that account. For the purpose of applying this limitation, all defined benefit plans (whether or not terminated) maintained by the City shall be treated as one defined benefit plan, and all defined contribution plans (whether or not terminated) maintained by the City shall be treated as one defined contribution plan.

### **3.36.270 – Small payments.**

A single sum payment in an actuarially equivalent amount may be made in lieu of monthly payments if the amount of each monthly payment would be less than fifty dollars.

### **3.36.280 – Retirement Plan Commission.**

A. There is established a Police and Fire Retirement Plan Commission, to consist of the Mayor, the Director of Finance, the Human Resources Director, the Chair of the Finance Committee or a member of the Finance Committee, the Chief of Police or the chief's designated representative, the Fire Chief or the chief's designated representative, a representative jointly designated by the certified bargaining units for the Police and

Firefighters, and a representative of a local financial institution to be appointed by the Mayor. The representatives of the bargaining units and the financial institution shall be appointed by the Mayor and confirmed by the City Council and shall serve for terms of three years, or until a successor is appointed and duly qualified, commencing on November 1st.

B. The commission shall meet at least annually to review the funding of the retirement plan, the reports of any actuary administering to the plan, and the investments supporting the funding of the plan, and based thereon, shall issue a report to the City Council with respect to such matters as it deems appropriate, including any recommendations with respect to improvements in the methods of procedures for the funding of the plan.

C. The commission shall have the authority to invest and reinvest the pension fund in any securities, insurance company contract (including but not limited to the issue of a contract for the purpose described in Section 3.36.290), trust company account or any other investment as is lawful. The commission, from time to time, may employ an agent, including an investment advisor, for the purpose of directing the investment and reinvestment of all or a portion of the pension fund.

### **3.36.290 – Annuity contract funding.**

The benefits to be provided under this plan to employees other than retired employees may be funded through a group annuity contract issued by an insurance company.

#### **REVISOR'S NOTE: 3.36.300 - Retirement plan for policemen and firemen.**

Section was repealed by O-48-93.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect on the date of its passage.

#### **EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments