

Chapter 20

FIRE PREVENTION AND PROTECTION*

* **Cross References:** Board of public safety, § 6-71 et seq.; buildings and building regulations, ch. 8; fire extinguishers required at laundries and dry cleaning services, § 34-63; fires restricted in public recreation facilities, § 58-3; right-of-way of fire companies, § 76-126; following fire apparatus, § 76-135; crossing a fire hose, § 76-136; fire lanes, § 76-251 et seq.

State Law References: Fire safety code, G.L. 1956, § 23-28.1-1 et seq.; authority of cities to enact ordinances for prevention of fire, etc., G.L. 1956, § 45-6-1.

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ARTICLE I.

IN GENERAL

Sec. 20-1. Use of rubbish burners and similar containers.

(a) *Attending fires.* No person shall set or maintain a fire in a rubbish burner or other container having openings sufficiently large to allow the burning matter to pass through unless the person so setting or maintaining such fire shall stay in attendance until the fire has burned out or has been otherwise extinguished.

(b) *Disapproved container or location.* No person shall set or maintain a fire in a rubbish burner or other container after the location thereof or its construction has been disapproved in writing by the chief of police or the chief of the fire department.

(c) *Inspections.* Authority is hereby granted to the members of the police department and the fire department or their duly authorized agents to make inspections of premises in the city to determine whether any rubbish burner or any other container because of its location or construction constitutes a fire hazard.

(Code 1971, §§ 7-1--7-3)

Sec. 20-2. Setting fires at city dump; deposit of combustible material at dump.

(a) *Setting fires prohibited.* It shall be unlawful for any person to set fire to any wastepaper or other inflammable material or rubbish within the confines of the city dump.

(b) *Permission required for deposit of combustible material.* It shall be unlawful for any person to dump, deposit or discard any inflammable or combustible material or debris within the confines of the city dump, without written authority of the director of public works.

(c) *Bounds of city dump.* For the purpose of subsections (a) and (b) of this section, the city dump is defined as that tract or parcel of land owned by the city which is described as follows:

Beginning at a point in the northwesterly line of Service Avenue, said point being 20 feet northeasterly from the project limit line of the sewer treatment plant; thence running northwesterly 20 feet northeasterly from and at all times parallel to said project limit line, a distance of 885 feet more or less to the Pawtuxet River; thence running northeasterly and easterly, bounding northwesterly and northerly on said river, a distance of 1,845 feet more or less to the northwesterly line of Interstate Route 95; thence running southwesterly, bounding southeasterly by said Interstate Route 95, a distance of 800 feet more or less to the northeasterly line of said Service Avenue; thence running northwesterly, westerly and southeasterly, bounding southwesterly, southerly and southeasterly by said Service Avenue, a distance of 680 feet more or less to the point or place of beginning.

Also a parcel of land being between the southeasterly line of Service Avenue and the northwesterly line of Interstate Route 95 and extending from the northeasterly project limit line of the sewer treatment plant to the southwesterly line of said Service Avenue.

And also as that tract or parcel of land owned by the city, which tract is bounded southerly by Sandy Lane; westerly by Gallway Street, so-called; northerly in part by Cedar Swamp Road, in part by land now or formerly of George Ajootian and in part by land now or formerly of Thomas W. A. Bliss estate;

northwesterly in part by land now or formerly of James Lombardi, et ux, in part by Pinnery Avenue, in part by land now or formerly of William E. Cain, in part by land now or formerly of Eva F. Williams estate and in part by land now or formerly of Elmer W. Lincoln.

(Code 1971, §§ 7-4--7-6)

Sec. 20-3. Mutual aid agreements for fire protection.

(a) The board of public safety is hereby authorized, on behalf of the city, to enter into mutual aid agreements for fire protection with other municipalities, fire districts or state agencies.

(b) Such agreements may provide for the use of city firefighting equipment and personnel in other municipalities or districts on a reciprocal basis; provided, however, that no charge, expense or liability is incurred or assumed by the city with respect to the activities of other firefighting agencies within the city.

(Code 1971, § 7-7)

Sec. 20-4. Open fires.

(a) *Prohibited.* No person shall set or maintain an open fire within the city.

(b) *Definition.* For the purposes of this section the term "open fire" shall be held to mean any fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

(c) *Exceptions.* The provisions of this section shall not apply to open fires set or maintained by or at the direction of the city fire department or to fires used for cooking.

(Code 1971, § 7-8)

Sec. 20-5. Blasting permit--Required.

No person shall use any powder, dynamite or other explosive for blasting within the limits of the city except upon permission therefor duly granted by the director of public works, in writing, and not revoked as hereinafter provided, upon application made to him/her for that purpose, setting forth the location at which it is proposed to do such blasting, and upon such terms, conditions and restrictions as shall be imposed by said director.

(Code 1971, § 7-9)

Cross References: Blasting permit for excavations, § 70-43.

State Law References: Explosives, G.L. 1956, § 23-28.28-1 et seq.

Sec. 20-6. Same--Issuance; duration; fee.

(a) The director of public works is hereby authorized to grant permission in writing to any person to use explosives for blasting at any place within the limits of the city, provided, in his/her opinion, such blasting can be done with safety to persons and property, upon such conditions and under such regulations and restrictions as he/she shall impose. Said director may require a bond in such amount and with such surety or sureties to his/her satisfaction as he/she shall deem sufficient, such bond to be given to said director for the benefit of any person who may suffer any damage by reason of the exercise of such permission to use explosives for blasting, conditioned to pay all damages and all costs of suits and losses and expenses of every

name and nature which shall accrue to or be suffered by any person by reason of the exercise of such permission to engage in blasting, as aforesaid.

(b) A permit when issued shall be valid for a period of 60 days. A fee as provided in chapter 18 shall be charged for each permit issued.

(Code 1971, § 7-10)

Cross References: Fee for blasting permit, § 18-5.

Sec. 20-7. Same--Revocation.

The director of public works is hereby authorized at any time to revoke any permission by him/her theretofore granted for the use of explosives for blasting, whenever in his/her opinion the safety of persons or property shall require such revocation, or whenever permission so granted by him/her shall by any person thereby authorized have been exercised in violation of any rule, regulation or restriction imposed by said director.

(Code 1971, § 7-11)

Sec. 20-8. Installation of radio-type fire alarm systems.

(a) All interior fire alarm systems installed subsequent to the effective date of this section shall be installed to conform to the radio fire alarm system.

(b) As of November 30, 1994, all of the existing telegraph fire alarm boxes, so-called, located in the city will be dismantled and replaced by radio-type master boxes as approved by the city fire department. All costs and expenses pertaining thereto shall be borne by the owners of the real estate.

(Code 1971, § 7-14.1; Ord. No. O-94-25, § I, 10-11-94)

Sec. 20-9. Responsibility for costs of connection to city fire alarm system.

All costs and expenses relating to the connection of a private fire alarm system to the municipal fire alarm system of the city, including the costs of single- and multi-zone interior control panels and related radio fire alarm radio boxes, shall be the responsibility of the developer or owner and not of the city.

(Code 1971, § 7-15)

Sec. 20-10. Multi-zone fire alarm interior control panels.

(a) All multi-zone fire alarm interior control panels shall have the capability of electrically isolating that zone or alarm in trouble while allowing the remainder of the system together with the master box to be reset.

(b) The capability of electrically isolating the zone shall be either by an alarm acknowledge switch on the control panel or by an individual zone disconnect switch. The removal of an alarm zone from the control panel to isolate the zone is not acceptable. The control must provide a visual indicator of the specific zone or alarm trouble.

(c) This control panel provision shall be UL-approved and/or FM-approved for its intended use.

(Code 1971, § 7-16)

Sec. 20-11. Permit for transportation, storage or handling of hazardous substances; tank removal fee.

(a) *Permit required; issuance; fee.* In accordance with section 404 of the state building code, the bureau of fire prevention within the city fire department or other official duly designated by the fire chief of the city is authorized to issue permits upon application from the owner of an industry, trade, occupation or use involving transportation, storage or handling of substances involving life hazards. Said permits are to be issued annually to prescribe the conditions and requirements necessary to secure the public safety and may be issued only after application on forms furnished by the fire department, after inspection by the fire department and after payment of a permit fee as provided in chapter 18.

(b) *Tank removal fee.* Tank removal fees shall be as provided in chapter 18.
(Code 1971, § 7-17)

Sec. 20-12. Lighting fire or barbecue grill near building containing more than five living units.

No person shall set or maintain a fire or portable barbecue grill of any combustible material within 15 feet of any building containing more than five living units.
(Code 1971, § 7-18)

Sec. 20-13. Designation of buildings in housing complexes; posting of numbers.

Subsequent to the effective date of this section, every person, partnership, association and corporation owning any multibuilding housing complex shall within two months designate each building by number or letter displayed in a prominent and visible location on each building.
(Code 1971, § 7-18.1)

Sec. 20-14. Attachments to fire hydrants.

No person shall attach or cause to be attached any device to any public or private water hydrant without the prior written approval of the chief of the fire department or the director of the water department.
(Code 1971, § 7-18.2)

Sec. 20-15. Smoke detectors.

All single-family and multifamily dwellings constructed prior to 1976 shall have at least one smoke detector on each habitable level, and the provisions of G.L. 1956, § 23-28.35 et seq., are adopted for all remaining dwellings.
(Code 1971, § 4-10)

Sec. 20-16. Inspection and plan review for building work.

(a) *General requirements.*

(1) Any person, including any partnership, corporation or association, undertaking the erection, extension, alteration, repair, or moving of a structure, or undertaking any changes that may affect

the fire safety of a building or any portion thereof, shall first make application for an inspection and for a plan review to the city bureau of fire prevention. Said application shall be made at least 21 calendar days prior to the start of any construction or work, and shall be accompanied by the proper fee or fees as described in subsection (b) hereof. No construction or work shall be started until the required application has been approved by the fire prevention office. No permit is required for any one-, two-, or three-family residential structure.

- (2) In all matters relating to plan review, the interpretations and decisions of the city bureau of fire prevention shall be binding. If the applicant disagrees with the decision of the bureau of fire prevention, the applicant may request a variance or seek an appeal in accordance with G.L. 1956, ch. 28.3.
- (3) All construction work which is requested to be approved shall be in complete compliance with the Rhode Island Fire Safety Code, 1976, as amended, and/or the 1996 Rhode Island Fire Prevention Code.
- (4) All fees shall be based on full valuation of current construction costs. Construction costs, per square foot, shall be determined on the basis of the applicable building permit issued by the city building official.
- (5) There shall be no remuneration paid to any person for any inspection and/or plan review which is required by this section.
- (6) Payment of fees shall be made to the bureau of fire prevention upon application. All fees shall be made payable to the City of Warwick.
- (7) No fees shall be due for any structure situated on land owned by the city, state, or the United States government.
- (8) No fees shall be due for a fire safety inspection which is required for a license renewal.
- (b) *Schedule of plan review fees.* Fees for plan review shall be computed as follows:

Valuation of Construction Costs	Fee
\$0 to \$5,000	\$50.00
5,001 to 10,000	100.00
10,001 to 15,000	150.00
15,001 to 20,000	200.00
20,001 to 25,000	250.00
25,001 to 50,000	300.00
50,001 to 100,000	350.00
100,001 to 500,000	400.00
500,001 to 1,000,000	500.00
1,000,001 and over	500.00 plus \$10.00 per \$2,500.00 additional valuation over \$1,000,001

Sec. 20-17. Fire and rescue service to Potowomut.

In addition to the fire and rescue services provided to the Potowomut area by the East Greenwich Fire District under a contract with the City of Warwick, the Warwick Fire Department shall provide the following services to said area on a simultaneous response basis:

- (1) On all fire-related calls (including box alarms) for service in Potowomut, Warwick will now immediately respond with the same amount of personnel and apparatus as the fire department would send to other parts of the city on similar calls for service;
- (2) On all calls for rescue service in Potowomut, Warwick will now immediately respond with the same number of firefighters/rescue personnel as the fire department would send to other parts of the city in life-threatening situations including, without being limited to, vehicle rollovers; multiple vehicle accidents; people in need of being extricated from vehicles (i.e., "jaws of life"); vehicle(s) on fire; any report of a drowning or person falling through the ice (i.e., Warwick Dive Team will be deployed) and any calls regarding a hazardous waste spill.

(Res. No. R-99-43, § I, 9-13-99)

Sec. 20-18. Notification of gasoline and other petroleum product leaks.

Whenever a leak of gasoline or other petroleum products occurs in the city from an underground tank with a capacity of 300 gallons or more, the fire department shall notify all owners of properties located within 500 feet of the site of the leak. The notice shall be in writing and shall be sent within seven days after the date on which the leak was discovered and shall notify the recipients of the notices of the site of the leak, the date of discovery, and the person and/or agency to contact for additional information.

(Ord. No. O-00-12, § I, 4-11-00)

Secs. 20-19--20-40. Reserved.

ARTICLE II.

FIRE DEPARTMENT

Sec. 20-41. Established; statutory authority.

The council, acting by and under the provisions of a certain act passed by the general assembly at its January session, A.D. 1953, entitled "An act establishing a Bureau of Fire for the City of Warwick," hereby establishes a permanent fire department in accordance with the provisions and under the authority of such act. (Code 1971, § 7-36)

Sec. 20-42. Composition.

The fire department shall consist of a chief of the fire department and such additional personnel of other ranks and grades as the bureau of fire may from time to time determine. The complete rank of the personnel in the department may be as follows: chief, deputy chiefs, battalion chief, superintendent of fire alarms, and privates, with any acting officers and men/women necessary for proper operations.

(Code 1971, § 7-37)

Sec. 20-43. Appointments of officers to be made from ranks of department.

All future appointments of officers of the fire department, other than chief of the department shall be from within the ranks of such department.

(Code 1971, § 7-38; Ord. No. O-07-21, § I, 9-18-07)

Sec. 20-44. Experience requirements for officers.

The fire chief shall have at least ten years of experience in firefighting in any fire departments. Deputy chiefs shall have ten years of experience in the city fire department, and battalion chiefs shall have seven years of firefighting experience in the city fire department. This section is only applicable to initial appointments.

(Code 1971, § 7-39; Ord. No. O-07-22, § I, 9-18-07)

Sec. 20-45. Duties of fire chief--Generally.

There shall be one fire chief in the city, and he/she shall have charge of all firefighting activities.

(Code 1971, § 7-40)

Sec. 20-46. Same--Enforcement of laws; management of personnel.

The chief of the fire department shall enforce the laws of the state and the ordinances of the city as they pertain to the fire department and he/she shall exercise and perform the powers and duties by law imposed upon and required of the fire department and the fire chief in the several towns of the state. He/she shall be the executive officer of the fire department and he/she shall have direct control and management of all members and other personnel of the fire department in the lawful exercise of their duties, according to law.

(Code 1971, § 7-41)

State Law References: Powers of fire companies, G.L. 1956, § 23-37-1 et seq.

Sec. 20-47. Same--Records and reports.

It shall be the duty of the chief of the fire department to keep accurate and complete records of all fires. He/she shall submit to the board of public safety a monthly report and an annual report of all transactions and activities of the fire department, including finance.

(Code 1971, § 7-42)

Sec. 20-48. Same--Formulation of training program; filing of lists of qualifications for appointment.

The chief of the fire department may formulate, under the direction of the board of public safety, a program of training and may incur such expenses within the appropriation therefor. He/she shall keep on file printed lists of the qualifications necessary for appointment to the department, for the use of all applicants for training for appointment to the force.

(Code 1971, § 7-43)

Sec. 20-49. Appointment of members generally.

Each member of the fire department and all other personnel thereof shall be appointed by the board of public safety pursuant to law and ordinance with due consideration given to recommendation by the fire chief. (Code 1971, § 7-44)

Sec. 20-50. Age and residence requirements for appointees.

An applicant for a position in the fire department must be not less than 21 years of age or shall not have passed his/her 30th birthday, and must be a resident and registered voter of this city at the time of appointment. (Code 1971, § 7-45)

Sec. 20-51. Mental and physical requirements for appointees.

Before any applicant shall be appointed to a position in the fire department, he/she shall present qualifications through examination and a certificate from a physician appointed by the board of public safety that he/she is mentally and physically qualified. (Code 1971, § 7-46)

Sec. 20-52. Appointments to be by competitive examination.

All appointments to the fire department, other than temporary appointments for a period not to exceed six months, whether they be officers, privates, or call persons, shall be by competitive examination. (Code 1971, § 7-47)

Sec. 20-53. Compensation of members; term of office.

Permanent members of the fire department shall hold office at such compensation as the board of public safety shall fix until their position is vacated by reason of death, resignation, removal from the city, or inability to serve, or until they are reduced in rank or removed from office by such bureau. (Code 1971, § 7-48)

Sec. 20-54. Removal of members; reduction in rank.

All members of the fire department, including the fire chief, shall be subject to reduction in rank or removal from office by the board of public safety at any regular or special meeting thereof, for misconduct, incapacity, infraction of the rules, neglect of duty or insubordination of such a character as such bureau may deem a disqualification for such office. All such reductions or removals shall be made by such board upon charges made in writing, a copy of which must be served upon such member so charged, at least five days before the date of hearing. Such hearing shall be held at the next regular or special meeting of such board, which meeting shall be held no later than 30 days after such reduction in rank or removal from office. Such member shall have the right to be represented by counsel. (Code 1971, § 7-49)

State Law References: Appeal from order of removal from fire department, G.L. 1956, § 45-20-1 et seq.

Sec. 20-55. Suspension of members.

The fire chief shall have the right to suspend any subordinate officers or members for cause, and any such suspended officer or member shall be entitled to a hearing before the bureau of fire as provided in section

20-54.

(Code 1971, § 7-50)

Sec. 20-56. Uniforms.

Every member of the permanent fire department while on duty shall wear a uniform which shall comply with the applicable rules and regulations. The fire chief may issue specific orders authorizing the performance of certain duties while not in uniform.

(Code 1971, § 7-51)

Sec. 20-57. Badge.

Each member and call person of the fire department shall wear a suitable badge to be furnished by the department.

(Code 1971, § 7-52)

Sec. 20-58. Superintendent of fire alarms.

The superintendent of fire alarms shall be under the supervision of the fire chief. The installation and maintenance of wires and equipment connected with the fire alarm system shall be under the supervision of the superintendent of fire alarms.

(Code 1971, § 7-53)

Sec. 20-59. Status of firefighters injured or made ill by responding to duty call when off duty.

Permanent firefighters on the city fire department who suffer injuries or contract sickness when they respond to alarms during their off-duty time shall be considered for the purposes of G.L. 1956, § 45-19-1, as amended, as acting in the performance of the duties for which they are regularly employed.

(Code 1971, § 7-54)

Sec. 20-60. Health insurance coverage for retired firefighters.

(a) The city, under the authority granted to it by the provisions of G.L. 1956, § 45-2-11, as amended, and under every other power thereunto enabling, shall provide health care insurance coverage to all of the employees of the fire department of this city who are presently retired or who may hereafter become retired.

(b) The city shall provide such coverage for those employees who retire from the department after July 1, 1983, for family or individual coverage as the employee may select.

(c) The city's obligation to provide such coverage shall terminate at such time as such retiree attains the age which makes him/her eligible for Medicare coverage or at such time as the retiree or his/her spouse obtains equal or better medical insurance coverage.

(d) A verification procedure shall be instituted whereby dual coverage can be verified. Any employee or retiree who fails to provide the necessary information is ineligible for family coverage. If said retiree or spouse, for any reason, loses his/her other available medical insurance coverage, said retiree may

resume his/her coverage under the city plan.
(Code 1971, § 7-55; Ord. No. O-07-9, § I, 5-22-07)

Sec. 20-61. Persons ineligible to serve.

No person shall be appointed or serve as a member of the fire department who has been convicted of, found guilty of, pleaded guilty or nolo contendere to, or placed on a deferred or suspended sentence or on probation for any crime which involves moral turpitude or any felony.
(Code 1971, § 7-56)

Sec. 20-62. Procurement of bail for firefighters in suits arising from official duties.

The treasurer of the city shall secure a bail bond or shall provide bail for any member of the permanent fire department who is served with a writ of arrest in a civil suit, which suit arises while said firefighter is engaged in the performance of his/her official duties. The city treasurer shall have full right, power and authority to expend from city funds a sum sufficient to secure or provide said bail bond or bail.
(Code 1971, § 2-12)

Sec. 20-63. Counsel for firefighters in suits arising from official duties.

The city solicitor's department shall provide legal advice and representation to any member of the permanent fire department who is named as a defendant in a civil suit which suit arises while said firefighter is engaged in the performance of his/her official duties.
(Code 1971, § 2-13)

Sec. 20-64. Lump sum death benefit for firefighters.

(a) If a member of the fire department of the city is killed or dies by reason of injuries received or sickness contracted while in the performance of his/her duty as such member, there shall be paid to the widow/widower, or, if no widow/widower survives, to the legal representatives of such member, a lump sum payment from the city in the amount of \$5,000.00.

(b) As used in this section, the term "member of the fire department" shall mean and include any chief or other member of the fire department of this city, regularly employed at a fixed salary or wage.

(c) This section shall, after it takes effect as prescribed by law, operate retroactively to September 1, 1964, to include all cases covered by its provisions since that date.
(Code 1971, § 2-14)

State Law References: Relief of injured and deceased firefighters, G.L. 1956, § 45-12-1 et seq.

Secs. 20-65--20-90. Reserved.

ARTICLE III.

FIREFIGHTERS' PENSION FUND (APPLICABLE TO APPOINTMENTS PRIOR TO MAY 29, 1992)*

* **Editors Note:** Ordinance No. O-96-18, adopted May 13, 1996, was treated as superseding Ch. 20, Art. III. Formerly, Art. III

consisted of §§ 20-91--20-115, which contained similar provisions and derived from §§ 7-65--7-75.2, 7-76--7-78, and 7-80--7-87 of the 1971 Code; and Ord. No. O-95-33(A), § I, adopted Oct. 16, 1995. Ord. No. O-96-18 did not provide for specific manner of inclusion; hence, designation of such provisions as set forth herein was at the discretion of the editor. See history note following each section for specific derivation.

Cross References: Retirement system, ch. 60.

State Law References: Relief of injured and deceased firefighters generally, G.L. 1956, § 45-19-1 et seq.

Annotation--For case on vesting of pension rights, see *Cahoone v. Bureau of Fire of the City of Warwick*, 162 A. 2d 275(1960).

DIVISION 1.

GENERALLY

Sec. 20-91. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Actuarially equivalent value means an amount having equal value when computed on the basis of a 2.84 percent interest rate compounded annually and the UP-1984 mortality table, for purposes of section 20-108.

Actuary means an individual who has attained Fellowship in the Society of Actuaries or a firm employing such an individual.

Administrator means the city treasurer, whose duties are described in section 20-136.

Base pay means the base wages paid to the employee in accordance with the collective bargaining agreement between the city and the union.

Beneficiary means the member's spouse, dependent child under 18 years of age or child 18 years of age or older who is receiving social security disability benefits. Such beneficiary is or may become entitled to receive pension benefits from the fund as a result of the death of the member.

Board means the city's board of public safety.

Creditable service means the service which is credited in accordance with division 3 of this article.

Earned income means compensation for employment which is taxable as wages under United States income tax law, or compensation for services rendered by the member on behalf of a corporation or partnership.

Effective date means May 29, 1992, the effective date of this restatement [amendment].

Employee means any employee of the city's fire department who is or has been represented by the union for collective bargaining purposes.

Fund means the trust fund established to hold and invest assets to pay benefits under chapter 20, article

III; chapter 20, article IV; and section 52-31, as further described in section 20-133.

Holiday pay means compensation in excess of base wages paid to the employee on account of holidays in accordance with the collective bargaining agreement between the city and the union.

Internal Revenue Code means the Internal Revenue Code of 1986, as amended from time to time. Reference to a specific provision of the Internal Revenue Code shall include such provision, any valid regulation or ruling promulgated thereunder, and any provision of future law that amends, supplements, or supersedes such provision.

Longevity pay means compensation paid to the employee on account of longevity in accordance with the collective bargaining agreement between the city and the union.

Member means any employee or retired employee who participates in the plan with benefits defined under this article in accordance with the provisions of division 2 of this article.

Normal retirement age means the member's age upon completion of 20 years of creditable service.

Plan means chapter 20, articles III and IV of the city's Code of Ordinances.

Salary means the member's annual rate of base pay, holiday pay, and longevity pay, excluding compensation paid for any other reason.

Spouse means the person, if any, to whom the member is lawfully married at the time of his or her death.

Trustee means the trustee or trustees appointed by the administrator to administer the assets of the fund in accordance with section 20-136(2).

Union means Local 2748 of the International Association of Fire Fighters, AFL-CIO.
(Ord. No. O-96-18, Exh. A (1.1--1.22), 5-13-96)

Cross References: Definitions generally, § 1-2; highest salary defined, § 20-115.

Sec. 20-92. Benefits not transferable or subject to attachment.

No member or beneficiary shall have any power to assign, transfer, pledge, encumber or anticipate any payment to be made under the plan, nor shall the right to receive any such payment be in any manner subject to levy, attachment or other legal process to enforce payment of any claim against any member or any beneficiary.
(Ord. No. O-96-18, Exh. A (8.1), 5-13-96)

Sec. 20-93. Maximum benefit.

The maximum benefit payable to a member under the plan shall not exceed the amount permitted under section 415 of the Internal Revenue Code, as now in effect or hereafter amended.
(Ord. No. O-96-18, Exh. A (8.2), 5-13-96)

Sec. 20-94. Maximum salary for purposes of benefit determination.

The salary considered for purposes of benefit determination under the plan shall not exceed the amount permitted under section 401(a)(17) of the Internal Revenue Code, as now in effect or hereafter amended.
(Ord. No. O-96-18, Exh. A (8.3), 5-13-96)

Sec. 20-95. Pensions under this article not part of any other pension.

Pension benefits provided by this article shall not be part of or computed with any other pension or social security program.
(Ord. No. O-96-18, Exh. A (8.4), 5-13-96)

Secs. 20-96--20-100. Reserved.

DIVISION 2.

ELIGIBILITY

Sec. 20-101. Membership generally.

All employees and retired members who were members as of May 28, 1992, shall remain members of this plan until death or distribution of benefits under section 20-117. No employee hired after May 28, 1992, shall enter the plan under this article.
(Ord. No. O-96-18, Exh. A (2.1), 5-13-96)

Sec. 20-102. Rejoining plan upon reemployment.

If an employee who was a member terminates employment and subsequently becomes an employee again, he or she shall become a member again on his or her date of rehire, with creditable service determined in accordance with section 20-107.
(Ord. No. O-96-18, Exh. A (2.2), 5-13-96)

Secs. 20-103--20-105. Reserved.

DIVISION 3.

CREDITABLE SERVICE

Sec. 20-106. Service credited on account of employment.

(a) Creditable service includes the period of continuous employment with the city commencing on the member's date of hire and ending on the date the member terminates employment. For purposes of calculating benefits, creditable service is measured in completed full years of service. For example, a member hired on July 1, 1985, who terminates on April 1, 1996, has ten years of creditable service.

(b) A member shall receive no creditable service for any unpaid leave of absence. For example, a member hired on July 1, 1985, who has an unpaid leave of absence from April 1, 1996, until July 1, 1996, and who terminates employment on April 1, 1998, would receive creditable service as follows:

July 1, 1985--April 1, 1996	10 years, 9 months
July 1, 1996--April 1, 1998	1 year, 9 months
Total	12 years, 6 months
Creditable service	12 years

(Ord. No. O-96-18, Exh. A (3.1), 5-13-96)

Sec. 20-107. Loss of service at termination of employment.

A member who terminates employment and receives a refund of contributions under section 20-117 and who is subsequently reemployed shall receive no creditable service for his or her initial period of employment unless he or she repays to the fund upon reemployment an amount equal to the distribution the member received under section 20-117.

(Ord. No. O-96-18, Exh. A (3.2), 5-13-96)

Sec. 20-108. Buyback of military service.

(a) At the time of his or her retirement, any member who has reached his or her normal retirement age and had previously been honorably discharged from service with the Armed Forces of the United States will be eligible to buy back up to four years of additional creditable service by contributing to the fund the actuarially equivalent value of the pension benefits associated with the additional creditable service purchased. In no event will a member who has completed fewer than 20 years of creditable service (without including creditable service purchased under this section) be eligible to buy back creditable service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of creditable service in six-month increments, but no more than the number of his or her full years of military service.

(Ord. No. O-96-18, Exh. A (3.3), 5-13-96)

Sec. 20-109. Buyback of municipal service.

(a) At the time of his or her retirement, any member who has reached his or her normal retirement age and who had previously been employed by the city for at least six consecutive months in a full time civilian position of 35 or more hours per week will be eligible to buy back up to four years of additional creditable service by contributing to the fund the actuarially equivalent value of the pension benefits associated with the additional creditable service purchased. In no event will a member who has completed fewer than 20 years of creditable service (without including creditable service purchased under this section) be eligible to buy back creditable service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of creditable service in six-month increments, but no more than the number of his/her full years of civilian service.

(Ord. No. O-03-8, 5-20-03)

Sec. 20-110. Reserved.

DIVISION 4.

BENEFITS

Sec. 20-111. Retirement benefits.

A member who has reached his or her normal retirement age may apply to the board for retirement and payment of pension benefits. Such member shall receive, payable in accordance with section 20-121, an annual benefit equal to a percentage of his or her highest salary as follows:

Completed Years of Creditable Service	Percentage of Highest Salary
20	50
21	51
22	52
23	53
24	54
25	55
26	56
27	57
28	58
29	59
30 or more	60

(Ord. No. O-96-18, Exh. A (4.1), 5-13-96)

Sec. 20-112. Disability benefits.

(a) *Eligibility.*

- (1) Whenever a member becomes unfit to perform active duty by reason of mental or physical infirmity, the board may require such member to retire. Thereafter, he or she shall be paid, in accordance with section 20-121, an annual benefit as described below. However, no member shall retire under this section unless three qualified physicians, as designated by the board, shall have certified in writing to the board that such member is permanently incapacitated. Such member shall submit to such periodic examinations as the board may specify for the purpose of determining any change in his or her mental or physical status.
- (2) Upon the determination by three physicians that the mental or physical incapacity has been corrected and upon their recommendation to the board that such member is able to return to active duty, the board shall place such member on active duty status and pension benefits payable under this section shall cease. A member so classified shall return to active duty forthwith. If such member shall refuse to return to active duty forthwith, he or she shall then be classified as resigned from employment with pension benefits payable in accordance with the terms of section 20-114 or 20-117, whichever is applicable.

(b) *Determination of annual benefit.* When a member becomes permanently disabled in accordance with subsection (a) of this section, such member shall receive for his or her lifetime (unless payments cease earlier pursuant to subsection (a) of this section) an annual benefit in the following amounts:

(1) *Service-related disability.*

- a. For any heart, lung or cancer-related disability, the annual benefit will be 66 2/3 percent of the member's highest salary.
- b. For any other disability which causes the member to be eligible for social security disability payments, the annual benefit will be 66 2/3 percent of the member's highest salary.
- c. For any other disability not previously described, the annual benefit will be equal to the benefit payable for retirement under section 20-111, but not less than 50 percent of the member's highest salary.

In no event will the member be eligible for a benefit equal to 66 2/3 percent of the member's highest salary on account of social security disability benefits awarded as a result of an application filed with the Social Security Administration after disability benefits from this fund have commenced.

(2) *Nonservice-related disability.* The annual benefit will be equal to the benefit payable for retirement under section 20-111, but not less than 50 percent of the member's highest salary.

(c) *Limitation for persons receiving earned income.* As a condition for receiving benefits of 66 2/3 percent of the member's highest salary under this section, the member shall file every year with the city's treasurer a sworn written report of his or her earned income for the one-year period immediately preceding the filing of the report, together with such supporting data as may reasonably be required. The member's pension amount for the following 24 semimonthly payments after the filing of the report of earned income shall be reduced. The total amount of the reduction shall be \$1.00 for each dollar by which the actual earned income exceeded the salary paid for the same one-year period to an employee whose rank and seniority are the same as the retired member's highest rank and seniority while on active duty. One twenty-fourth of the total reduction shall be applied to each payment, or any other method of reduction may be applied which is acceptable to the city treasurer. However, in no event shall any such member receive an annual pension which is less than 50 percent of his or her highest salary.

(Ord. No. O-96-18, Exh. A (4.2), 5-13-96)

Sec. 20-113. Death while actively employed.

(a) *Service-related death.* The beneficiary or beneficiaries of a member who is killed or dies from injuries received or sickness contracted while in the performance of his or her duty as an employee will be entitled to a pension benefit payable in accordance with section 20-122 as follows:

- (1) To the spouse [there shall be paid] an annual benefit equal to 50 percent of the deceased member's highest salary. Such benefit shall begin as of the date of death and continue until the earlier of the date such spouse dies or is remarried.
- (2) To the legal guardian of each dependent child of the deceased member, for the benefit of each

such child, [there shall be paid] an annual benefit equal to ten percent of the deceased member's highest salary. Such benefit shall begin as of the member's date of death and continue until such child attains age 18, or, if the child is found by the board to be in receipt of social security disability benefits at the time of the member's death, while such child remains in receipt of social security disability benefits as determined by the board.

- (3) The sum of the annual benefits payable under this subsection (a) shall at no time exceed 75 percent of the deceased member's highest salary.
- (4) In the event there is a dependent child or children and no spouse, or the spouse dies or remarries after the member's death, such benefit as would have been payable to the spouse, had he or she survived the deceased member or not remarried, shall be paid to the legal guardian(s) of such child or children, for the benefit of each such child, in equal shares, during the time provided in subsection (a)(2) of this section.

(b) *Nonservice-related death.* If a member dies while an employee other than from injuries received or sickness contracted while in his or her performance as an employee, the beneficiary or beneficiaries of such member will be entitled to a pension benefit payable in accordance with section 20-122 as follows:

- (1) To the spouse [there shall be paid] an annual benefit equal to 30 percent of the deceased member's highest salary. Such benefit shall begin as of the date of death and continue until the earlier of the date such spouse dies or is remarried.
- (2) To the legal guardian of each dependent child of the deceased member, for the benefit of each such child, [there shall be paid] an annual benefit equal to ten percent of the deceased member's highest salary. Such benefit shall begin as of the member's date of death and continue until such child attains age 18, or, if the child is found by the board to be in receipt of social security disability benefits at the time of the member's death, while such child remains in receipt of social security disability benefits as determined by the board.
- (3) The sum of the annual benefits payable under this subsection (b) shall at no time exceed 50 percent of the deceased member's highest salary.
- (4) In the event there is a dependent child or children and no spouse, or the spouse dies or remarries after the member's death, such benefit as would have been payable to the spouse, had he or she survived the deceased member or not remarried, shall be paid to the legal guardian(s) of such child or children for the benefit of each such child, in equal shares, during the time provided in subsection (b)(2) of this section.

(c) *Death without beneficiary.* If a member dies while an employee and has no surviving spouse or dependent children, a lump sum payment equal to the member's contributions paid under section 20-131, without interest, shall be paid to the member's estate.

(Ord. No. O-96-18, Exh. A (4.3), 5-13-96)

Sec. 20-114. Vested termination of employment.

(a) Any member who terminates employment with ten years or more of creditable service, but less than 20 years of creditable service, shall receive, payable in accordance with section 20-121, an annual benefit commencing on the date he or she would have attained normal retirement age if he or she had not terminated employment, equal to a percentage of his or her highest salary as follows:

Completed Years of Creditable Service	Percentage of Highest Salary
10	25.0
11	27.5
12	30.0
13	32.5
14	35.0
15	37.5
16	40.0
17	42.5
18	45.0
19	47.5

(b) Members retired under this section shall not receive health insurance coverage from the city after termination of employment (other than such continuation coverage as is required to be made available to employees, at their expense, pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (COBRA)).

(Ord. No. O-96-18, Exh. A (4.1), 5-13-96)

Sec. 20-115. Highest salary defined.

For purposes of this division 4 and division 5, "highest salary" shall mean the annual base pay and holiday pay of an employee of the highest rank (as defined in the collective bargaining agreement between the city and the union) which the member attained on a permanent basis during employment, plus the annual longevity pay of such an employee with the same creditable service as the member. For purposes of sections 20-112 and 20-113, the highest rank shall be the rank in which the member was serving at the time he or she became disabled or died, if higher than his or her permanent rank.

(Ord. No. O-96-18, Exh. A (4.5), 5-13-96)

Sec. 20-116. Indexation of benefits.

Whenever changes occur in salaries, holidays or longevity pay of active employees, corresponding changes shall be made to the salary, holiday or longevity component of benefits payable to retired members and beneficiaries under sections 20-111, 20-112 and 20-113, but not section 20-114.

Provided, however, pay increases attributable to changes in job duties for specific classifications or changes in classification (including elimination of a classification) subsequent to a retired member's date of retirement shall not result in corresponding increases or decreases of benefits for retired members and beneficiaries. In the event of the elimination of a classification, retired members who retired in such classification and/or beneficiaries shall have their benefits calculated as follows:

- (1) The salary component shall be indexed at the average percentage change for all classifications in the department;

(2) The holiday component will be based upon the average number of holidays for active employees; and

(3) The longevity component shall be based upon the longevity percentage paid to an active employee who has the same seniority as did the retiree upon his/her retirement date.

(Ord. No. O-96-18, Exh. A (4.6), 5-13-96; Ord. No. O-99-5, § I, 3-8-99)

Sec. 20-117. Nonvested termination of employment.

Any member who terminates employment prior to his or her completion of ten years of creditable service shall forfeit all claims to the fund, except that he or she shall be entitled to a lump sum payment equal to the member's contributions paid under section 20-131, without interest.

(Ord. No. O-96-18, Exh. A (4.7), 5-13-96)

Sec. 20-118. Mandatory retirement.

Any member who attains the age of 60 while an employee (age 65, if the member holds the rank of chief, deputy chief, battalion chief, or superintendent of fire alarms) shall retire under section 20-111 as of the first payroll period after his or her 60th birthday (65th birthday, if applicable).

(Ord. No. O-96-18, Exh. A (4.8), 5-13-96)

Sec. 20-119. Alternative retirement.

Any member of the firefighters' pension fund established pursuant to this article who retires after July 23, 1996, may choose to retire under the benefit provisions of article IV, divisions 4 and 5 of this chapter in lieu of the benefit provisions set forth in this division. All defined terms of article IV, divisions 4 and 5, as applied herein, shall be interpreted pursuant to the definitions contained in article IV, division 1. Such decision as to which benefit provisions to retire under shall be final and irrevocable at the time of retirement. Benefit payments for members of the plan set forth under this article III choosing to retire under the benefit provisions of the plan set forth under article IV will be made from the fund established pursuant to the plan set forth under this article III.

(Ord. No. O-96-31, § I, 12-16-96)

Editors Note: Section I of Ord. No. O-96-31, adopted December 16, 1996, amended Art. III by providing for Div. 8, § 20-140. For purposes of classification, such provisions were included herein as § 20-119 at the discretion of the editor.

Sec. 20-120. Reserved.

DIVISION 5.

PAYMENT OF BENEFITS*

* **Cross References:** Highest salary defined, § 20-115.

Sec. 20-121. Payment of benefits on account of retirement.

(a) *Payments to members.* Payment of periodic benefits to members under sections 20-111, 20-112 and 20-114 shall be made on a semimonthly basis for the lifetime of the member. The amount of each payment is $\frac{1}{24}$ of the amount determined in section 20-111, 20-112 or 20-114, as applicable. The portion of the benefit payable to the member on account of his or her longevity pay shall not be paid to or on account of a member who received his or her annual longevity pay as an active employee during a fiscal year until the first payroll period beginning after the July 1 following termination.

(b) *Payments to surviving spouses.* After the death of a member whose pension benefits have commenced under subsection (a) of this section, the member's surviving spouse shall receive, on a semimonthly basis until the earlier of his or her death or remarriage, a benefit equal to 67.5 percent of the benefit which had been payable to the member under subsection (a) of this section.

(c) *Payments to surviving minor children.* If there is no surviving spouse or the deceased member's spouse has remarried after the death of the member, then the benefit payable under subsection (b) of this section shall be paid to the legal guardian(s) of the member's surviving child or children who have not attained age 18, for the benefit of each such child, divided equally among all such children, and payable until all have attained the age of 18.

(Ord. No. O-96-18, Exh. A (5.1), 5-13-96)

Sec. 20-122. Payment of benefits on account of preretirement death.

(a) *Payments to surviving spouses.* A member's surviving spouse shall receive, on a semimonthly basis until the earlier of his or her death or remarriage, a benefit equal to $\frac{1}{24}$ of the amount determined in subsection 20-113(a) or 20-113(b).

(b) *Payments to dependent children.* The legal guardian(s) of a deceased member's dependent children shall receive, for the benefit of each such child, on a semimonthly basis until the attainment of age 18 by each such child entitled to benefits under subsection 20-113(a) or 20-113(b) (or until no longer in receipt of social security disability benefits, in the case of a dependent child who is found by the board to be in receipt of social security disability benefits at the time of the member's death), a benefit equal to $\frac{1}{24}$ of the amount determined in subsection 20-113(a) or 20-113(b).

(c) *Longevity pay.* The portion of the benefit payable to beneficiaries on account of a member's longevity pay shall not be paid on account of a member who received his [or her] annual longevity pay as an active employee during a fiscal year until the first payroll period beginning after the July 1 following [the member's] death.

(Ord. No. O-96-18, Exh. A (5.2), 5-13-96)

Sec. 20-123. Refund of contributions.

A refund of contributions under subsection 20-113(c) shall be paid to the member's estate as soon as practicable after the retiree's death. A refund of contributions under section 20-117 shall be paid to the member as soon as practicable after his or her termination of employment.

(Ord. No. O-96-18, Exh. A (5.3), 5-13-96)

Sec. 20-124. Commencement of benefits.

Payment of pension benefits under this division shall commence with the first semimonthly pay period beginning after the member's death or retirement.
(Ord. No. O-96-18, Exh. A (5.4), 5-13-96)

Sec. 20-125. Latest commencement date for benefit payments.

Benefit payments shall commence in accordance with the following:

- (1) Unless the member elects otherwise, in writing, distribution of benefits will begin no later than the 60th day after the latest of the date on which:
 - a. The member attains the age at which he or she becomes eligible to retire in accordance with division 4;
 - b. Occurs the tenth anniversary of the year in which the member commenced participation in the plan; or
 - c. The member terminates employment with the city.
- (2) The commencement of benefits to any member under the plan will not begin later than April 1 of the calendar year following the later of:
 - a. The calendar year in which the member attains age 70 1/2; or
 - b. The calendar year in which the member retires.
- (3) The provisions of subsection (2) of this section shall not apply to any distribution of benefits under the plan pursuant to a valid written election of a method of distribution made prior to January 1, 1984, which would have been permitted under section 401(a)(9) of the Internal Revenue Code for any fiscal year of the city beginning prior to December 31, 1983.
- (4) If a member dies prior to the commencement of benefits and benefits are payable to a designated beneficiary other than the member's spouse, the payment of such benefits shall begin no later than one year after the date of the member's death and shall be paid over a period which does not extend beyond the life expectancy of such beneficiary.

(Ord. No. O-96-18, Exh. A (5.5), 5-13-96)

Secs. 20-126--20-130. Reserved.

DIVISION 6.

FUNDING

Sec. 20-131. Member contributions.

(a) *[Generally.]* Each member who is an employee will contribute seven percent of his or her salary to the fund at the time of each payroll period. Such contributions shall begin at hire and shall cease when the member is no longer an employee.

(b) *Pickup by city.* The city shall pick up the employee contributions required by this section, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions, although designated as employee contributions, will be paid by the city in lieu of contributions by the employee. Employees shall have no option to choose to receive the contributed amounts directly instead of having them paid by the city to the fund. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. The employee contributions which are picked up shall be treated for all purposes of this plan in the same manner and to the same extent as employee contributions made prior to the date picked up.
(Ord. No. O-96-18, Exh. A (6.1), 5-13-96)

Sec. 20-132. Employer contributions.

(a) Effective July 1, 1995, the city's annual contribution to the fund on account of members and "members," as defined under section 52-31 of the Code of Ordinances, is the sum of the following three components:

- (1) Normal cost, net of employee contributions, as determined by the actuary;
- (2) An amount determined by the actuary which, with annual increases equal to the actuary's assumed rate of increase in base pay, will amortize the unfunded actuarial accrued liability as of July 1, 1995, over a 40-year period ending June 30, 2035; and
- (3) An amount determined by the actuary which, with annual increases equal to the actuary's assumed rate of increase in base pay, will amortize over 20 years the increase or decrease in the actuarial accrued liability after July 1, 1995, attributable

to plan amendments, changes in actuarial assumptions, and actuarial experience gains and losses affecting members and "members," as defined under section 52-31 of the Code of Ordinances.

(b) The normal cost and actuarial accrued liability shall be determined using the entry age normal actuarial cost method and such actuarial assumptions as recommended by the actuary. Actuarial valuations will be performed by the actuary, in accordance with generally accepted actuarial principles, no less frequently than on a biennial basis, with valuations performed as of July 1, 1995; July 1, 1997; etc. The results of the July 1, 1995, valuation will be used to determine the required contributions for the 1996-97 and 1997-98 fiscal years while the July 1, 1997, valuation will determine the required contributions for 1998-99 and 1999-2000, etc. Required costs for the two fiscal years following the year of each valuation will be indexed at the actuary's assumed rate of increase in base pay.

(c) City contributions will be paid throughout the fiscal year in 24 equal installments, with each payroll period.

(d) For the 1995-96 fiscal year only, the city will contribute the amount determined by the July 1, 1995, actuarial valuation without indexation.
(Ord. No. O-96-18, Exh. A (6.2), 5-13-96)

Sec. 20-133. Pension fund.

All contributions under sections 20-131 and 20-132 shall be deposited to the trust fund maintained by the city for the payment of benefits under chapter 20, articles III and IV; and section 52-31 of the city's Code of Ordinances. The city's treasurer shall be custodian of the fund with duties as outlined in section 20-136.
(Ord. No. O-96-18, Exh. A (6.3), 5-13-96)

Secs. 20-134, 20-135. Reserved.

DIVISION 7.

PLAN ADMINISTRATION

Sec. 20-136. Responsibilities of treasurer.

The city's treasurer shall be custodian of the fund, and he or she is hereby authorized and directed to do the following:

- (1) Deposit contributions in the fund in accordance with division 6;
- (2) Act as or appoint a trustee for the fund;
- (3) Authorize the trustee to make payments to members and beneficiaries entitled to benefits from the fund in accordance with divisions 4 and 5;
- (4) Authorize the trustee to make payment from the fund for all fees for services performed on account of the plan or fund which are not paid directly by the city;
- (5) Subject to the approval of the city's finance director, direct the investment of the monies in the fund, and deposit in the fund interest, dividends and other increments or income from such investment;
- (6) Keep accurate books of account of the fund. The finance director and the members of the board shall have access at all reasonable times to all books and papers in the office of the treasurer which pertain to the fund. The treasurer shall make a written annual report during the first week of January of each year to the finance director, the board and the president of the city firefighters' union;
- (7) Appoint any professional advisors to the plan, such as the actuary, accountant, or legal counsel; and

(8) Administer the earned income offset provision of section 20-112(c).
(Ord. No. O-96-18, Exh. A (7.1), 5-13-96)

Sec. 20-137. Responsibilities of board.

The board has the responsibility for approving all applications for retirement, death, termination, and disability benefits as described in divisions 4 and 5, and certifying total incapacity under subsection 20-122(b).
(Ord. No. O-96-18, Exh. A (7.2), 5-13-96)

Sec. 20-138. Amendment of plan.

The city council shall have the right to amend the plan. The plan may not be altered or amended without consultation between the city as represented by the chairman of the board and the chairman of the city council finance committee, and the city firefighters' union, as represented by the president thereof.

No amendment to the plan which will increase the benefits to retirees or beneficiaries shall take effect unless the unfunded actuarial accrued liability of each fund established pursuant to chapter 20, article IV, chapter 52, article II, chapter 52, article III, chapter 60, article III, and this article is ten percent or less of the actuarial value of the fund. Contributions under sections 20-131 and 20-132 shall be increased so that any such increase in benefits shall be funded at 100 percent.
(Ord. No. O-96-18, Exh. A(7-3), 5-13-96; Ord. No. O-08-12, § I, 4-8-08)

Sec. 20-139. Attendance of employee representatives at meetings of finance committee.

A member of the city firefighters' union, chosen by the members of that organization to represent them, shall attend all meetings of the finance committee of the city council called to discuss matters of the plan.
(Ord. No. O-96-18, Exh. A (7.4), 5-13-96)

Sec. 20-140. Reserved.

ARTICLE IV.

REVISED PENSION FUND (APPLICABLE TO APPOINTMENTS ON OR AFTER MAY 29, 1992)*

* **Cross References:** Retirement system, ch. 60.

DIVISION 1.

GENERALLY

Sec. 20-141. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actuarially equivalent value means an amount having equal value when computed on the basis of a 2.84 percent interest rate compounded annually and the UP-1984 mortality table, for purposes of section 20-183.

Actuary means an individual who has attained Fellowship in the Society of Actuaries or a firm employing such an individual.

Administrator means the city treasurer, whose duties are described in section 20-261.

Base pay means the base wages paid to the employee in accordance with the collective bargaining agreement between the city and the union.

Beneficiary means the member's spouse, dependent child under 18 years of age or child 18 years of age or older who is receiving social security disability benefits. Such beneficiary is or may become entitled to receive pension benefits from the fund as a result of the death of the member.

Board means the city's board of public safety.

Creditable service means the service which is credited in accordance with division 3 of this article.

Earned income means compensation for employment which is taxable as wages under United States income tax law, or compensation for services rendered by the member on behalf of a corporation or partnership.

Effective date means May 29, 1992.

Employee means any employee of the city's fire department who is or has been represented by the union for collective bargaining purposes.

Final average salary means (a) if the member's retirement, death or disability occurs prior to January 1, 2005, the annual rate of pay equal to the average of the salaries received by the member for the period of three years of creditable service ending at the member's retirement, termination, or death, or the average salary received over the member's entire career if the member had less than three years of creditable service at the time of death or disability; or (b) if the member's retirement, death or disability occurs on or after January 1, 2005, the annual rate of pay equal to the salary received by the member for the period of the last year of creditable service ending at the member's retirement, termination, or death, or the average salary received over the member's entire career if the member had less than one year of creditable service at the time of death or disability.

Fund means the trust fund established to hold and invest assets to pay benefits under chapter 20, article III; chapter 20, article IV; and chapter 52, article II, as further described in section 20-243.

Holiday pay means compensation in excess of base wages paid to the employee on account of holidays in accordance with the collective bargaining agreement between the city and the union.

Internal Revenue Code means the Internal Revenue Code of 1986, as amended from time to time. Reference to a specific provision of the Internal Revenue Code shall include such provision, any valid regulation or ruling promulgated thereunder, and any provision of future law that amends, supplements, or

supersedes such provision.

Longevity pay means compensation paid to the employee on account of longevity in accordance with the collective bargaining agreement between the city and the union.

Member means any employee or retired employee who participates in the plan with benefits defined under this article in accordance with the provisions of division 2 of this article.

Normal retirement age means the member's age upon completion of 20 years of creditable service.

Plan means chapter 20, articles III and IV.

Salary means the member's annual rate of base pay, holiday pay, and longevity pay, excluding compensation paid for any other reason.

Spouse means the person, if any, to whom the member is lawfully married at the time of his or her death.

Trustee means the trustee or trustees appointed by the administrator to administer the assets of the fund in accordance with section 20-261(2).

Union means Local 2748 of the International Association of Fire Fighters, AFL-CIO.
(Ord. No. O-95-25, § I(1.1--1.23), 7-10-95; Ord. No. O-05-24, § 1, 9-20-05)

Cross References: Definitions generally, § 1-2.

Sec. 20-142. Benefits not transferable or subject to attachment.

No member or beneficiary shall have any power to assign, transfer, pledge, encumber or anticipate any payment to be made under the plan, nor shall the right to receive any such payment be in any manner subject to levy, attachment or other legal process to enforce payment of any claim against any member or any beneficiary.
(Ord. No. O-95-25, § I(8.1), 7-10-95)

Sec. 20-143. Maximum benefit.

The maximum benefit payable to a member under the plan shall not exceed the amount permitted under section 415 of the Internal Revenue Code, as now in effect or hereafter amended.
(Ord. No. O-95-25, § I(8.2), 7-10-95)

Sec. 20-144. Maximum salary for purposes of benefit determination.

The salary considered for purposes of benefit determination under the plan shall not exceed the amount permitted under section 401(a)(17) of the Internal Revenue Code, as now in effect or hereafter amended.
(Ord. No. O-95-25, § I(8.3), 7-10-95)

Sec. 20-145. Pensions under this article not part of any other pension.

Pension benefits provided by this article shall not be part of or computed with any other pension or social security program.

(Ord. No. O-95-25, § I(8.4), 7-10-95)

Secs. 20-146--20-160. Reserved.

DIVISION 2.

ELIGIBILITY

Sec. 20-161. Membership generally.

Any employee hired after May 28, 1992, shall join the plan under this article as of his or her date of hire and remain a member until death or distribution of benefits under section 20-206.

(Ord. No. O-95-25, § I(2.1), 7-10-95)

Sec. 20-162. Rejoining plan upon reemployment.

If an employee who was a member terminates employment and subsequently becomes an employee again, he or she shall become a member again on his or her date of rehire, with creditable service determined in accordance with section 20-182.

(Ord. No. O-95-25, § I(2.2), 7-10-95)

Secs. 20-163--20-180. Reserved.

DIVISION 3.

CREDITABLE SERVICE

Sec. 20-181. Service credited on account of employment.

(a) Creditable service includes the period of continuous employment with the city commencing on the member's date of hire and ending on the date the member terminates employment. For purposes of calculating benefits, creditable service is measured in completed full years of service. For example, a member hired on July 1, 1985, who terminates on April 1, 1996, has ten years of creditable service.

(b) A member shall receive no creditable service for any unpaid leave of absence. For example a member hired on July 1, 1985, who has unpaid leave of absence from April 1, 1996, until July 1, 1996, and who terminates employment on April 1, 1998, would receive creditable service as follows:

July 1, 1985--April 1, 1996	10 years, 9 months
July 1, 1996--April 1, 1998	1 year, 9 months
Total	12 years, 6 months
Creditable service	12 years

(Ord. No. O-95-25, § I(3.1), 7-10-95)

Sec. 20-182. Loss of service at termination of employment.

A member who terminates employment and receives a refund of contributions under section 20-206 and who is subsequently reemployed shall receive no creditable service for his or her initial period of employment unless he or she repays to the fund upon reemployment an amount equal to the distribution the member received under section 20-206.

(Ord. No. O-95-25, § I(3.2), 7-10-95)

Sec. 20-183. Buyback of military service.

(a) At the time of his or her retirement, any member who has reached his or her normal retirement age and had previously been honorably discharged from service with the armed forces of the United States will be eligible to buy back up to four years of additional creditable service by contributing to the fund the actuarially equivalent value of the pension benefits associated with the additional creditable service purchased. In no event will a member who has completed fewer than 20 years of creditable service (without including creditable service purchased under this section) be eligible to buy back creditable service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of creditable service in six-month increments, but no more than the number of his or her full years of military service.

(Ord. No. O-95-25, § I(3.3), 7-10-95)

Sec. 20-184. Buyback of municipal service.

(a) At the time of his or her retirement, any member who has reached his or her normal retirement age and who had previously been employed by the city for at least six consecutive months in a full time civilian position of 35 or more hours per week will be eligible to buy back up to four years of additional creditable service by contributing to the fund the actuarially equivalent value of the pension benefits associated with the additional creditable service purchased. In no event will a member who has completed fewer than 20 years of creditable service (without including creditable service purchased under this section) be eligible to buy back creditable service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of creditable service in six-month increments, but no more than the number of his/her full years of civilian service.

(Ord. No. O-03-8, 5-20-03)

Secs. 20-185--20-200. Reserved.

DIVISION 4.

BENEFITS

Sec. 20-201. Retirement benefits.

A member who has reached his or her normal retirement age may apply to the board for retirement and payment of pension benefits. Such member shall receive, payable in accordance with section 20-221, an annual benefit equal to a percentage of his or her final average salary as follows:

Completed Years of Creditable Service	Percentage of Final Average Salary
20	50
21	52
22	54
23	56
24	58
25	60
26	63
27	66
28	69
29	72
30 or more	75

(Ord. No. O-95-25, § I(4.1), 7-10-95; Ord. No. O-05-24, § 2, 9-20-05)

Sec. 20-202. Disability benefits.

(a) *Eligibility.*

- (1) Whenever a member becomes unfit to perform active duty by reason of mental or physical infirmity, the board may require such member to retire. Thereafter he or she shall be paid, in accordance with section 20-221, an annual benefit as described below. However, no member shall retire under this section unless three qualified physicians as designated by the board shall have certified in writing to the board that such member is permanently incapacitated. Such member shall submit to such periodic examinations as the board may specify for the purpose of determining any change in his or her mental or physical status.
- (2) Upon the determination by three physicians that the mental or physical incapacity has been corrected and upon their recommendation to the board that such member is able to return to active duty, the board shall place such member on active duty status and pension benefits payable under this section shall cease. A member so classified shall return to active duty forthwith. If such member shall refuse to return to active duty forthwith, he or she shall then be classified as resigned from employment with pension benefits payable in accordance with the terms of section 20-204 or 20-206, whichever is applicable.

(b) *Determination of annual benefit.* When a member becomes permanently disabled in accordance with subsection (a) of this section, such member shall receive for his or her lifetime (unless payments cease earlier pursuant to subsection (a) of this section) an annual benefit in the following amounts:

(1) *Service-related disability.*

- a. For any heart, lung or cancer related disability, the annual benefit will be 66 2/3 percent of the member's final average salary.
- b. For any other disability which causes the member to be eligible for social security disability payments, the annual benefit will be 66 2/3 percent of the member's final average salary.

- c. For any other disability not previously described, the annual benefit will be equal to the benefit payable for retirement under section 20-201, but not less than 50 percent of the member's final average salary.

In no event will the member be eligible for a benefit equal to 66 2/3 percent of the member's final average salary on account of social security disability benefits awarded as a result of an application filed with the Social Security Administration after disability benefits from this fund have commenced.

- (2) *Nonservice-related disability.* The annual benefit will be equal to the benefit payable for retirement under section 20-201, but not less than 50 percent of the member's final average salary.

(c) *Limitation for persons receiving earned income.* As a condition for receiving benefits of 66 2/3 percent of the member's final average salary under this section, the member shall file every year with the city's treasurer a sworn written report of his or her earned income for the one-year period immediately preceding the filing of the report, together with such supporting data as may reasonably be required. The members's pension amount for the following 24 semimonthly payments after the filing of the report of earned income shall be reduced. The total amount of the reduction shall be one dollar for each dollar by which the actual earned income exceeded the salary paid for the same one-year period to an employee whose rank and seniority are the same as the retired member's highest rank and seniority while on active duty. One twenty-fourth of the total reduction shall be applied to each payment, or any other method of reduction may be applied which is acceptable to the city treasurer. However, in no event shall any such member receive an annual pension which is less than 50 percent of his or her final average salary indexed in accordance with section 20-205. (Ord. No. O-95-25, § I(4.2), 7-10-95)

Sec. 20-203. Death while actively employed.

(a) *Service-related death.* The beneficiary or beneficiaries of a member who is killed or dies from injuries received or sickness contracted while in the performance of his or her duty as an employee will be entitled to a pension benefit payable in accordance with section 20-222 as follows:

- (1) To the spouse there shall be paid an annual benefit equal to 50 percent of the deceased member's final average salary. Such benefit shall begin as of the date of death and continue until the earlier of the date such spouse dies or is remarried.
- (2) To the legal guardian of each dependent child of the deceased member, for the benefit of each such child, there shall be paid an annual benefit equal to ten percent of the deceased member's final average salary. Such benefit shall begin as of the member's date of death and continue until such child attains age 18, or, if the child is found by the board to be in receipt of social security disability benefits at the time of the member's death, while such child remains in receipt of social security disability benefits as determined by the board.
- (3) The sum of the annual benefits payable under this subsection (a) shall at no time exceed 75 percent of the deceased member's final average salary, indexed in accordance with section

20-205.

- (4) In the event there is a dependent child or children and no spouse, or the spouse dies or remarries after the member's death, such benefit as would have been payable to the spouse, had he or she survived the deceased member or not remarried, shall be paid to the legal guardian(s) of such child or children, for the benefit of each such child, in equal shares, during the time provided in subsection (a)(2) of this section.

(b) *Nonservice-related death.* If a member dies while an employee other than from injuries received or sickness contracted while in his or her performance as an employee, the beneficiary or beneficiaries of such member will be entitled to a pension benefit payable in accordance with section 20-222 as follows:

- (1) To the spouse there shall be paid an annual benefit equal to 30 percent of the deceased member's final average salary. Such benefit shall begin as of the date of death and continue until the earlier of the date such spouse dies or is remarried.
- (2) To the legal guardian of each dependent child of the deceased member, for the benefit of each such child, there shall be paid an annual benefit equal to ten percent of the deceased member's final average salary. Such benefit shall begin as of the member's date of death and continue until such child attains age 18, or, if the child is found by the board to be in receipt of social security disability benefits at the time of the member's death, while such child remains in receipt of social security disability benefits as determined by the board.
- (3) The sum of the annual benefits payable under this subsection (b) of this section shall at no time exceed 50 percent of the deceased member's final average salary, indexed in accordance with section 20-205.
- (4) In the event there is a dependent child or children and no spouse, or the spouse dies or remarries after the member's death, such benefit as would have been payable to the spouse, had he or she survived the deceased member or not remarried, shall be paid to the legal guardian(s) of such child or children for the benefit of each such child, in equal shares, during the time provided in subsection (b)(2) of this section.

(c) *Death without beneficiary.* If a member dies while an employee and has no surviving spouse or dependent children, a lump sum payment equal to the member's contributions under section 20-241, without interest, shall be paid to the member's estate.

(Ord. No. O-95-25, § I(4.3), 7-10-95)

Sec. 20-204. Vested termination of employment.

(a) Any member who terminates employment with ten years or more of creditable service, but less than 20 years of creditable service, shall receive, payable in accordance with section 20-221, an annual benefit commencing on the date he or she would have attained normal retirement age if he or she had not terminated employment, equal to a percentage of his or her final average salary as follows:

Completed Years of Creditable Service	Percentage of Final Average Salary
---------------------------------------	------------------------------------

10	25.0
11	27.5
12	30.0
13	32.5
14	35.0
15	37.5
16	40.0
17	42.5
18	45.0
19	47.5

(b) Members retired under this section shall not receive health insurance coverage from the city after termination of employment (other than such continuation coverage as is required to be made available to employees, at their expense, pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (COBRA)).
(Ord. No. O-95-25, § I(4.4), 7-10-95)

Sec. 20-205. Indexation of benefits.

The pension payable under sections 20-201, 20-202 and 20-203, but not section 20-204, shall be increased each January 1 by three percent for all members or beneficiaries of members on whose account benefits have been paid for at least 12 months. In the case of members or beneficiaries who have been in receipt of benefits for fewer than 12 months, a fractional increase shall be made equal to three percent multiplied by the number of complete months of payments made divided by 12.
(Ord. No. O-95-25, § I(4.5), 7-10-95; Ord. No. O-96-31, § II, 12-16-96)

Sec. 20-206. Nonvested termination of employment.

Any member who terminates employment prior to his or her completion of ten years of creditable service shall forfeit all claims to the fund, except that he or she shall be entitled to a lump sum payment equal to the member's contributions paid under section 20-241, without interest.
(Ord. No. O-95-25, § I(4.6), 7-10-95)

Sec. 20-207. Mandatory retirement.

Any member who attains the age of 60 while an employee (age 65, if the member holds the rank of chief, deputy chief, battalion chief, or superintendent of fire alarms) shall retire under section 20-201 as of the first payroll period after his or her 60th birthday (65th birthday, if applicable).
(Ord. No. O-95-25, § I(4.7), 7-10-95)

Secs. 20-208--20-220. Reserved.

DIVISION 5.

PAYMENT OF BENEFITS

Sec. 20-221. Payment of benefits on account of retirement.

(a) *Payments to members.* Payment of periodic benefits to members under sections 20-201, 20-202 and 20-204 shall be made on a semimonthly basis for the lifetime of the member. The amount of each payment is 1/24 of the amount determined in section 20-201, 20-202 or 20-204, as applicable. The portion of the benefit payable to the member on account of his or her longevity pay shall not be paid to or on account of a member who received his or her annual longevity pay as an active employee during a fiscal year until the first payroll period beginning after the July 1 following termination.

(b) *Payments to surviving spouses.* After the death of a member whose pension benefits have commenced under subsection (a) of this section, the member's surviving spouse shall receive, on a semimonthly basis until the earlier of his or her death or remarriage, a benefit equal to 67.5 percent of the benefit which had been payable to the member under subsection (a) of this section.

(c) *Payments to surviving minor children.* If there is no surviving spouse or the deceased member's spouse has remarried after the death of the member, then the benefit payable under subsection (b) of this section shall be paid to the legal guardian(s) of the member's surviving child or children who have not attained age 18, for the benefit of each such child, divided equally among all such children, and payable until all have attained the age of 18.

(Ord. No. O-95-25, § I(5.1), 7-10-95)

Sec. 20-222. Payment of benefits on account of preretirement death.

(a) *Payments to surviving spouses.* A member's surviving spouse shall receive, on a semimonthly basis until the earlier of his or her death or remarriage, a benefit equal to 1/24 of the amount determined in section 20-203(a) or 20-203(b).

(b) *Payments to dependent children.* The legal guardian(s) of a deceased member's dependent children shall receive, for the benefit of each such child, on a semimonthly basis until the attainment of age 18 by each such child entitled to benefits under section 20-203(a) or 20-203(b) (or until no longer in receipt of social security disability benefits, in the case of a dependent child who is found by the board to be in receipt of social security disability benefits at the time of the member's death), a benefit equal to 1/24 of the amount determined in section 20-203(a) or 20-203(b).

(c) *Longevity pay.* The portion of the benefit payable to a beneficiary on account of a member's longevity pay shall not be paid on account of a member who received his or her annual longevity pay as an active employee during a fiscal year until the first payroll beginning after the July 1 following the member's death.

(Ord. No. O-95-25, § I(5.2), 7-10-95)

Sec. 20-223. Refund of contributions.

A refund of contributions under section 20-203(c) shall be paid to the member's estate as soon as practicable after the member's death. A refund of contributions under section 20-206 shall be paid to the member as soon as practicable after his or her termination of employment.

(Ord. No. O-95-25, § I(5.3), 7-10-95)

Sec. 20-224. Commencement of benefits.

Payment of pension benefits under this division shall commence with the first semimonthly pay period beginning after the member's death or retirement.
(Ord. No. O-95-25, § I(5.4), 7-10-95)

Sec. 20-225. Latest commencement date for benefit payments.

Benefit payments shall commence in accordance with the following:

- (1) Unless the member elects otherwise, in writing, distribution of benefits will begin no later than the 60th day after the latest of the date on which:
 - a. The member attains the age at which he or she becomes eligible to retire in accordance with division 4 of this article;
 - b. Occurs the tenth anniversary of the year in which the member commenced participation in the plan; or
 - c. The member terminates employment with the city.
- (2) The commencement of benefits to any member under the plan will not begin later than April 1 of the calendar year following the later of:
 - a. The calendar year in which the member attains age 70 1/2; or
 - b. The calendar year in which the member retires.
- (3) The provisions of subsection (2) of this section shall not apply to any distribution of benefits under the plan pursuant to a valid written election of a method of distribution made prior to January 1, 1984, which would have been permitted under section 401(a)(9) of the Internal Revenue Code for any fiscal year of the city beginning prior to December 31, 1983.
- (4) If a member dies prior to the commencement of benefits and benefits are payable to a designated beneficiary other than the member's spouse, the payment of such benefits shall begin no later than one year after the date of the member's death and shall be paid over a period which does not extend beyond the life expectancy of such beneficiary.

(Ord. No. O-95-25, § I(5.5), 7-10-95)

Secs. 20-226--20-240. Reserved.

DIVISION 6.

FUNDING

Sec. 20-241. Member contributions.

(a) *Generally.* Each member who is an employee will contribute 11 percent of his or her salary to the fund at the time of each payroll period. Such contributions shall begin at hire and shall cease when the member is no longer an employee. Beginning no later than July 1, 1998, the amount of the members' contributions shall be adjusted to one-third of the annual contribution rate determined by the actuary in accordance with section 20-242(c).

(b) *Pickup of contributions by city.* The city shall pick up the employee contributions required by this section, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions, although designated as employee contributions, will be paid by the city in lieu of contributions by the employee. Employees shall have no option to choose to receive the contributed amounts directly instead of having them paid by the city to the fund. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. The employee contributions which are picked up shall be treated for all purposes of this plan in the same manner and to the same extent as employee contributions made prior to the date picked up. (Ord. No. O-95-25, § I(6.1), 7-10-95)

Sec. 20-242. Employer contributions.

(a) Effective May 29, 1992, the city's annual contribution to the fund on account of members shall be 22 percent of each member's salary.

(b) Beginning July 1, 1993, the actuary will perform an actuarial valuation for the purpose of determining an annual contribution rate, expressed as a percentage of total salary for all members, equal to the sum of the following two components:

- (1) Normal cost, net of employee contributions; and
- (2) An amount determined by the actuary which with annual increases equal to the actuary's assumed rate of increase in base pay will amortize over 20 years the increase or decrease in the actuarial accrued liability after May 29, 1992, attributable to plan amendments, changes in actuarial assumptions, and actuarial experience gains and losses affecting members.

The normal cost and actuarial accrued liability shall be determined using the entry age normal actuarial cost method and such actuarial assumptions as recommended by the actuary. Actuarial valuations will be performed by the actuary, in accordance with generally accepted actuarial principles, no less frequently than on a biennial basis, with valuations performed as of July 1, 1993, July 1, 1995, etc. The results of the July 1, 1993, valuation will be used to determine the annual contribution rate for the 1994-95 and 1995-96 fiscal years while the July 1, 1995, valuation will determine the contribution rate for 1996-97 and 1997-98, etc.

(c) Beginning no later than July 1, 1998, and on alternate July 1's thereafter, the city will adjust its contribution rate to two-thirds of the contribution rate determined by the actuary in the most recent actuarial valuation.

- (d) City contributions will be paid throughout the fiscal year in 24 equal installments, with each

payroll period.

(Ord. No. O-95-25, § I(6.2), 7-10-95)

Sec. 20-243. Pension fund.

All contributions under sections 20-241 and 20-242 shall be deposited to the trust fund maintained by the city for the payment of benefits under chapter 20, article III; chapter 20, article IV; and chapter 52, article II. The city's treasurer shall be custodian of the fund with duties as outlined in section 20-261.

(Ord. No. O-95-25, § I(6.3), 7-10-95)

Secs. 20-244--20-260. Reserved.

DIVISION 7.

PLAN ADMINISTRATION

Sec. 20-261. Responsibilities of treasurer.

The city treasurer shall be custodian of the fund, and he or she is hereby authorized and directed to do the following.

- (1) Deposit contributions in the fund in accordance with division 6 of this article;
- (2) Act as or appoint a trustee for the fund;
- (3) Authorize the trustee to make payments to members and beneficiaries entitled to benefits from the fund in accordance with divisions 4 and 5 of this article;
- (4) Authorize the trustee to make payment from the fund for all fees for services performed on account of the plan or fund which are not paid directly by the city;
- (5) Subject to the approval of the city's finance director, direct the investment of the monies in the fund, and deposit in the fund interest, dividends and other increments or income from such investment;
- (6) Keep accurate books of account of the fund accounting separately for assets attributable to members under this article. The finance director and the members of the board shall have access at all reasonable times to all books and papers in the office of the treasurer which pertain to the fund. The treasurer shall make a written annual report during the first week of January of each year to the finance director, the board and the president of the city regular firefighter's association;
- (7) Appoint any professional advisors to the plan, such as the actuary, accountant, or legal counsel; and
- (8) Administer the earned income offset provision of section 20-202(c).

(Ord. No. O-95-25, § I(7.1), 7-10-95)

Sec. 20-262. Responsibilities of board.

The board has the responsibility for approving all applications for retirement, death, termination, and disability benefits as described in divisions 4 and 5 of this article, and certifying total incapacity under section 20-222(b).

(Ord. No. O-95-25, § I(7.2), 7-10-95)

Sec. 20-263. Amendment of plan.

The city council shall have the right to amend the plan. The plan may not be altered or amended without consultation between the city as represented by the chairman of the board and the chairman of the city council finance committee, and the city regular firefighter's association as represented by the president thereof.

No amendment to the plan which will increase the benefits to retirees or beneficiaries shall take effect unless the unfunded actuarial accrued liability of each fund established pursuant to chapter 20, article III, chapter 52, article II, chapter 52, article III, chapter 60, article III, and this article is ten percent or less of the actuarial value of the fund. Contributions under sections 20-141 and 20-142 shall be increased so that any such increase in benefits shall be funded at 100 percent.

(Ord. No. O-95-25, § I(7-3), 7-10-95; Ord. No. O-08-12, § II, 4-8-08)

Sec. 20-264. Attendance of employee representatives at meetings of finance committee.

A member of the city regular firefighter's association, chosen by the members of that organization to represent them, shall attend all meetings of the finance committee of the city council called to discuss matters of the plan.

(Ord. No. O-95-25, § I(7.4), 7-10-95)

Secs. 20-265--20-290. Reserved.

ARTICLE V.

RESCUE SERVICES*

* **Cross References:** Civil preparedness, ch. 14.

Sec. 20-291. Rescue service fees--Generally.

Each individual or medical insurer of such individual receiving emergency medical services in the city shall be billed for such service an amount equal to 125 percent of the annually adjusted state Medicare fee schedule. No bills requesting payment of any amount will be sent to any recipient of such medical services who is a resident of the city.

(Ord. No. O-94-15, § I, 6-20-94; Ord. No. O-95-18, § I, 6-13-95)

Sec. 20-292. Same--Public fund for payment for services provided to city residents.

There is hereby established the Warwick Resident Public Fund, which is hereby designated as the insurer for emergency medical services purposes of uninsured or underinsured resident individuals. Such fund shall be utilized to pay for emergency medical services provided to residents of the city by the city fire department who are uninsured or underinsured or for copayments and deductibles required by their insurance. This fund shall be kept solvent as required from the general fund of the city.
(Ord. No. O-94-15, § I, 6-20-94; Ord. No. O-95-18, § I, 6-13-95)