

Chapter 60

RETIREMENT SYSTEM*

* **Charter References:** Limitation on receiving pension from city and being employed by city at same time, § 10-4.

Cross References: Retirement board for system effective prior to July 1, 1992, § 6-241 et seq.; firefighters' pension fund prior to May 29, 1992, § 20-91 et seq.; revised firefighters' pension for appointments on or after May 29, 1992, § 20-141 et seq.; personnel merit system, ch. 48; police pension fund applicable to appointments prior to February 1, 1971, § 52-31 et seq.; revised police pension fund applicable to appointments on or after February 1, 1971, § 52-71 et seq.

State Law References: Retirement of municipal employees, G.L. 1956, § 45-21-1 et seq.; requirement that city adopt ch. 45-21 by ordinance or resolution, G.L. 1956, § 45-21-4; authority of city to provide by ordinance for pension plan for city employees, P.L. 1965, ch. 38; authority of school committee to establish pension plan for certain employees, P.L. 1965, ch. 42.

Article I. In General

Secs. 60-1--60-30. Reserved.

Article II. Municipal Employees' Pension Fund

Division 1. Generally

Sec. 60-31. Definitions.

Sec. 60-32. Benefits not assignable or subject to attachment.

Sec. 60-33. Correction of errors; falsification of records to defraud system.

Secs. 60-34--60-50. Reserved.

Division 2. Membership

Sec. 60-51. Membership for employees other than elected officials hired on or after operative date.

Sec. 60-52. Membership for elected officials.

Sec. 60-53. Membership for other employees.

Sec. 60-54. Membership for employees with rights under other city pension system.

Sec. 60-55. Membership eligibility of members of governing body of employer.

Secs. 60-56--60-70. Reserved.

Division 3. Creditable Service

Sec. 60-71. Generally.

Sec. 60-72. Retirement board rules for determining creditable service.

Sec. 60-73. Honorable service; revocation or reduction of benefits of members committing crime related to public employment.

Sec. 60-74. Restoration of creditable service after reemployment.

Sec. 60-75. Effect of authorized unpaid leave.

Sec. 60-76. Effect of military absence.

Sec. 60-77. When previous employee considered new employee.

Sec. 60-78. Filing of statement to establish creditable service.

Sec. 60-79. Establishment of creditable service when employees are transferred.

Secs. 60-80--60-100. Reserved.

Division 4. Retirement on Service Allowance

Sec. 60-101. Retirement at age 65.

Sec. 60-102. Early retirement.

Sec. 60-103. Election of retirement; filing of notice.

Sec. 60-104. Right to service allowance for those withdrawing from city employment before retirement age.

Sec. 60-105. Cost of living increase for members other than elected officials.

Sec. 60-106. Retirement allowance rate for elected officials.

Sec. 60-107. Annual adjustment of monthly benefits.

Sec. 60-108. Buyback of military service.

Secs. 60-109--60-130. Reserved.

Division 5. Optional Forms of Pension

Sec. 60-131. Generally; time of election.
Secs. 60-132--60-150. Reserved.

Division 6. Disability Retirement

Sec. 60-151. General eligibility.
Sec. 60-152. Total disability defined.
Sec. 60-153. Disability pension computation.
Sec. 60-154. Date on which disability payments commence.
Sec. 60-155. Effect of worker's compensation payments or personal injury recovery payments on disability payments.
Sec. 60-156. Medical examination of persons retired as disabled; refusal to undergo examination.
Sec. 60-157. Restoration to health of members receiving disability pension.
Sec. 60-158. Reemployment of members receiving disability pension.
Secs. 60-159--60-180. Reserved.

Division 7. Benefits Other Than Retirement

Sec. 60-181. Death prior to normal retirement date.
Sec. 60-182. Death following attainment of age 50 and at least ten years of creditable service, but preceding actual retirement.
Sec. 60-183. Termination of membership other than by death or retirement.
Sec. 60-184. Return of contribution in excess of benefits received.
Sec. 60-185. Lump sum death benefit.
Sec. 60-186. Deferred compensation plans.
Secs. 60-187--60-200. Reserved.

Division 8. Allocation of Interest

Sec. 60-201. Generally.
Secs. 60-202--60-220. Reserved.

Division 9. Funding Generally

Sec. 60-221. Source of assets.
Sec. 60-222. Employee contributions generally; payroll deduction.
Sec. 60-223. Contributions by elected officials.
Sec. 60-224. City contributions.
Sec. 60-225. Employer contributions.
Sec. 60-226. Pickup of employee contributions by employer.
Secs. 60-227--60-250. Reserved.

Division 10. Employer Contributions

Sec. 60-251. Establishment of normal contribution rate percentage.
Sec. 60-252. Accrued liability contributions.
Sec. 60-253. Accrued liability contribution rate percentage.
Secs. 60-254--60-270. Reserved.

Division 11. Reserve Funds

Sec. 60-271. Designation of funds.
Sec. 60-272. Members' savings fund described.
Sec. 60-273. General reserve fund described.
Sec. 60-274. Expense fund described.
Sec. 60-275. Certification of amounts payable to general reserve fund; appropriation and transfer of funds by employers.
Sec. 60-276. Obligations of employers.
Sec. 60-277. Payments from reserve funds.
Secs. 60-278--60-310. Reserved.

Article III. Municipal Employees' Pension Fund

Division 1. Generally

Sec. 60-311. Definitions.
Sec. 60-312. Benefits not assignable or subject to attachment.

Sec. 60-313. Maximum benefit.
Sec. 60-314. Maximum salary for purposes of benefit determination.
Sec. 60-315. Pensions under article not part of any other pension.
Sec. 60-316. Special benefits for employees retiring in June 1992.
Sec. 60-317. Correction of errors; falsification of records to defraud plan.
Sec. 60-318. Deferred compensation plans.
Sec. 60-319. Fiduciary role of members and employees of plan with regard to fund.
Secs. 60-320--60-340. Reserved.

Division 2. Eligibility

Sec. 60-341. Generally.
Sec. 60-342. Rejoining plan upon reemployment.
Secs. 60-343--60-360. Reserved.

Division 3. Service

Sec. 60-361. Service credited on account of employment.
Sec. 60-362. Restoration of creditable service after reemployment.
Sec. 60-363. Vesting service.
Sec. 60-364. Buyback of military service.
Sec. 60-365. Special service purchase option for certain employees.
Sec. 60-366. Service purchase option for accumulated sick leave.
Sec. 60-367. Retirement board rules.
Secs. 60-368--60-390. Reserved.

Division 4. Benefits

Sec. 60-391. Normal retirement benefits.
Sec. 60-392. Early retirement benefits.
Sec. 60-393. Disability retirement benefits.
Sec. 60-394. Death benefits prior to retirement.
Sec. 60-395. Termination of employment.
Sec. 60-396. Lump sum death benefit.
Sec. 60-397. Accumulated contributions.
Sec. 60-398. Indexation of benefits for terminated vested members.
Sec. 60-399. Indexation of benefits for retirees and beneficiaries.
Sec. 60-400. Forfeiture of benefits upon termination for certain causes.
Secs. 60-401--60-420. Reserved.

Division 5. Payment of Benefits

Sec. 60-421. Payment of benefits on account of normal retirement, early retirement or vested termination.
Sec. 60-422. Payment of benefits on account of disability.
Sec. 60-423. Payment of benefits on account of preretirement death.
Sec. 60-424. Payment of lump sums.
Sec. 60-425. Payment of remainder of accumulated contributions on death after commencement of benefits.
Sec. 60-426. Latest commencement date for benefit payments.
Secs. 60-427--60-440. Reserved.

Division 6. Funding

Sec. 60-441. Member contributions.
Sec. 60-442. Employer contributions.
Sec. 60-443. Pension fund.

ARTICLE I.

IN GENERAL

Secs. 60-1--60-30. Reserved.

ARTICLE II.

MUNICIPAL EMPLOYEES' PENSION FUND

DIVISION 1.

GENERALLY

Sec. 60-31. Definitions.

The following words and phrases, as used in this article, shall have the following meanings, unless a different meaning is plainly required by the context:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his/her individual account in the member savings fund, together with interest thereon compounded annually. Such interest will be credited once a year on December 31 on the basis of the balance held in the account of the member as of the preceding December 31. The rate of interest that will be credited for each plan year, ending December 31, shall be determined as the rate of interest determined annually by retirement board to be earned by the funds, reduced to the next lowest whole percent.

Actuarial equivalent means a benefit of equal value when computed upon the basis of such mortality tables and interest rate as shall be adopted by the retirement board.

Appointing authority means any person or group of persons having power by law or ordinance, or by lawfully delegated authority, to make appointments to any position in the city service.

Asset value after adjustment means, on January 31, 1984, the market value of assets, including any unpaid contributions. On each January 31 from 1985 through 1988, on June 30, 1988, and on each subsequent June 30, "asset value after adjustment" shall mean the asset value before adjustment plus the adjustment determined according to this article.

Asset value before adjustment means, on January 31, 1984, the market value of assets, including any unpaid contributions. On each January 31 from 1985 through 1988, "asset value before adjustment" shall mean the asset value after adjustment on the previous January 31, plus any contributions paid or accrued during the 12 months intervening, less any benefits and expenses during the 12 months intervening, all credited with the interest rate in effect for the year. On June 30, 1988, "asset value before adjustment" shall mean the asset value after adjustment on January 31, 1988, adjusted for contributions, benefit payments and expenses during the five months intervening, and credited with interest at the interest rate in effect for the five months. On each subsequent June 30, "asset value before adjustment" shall mean the asset value after adjustment on the previous June 30, adjusted for contributions, benefit payments and expenses, and credited with interest at the interest rate in effect for the year.

Beneficiary means any person in receipt of a benefit from the retirement system as a result of the death of a member or retirement.

Compensation means the basic wage or salary paid an employee for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation.

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

Early vesting member means every management employee whose conditions of employment are not covered under any collective bargaining agreement.

Employee means any regular or permanent employee or officer of an employer whose time is devoted in whole or in part to the service of such employer, including elected officials. In case of doubt as to whether any person is an employee within the meaning of this article, the decision of the retirement board shall be final.

Employer means the City of Warwick as a city.

Final average compensation shall mean the average annual compensation received by a member during the three consecutive years of creditable service which produce the highest such average. If a member has less than three consecutive years of creditable service then his "final average compensation" shall be the average compensation received by him during the number of his consecutive years of creditable service previous to the termination of his employment.

Interest rate in effect for the year shall equal the sum of the negotiated increase in base wages covered under the collective bargaining agreement, effective during the 12-month period beginning on the July 1 immediately prior to the date of determination, plus three percent.

Market value of assets means the fair market value of any common or preferred stock, mutual funds, participation in any separate account funds in any insurance company or bank, or any other investments in a general account of an insurance company, which shall be valued at book value.

Medical board means the board of physicians provided for in chapter 6, article IX.

Member means any member of the retirement system as defined by division 2 of this article.

Operative date means the date this retirement system becomes operative for an employer; and, as to the city as an employer, the operative date shall be July 1, 1965.

Retirant means a member who has retired and is entitled to benefits from the retirement system.

Retirement allowance or annuity means the amounts paid to any member or a survivor of the member as provided in this article. All such retirement allowances or annuities shall be paid in equal monthly installments for life, unless otherwise specifically provided.

Retirement board means the board which establishes policy and rules for the administration of the retirement system.

Retirement system means the Employees Pension Plan and Fund of the city as authorized under an act of the general assembly of the state approved April 15, 1965, and as set forth in this article.

Service retirement date means the date of actual retirement of a member for reasons other than disability.

(Code 1971, § 16-1; Ord. No. O-96-4, § I, 1-22-96; Ord. No. O-88-10, § I, 2-10-88)

Cross References: Definitions generally, § 1-2.

Sec. 60-32. Benefits not assignable or subject to attachment.

The right of any person to a benefit or any other right accrued or accruing to any person under the provisions of this article and the moneys in the various funds created under this article shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this article specifically provided. The retirement board, in its discretion, may terminate any benefit in event of execution, garnishment, attachment, other process or assignment.

(Code 1971, § 16-2)

Sec. 60-33. Correction of errors; falsification of records to defraud system.

The retirement board may cancel or reduce the benefits of any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records, in any attempt to defraud this retirement system. Should any change or error in records result in any member or beneficiary receiving from the retirement system more or less than he/she would have been entitled to receive had the records been correct, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

(Code 1971, § 16-3)

Secs. 60-34--60-50. Reserved.

DIVISION 2.

MEMBERSHIP

Sec. 60-51. Membership for employees other than elected officials hired on or after operative date.

An employee, other than an elected official, hired on or after the operative date of this article shall become a member of the retirement system on the first day of the month following completion of six months of continuous employment, provided that he/she is not receiving a pension or retirement allowance from any other pension system supported wholly or in part by the city.

(Code 1971, § 16-18)

Sec. 60-52. Membership for elected officials.

Any employee who shall be elected to office in the city service on or after the operative date of this article shall become a member of the retirement system on the date he/she assumes his/her office. Any employee holding elective office on the operative date of this article shall become a member of the retirement system on the operative date.

(Code 1971, § 16-19)

Sec. 60-53. Membership for other employees.

(a) Each employee other than as described hereinbefore shall become a member on the operative date of this article if he/she has completed six months of continuous service on or before that date, or on the first day of the month following the date that six months of continuous service is completed, if later, provided however, that such employee is not a member of any other pension or retirement system supported in whole or in part by the city.

(b) Any employee of a participating employer, or any elected official, who is not employed on the operative date and who has been in service within six months prior to the operative date who shall make written application to the retirement board to become a member shall become such on the operative date.

(Code 1971, § 16-20)

Sec. 60-54. Membership for employees with rights under other city pension system.

Any employee of a participating employer otherwise eligible for membership, who is a member of any other pension or retirement system supported wholly or in part by the city on the operative date and who shall then or thereafter make written application to join this retirement system and shall therein waive and renounce all accrued rights and benefits of any other pension or retirement system supported wholly or in part by the city, shall become a member of this retirement system.

(Code 1971, § 16-21)

Sec. 60-55. Membership eligibility of members of governing body of employer.

Except for elected officials, the members of the governing body of any employer shall not be members of the retirement system.

(Code 1971, § 16-22)

Secs. 60-56--60-70. Reserved.

DIVISION 3.

CREDITABLE SERVICE

Sec. 60-71. Generally.

The years of creditable service of a member shall be the number of years and completed months of service during which he/she receives compensation, beginning on the date the employee became a member in accordance with this article if he/she became a member after July 1, 1965, and ending on the date his/her employment is terminated, subject to the provisions set forth in this article. No creditable service for prior employment shall be granted an employee who becomes a member after July 1, 1965, unless he/she was employed by an employer on July 1, 1965. Years of service to an agency, authority, board or commission of the city shall not constitute creditable service for purposes of this article.

(Code 1971, § 16-34; Ord. No. O-96-5, § I, 1-22-96)

Sec. 60-72. Retirement board rules for determining creditable service.

(a) The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of creditable service, but in no case shall more than one year be creditable for all service in one calendar year, nor shall the retirement board allow credit as service for any period of more than one month's duration during which the member was absent without pay except as provided in section 60-76.

(b) The years of creditable service of a member shall be the number of years and completed months of service during which he/she receives compensation, beginning on the date the employee became a member in accordance with division 2 of this article if he/she became a member after July 1, 1965, and ending on the date his/her employment is terminated, subject to the provisions set forth in sections 60-74 through 60-78. No creditable service for prior employment shall be granted an employee who becomes a member after January 1, 1963, unless he/she was employed by an employer on January 1, 1963.
(Code 1971, § 16-35)

Sec. 60-73. Honorable service; revocation or reduction of benefits of members committing crime related to public employment.

(a) *General provisions.*

(1) Payment of a member's retirement allowance or annuity or other benefit or payments as provided for within this article 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 appointed official or 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 article.

(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 article 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 retirement board 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 article is warranted. If the retirement board 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 article is warranted, the retirement board 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 article.

(d) *Return of 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 accumulated contributions without interest.

(e) *Return of contributions when benefits are reduced.* Any employee whose retirement allowance or annuity or other benefit or payments are reduced pursuant to this section shall be entitled to a pro rata return of a portion of his or her accumulated contribution, in an amount proportionate to the amount of any such reduction, without interest.

(Ord. No. O-95-35, § I, 10-16-95)

Sec. 60-74. Restoration of creditable service after reemployment.

If a member who has withdrawn his/her accumulated contributions resumes employment with the same or another employer within 12 months after his/her employment is terminated, his/her creditable service as of the date of his/her termination shall be restored providing he/she redeposits the withdrawn accumulated contributions with interest at a rate and in accordance with regulations determined by the retirement board. If a member resumes employment with the same or with another employer within 26 months after his/her employment is terminated and provided he/she has not withdrawn his/her accumulated contributions, his/her creditable service as of the date of termination shall be restored.

(Code 1971, § 16-36)

Sec. 60-75. Effect of authorized unpaid leave.

Creditable service to date of absence shall not be forfeited by reason of any absence without pay due to leave granted by an employer because of illness or military service, or for a period not in excess of one year for any other reason, provided the employee returns to active service with his/her employer on the expiration of

his/her leave.
(Code 1971, § 16-37)

Sec. 60-76. Effect of military absence.

Absence from employment with an employer because of compulsory military service or military service in time of war shall be considered a leave of absence by the employer, provided the employee returns to active employment with his/her employer within 90 days from and after separation from such military service if no federal law is applicable and such service shall be included in creditable service, provided that he/she has not withdrawn his/her accumulated contributions.
(Code 1971, § 16-38)

Sec. 60-77. When previous employee considered new employee.

If the employment of a member is terminated for reasons other than disability retirement and he/she is employed by any employer thereafter, he/she shall be considered a new employee for all purposes of the retirement system, except as provided by section 60-74.
(Code 1971, § 16-39)

Sec. 60-78. Filing of statement to establish creditable service.

Each member claiming creditable service prior to the operative date shall at the request of the secretary of the retirement board file such detailed statement as may be required to establish such claimed creditable service.
(Code 1971, § 16-40)

Sec. 60-79. Establishment of creditable service when employees are transferred.

Whenever a municipal public service or function is transferred from any agency to any employer as defined in this article, the retirement board shall fix and determine by proper rules and regulations the amount of creditable service, date of membership, contributions for accrued liability, and other conditions of membership, for each employee involved in such transfer of service or function.
(Code 1971, § 16-41)

Secs. 60-80--60-100. Reserved.

DIVISION 4.

RETIREMENT ON SERVICE ALLOWANCE

Sec. 60-101. Retirement at age 65.

Effective January 1, 1990, and continuing thereafter, any active member who has attained the age of at least 65 years on a date no earlier than the fifth anniversary of the date he/she became a member may elect to retire. Upon retirement from service as provided in this section, a member shall receive an annual retirement allowance equal to 2.2 percent of his/her final average compensation multiplied by the number of years of

creditable service. In determining the annual retirement allowance a proportional amount shall be determined and granted for any fractional part of a conditional year of service.
(Code 1971, § 16-53)

Sec. 60-102. Early retirement.

Any member who has completed at least ten years of creditable service and has attained the age of 55 years may elect early retirement. In addition, any member for whom the sum of his/her attained age (in full years) and the number of completed full years of creditable service equals or exceeds a total of 85 may elect to retire. Upon early retirement from service as provided in this section, a member shall receive an annual retirement allowance which shall be determined in the same manner as provided for members retiring under section 60-101, except that the amount so determined shall be reduced by one-half percent thereof for each month preceding the 65th anniversary of his/her birth. However, if a member shall have completed at least 30 years of creditable service, such reduced benefit shall not be less than 95 percent of the benefit determined for members retiring under section 60-101, or, if a member shall have completed at least 30 years of creditable service and attained age 62, such reduced benefit shall not be less than 100 percent of the benefit determined for members retiring under section 60-101. In addition, if a member's age plus service, as indicated in this section 60-102, shall exceed 95 percent, such reduced benefit shall not be less than 95 percent of the benefit determined for members retiring under section 60-101.
(Code 1971, § 16-54; Ord. No. O-01-7, § I, 4-24-01)

Sec. 60-103. Election of retirement; filing of notice.

To elect retirement a member shall file written application to the retirement board no less than 30 and no more than 90 days prior to the first day of the calendar month following the month in which he/she shall reach age 65, or, in the case of early retirement, the age he/she shall be entitled to retire in accordance with section 60-102, or within such period prior to the first day of any calendar month thereafter on which he/she shall elect to be retired.
(Code 1971, § 16-55)

Sec. 60-104. Right to service allowance for those withdrawing from city employment before retirement age.

Effective August 1, 1974, the right to a service allowance under the provisions of this section shall vest in a member who shall withdraw from service prior to the attainment of applicable minimum age of retirement as herein prescribed, who shall not have received a refund, provided such member shall have completed at least ten years of total creditable service or at least six or more years of creditable service as an elected official. Said members shall become entitled to a service retirement allowance upon his/her attainment of the applicable minimum age or at his/her option at any date subsequent thereto. The rate of service retirement allowance payable in the case of any such member shall be that provided in section 60-102 for the period of total creditable service earned and accrued at date of withdrawal from service of the member. Any member who retires under the provisions of this section may elect to withdraw his/her accumulated contributions at any time prior to the date his/her pension is to commence; provided, however, that, if he/she so elects, neither he/she nor his/her beneficiary shall receive any other benefits from the retirement system. In the event of his/her death prior to the date his/her pension is to commence, his/her accumulated contributions will be payable in a lump sum to his/her designated beneficiary.

(Code 1971, § 16-56)

Sec. 60-105. Cost of living increase for members other than elected officials.

A member other than an elected official who is vested in a benefit at retirement in accordance with section 60-102 shall have the amount of his/her retirement pension, as calculated therein, increased annually by three percent on each July 1 following the first anniversary of his/her withdrawal from service and prior to his/her actual retirement. No such increase shall be granted prior to July 1, 1990.

(Code 1971, § 16-56.1)

Sec. 60-106. Retirement allowance rate for elected officials.

Any member who is an elected official and who retires (or has been a qualified annuitant) according to this section after attaining age 60 and completing six years as an elected official shall receive the greater of:

- (1) An annual retirement allowance of \$1,500.00 plus \$200.00 for each year of creditable service as either an elected official or a nonelected official, but no more than \$5,500.00; or
- (2) An annual retirement allowance determined according to sections 60-101 and 60-102.

(Code 1971, § 16-57)

Sec. 60-107. Annual adjustment of monthly benefits.

On each January 31 from 1986 through 1988, on June 30, 1988, and on each subsequent June 30, each retired employee or beneficiary who has been receiving monthly benefit payments for at least one year shall be eligible to have the amount of his/her monthly benefit increased. Such increase will occur if the assets on the previous January 31 (for adjustments prior to and including January 31, 1989) and the previous June 30 (for adjustments including and subsequent to June 30, 1989) were sufficient to warrant an adjustment in accordance with section 6-275. Such increase shall be approved by the retirement board, shall be awarded in such nondiscriminatory manner as approved, and shall be effective with the benefit payments received on or after February 1 following approval.

(Code 1971, § 16-58)

Sec. 60-108. Buyback of military service.

Effective July 1, 1990, any member who has completed at least eight years of creditable service and has attained the age of 55 or any member who is vested and leaves active employment may elect to purchase additional service, for eligibility and benefit purposes, based on their years of military service, as follows:

- (1) *Retirement allowance.* Any member eligible for this provision, based on his/her age and service as defined above, and who has been honorably discharged from service with the armed forces of the United States, can buy back at the time of separation from active employment up to four years of additional creditable service by contributing to the fund an additional seven percent of his/her final year's annual pay for each year of service purchased. In order to preclude duplication of service credit, the military service must have been completed prior to the member's employment by the city to be eligible for purchase. A member may purchase as many

as four years of service, as described above, in monthly increments, but no more than the number of his/her full years of military service, i.e., time actually spent on active duty, as verified by form DD214 or its equivalent.

- (2) *Retirement eligibility.* In addition, a member eligible for this provision, who would not otherwise be eligible to retire under section 60-101 or section 60-102, may count up to two years of creditable service purchased under subsection (1) above as service for purposes of retirement eligibility under sections 60-101 and 60-102. No additional contribution beyond that defined in subsection (1) is required for this purpose.
- (3) *Exclusion.* In no case will a member who has received service credit for a period of military service under any other retirement plan qualified under United States Internal Revenue Code section 401(a) be permitted to purchase benefits under this section for the same period of military service.

(Code 1971, § 16-60; Ord. No. O-05-23, § I, 8-23-05)

Secs. 60-109--60-130. Reserved.

DIVISION 5.

OPTIONAL FORMS OF PENSION

Sec. 60-131. Generally; time of election.

Upon normal or early retirement, a member will normally receive his/her pension in the form of a monthly annuity payable until his/her death. A member who is married when he/she retires may, however, elect to receive, in lieu of his/her regular normal or early retirement pension, a reduced monthly pension payable until his/her death, with monthly payments continuing to his/her surviving spouse until the spouse's death in the amount of 50 percent, 75 percent or 100 percent (as elected) of the member's benefit. A member may also elect to receive, in lieu of his/her regular normal or early retirement pension, a reduced monthly pension payable until his/her death, and, in the event of the member's death prior to receiving 120 monthly pension payments, payable monthly to his/her designated beneficiary until he/she and his/her beneficiary together have received 120 monthly pension payments. Any such reduced pension shall be the actuarial equivalent of the monthly life annuity described above. The member shall make such election at least 60 days prior to his/her effective date of retirement.

(Code 1971, § 16-70)

Secs. 60-132--60-150. Reserved.

DIVISION 6.

DISABILITY RETIREMENT

Sec. 60-151. General eligibility.

If a member has completed ten years of creditable service or six years of creditable service as an elected

official and is totally disabled, as defined in section 60-152, prior to his/her normal retirement date, he/she will be retired upon written application to the retirement board by him/her or by his/her appointing authority and he/she will receive a disability retirement pension.

(Code 1971, § 16-81)

Sec. 60-152. Total disability defined.

A member will be considered totally disabled if the medical board certifies that he/she is wholly prevented from engaging in any occupation for wage or profit and the retirement board approves his/her application for benefits.

(Code 1971, § 16-82)

Sec. 60-153. Disability pension computation.

Upon retirement for disability a member will be entitled to receive a disability retirement pension calculated as for normal service retirement but based on his/her years of creditable service and final average compensation as of the date of his/her written application for disability retirement.

(Code 1971, § 16-83)

Sec. 60-154. Date on which disability payments commence.

(a) The retirement board, in approving the application for disability retirement, shall determine the date from which benefits are payable, which date shall be the first of the month that is not less than 90 working days after the date of disability, and not over two months prior to the date of approval. No disability benefits shall be payable during any period the member is receiving compensation from his/her employer.

(b) If a member who is eligible for early retirement as defined in section 60-102 has a disability application pending with the medical board, he/she may elect to receive an early retirement pension until his/her application for disability is acted upon. In order to exercise this option, a member must submit to the retirement board proof that he/she has a disability application pending before the medical board, along with supporting evidence from a licensed medical doctor which describes the medical condition which constitutes the disability. The retirement board will grant the member six months from commencement of early retirement benefits to prove his/her disability. The six-month period may be extended by the retirement board based upon the facts and circumstances of the application.

(c) If the medical board denies the member's application for a disability pension, the member will be deemed to have elected early retirement as of the date his/her early retirement pension commenced, and there will be no adjustment to his/her early retirement benefits being paid. If the member's application for disability is approved, he/she will begin receiving a disability pension in lieu of his/her early retirement pension with the change in monthly benefit effective as soon as possible (the "benefit increase date"). His/her benefits will also be adjusted by the difference between:

- (1) The early retirement benefits paid as of the benefit increase date; and
- (2) The retroactive disability benefits which would otherwise have been payable.

(d) Any such adjustment shall be made by increasing or decreasing the monthly benefits over a period no greater than 12 months.
(Code 1971, § 16-84)

Sec. 60-155. Effect of worker's compensation payments or personal injury recovery payments on disability payments.

Any amounts paid or payable under the provisions of any worker's compensation law, or as the result of any action for damages for personal injuries against the employer by which the member was employed, on account of death or disability of a member occurring while in the performance of duty, shall be offset against and payable in lieu of any benefits payable out of funds provided by the municipality under the provisions of this article on account of the death or disability of the member. If the value of the total computed benefits under any such worker's compensation law or action is less than the actuarial reserve on the benefits otherwise payable from funds provided by the municipality under this article, the value of the computed payments shall be deducted from such actuarial reserve and such benefits as may be provided by the actuarial reserve so reduced shall be payable under the provisions of this article.
(Code 1971, § 16-85)

Sec. 60-156. Medical examination of persons retired as disabled; refusal to undergo examination.

Once each year during the first five years following the retirement of the member on a disability retirement pension, and once in every three-year period thereafter, the retirement board shall require any member who has retired because of total disability to undergo a medical examination. Such examination will be made at a place designated by the medical board, and by a physician or physicians designated by such board. Should such retirant refuse to submit to such medical examination, his/her pension may be discontinued until his/her withdrawal of such refusal, and, should his/her refusal continue for one year, all rights in and to his/her pension may be revoked by the retirement board.
(Code 1971, § 16-86)

Sec. 60-157. Restoration to health of members receiving disability pension.

Should the medical board report and certify to the retirement board that a retired member receiving a disability pension at any time before attainment of age 65 is able to engage in gainful occupation, and should the retirement board concur in such report, the retirement board shall direct that the disability retirement pension be discontinued. Should the retirement board find that a retired member receiving a disability pension is engaged in a gainful occupation at any time before attainment of age 65, the pension may be reduced or discontinued at the option of the retirement board.
(Code 1971, § 16-87)

Sec. 60-158. Reemployment of members receiving disability pension.

Should a retired member receiving a disability pension again become an employee, his/her disability retirement pension shall cease and he/she shall immediately become a member of the retirement system as of the date of his/her reemployment. His/her creditable service at the time of his/her disability retirement shall be restored in full force and effect. If his/her disability paid benefits were less than his/her accumulated contributions at retirement, the difference will be restored to the member's savings account.

(Code 1971, § 16-88)

Secs. 60-159--60-180. Reserved.

DIVISION 7.

BENEFITS OTHER THAN RETIREMENT

Sec. 60-181. Death prior to normal retirement date.

If the membership of an employee is terminated by reason of his/her death prior to his/her normal service retirement date, the amount of his/her accumulated contributions shall be payable in a lump sum to his/her designated beneficiary.

(Code 1971, § 16-99)

Sec. 60-182. Death following attainment of age 50 and at least ten years of creditable service, but preceding actual retirement.

(a) If the membership of an employee who has completed at least ten years of creditable service, or an elected official who has completed at least six years of creditable service, should terminate by reason of his/her death after he/she has reached the age of 50 but prior to his/her actual retirement, his/her accumulated contributions shall be payable in a lump sum to his/her designated beneficiary. If the deceased designated beneficiary is his widow or her widower, said person may elect to receive in lieu of the member's accumulated contributions a pension payable for life, computed as if the member had retired on the day of his/her death and had elected the optional form of pension described in section 60-131, which provides a reduced monthly annuity to the member with 100 percent continuation of the reduced monthly annuity to his/her surviving spouse. If at the time of his/her death the deceased member was not eligible to retire under section 60-101 or section 60-102, his widow or her widower may receive benefits in the form described above on the earliest date upon which the member could have retired in accordance with section 60-102, based on his/her final average compensation and creditable service at the time of his/her death.

(b) A widow or widower, as described above, of a deceased member who dies before attaining age 65 may elect to defer receipt of benefits to any date on or before the date which would have been the member's 65th birthday. The benefit payable at such deferred date shall be reduced for commencement prior to 65 in accordance with section 60-102.

(Code 1971, § 16-100)

Sec. 60-183. Termination of membership other than by death or retirement.

Should the membership of an employee be terminated by reason other than his/her death or retirement, he/she shall be paid within one year the amount of his/her accumulated contributions unless he/she requests in writing that the same be retained for a 26-month period. In the event of death of such former member after termination of employment and prior to receiving his/her accumulated contributions, his/her accumulated contributions shall be paid to his/her designated beneficiary.

(Code 1971, § 16-101)

Sec. 60-184. Return of contribution in excess of benefits received.

If there are no further benefits otherwise payable under this article and the total amount of benefits received by a member, retirant, or beneficiary up to the date of the death of the last survivor is less than an amount equal to the member's accumulated contributions at his/her death or at his/her actual retirement date, whichever occurs first, the difference shall be paid to the beneficiary named to receive such amount, or, if no such beneficiary is living, to the estate of the person last receiving benefits, or, if no benefits have been received, to the estate of the member.

(Code 1971, § 16-102)

Sec. 60-185. Lump sum death benefit.

If the membership of an employee is terminated by reason of his/her death, a benefit of \$5,000.00 shall be payable in a lump sum to his/her designated beneficiary. Upon the death of a retired member who was receiving a retirement allowance under the plan, a death benefit of \$5,000.00 shall be payable in a lump sum to his/her designated beneficiary. The death benefits payable under this section are in addition to any other benefits that may be payable under this article.

(Code 1971, § 16-103)

Sec. 60-186. Deferred compensation plans.

Any employee may participate in any eligible deferred compensation plan adopted and established by the employer in accordance with the provisions of section 457 of the Internal Revenue Code of 1954 as adopted by the Revenue Act of 1978.

(Code 1971, § 16-105)

Secs. 60-187--60-200. Reserved.

DIVISION 8.

ALLOCATION OF INTEREST

Sec. 60-201. Generally.

The retirement board annually shall allow interest at the rate determined by the board on the mean amount for the preceding year in each of the funds with the exception of the expense fund. The amount so allowed shall be due and payable to said funds and shall be annually credited thereto by the retirement board from interest and other earnings on the moneys and other assets of the retirement system. From the interest allocated to the member's savings fund, the retirement board shall annually credit each member's individual account with interest on the largest balance remaining in such account for the entire year and at the rate determined by the board.

(Code 1971, § 16-169)

Secs. 60-202--60-220. Reserved.

DIVISION 9.

FUNDING GENERALLY

Sec. 60-221. Source of assets.

The retirement system shall be funded by the contributions of all members and employers, together with the interest and earnings thereon.

(Code 1971, § 16-181)

Sec. 60-222. Employee contributions generally; payroll deduction.

(a) Each employer shall cause to be deducted from the salary or wages of each member on each and every payroll such member's contribution to the fund.

(b) Effective February 1, 1978, and continuing thereafter, the contribution of all employees, including library employees whose compensation is fixed by the library board of trustees under authority of G.L. 1956, § 29-4-6, as amended, shall be equal to six percent of the compensation received by such member on each payroll.

(Code 1971, § 16-182)

Sec. 60-223. Contributions by elected officials.

Effective February 1, 1978, the member's contribution of each employee holding elective office, including the mayor, shall be \$20.00 monthly in addition to the regular rate of employee contribution specified in section 60-222 of the regular minimum salary paid to a councilmember, and further provided that contributions must be left within the system until the date of retirement and that no interest as provided in this article shall be credited to contributions after 26 months shall have elapsed since the member ceased to be an elected official, and further provided that the withdrawal of contributions shall indicate waiving of all rights and benefits as an elected official under this article.

(Code 1971, § 16-183)

Sec. 60-224. City contributions.

The city shall pay into the retirement fund on the operative date the sum of \$35,000.00. The city shall pay into said fund the following amounts on the dates indicated:

February 1, 1966: \$ 70,000.00.

February 1, 1967: \$105,000.00.

February 1, 1968: \$140,000.00.

(Code 1971, § 16-184)

Sec. 60-225. Employer contributions.

Beginning on February 1, 1969, each employer shall, on account of its member employees, pay annually

into the retirement fund an amount equal to a certain percentage of the compensation of such member employees, to be known as the "normal contribution" for such employer, and an additional amount equal to a percentage of the compensation of such employees, to be known as "the accrued liability contribution." (Code 1971, § 16-185)

Sec. 60-226. Pickup of employee contributions by employer.

Each employer shall pick up the employee contributions required by sections 60-222 and 60-223 for all compensation earned after the effective date. Such pickup shall be in accordance with section 414(h)(2) of the Internal Revenue Code and all applicable rulings. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. Each employer shall pay these employee contributions from the same source of funds which is used in paying annual compensation to the employee. Each employer will pick up these contributions by a reduction in the annual compensation of the employee. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made prior to the date picked up and shall be included in annual compensation for the purpose of determining final average earnings. (Code 1971, § 16-186)

Secs. 60-227--60-250. Reserved.

DIVISION 10.

EMPLOYER CONTRIBUTIONS

Sec. 60-251. Establishment of normal contribution rate percentage.

(a) The normal contribution rate percentage shall be determined annually by the actuary from the liabilities of the retirement system as shown by actuarial valuations, which are based on the interest rate and such mortality and other tables as shall be adopted by the retirement board.

(b) While contributions are being made to amortize the accrued liability, the normal cost percentage shall represent the level percentage of the compensation of the average new entrant which, if contributed throughout the entire period of his/her creditable service, would be, together with his/her contributions, sufficient to provide for the payment of all benefits payable in his/her account. After the accrued liability contribution is no longer payable the normal contribution rate percentage shall be the percentage of the compensation of all members obtained by deducting from the total liabilities of the system (a) the amount of funds on hand and (b) the present value of the members' contributions, and then dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the interest rate and the mortality and service tables adopted by the retirement board. (Code 1971, § 16-196)

Sec. 60-252. Accrued liability contributions.

The accrued liability represents the liability for normal and member contributions not paid in the years prior to the operative date. The accrued liability contributions shall be determined by the actuary annually, as a part of the actuarial valuation. Such contribution shall represent the amount, expressed as a level percentage of

the compensation of members of the retirement system which should be contributed over the following years in order to completely amortize the accrued liability not later than 25 years from the operative date.
(Code 1971, § 16-197)

Sec. 60-253. Accrued liability contribution rate percentage.

The accrued liability contribution rate percentage, at the discretion of the retirement board, may be calculated separately for each employer, and the retirement board may require contributions based on such calculations.
(Code 1971, § 16-198)

Secs. 60-254--60-270. Reserved.

DIVISION 11.

RESERVE FUNDS

Sec. 60-271. Designation of funds.

All assets of the retirement system shall be credited according to the purpose for which they are held to one of three special funds, namely, the members' savings fund, the general reserve fund and the expense fund.
(Code 1971, § 16-209)

Sec. 60-272. Members' savings fund described.

The members' savings fund shall be the fund in which shall be accumulated the contributions of the members.
(Code 1971, § 16-210)

Sec. 60-273. General reserve fund described.

The general reserve fund shall be the fund in which shall be accumulated all reserves for benefits not provided by members' contributions, and which are provided by contributions made by the employers. From this fund shall be paid all benefits except such benefits as involve only the refund of the member's contributions at time of withdrawal, in which case the refund shall be made directly from the members' savings fund. There shall be transferred to this fund, at the time of approval of payment of benefits to any retired member or beneficiary, the accumulated contributions of the member from the members' savings fund. The total amount payable in each year by each employer to the general reserve fund shall not be less than the normal contribution plus the accrued liability contribution. If any employer shall fail to make the required contributions when due, the retirement board may reduce the benefits payable to former employees of such employer until all required contributions are paid.
(Code 1971, § 16-211)

Sec. 60-274. Expense fund described.

The expense fund shall be the fund to which shall be credited all money provided to pay the

administration expenses of the retirement system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. All investment income shall be put in this fund and allocations made from it at the end of each year by the retirement board to the other funds. The retirement board may transfer from the general reserve fund to the expense fund such amounts as are needed for expenses. (Code 1971, § 16-212)

Sec. 60-275. Certification of amounts payable to general reserve fund; appropriation and transfer of funds by employers.

On or before November 1 of each year, the retirement board shall certify to the employers the amounts which will become due and payable during the year next following to the general reserve fund. The amounts so certified shall be included by the employers in their annual budget estimate. Such amount shall be appropriated by the employers and transferred to the retirement system for the ensuing year. (Code 1971, § 16-213)

Sec. 60-276. Obligations of employers.

The creation and maintenance of reserves in the general reserve fund as provided for, and the payment of all benefits granted under the provisions of this article and expenses in connection with the administration and operation of the retirement system, are hereby made obligations of the employers. (Code 1971, § 16-214)

Sec. 60-277. Payments from reserve funds.

All payments from the reserve funds shall be made only upon vouchers signed by two persons designated by the retirement board. No voucher shall be drawn unless it shall have previously been allowed by the retirement board. (Code 1971, § 16-215)

Secs. 60-278--60-310. Reserved.

ARTICLE III.

MUNICIPAL EMPLOYEES' PENSION FUND

DIVISION 1.

GENERALLY

Sec. 60-311. 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:

Accumulated contributions means the sum of all contributions paid by members under section 60-441 and credited with interest in accordance with section 60-397.

Actuarial equivalent means an amount having equal value when computed on the basis of an 8.5 percent interest rate compounded annually and the UP-1984 Mortality Table with ages set back three years for beneficiaries, unless otherwise specified.

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

Administrator means the retirement board as described below.

Base pay means the base wages paid to the employee, excluding bonuses, overtime pay, longevity pay, expense allowances, or any other extraordinary compensation.

Beneficiary means the person designated by the member to receive benefits after the member's death.

Creditable service is used to determine the amount of benefits under the plan and is defined in division 3 of this article.

Early retirement age means, for a member other than an elected official, the member's age upon attainment of age 55 and the completion of at least ten years of vesting service, or for a member who retires before July 1, 2000, upon the attainment of the point of 85 or for a member who retires on or after July 1, 2000 upon the attainment of the point of 80, or upon completion of 30 years of vesting service. For an elected official, early retirement age means the member's age upon attainment of age 55 and the completion of six years of vesting service. An elected official retiring prior to the attainment of age 60 shall not be eligible for retiree medical insurance provided by the city until reaching age 60.

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 July 1, 1992.

Elected official means any eligible employee serving in an elective office of the city, including the mayor and members of the city council.

Eligible employee means any regular or permanent employee working more than 20 hours per week, except uniformed employees of the city's police and fire departments and school departments and employees of any agency of the city (for example, Warwick Community Action or the Warwick Housing Authority). In addition, no employee who is receiving a pension, disability pension, or any other form of pension or annuity from any other city-sponsored pension plan shall be an eligible employee.

Employee means any employee of the city.

Final average salary means the annual rate of pay equal to the average of the salaries received by the member for the period of three consecutive years of creditable service which provides the highest such average.

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

further described in section 60-443.

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 retiree 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, for a member other than an elected official, the member's age upon attainment of age 65 and the fifth anniversary of the date he or she became a member. For an elected official, normal retirement age means the member's age upon his or her attainment of age 60 and six years of vesting service.

Plan means this article.

Point of 80 means the date when the sum of the member's age (in completed calendar months) and years of vesting service (in completed calendar months) equal or exceeds 80.

Point of 85 means the date when the sum of the member's age (in completed calendar months) and years of vesting service (in completed calendar months) equals or exceeds 85.

Retiree means a member who is receiving periodic pension benefits under division 4 of this article.

Retirement board means the board established pursuant to section 6-311.

Salary means the member's annual rate of base pay and longevity pay, excluding compensation paid for any other reason (such as bonuses, overtime pay, expense allowances, or any other extraordinary compensation), and including contributions made by the member to the fund in accordance with section 60-441.

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

Trustee means the trustee or trustees appointed by the administrator to administer the assets of the fund in accordance with section 6-312.

Union means the appropriate bargaining unit representing eligible employees as designated by the state labor relations board for collective bargaining purposes with the city.

Vesting service is used to determine eligibility for benefits under the plan and is defined in division 3 of this article. (Ord. No. O-93-31, § I(1.1--1.29), 12-13-93; Ord. No. O-94-26, § I, 11-14-94; Ord. No. O-94-28, § I, 11-21-94;

Ord. No. O-00-28, § I, II, 9-12-00)

Cross References: Definitions generally, § 1-2.

Sec. 60-312. Benefits not assignable 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-93-31, § I(8.1), 12-13-93)

Sec. 60-313. 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-93-31, § I(8.2), 12-13-93)

Sec. 60-314. 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-93-31, § I(8.3), 12-13-93)

Sec. 60-315. Pensions under 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-93-31, § I(8.4), 12-13-93)

Sec. 60-316. Special benefits for employees retiring in June 1992.

Effective June 1, 1992, notwithstanding any other provision of the plan, a member retiring under section 60-391 or 60-392 during the month of June 1992 shall have his or her longevity pay included in salary and final average salary for purposes of determining benefits under such sections. (Ord. No. O-93-31, § I(8.5), 12-13-93)

Sec. 60-317. Correction of errors; falsification of records to defraud plan.

The retirement board may cancel or reduce the benefits of any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records in any attempt to defraud this plan. Should any change or error in records result in any member or beneficiary receiving from the plan more or less than he/she would have been entitled to receive had the records been correct, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (Ord. No. O-93-31, § I(8.6), 12-13-93)

Sec. 60-318. Deferred compensation plans.

Any employee may participate in any eligible deferred compensation plan adopted and established by the city in accordance with the provisions of section 457 of the Internal Revenue Code of 1986. (Ord. No. O-93-31, § I(8.7), 12-13-93)

Sec. 60-319. Fiduciary role of members and employees of plan with regard to fund.

Except as herein provided, no member of and no employee of the plan shall have any direct interest in the gains or profits of any investment made by the retirement board, nor as such receive any pay or emolument for his services. No member of the retirement board or employee of the plan shall directly or indirectly for himself or as an agent in any manner use the assets of the plan except to make such current and necessary payments as are authorized by the retirement board, nor shall any member or employee of the plan become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the retirement board.

(Ord. No. O-93-31, § I(8.8), 12-13-93)

Secs. 60-320--60-340. Reserved.

DIVISION 2.

ELIGIBILITY

Sec. 60-341. Generally.

(a) Any individual who was a member on the effective date shall remain a member until death or distribution of benefits under section 60-395(a).

(b) Any eligible employee who was not a member on the effective date shall join the plan in accordance with the following:

- (1) Any eligible employee who is an elected official shall become a member on the date he or she assumes office.
- (2) Any eligible employee other than an elected official shall become a member on the first day of the month following the completion of six months of continuous employment.
- (3) Eligible employees becoming members under this subsection (b) shall remain members until death or distribution of benefits under section 60-395(a).

(c) Any employee otherwise eligible for membership and who is a member of any pension or plan sponsored, in whole or in part, by the city (or any agency thereof, i.e. police, fire, school, etc.) or who is a member of a pension or plan sponsored by the state by virtue of his or her employment with the city's school department shall become a member of this plan only if such employee waives and renounces all accrued rights and benefits to which such employee is entitled from such other pension or plan. Any such employee who does not waive or renounce such accrued rights and benefits shall not become a member of this plan, shall renounce by waiver any entitlements under this plan, and shall not be entitled to any pension and other benefits provided by the city under this plan.

(Ord. No. O-93-31, § I(2.1), 12-13-93; Ord. No. O-98-43, § II, 12-14-98)

Sec. 60-342. Rejoining plan upon reemployment.

If an eligible employee who was a member terminates employment and subsequently becomes an eligible 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 60-362.

(Ord. No. O-93-31, § I(2.2), 12-13-93)

Secs. 60-343--60-360. Reserved.

DIVISION 3.

SERVICE

Sec. 60-361. Service credited on account of employment.

(a) Creditable service includes the sum of the periods of continuous employment with the city commencing on the date the member became an eligible employee and ending on the date the member terminates employment. For purposes of calculating benefits, creditable service is measured in full years and completed months of service. For example, a member hired on July 1, 1985, who terminates on April 15, 1996, has ten years and nine months of creditable service.

(b) A member shall receive no creditable service for any unpaid leave of absence longer than 30 days, except as provided in subsection (d) of this section. 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 15, 1998, would receive creditable service as follows:

July 1, 1985--April 1, 1996	10 years, 9 months
July 1, 1996--April 15, 1998	1 year, 9 months
Total	12 years, 6 months
Creditable service	12 years, 6 months

(c) A member shall earn one-fourth of a month of creditable service for each month during which he or she does all of the following:

- (1) Receives benefits under the provisions of any worker's compensation law and is paid a portion of sick time for the difference between regular pay and worker's compensation benefits;
- (2) Makes contributions to the fund from the portion of sick time paid; and
- (3) Would receive no creditable service except that provided under this subsection (c).

Creditable service received under this subsection (c) shall be expressed in whole months; any fractional months shall be rounded up to the next whole month. For example, a member who received worker's compensation and made pension contributions from the portion of sick leave paid for nine months would receive three months of

creditable service (2 1/4 months rounded up to three months).

(d) Creditable service shall be granted for an unpaid leave of absence due to compulsory military service or military service in time of war, provided the member returns to active employment within 90 days after separation from military service, and further provided that the member has not received a refund of his or her contributions under section 60-395(a).

(Ord. No. O-93-31, § I(3.1), 12-13-93)

Sec. 60-362. Restoration of creditable service after reemployment.

If a member who has received a refund of his or her accumulated contributions resumes employment with the city within 12 months after his or her employment was terminated, the member's creditable service as of the date of termination shall be restored provided that he or she repays to the fund upon reemployment an amount equal to the distribution the member received under section 60-395(a), plus interest, at a rate and in accordance with regulations determined by the retirement board. The member shall be solely responsible for repaying the amount specified above immediately, but not later than 30 calendar days, upon reemployment.

If a member who terminates employment does not receive a distribution of his or her accumulated contributions at termination, and resumes employment with the city within 26 months after his or her employment was terminated, his or her creditable service as of the date of termination will be restored.

(Ord. No. O-93-31, § I(3.2), 12-13-93; Ord. No. O-98-43, § IV, 12-14-98)

Sec. 60-363. Vesting service.

A member's vesting service shall be equal to his or her creditable service, except as provided in section 60-364.

(Ord. No. O-93-31, § I(3.3), 12-13-93)

Sec. 60-364. Buyback of military service.

- (a) If a member has, prior to his or her termination of employment or earlier death:
 - (1) Been honorably discharged from service with the armed forces of the United States;
 - (2) Completed at least eight years of creditable service; and
 - (3) Attained age 55 or met the eligibility requirements for benefits under section 60-391, 60-392, 60-394(b) or 60-395(b);

then the member (or the surviving spouse of the deceased member based upon the military service of the member) will be eligible to buy back up to four years of additional creditable service by contributing to the fund at the time of termination (or commencement of death benefits under section 60-394(b)) seven percent of the member's final year's annual salary for each year of creditable service purchased. In order to preclude duplication of service credit, the member's military service must have been completed prior to the member's employment with the city to be eligible for buyback.

(b) A member or surviving spouse eligible to purchase benefits under subsection (a) above has the option to buy up to four years of creditable service in monthly increments, but no more than the number of the member's full years of military service (i.e., time actually spent on active duty, as verified by form DD214 or its equivalent).

(c) A member or surviving spouse will receive credit for one year of vesting service for each year or creditable service purchased, up to two years of vesting service.

(d) In no case will a member (or surviving spouse of a deceased member) who has received service credit for a period of military service of the member under any other retirement plan qualified under Internal Revenue Code section 401(a) be permitted to purchase benefits under this section for the same period of military service.
(Ord. No. O-93-31, § I(3.4), 12-13-93; Ord. No. O-05-23, § II, 8-23-05)

Sec. 60-365. Special service purchase option for certain employees.

Effective June 30, 1989, any employee who became a member on February 1, 1988, as a result of the plan amendment which removed the restriction on membership for employees hired after age 60 shall have the option to purchase retirement eligibility at any time. This purchase shall be effected by the member's contributing to the fund six percent of his or her current salary, multiplied by the number of years (with fractional years measured as completed months divided by 12) remaining until February 1, 1993. On the first of the month following the member's additional contribution described in this section, the member shall be eligible to retire in accordance with section 60-391, and shall be considered to have attained his or her normal retirement age. The member's years of creditable service shall include the additional years purchased in accordance with this section, but in no event will the total creditable service for a member purchasing service under this section exceed five years.
(Ord. No. O-93-31, § I(3.5), 12-13-93)

Sec. 60-366. Service purchase option for accumulated sick leave.

At the time a member terminates his or her employment, the member may, if allowed by personnel rules or by union contract, apply unused sick leave to purchase additional months of creditable service equal to 100 percent of the member's months of unused sick leave, provided the member is vested.
(Ord. No. O-94-28, § I, 11-21-94)

Sec. 60-367. Retirement board rules.

The retirement board shall fix and determine by proper rules and regulations how much service in one year is equivalent to one year of creditable service, but in no case shall more than one year be creditable for all service in one calendar year, nor shall the retirement board allow credit as service for any period of more than one month's duration during which the member was absent without pay, except as provided in section 60-361(d).
(Ord. No. O-93-31, § I(3.6), 12-13-93)

Secs. 60-368--60-390. Reserved.

DIVISION 4.

BENEFITS

Sec. 60-391. Normal retirement benefits.

A member who has reached his or her normal retirement age may apply to the retirement board for retirement and payment of pension benefits. Such member shall receive, payable in accordance with section 60-421, an annual benefit as follows:

- (1) *Members who have never been elected officials.* For members who retire on or after September 1, 1991 and before July 01, 2000, 2.35 percent of the member's final average, salary multiplied by his or her years of creditable service. For members who retire on or after July 1, 2000, 2.5 percent of the member's final average salary multiplied by his or her years of creditable service.
- (2) *Current or former elected officials.* The greater of:
 - a. The benefit determined under subsection (1) of this section; or
 - b. The sum of:
 1. One thousand five hundred dollars; and
 2. Two hundred dollars multiplied by his or her years of creditable service as an elected official or a nonelected official;

but not more than \$5,500.00.

(Ord. No. O-93-31, § I(4.1), 12-13-93; Ord. No. O-00-28, § III, 9-12-00)

Sec. 60-392. Early retirement benefits.

A member who has reached his or her early retirement age may apply to the retirement board for retirement and payment of pension benefits. Such member shall receive, payable at any time after retirement in accordance with section 60-421, an annual benefit equal to the benefit determined in section 60-391 based on his or her final average salary and creditable service at early retirement age, but reduced by one half percent for each of the first 60 months, and by one-third percent for each month in excess of 60, by which the commencement of benefits precedes the member's normal retirement age. Effective with respect to those members who retire on or after September 1, 1991 and before July 1, 2000, such reductions shall not apply to any member who has completed 30 years of creditable service or who has achieved the point of 85. Effective with respect to those members who retire on or after July 1, 2000, such reduction shall not apply to any member who has completed 30 years of creditable service or who has achieved the point of 80.

(Ord. No. O-93-31, § I(4.2), 12-13-93; Ord. No. O-00-28, § IV, 9-12-00)

Sec. 60-393. Disability retirement benefits.

- (a) *General eligibility.* A member who has completed ten years of vesting service (six years of

vesting service for an elected official), and is totally disabled as defined in subsection (b) of this section prior to normal retirement age, will be retired upon application to the retirement board and will receive a disability retirement pension payable for life, except as specified elsewhere in this section.

(b) *Total disability defined.* A member will be considered totally disabled if the retirement board certifies that he or she is in receipt of social security disability benefits.

(c) *Amount of benefit.* Upon retirement for disability a member will be entitled to receive a disability pension determined in accordance with section 60-391 based on his or her final average salary and years of creditable service as of the date he or she became disabled, without reduction for commencement of benefits prior to normal retirement age.

(d) *Commencement of disability payments.* The retirement board, in approving the application for disability retirement, shall determine the date from which benefits are payable, which date shall be the first of the month following the later of the last day on which the member receives salary from the city and the date his or her social security disability benefits are first payable. No disability benefits shall be payable during any period the member is receiving a salary from the city.

(e) *Disabled member eligible for early retirement.*

- (1) If a member who is eligible for early retirement as defined in section 60-392 has a disability application pending with the retirement board, he or she may elect to receive an early retirement pension until his or her application for disability is acted upon. In order to exercise this option, the member must submit to the retirement board proof that he or she has a disability application pending before the Social Security Administration and the retirement board, along with supporting evidence from a licensed medical doctor which describes the medical condition which constitutes the disability. The retirement board will grant the member six months from commencement of early retirement benefits to prove his or her disability. The six-month period may be extended by the retirement board based upon the facts and circumstances of the application.
- (2) If the retirement board denies the member's application for a disability pension, the member will be deemed to have elected early retirement as of the date his or her early retirement pension commenced, and there will be no adjustment to the early retirement benefits being paid. If the member's application for disability is approved, he or she will begin receiving a disability pension in lieu of his or her early retirement pension with the change in monthly benefit effective as soon as possible (the "benefit increase date"). His or her benefits will also be adjusted by the difference between:
 - a. The early retirement benefits paid as of the benefit increase date; and
 - b. The retroactive disability benefits which would otherwise have been payable.

Any such adjustment shall be made by increasing or decreasing the monthly benefits over a period no greater than 12 months.

(f) *Effect of worker's compensation payments or personal injury recovery payments on disability payments.*

(1) Any pension payments from the plan under this section shall be reduced and offset (but not below zero) by the amount of any periodic payments to the member under the provisions of any worker's compensation law or on account of recovery of damages for personal injury to the member from the city, on account of death or disability of a member occurring while in the performance of duty.

(2) For purposes of this subsection (f), the value of any lump sum payments to the member on account of worker's compensation or personal injury recovery shall be converted to monthly payments which are the actuarial equivalent of such lump sum.

(g) *Proof of receipt of social security disability benefits.* As a condition for receiving a disability pension, each retiree who is younger than age 65 and is in receipt of a disability pension in accordance with this section shall furnish annually to the retirement board evidence satisfactory to the board of his or her continued receipt of social security disability payments.

(h) *Effect of restoration to health on disability pension.* Should the retirement board find that a retiree receiving a disability pension at any time before attainment of age 65 is no longer in receipt of social security disability payments or is engaged in any gainful occupation, the retirement board shall direct that the disability retirement pension be discontinued and the member's pension benefits determined in accordance with section 60-392 or 60-395, as applicable.

(i) *Effect of reemployment on disability pension.* Should a retiree receiving a disability pension again become an employee, his or her disability retirement pension shall cease and he or she shall immediately become an active member of the plan upon reemployment. For purposes of determining subsequent pension benefits, his or her creditable service at the time of disability retirement shall be restored in full force and effect. If the total of the disability benefits paid from the plan was less than his or her accumulated contributions at retirement, then the excess of the member's accumulated contributions at retirement over the total amount of pension benefits paid will be restored and shall become the member's accumulated contributions.
(Ord. No. O-93-31, § I(4.3), 12-13-93)

Sec. 60-394. Death benefits prior to retirement.

(a) *Refund of contributions.* Upon the death of a member prior to commencement of benefits under section 60-391, 60-392, 60-393 or 60-395, the member's accumulated contributions shall be paid to his or her beneficiary in one lump sum.

(b) *Annuity to surviving spouse.* If the member was an employee, has attained age 50 and completed ten years of vesting service at death (six years of vesting service for elected officials), or had 30 years of creditable service at death, or, with respect to a member who died prior to July 1, 2000, had reached the point of 85 at death, or, with respect to a member who died on or after July 1, 2000, has reached the point of 80 at death, and if the member's designated beneficiary is the member's spouse, the spouse may elect, in lieu of benefits under subsection (a) of this section, to receive a lifetime pension, payable on any date between the member's early retirement age and normal retirement age. Such pension shall be computed as if the member had

terminated employment on the date he or she died and had commenced receipt of payment on or after early retirement age, with payments reduced for early retirement in accordance with section 60-392, in the joint and 100-percent survivor annuity form of payment described in section 60-421.

(c) *Effect of worker's compensation payments or personal injury recovery payments.*

(1) Any pension payments from the plan under subsection (b) of this section shall be reduced and offset (but not below zero) by the amount of any periodic payments to the spouse under the provisions of any worker's compensation law or on account of recovery of damages for personal injury to the member from the city.

(2) For purposes of this subsection (c), the value of any lump sum payments to the spouse on account of worker's compensation or personal injury recovery shall be converted to monthly payments which are the actuarial equivalent of such lump sum.

(Ord. No. O-93-31, § I(4.4), 12-13-93; Ord. No. O-98-43, § III, 12-14-98; Ord. No. O-00-28, § V, 9-11-00)

Sec. 60-395. Termination of employment.

(a) *Lump sum refund.* Any member who terminates employment or ceases to be an eligible employee because such employee is scheduled to work less than 20 hours per week prior to becoming eligible for benefits under 60-391, 60-392 or 60-393 shall be paid his or her accumulated contributions in one lump sum within one year after such employee terminates employment or ceases to be an eligible employee, as the case may be, unless such employee is rehired or becomes an eligible employee (and scheduled to work more than 20 hours per week) prior to the expiration of the one year period unless the member requests in writing that the accumulated contributions be retained for a 26-month period. In the event of death of such a former member after termination of employment or ceasing to be an eligible employee and prior to receiving his or her accumulated contributions, his or her accumulated contributions shall be paid to his or her beneficiary.

(b) *Vested termination.* If the member has completed ten years of vesting service (six years of vesting service for elected officials) at termination, he or she may elect to receive, in lieu of benefits under subsection (a) of this section, a deferred pension payable at normal retirement age in accordance with section 60-421 equal to the benefit determined in section 60-391 based on his or her final average salary and creditable service at termination. Such member may elect to receive benefits at his or her early retirement age reduced for early commencement in accordance with section 60-392.

(Ord. No. O-93-31, § I(4.5), 12-13-93; Ord. No. O-00-29, § I, 9-12-00)

Sec. 60-396. Lump sum death benefit.

Effective July 1, 2000, in addition to any other benefit payable under this article, a benefit of \$8,000.00 shall be made payable in a lump sum to a member's beneficiary upon the death of the member while an employee or retiree.

(Ord. No. O-93-31, § I(4.6), 12-13-93; Ord. No. O-00-30, § I, 9-12-00)

Sec. 60-397. Accumulated contributions.

The member's contributions under section 60-441 shall be credited with interest once per year, on each

December 31, based upon the member's balance as of the preceding December 31, at a rate determined annually by the retirement board. No interest as provided in this article shall be credited to contributions of an elected official after 26 months shall have elapsed since the member ceased to be an elected official, and, further, the withdrawal of contributions shall indicate waiving of all rights and benefits as an elected official under this article.

(Ord. No. O-93-31, § I(4.7), 12-13-93)

Sec. 60-398. Indexation of benefits for terminated vested members.

Effective July 1, 1990, a member other than an elected official eligible for a benefit in accordance with section 60-395(b) shall have the amount of his or her deferred pension payable at normal retirement age increased annually by three percent, on each July 1 prior to the commencement of benefits, following the first anniversary of his or her termination of employment.

(Ord. No. O-93-31, § I(4.8), 12-13-93)

Sec. 60-399. Indexation of benefits for retirees and beneficiaries.

(a) *Annual cost-of-living increases.* The monthly benefits of retirees and beneficiaries who have been in pay status for at least 12 months under sections 60-391, 60-392, 60-393, 60-394 and 60-395 shall be indexed in accordance with this section, subject to the approval of the retirement board. Such adjustment shall be made as of a determination date if the assets on the previous June 30 were sufficient to warrant an increase in accordance with subsection (b) of this section.

(b) *Determination of asset value before adjustment and market value of assets; establishing adjustment ratio.* On the June 30 one year prior to the determination date, the asset value before adjustment and the market value of assets shall be determined. If the market value of assets exceeds the asset value before adjustment by an amount equal to six percent or more of the actuarial accrued liability of the benefits of all retirees and beneficiaries as determined by the actuary, then an adjustment to the monthly benefit is warranted as of the determination date. An increase in monthly benefits may be granted, such that the resulting increase in actuarial accrued liability (measured as if the change were effective on the June 30 prior to the determination date) does not exceed one-third of the amount by which the market value of assets exceeded the asset value before adjustment and such that the percentage increase in monthly benefits does not exceed the sum of the negotiated percentage increases in base pay covered under the collective bargaining agreement effective for eligible employees during the 12-month period ending on the June 30 one year prior to the determination date. If an increase in the monthly benefits is granted, then the adjustment referred to in the definition of asset value after adjustment shall equal two times the actuarial accrued liability attributable to the increase in monthly benefits.

(c) *"Asset value after adjustment" defined.* On June 30, 1988, and on each subsequent June 30, the asset value after adjustment shall mean the asset value before adjustment plus the adjustment determined according to subsection (b) of this section.

(d) *"Asset value before adjustment" defined.* On June 30, 1989, and on each subsequent June 30, the asset value before adjustment shall mean the asset value after adjustment on the previous June 30, adjusted for contributions, benefit payments and administrative expenses, and credited with interest at the interest rate in effect for the year.

(e) *"Interest rate in effect for the year" defined.* The interest rate in effect for the year means the sum of the negotiated percentage increases in base pay under the collective bargaining agreement covering eligible employees during the 12-month period ending on the June 30 one year prior to the determination date, plus three percent.

(f) *"Market value of assets" defined.* The market value of assets shall be the current value of fund assets as reported by the trustee.

(g) *"Determination date" defined.* The determination date shall be June 30 of each year.
(Ord. No. O-93-31, § I(4.9), 12-13-93)

Sec. 60-400. Forfeiture of benefits upon termination for certain causes.

If a member's employment is terminated by the city for reasons of the member's misconduct, fraud, or dishonesty, as determined by the board, while employed by the city, and if criminal proceedings are initiated by the city in connection with such act, payment of such member's benefits shall be in suspense until criminal proceedings are resolved. If the member is subsequently convicted of a crime in connection with the aforementioned criminal proceedings, the member shall forfeit all rights to benefits from the plan, except that he or she shall receive a refund of accumulated contributions in accordance with section 60-395(a).
(Ord. No. O-93-31, § I(4.10), 12-13-93)

Secs. 60-401--60-420. Reserved.

DIVISION 5.

PAYMENT OF BENEFITS

Sec. 60-421. Payment of benefits on account of normal retirement, early retirement or vested termination.

(a) *Application.* In order to retire, a member shall file written application to the retirement board no less than 30 days and not more than 90 days prior to the first day of the month following his or her normal retirement age, or the member's earlier commencement date under section 60-392 or 60-395, if applicable. Such application shall include the member's designated beneficiary and the optional payment form elected under subsection (b) or subsection (c) of this section and shall be signed by the member's spouse, if any.

(b) *Optional payment forms.* Optional payment forms are as follows:

- (1) Life annuity: A monthly annuity payable until the member's death. This is the normal form of payment under the plan. Benefits payable in the form of a life annuity are equal to 1/12 of the annual amount determined in section 60-391, 60-392 or 60-395.
- (2) Joint and survivor annuity: A monthly annuity, payable for the member's lifetime, with 50 percent, 75 percent, or 100 percent (as elected) of the member's benefit payable for the lifetime of the member's surviving spouse, which is the actuarial equivalent of the life annuity determined under subsection (b)(1) of this section.

(3) Ten-year certain and continuous annuity: A monthly annuity payable for the member's lifetime, with 120 payments guaranteed, equal to the actuarial equivalent of the life annuity determined under subsection (b)(1) of this section. If the member dies before 120 payments are made, the remaining guaranteed payments will be made to the beneficiary, or the beneficiary's estate if fewer than 120 payments have been made at the beneficiary's death.

(c) *Social security level income annuity.*

(1) A member who retires prior to age 62 and who elects the life annuity option under subsection (b)(1) of this section may elect to receive such life annuity in a modified form.

(2) This modified option shall provide for the payment of a larger benefit before the attainment of age 62 and a reduced benefit thereafter. The reduced amount shall be equal to the benefit before age 62, including cost-of-living increases, reduced (but not below \$0.00) by the member's estimated primary social security benefit payable at age 62. Benefits payable under this option shall be the actuarial equivalent of the life annuity determined under subsection (b)(1) of this section. The social security benefit used in computing this option shall be estimated as of the date of the member's retirement.

(3) Election of this social security level income annuity shall not be available to members electing the optional payment forms under subsection (b)(2) or subsection (b)(3) of this section.

(Ord. No. O-93-31, § I(5.1), 12-13-93; Ord. No. O-94-28, § I, 11-21-94)

Sec. 60-422. Payment of benefits on account of disability.

Benefits payable to a member under section 60-393 shall be paid on a monthly basis commencing in accordance with section 60-393(d) for the lifetime of a member, or until the member's earlier recovery under section 60-393(h) or reemployment under section 60-393(i).

(Ord. No. O-93-31, § I(5.2), 12-13-93)

Sec. 60-423. Payment of benefits on account of preretirement death.

Benefits payable to a surviving spouse under section 60-394(b) shall be paid on a monthly basis for the lifetime of the spouse commencing at the election of the spouse as described in section 60-394(b).

(Ord. No. O-93-31, § I(5.3), 12-13-93)

Sec. 60-424. Payment of lump sums.

(a) *Preretirement death.* Lump sum refunds of accumulated contributions to a beneficiary under section 60-394(a) shall be paid as soon as practicable after the member's death unless the beneficiary is eligible for and elects to receive annuity benefits under section 60-394(b).

(b) *Termination of employment.* Lump sum refunds to a member of accumulated contributions under section 60-395(a) shall be paid as soon as practicable after the member's termination of employment unless the member is eligible for and elects to receive annuity benefits under section 60-395(b).

(c) *Lump sum death benefit.* Payment to a beneficiary under section 60-396 shall be made as soon as practicable after the death of the member.
(Ord. No. O-93-31, § I(5.4), 12-13-93)

Sec. 60-425. Payment of remainder of accumulated contributions on death after commencement of benefits.

If after the death of all persons eligible to receive benefits under sections 60-421, 60-422 and 60-423 the total amount of annuity benefits paid to the member and to his or her beneficiary is less than the member's accumulated contributions at retirement or earlier death, the excess of the accumulated contributions over the total annuity payments shall be paid to the member's beneficiary, or, if none survives, to the estate of the last person receiving benefits on the member's account.
(Ord. No. O-93-31, § I(5.5), 12-13-93)

Sec. 60-426. 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 section 60-391;
 - 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-93-31, § I(5.6), 12-13-93)

Secs. 60-427--60-440. Reserved.

DIVISION 6.

FUNDING

Sec. 60-441. Member contributions.

(a) *Generally.* Each member who is an eligible employee will contribute six percent of his or her salary to the fund at the time of each payroll period. Each member who is an active elected official shall contribute an additional \$20.00 per month. Such contributions shall begin on the date the employee becomes a member in accordance with division 2 of this article and shall cease when the member is no longer an eligible employee. Effective September 1, 1994, the member contributions described above shall increase to seven percent of salary.

(b) *Pickup of employee 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 and shall be included in salary for purposes of determining final average earnings.

(Ord. No. O-93-31, § I(6.1), 12-13-93; Ord. No. O-94-26, § I, 11-14-94)

Sec. 60-442. Employer contributions.

(a) The amount of the city's annual contribution to the fund shall be the annual contribution amount determined by the actuary as provided in subsections (b) and (c) of this section.

(b) Effective July 1, 1992, and at least biennially thereafter, the actuary shall perform an actuarial valuation of the fund. In the valuation, the actuary will determine an annual contribution amount equal to the sum of the following three components:

- (1) Normal cost, net of employee contributions;
- (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 February 1, 1988, over a period ending June 30, 2008; 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 a period no longer than 25 years the increase or decrease in the actuarial accrued liability after February 1, 1988, attributable to plan amendments, changes in actuarial assumptions and actuarial experience gains and losses affecting members.

(c) 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. Assets used by the actuary for valuation purposes shall be the lesser of the market value of assets and the asset value before adjustment (as these terms are defined in section 60-399). Actuarial valuations will be performed by the actuary in accordance with generally accepted actuarial principles on a biennial basis with valuations performed as of July 1, 1992, July 1, 1994, etc. The results of the July 1, 1992, valuation will be used to determine the annual contribution amount for the 1993-94 and 1994-95 fiscal years, while the July 1, 1994, valuation will determine the annual contribution amount for 1995-96 and 1996-97, etc. The annual contribution amounts 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.

(d) City contributions will be paid by February 1 of the fiscal year or on a quarterly basis.
(Ord. No. O-93-31, § I(6.2), 12-13-93)

Sec. 60-443. Pension fund.

All contributions under sections 60-441 and 60-442 shall be deposited to the fund. The retirement board shall be the administrator of the fund, with the duties outlined in sections 6-311 and 6-312.
(Ord. No. O-93-31, § I(6.3), 12-13-93)