

Chapter 52

POLICE*

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

State Law References: Act providing for board of police commissioners in the city, P.L. 1911, ch. 695.

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ARTICLE I.

IN GENERAL

Sec. 52-1. Duties generally.

It shall be the duty of every police officer of the city to preserve peace and good order and to see that all ordinances are promptly enforced and at all times to give his/her aid and assistance to the person appointed to prosecute violations of ordinances in the proper enforcement of the same.
(Code 1971, § 15-1)

Sec. 52-2. Police constables.

Police constables are hereby empowered to make complaint for the violation of any ordinance and to prosecute for the same. Police constables shall not be required to give surety for costs, but, in all cases where complaint is made by any person other than a police constable, the complainant shall give security for costs. All penalties or fines shall be recovered to and for the use of the city, unless otherwise specially provided.
(Code 1971, § 15-2)

Sec. 52-3. Duty to assist harbormasters.

(a) The members of the police department are hereby authorized and directed to assist the harbormasters in enforcing the regulations of the waterfront park and development commission and all other regulations regarding the anchorage, station, management, and control of all vessels within the harbors, and to assist in enforcing the same in all water bodies within the territorial limits of the city.

(b) The word "control" as used in this section shall be specifically deemed to include speed limitations.
(Code 1971, § 15-3)

Cross References: Harbors, ch. 24.

Sec. 52-4. Special police officers at state airport--Employment status.

All special police officers appointed by the board of public safety who are assigned to the state airport at Hillsgrove and who are employed by the state in the classified service shall be considered in continuing service; provided, however, that such special police officers have been serving for a period of at least one year as special police officers and have continuously been assigned at least six months to the state airport at Hillsgrove. The board of public safety shall not revoke the appointment of such special police officers assigned to the state airport at Hillsgrove, except for good and just cause.
(Code 1971, § 15-4)

Sec. 52-5. Same--Ineligibility for benefits.

No special police officer assigned to the state airport at Hillsgrove and employed by the state within the classified service shall be eligible to receive any of the benefits of the permanent police department of the city, such as compensation, clothing allowance, sick leave, retirement and disability pensions, and seniority. Such special police officers are specifically exempt from receiving such benefits for such employment.
(Code 1971, § 15-5)

Sec. 52-6. Health insurance coverage for retired police officers.

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

(b) 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.
(Code 1971, § 15-6; Ord. No. O-07-10, § I, 5-22-07)

Sec. 52-7. Authority of police chief to detail police personnel for regulation of traffic at utility construction sites.

(a) The police chief of the city is authorized to detail police personnel (police officers, special officers, reserve officers or police constables) and to require payment of an hourly amount by the following persons or entities, which hourly amount shall be that amount determined as due the personnel in accordance with the contract between the police officers' collective bargaining agent and the city and which amount shall be due and payable to the city upon completion of each week during which a detail has been required: Whenever construction of, improvement of, or installation of any utility on any highway, street or road within the city shall cause disruption of the normal flow of traffic and create a hazard to motorists, the chief of police may, if he/she determines police personnel are necessary to regulate the traffic, after notifying the general contractor involved, detail the number of police personnel that he/she deems necessary to ensure the safety of motorists, and the general contractor shall be responsible for the cost of the detail.

(b) Any person who is aggrieved by a determination of the chief of police that a detail is or was necessary may appeal said determination by written notification to the board of public safety within ten days of receipt of the notification. Said board of public safety shall as soon as practicable grant a hearing and make a de novo determination as to the necessity for the detailing of police personnel. The board of public safety shall use the same standards the chief of police is required to use in determining the necessity for such detail.

(c) The notice required in subsection (a) of this section shall not be required in writing. The chief of police shall not be required to await a hearing of the board of public safety before the detailing of police personnel is deemed necessary. In the event that the board of public safety overrules such decision, the cost of such detail shall be the responsibility of the city.
(Code 1971, § 15-7)

Sec. 52-8. Persons ineligible to serve as police officers, constables, special officers or reserve officers.

No person shall be appointed or serve as a police officer, constable, special officer or reserve officer 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, § 15-8)

Sec. 52-9. Honorable service; revocation or reduction of retirement benefits of employees committing crime related to public employment.

(a) *General provisions.*

- (1) Payment of an employee's retirement allowance or annuity or other benefit or payments as provided for within this chapter shall be for honorable service only.
- (2) For purposes of this section, "crime related to his or her public employment" shall mean any of the following:
 - a. The committing, aiding or abetting of an embezzlement of public funds;
 - b. The committing, aiding or abetting of any felonious theft by a public employee from his or her employer;
 - c. Bribery in connection with employment of a public employee; and
 - d. The committing of any felony by a public employee who willfully, and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment.
- (3) For purposes of this section, "pleads guilty or nolo contendere" shall not include any plea of guilty or nolo contendere which does not result in a conviction by virtue of G.L. 1956, § 12-10-12 or 12-18-3, as amended.
- (4) For purposes of this section, "public employee" or "employee" shall mean any current or former city elected official, or any appointed official and employee of the city, or of a city board, commission or agency, who is otherwise entitled to receive a retirement allowance or annuity or other benefit or payment of any kind pursuant to this chapter.
- (5) For purposes of this section, proceeds of IRS 457 deferred compensation plans are not subject to revocation or reduction.

(b) *Revocation or reduction authorized.* Notwithstanding any other provision of law, any retirement allowance or annuity or other benefit or payment of any kind to which an employee is otherwise entitled to under this chapter shall be revoked or reduced in accordance with the provisions of this section if such employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public employment. Any such conviction or plea shall be deemed to be a breach of the employee's contract with his or

her employer.

(c) *Hearing; civil action.* Whenever any employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public employment, the board of public safety shall conduct a meeting, with the employee having the opportunity to be heard, to determine if a recommendation of revocation or reduction of any retirement allowance or annuity or other benefit or payment to which the employee is otherwise entitled to under this chapter is warranted. If the board of public safety determines that revocation or reduction of any retirement allowance or annuity or other benefit or payment to which the employee is otherwise entitled to under this chapter is warranted, the board of public safety shall initiate a civil action in the superior court for the revocation or reduction of any retirement allowance or annuity or other benefit or payment to which the employee is otherwise entitled to under this chapter.

(d) *Return of payroll deducted contributions when benefits are revoked.* Any employee whose retirement allowance or annuity or other benefit or payments are revoked pursuant to this section shall be entitled to a return of his or her payroll deducted contribution, without interest.

(e) *Return of payroll deducted contributions when benefits are reduced.* Any employee whose retirement allowance or annuity or other benefits or payments are reduced pursuant to this section shall be entitled to a pro rata return of a portion of his or her payroll deducted contribution, in an amount proportionate to the amount of any such reduction, without interest.
(Ord. No. O-95-34(A), § I, 10-16-95)

Sec. 52-10. Bail for police officers 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 police department who is served with a writ of arrest in a civil suit, which suit arises while said police officer 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. 52-11. Counsel for police officers in suits arising from official duties.

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

Sec. 52-12. Lump sum death benefit for police officers.

(a) If a member of the police 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 police department" shall mean and include any chief or other member of the police 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 police officers, G.L. 1956, § 45-19-12 et seq.

Secs. 52-13--52-30. Reserved.

ARTICLE II.

PENSION FUND (APPLICABLE TO APPOINTMENTS PRIOR TO FEBRUARY 1, 1971)*

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

State Law References: Relief of police officers, G.L. 1956, § 45-19-1 et seq.; pension fund for members of permanent police department, P.L. 1943, ch. 1297; P.L. 1956, ch. 3627.

Sec. 52-31. Established.

This city council hereby creates a pension list and a pension fund for permanent members of the police department of the city, to be known as the "Police Pension Fund of the City of Warwick."

(Code 1971, § 15-19)

Sec. 52-32. Effective date.

This article shall take effect February 1, 1971, and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

(Code 1971, § 15-20)

Sec. 52-33. Source of assets.

Said police pension fund shall consist of:

- (1) All monies and securities that are now contained in the police pension fund, as authorized by general assembly action on April 22, 1943, and as subsequently amended, all monies received by the city finance director from the clerk of the third division district court from the prosecution of criminal cases, and all fees received from grand jury and superior court.
- (2) All donations, contributions, bequests or gifts to the pension fund.
- (3) All payroll deductions made from the salaries of each officer and member of the permanent police department, which shall consist of four percent of the annual salary paid to each such officer and member prior to February 1, 1973, and, commencing the first payday of February 1973, seven percent of the annual salary paid to each such officer and member; provided, however, that any member who shall retire prior to February 1, 1977, after 25 years of continuous service shall receive from the pension fund a reimbursement of any contributions made by such member in excess of what his/her contributions would have been at the prior rate

of four percent of annual salary. For pension purposes, longevity payments are to be considered salary and pension deductions shall be taken from such payments.

(4) Appropriations of city funds that shall be made from time to time to said fund to carry into effect the provisions of this article.

(5) All income and earnings derived from investment of fund holdings.

(Code 1971, § 15-21)

Sec. 52-34. Custodian of fund; deductions from pay.

The city finance director, ex officio, shall be custodian of said police pension fund, and he/she is hereby authorized and directed to deduct in weekly installments four percent of the annual salary paid to each officer and member of the permanent police department prior to February 1, 1973, and, commencing on February 1, 1973, to deduct in weekly installments seven percent of the annual salary of each such officer and member and to put the same in the pension fund. All of the monies coming from the various sources set forth in section 52-33 which the city finance director is hereby authorized to receive shall be known as the Police Pension Fund of the City of Warwick. Said fund shall be kept separate and apart from all other monies in his/her care and he/she shall pay semimonthly from said fund to the beneficiaries thereof such sums as are hereinafter provided.

(Code 1971, § 15-22)

Sec. 52-35. Investment of fund assets; accounting.

Subject to the approval of the city council, the city finance director shall invest said funds and shall add the interest, dividends, and other income from such investments to said fund. The city finance director shall keep accurate books of the account of said fund and shall allow the city council and the board of public safety to inspect his/her books of said fund at any time. He/she shall make an annual report in writing at the end of each fiscal year to the mayor, the city council and the board of public safety.

(Code 1971, § 15-23)

Sec. 52-36. Placement on pension list of members unfit for active duty.

Whenever an officer or member of the permanent police department shall become unfit to perform active duty by reason of mental or physical infirmity, or other causes, the board of public safety of the city may place said officer or member upon the pension list, and thereafter he/she shall be paid annually for the remainder of his/her life in equal semimonthly payments a sum as hereinafter provided; provided, however, that no one shall be placed on the pension list under the provisions of this section under the age of 55 years until three reputable physicians designated by the board of public safety shall certify in writing to said board that the officer or member is permanently incapacitated. These physicians shall make periodic examinations after retirement, to determine if there is any change in physical or mental status. If the three physicians determine that the mental or physical incapacity has been corrected they will recommend to the board of public safety of the city that such member or officer shall be placed on active duty. If he/she refuses to be placed on active duty he/she shall then be classified as having resigned and shall be covered by section 52-40.

(Code 1971, § 15-24)

Sec. 52-37. Nonservice disability pension.

When any officer or permanent member of the police department shall become permanently unfit for duty as a result of a nonservice-connected injury or disease and is therefore placed by the board on the pension list, said officer or member shall receive an annual sum of 50 percent of his/her highest salary, which will be paid in semimonthly payments.
(Code 1971, § 15-24.1)

Sec. 52-38. Service disability pension.

(a) *Generally.* When any officer or permanent member of the police department shall become permanently unfit for duty as a result of a service-connected injury or disease and is therefore placed by the board on the pension list, said officer or member shall receive a sum of $66 \frac{2}{3}$ percent of his/her highest salary, which will be paid on semimonthly payments, subject to the limitation listed in subsection (b) of this section.

(b) *Limitation for persons receiving earned income.* When any officer or permanent member of the police department is on a service disability pension, such officer or member shall file every six months with the board of public safety a sworn written report of his/her earned income for the six-month period immediately preceding the filing of this report, together with such supporting data as may reasonably be required. Earned income is defined as amounts received as compensation for services rendered. The officer's or member's pension amount for the following six months after the filing of the report of earned income shall be reduced dollar for dollar by any amount the actual earned income exceeded the salary paid to an officer or permanent member with the same rank and seniority on active duty at the time such reports are filed. However, in no event shall any officer or member on pension receive an annual sum less than 50 percent of his/her highest salary as a police officer.
(Code 1971, § 15-24.2)

Sec. 52-39. Eligibility for retirement.

(a) Prior to February 1, 1977, any member or officer of the permanent police department after serving 25 continuous years or who becomes 55 years of age, whichever occurs first, may apply to the board of public safety to be placed on the pension list. Thereafter said officer or member shall be entitled to a sum equal to one-half of his/her highest salary. In the event that said member or officer of the permanent police department does not apply to be placed on the pension list within 30 days of eligibility, the board of public safety may, at its discretion, place said member or officer on the pension list.

(b) Commencing on February 1, 1977, any member or officer of the permanent police department after serving 20 continuous years or who becomes 55 years of age, whichever occurs first, may apply to the board of public safety to be placed on the pension list. Thereafter said officer or member shall be entitled to a sum equal to one-half of his/her highest salary. In the event said member or officer of the permanent police department does not apply to be placed on the pension list within 30 days of eligibility, the board of public safety may, at its discretion, place said member or officer on the pension list.

(c) Any member or officer of the permanent police department, entitled to receive police pension fund benefits, who remains in the employ of the police department after 20 years of continuous service, shall be entitled to an increment of two percent of his/her pension benefits for each year of service beyond 20 years of continuous service to a period up to and not exceeding 25 years of continuous service.

(Code 1971, § 15-25)

Sec. 52-40. Resignation or discharge prior to retirement.

(a) Any member or officer of the permanent police department who shall resign (or who shall be discharged after a proper hearing) prior to the completion of ten years of continuous service shall forfeit all claims to such fund, except that he/she shall be entitled to a refund of the total amounts of the deductions made from his/her salary under this article without interest.

(b) Any member who shall resign or be discharged prior to eligibility for retirement under section 52-39, but after completing at least ten years of service, shall be vested in a pension, payable on the date the member would have completed 20 years of service, in an amount in accordance with the following schedule:

Complete Years of Service	Percentage of Highest Year's Pay
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

(c) The benefit of a member who receives payments under this section shall not be increased in accordance with section 52-44, but shall remain level throughout retirement. A member who retires under this section with less than 20 years of service shall not be eligible for paid medical/dental insurance coverage or any other retiree benefits except those provided under this section.

(Code 1971, § 15-26)

Sec. 52-41. Death benefits prior to retirement.

(a) If a member or officer of the permanent police department is killed or dies from injuries received or sickness contracted while in the performance of his/her duty as such member, there shall be paid from this police pension fund, to the following dependents of such deceased person, the following sums of money: to the widow/widower an annual sum equal to 50 percent of the deceased's annual salary at the time of his/her death, such sum to be paid in regular installments twice a month beginning at the date of death and continuing until such widow/widower dies or is remarried; and in addition an annual sum, payable in the same manner as provided aforesaid, equal to ten percent of the deceased's annual salary at the time of his/her death for each child of such deceased during the time as such child is under the age of 18 years of age, or is over such age and is physically or mentally incapacitated from earning; provided, however, that the total annual sum paid hereunder shall at no time exceed a sum equal to 75 percent of the deceased's annual salary at the time of his/her death; and provided further that, in the event there is a child or children and no widow/widower or the widow/widower dies later or remarries, such sum as would have been payable to the widow/widower for the benefit of such child or children had he/she survived the deceased and not remarried shall be paid to or for the benefit of such child or children in equal shares during the time provided aforesaid.

(b) If a member or officer of the permanent police department dies, other than from injuries received or sickness contracted while in his/her performance as such member, there shall be paid from this police pension fund, to the following dependents of such deceased person, the following sums of money: to the widow/widower an annual sum equal to 30 percent of the deceased's annual salary at the time of his/her death, such sum to be paid in regular installments twice a month beginning at the date of death and continuing until such widow/widower dies or is remarried; and in addition an annual sum, payable in the same manner as provided aforesaid, equal to ten percent of the deceased's annual salary at the time of his/her death for each child of such deceased during the time as such child is under the age of 18 years of age, or is over such age and is physically or mentally incapacitated from earning; provided, however, that the total annual sum paid hereunder shall at no time exceed a sum equal to 50 percent of the deceased's annual salary at the time of his/her death; and provided further that, in the event there is a child or children and no widow/widower or the widow/widower dies or remarries, such sum as would have been payable to the widow/widower for the benefit of such child or children had he/she survived the deceased and not remarried shall be paid to or for the benefit of such child or children in equal shares during the time provided aforesaid.

(c) If no benefits are payable in accordance with subsection (a) or (b) of this section, the estate of any member or officer of the permanent police department who should die before eligibility to have his/her name placed on the pension list shall be entitled to a refund of the total amounts of the deductions made from his/her salary under this article, without interest.

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

(e) Beneficiaries under this section shall be considered pensioners for the purposes of section 52-44.

(f) The death benefits provided by this section are in addition to the lump sum death benefits provided by section 52-12, and nothing contained herein shall be deemed as amending or repealing said lump sum death benefit provisions of section 52-12.
(Code 1971, § 15-27)

Sec. 52-42. Death benefits after retirement.

(a) Upon the death of a retired member or officer of the permanent police department, his widow or her widower shall receive one-half of the weekly pension to which such retired officer or member would be entitled until such time as he or she dies or remarries.

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

(c) Widow or widower beneficiaries under this section shall be considered pensioners for the purposes of section 52-44.
(Code 1971, § 15-28)

Sec. 52-43. Benefits not transferable or subject to attachment.

The benefits payable hereunder to any member or officer placed upon the pension list shall not be transferable or subject to attachment.

(Code 1971, § 15-29)

Sec. 52-44. Pension increases.

(a) All members and officers who are now receiving pensions from this fund shall be granted an increase, if required, in amounts necessary to bring their pensions equal to one-half the salary of the permanent members of the department.

(b) Whenever salary increases are granted in the department in the various classifications, corresponding percentage increases shall be granted pensioners in the same classification.

(Code 1971, § 15-30)

Sec. 52-45. Review of minimum allowances.

The mayor and the city council, at intervals of five years, may, at their discretion, review the minimum allowances under this pension plan, and if warranted may increase the same.

(Code 1971, § 15-31)

Sec. 52-46. Membership.

The terms of this article shall apply to all members, officers, widows, dependents and beneficiaries now receiving pensions from this fund, and to every other member or officer of the permanent police department appointed prior to February 1, 1971. The terms of this article shall not apply to any member or officer of the permanent police department appointed on or after February 1, 1971.

(Code 1971, § 15-32)

Sec. 52-47. Buyback of military service.

(a) At the time of his/her retirement, any member who retires under section 52-39 and who 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 service by contributing to the fund an additional seven percent of his/her highest year's pay for each year of service purchased. In no event will a member who has completed fewer than 20 years of service be eligible to buy back service.

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

(Code 1971, § 15-33)

Secs. 52-48--52-70. Reserved.

ARTICLE III.

REVISED PENSION FUND (APPLICABLE TO APPOINTMENTS ON OR AFTER FEBRUARY 1, 1971)*

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

Sec. 52-71. Established.

There is hereby created a revised pension list and a revised pension fund for permanent members of the police department of the city who are appointed on or after February 1, 1971, to be known as "Revised Pension Fund for Police Officers of the City of Warwick."
(Code 1971, § 15-41)

Sec. 52-72. Effective date.

This article shall take effect February 1, 1971, and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.
(Code 1971, § 15-42)

Sec. 52-73. Source of assets.

Said revised pension fund for police officers shall consist of:

- (1) All donations, contributions, bequests or gifts to the revised pension fund.
- (2) All payroll deductions made from the salaries of each member and officer of the permanent police department who shall be appointed on or after February 1, 1971, which shall consist of a uniform percentage of the annual salary (including longevity payments) paid to each such member and officer commencing February 1, 1971, as provided in section 52-85.
- (3) Appropriations of city funds that shall be made from time to time to said fund to carry into effect the provisions of this article, as further provided in section 52-85.
- (4) All income and earnings derived from investment of fund holdings.

(Code 1971, § 15-43)

Sec. 52-74. Custodian of fund; deductions from pay.

The finance director, ex officio, shall be custodian of said revised pension fund for police officers, and he/she is hereby authorized and directed, commencing February 1, 1971, to deduct in weekly installments from the annual salary paid to each officer and member of the permanent police department appointed on or after February 1, 1971, the percentage of his/her salary specified in section 52-85(b) and to put the same in this revised pension fund. All of the monies coming from the various sources set forth in section 52-73 which the city finance director is hereby authorized to receive shall be known as the Revised Pension Fund for Police Officers of the City of Warwick. Said fund shall be kept separate and apart from all other monies in his/her care

and he/she shall pay semimonthly from said fund to the beneficiaries thereof such sums as are hereinafter provided.

(Code 1971, § 15-44)

Sec. 52-75. Investment of fund assets; accounting.

Subject to the approval of the city council, the city finance director shall invest said funds and shall add the interest, dividends and other income from such investments to said fund. The city finance director shall keep accurate books of account of said fund and shall allow the mayor, the city council and the board of public safety to inspect his/her books of said fund at any time. He/she shall make an annual report in writing at the end of each fiscal year to the mayor, the city council and the board of public safety.

(Code 1971, § 15-45)

Sec. 52-76. Placement on pension list of members unfit for active duty.

Whenever an officer or member of the permanent police department shall become unfit to perform active duty by reason of mental or physical infirmity, or other causes, the board of public safety of the city may place said officer or member upon the pension list, and thereafter he/she shall be paid annually for the remainder of his/her life in equal semimonthly payments a sum as hereinafter provided; provided, however, that no one shall be placed on the pension list under the provisions of this section under the age of 55 years until three reputable physicians designated by the board of public safety shall certify in writing to said board that the officer or member is permanently incapacitated. These physicians shall make periodic examinations after retirement, to determine if there is any change in physical or mental status. If the three physicians determine that the mental or physical incapacity has been corrected they will recommend to the board of public safety of the city that such member or officer shall be placed on active duty. If he/she refuses to be placed on active duty he/she shall then be classified as having resigned and shall be covered by section 52-78.

(Code 1971, § 15-46)

Sec. 52-77. Eligibility for retirement; retirement allowance.

(a) Any member or officer of the permanent police department, after serving 20 continuous years, may apply to the board of public safety to be placed on the pension list. Thereafter said officer or member shall be entitled to an annual pension equal to one-half of his/her average annual salary received during the five consecutive highest paid years of service preceding his/her retirement. In the event said member or officer of the permanent police department does not apply to be placed on the pension list within 30 days of eligibility, the board of public safety may, at its discretion, place said member or officer on the pension list.

(b) Effective January 1, 1987, the retirement allowance for a member retiring with more than 20 years of service will be one-half of his/her average salary as specified in subsection (a) above, plus two percent of his/her average salary for each additional year of service above 20 years, up to a maximum of 25 years.

(c) Effective February 1, 1991, the retirement allowance for a member retiring under this section will be the percentage specified in subsections (a) and (b) of this section of his/her highest year's salary.

(Code 1971, § 15-47)

Sec. 52-78. Resignation or discharge prior to retirement.

(a) Any member or officer of the permanent police department who shall resign (or who shall be discharged after a proper hearing) prior to the completion of ten years of service shall forfeit all claims to said fund, except that he/she shall be entitled to a refund of the total amount of the deductions made from his/her salary under this article without interest.

(b) Any member who shall resign or be discharged prior to eligibility for retirement under section 52-77, but after completing at least ten years of service, shall be vested in a pension, payable on the date the member would have completed 20 years of service, in an amount in accordance with the following schedule:

Complete Years of Service	Percentage of Highest Year's Pay
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

(c) The benefit of a member who receives payments under this section shall not be increased in accordance with section 52-82, but shall remain level throughout retirement. A member who retires under this section with less than 20 years of service shall not be eligible for paid medical/dental insurance coverage or any other retiree benefits except those provided under this section.
(Code 1971, § 15-48)

Sec. 52-79. Death benefits prior to retirement.

(a) If a member or officer of the permanent police department is killed or dies from injuries received or sickness contracted while in the performance of his/her duty as such member, there shall be paid from this revised pension fund, to the following dependents of such deceased person, the following sums of money: to the widow/widower an annual sum equal to 50 percent of the deceased's annual salary at the time of his/her death, such sum to be paid in regular installments twice a month beginning at the date of death and continuing until such widow/widower dies or is remarried; and in addition an annual sum, payable in the same manner as provided aforesaid, equal to ten percent of the deceased's annual salary at the time of his/her death for each child of such deceased during the time as such child is under the age of 18 years of age, or is over such age and is physically or mentally incapacitated from earning; provided, however, that the total annual sum paid hereunder shall at no time exceed a sum equal to 75 percent of the deceased's annual salary at the time of his/her death; and provided further that, in the event there is a child or children and no widow/widower or the widow/widower dies later or remarries, such sum as would have been payable to the widow/widower for the benefit of such child or children had he/she survived the deceased and not remarried shall be paid to or for the benefit of such child or children in equal shares during the time provided aforesaid.

(b) If a member or officer of the permanent police department dies, other than from injuries received or sickness contracted while in his/her performance as such member, there shall be paid from this police

pension fund, to the following dependents of such deceased person, the following sums of money: to the widow/widower an annual sum equal to 30 percent of the deceased's annual salary at the time of his/her death, such sum to be paid in regular installments twice a month beginning at the date of death and continuing until such widow/widower dies or is remarried, and in addition an annual sum, payable in the same manner as provided aforesaid, equal to ten percent of the deceased's annual salary at the time of his/her death for each child of such deceased during the time as such child is under the age of 18 years of age, or is over such age and is physically or mentally incapacitated from earning; provided, however, that the total annual sum paid hereunder shall at no time exceed a sum equal to 50 percent of the deceased's annual salary at the time of his/her death; and provided further that, in the event there is a child or children and no widow/widower or the widow/widower dies or remarries, such sum as would have been payable to the widow/widower for the benefit of such child or children had he/she survived the deceased and not remarried shall be paid to or for the benefit of such child or children in equal shares during the time provided aforesaid.

(c) If no benefits are payable in accordance with subsection (a) or (b) of this section, the estate of any member or officer of the permanent police department who should die before eligibility to have his/her name placed on the pension list shall be entitled to a refund of the total amounts of the deductions made from his/her salary under the article without interest.

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

(e) Beneficiaries under this section shall be considered pensioners for the purposes of section 52-82.

(f) The death benefits provided by this section are in addition to the lump sum death benefits provided by section 52-12, and nothing contained herein shall be deemed as amending or repealing said lump sum death benefit provisions of section 52-12.

(Code 1971, § 15-49)

Sec. 52-80. Death benefits after retirement.

(a) The pension benefits payable to a member or officer entitled thereto under section 52-77 are payable for life, with all payments ceasing at the death of said member or officer. Nevertheless, until the first pension payment becomes normally due, any member or officer may elect to convert the pension, otherwise payable on his/her account after retirement, into a reduced retirement allowance of equivalent actuarial value in one of the optional forms named below. However, an election of an optional benefit shall not be effective until 60 days after the date of the filing of the election thereof with the board of public safety or until the date upon which the first pension payment on account of his/her retirement becomes normally due, whichever is the later, and, should the member or officer die before such election becomes effective, the benefits payable on his/her account shall be the same as though his/her election had not been filed and he/she had not been retired. Such optional retirement allowances shall be payable throughout life with the provisions that:

- (1) *Option 1.* If he/she dies before he/she has received in payments the present value of his/her pension benefit as it was at the time of his/her retirement, the balance shall be paid to his/her designated beneficiary as he/she, his/her wife/husband, or his/her guardian so electing shall designate.

- (2) *Option 2.* Upon his/her death, his/her lesser pension benefit shall be continued throughout the life of and paid to his/her designated coparticipant.
- (3) *Option 3.* Upon his/her death, one-half of his/her lesser pension benefit shall be continued throughout the life of and paid to his/her designated coparticipant.
- (4) *Option 4.* Such other benefit or benefits shall be paid to either the beneficiary or to such person or persons as he/she shall designate, provided such other benefit or benefits, together with such lesser retirement allowance, shall be certified by the actuary of this revised pension fund to be of equivalent actuarial value to his/her benefit and shall be approved by the board of public safety.

All such elections of an optional form of payment shall be made by written direction to the board of public safety prior to the effective date of the member's or officer's retirement.

(b) Members, officers, coparticipants and beneficiaries entitled to pension payments under this section shall be considered pensioners for the purposes of section 15-82.
(Code 1971, § 15-50)

Sec. 52-81. Benefits not transferable or subject to attachment.

The benefits payable hereunder to any member or officer placed upon the pension list shall not be transferable nor subject to attachment.
(Code 1971, § 15-51)

Sec. 52-82. Pension increases.

(a) As of January 1, 1972, and as of January 1 of each year thereafter, the city finance director shall adjust the pension of each pensioner receiving payments under this revised pension fund and the spouse or children of deceased police members entitled to pension benefits hereunder, in accordance with increases or decreases in the Consumer Price Index (U.S. all items index) compiled by the U.S. Department of Labor, Bureau of Labor Statistics, determined and limited as follows. Such index for October of the immediately preceding calendar year shall be divided by the corresponding index for October of the next previous calendar year, and the percentage of increase or decrease shall be determined. All pension payments for the current calendar year shall be increased or decreased from the rate payable during the immediately preceding calendar year by the percentage thus determined, except that in no event shall the increase or decrease exceed three percent for any single year. Furthermore, no downward adjustment shall decrease any pension to a lesser amount than the original amount of the pension benefit at retirement. In the case of any pensioner who has been retired for less than one full year on any January 1, a fractional adjustment shall be made corresponding to the period elapsed since the effective date of his/her retirement. No adjustments shall be made to the pension of any pensioner for or on account of increases or decreases in said Consumer Price Index occurring prior to said pensioner's being placed on the pension list.

(b) Effective July 1, 1986, beginning on January 1, 1987, and on each January 1 thereafter, the pension adjustment described above shall be an increase of three percent, regardless of increases or decreases in the Consumer Price Index.

(c) 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 20, article IV, chapter 52, article II, chapter 60, article III, and this article is ten percent or less of the actuarial value of the fund. Contributions under section 52-85 shall be increased so that any such increase in benefits shall be funded at 100 percent.
(Code 1971, § 15-52; Ord. No. O-08-11, § I, 7-8-08)

Sec. 52-83. Review of minimum allowances.

The mayor and the city council, at intervals of five years, may, at their discretion, review the minimum allowances under this pension plan, and, if warranted, may increase the same.
(Code 1971, § 15-53)

Sec. 52-84. Membership.

The terms of this article shall apply to every member or officer of the permanent police department appointed on or after February 1, 1971. The terms of this article shall not apply to any member or officer of the permanent police department appointed prior to February 1, 1971.
(Code 1971, § 15-54)

Sec. 52-85. Contribution rates.

(a) *Determination.* The city plans and intends to maintain this revised pension fund on a sound actuarial basis in accordance with generally accepted accounting and actuarial practice so that, insofar as practicable, two-thirds of the cost of this retirement system will be paid by the city and one-third of such cost will be paid by the contributions from officers and members to whom the terms of this article apply. Such contribution rates shall be determined on the basis of such mortality, interest and other actuarial assumptions as shall be adopted by the board of public safety, subject to the approval of the city council. For this purpose, the board of public safety may employ an actuary, an individual or a firm, at least one of whose employees is a member of the Society of Actuaries, and such other assistance as it shall deem expedient to assist in determining the cost of benefits provided hereunder and the corresponding contribution rates of members and officers.

(b) *Member contributions.* Commencing February 1, 1971, eight percent of the annual salary (including longevity payments) paid to each member and officer participating in this revised pension fund shall be deducted and placed in the fund.

(c) *City contributions.* Commencing February 1, 1971, an amount equal to 16 percent of the annual salary (including longevity payments) paid to each member and officer participating in this revised pension fund shall be contributed by the city and placed in the fund.

(d) *Periodic review.* At least once every three years, the board of public safety shall be required to have made an actuarial study of this retirement system in order to review the experience under the plan and to determine what revision, if any, is required in the contribution rates established hereunder to maintain the fund on a sound actuarial basis with the city contributing two-thirds and the members one-third of cost of plan benefits.

(Code 1971, § 15-55)

Sec. 52-86. 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/she becomes eligible to retire in accordance with section 52-77(a);
 - b. Occurs the tenth anniversary of the year in which the member commenced participation in the revised pension fund; or
 - c. The member terminates service with the city.
- (2) The commencement of benefits to any member under the revised pension fund 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 revised pension fund 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.
- (5) If a member dies prior to the commencement of benefits and benefits are payable to a beneficiary other than the member's spouse or minor child and there is no designated beneficiary, the entire distribution of benefits on account of the member's death shall be made within five years after the date of the member's death.

(Code 1971, § 15-56)

Sec. 52-87. Maximum benefits.

The maximum benefit payable to a member under the revised pension fund shall not exceed the amount permitted under section 415 of the Internal Revenue Code, as now in effect or hereafter amended.

(Code 1971, § 15-57)

Sec. 52-88. Buyback of military service.

(a) At the time of his/her retirement, any member who retires under section 52-77 and who 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 service by contributing to the fund an additional percentage of his/her highest year's pay, equal to the annual contribution rate prevailing under section 52-85 at the time of the member's retirement, for each year of service purchased. In no event will a member who has completed fewer than 20 years of service be eligible to buy back service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of service in six-month increments, but no more than the number of his/her full years of military service.
(Code 1971, § 15-58)

Sec. 52-89. Pickup of employee contributions by city.

The city shall pick up the employee contributions required by section 52-85 for all compensation earned after January 1, 1990, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code; however, the city shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(H) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. 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. If employee contributions are picked up, they shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to the date picked up.
(Code 1971, § 15-60)

Sec. 52-90. Buyback of municipal service.

(a) At the time of his/her retirement, any member who retires under section 52-77 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 service by contributing to the fund an additional percentage of his/her highest year's pay, equal to the annual contribution rate prevailing under section 52-85 at the time of the member's retirement, for each year of service purchased. In no event will a member who has completed fewer than 20 years of service be eligible to buy back service.

(b) A member eligible to purchase benefits under subsection (a) of this section has the option to buy up to four years of service in six-month increments, but no more than the number of his/her full years of civilian service.
(Ord. No. O-03-8, § I, 5-20-03)