

Chapter 18

PENSIONS*

* **Editors Note:** Ord. No. 18160, § 1, adopted July 6, 2004, substantially amended Ch. 18 to read as herein set out. See also the Code Comparative Table.

Cross References: City officers and employees generally, § 2-121 et seq.

Art. I. In General (Reserved), §§ 18-1--18-15

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ARTICLE I.

IN GENERAL (RESERVED)

Secs. 18-1--18-15. Reserved.

ARTICLE II.

POLICE OFFICERS AND FIREFIGHTERS

DIVISION 1.

GENERALLY

Sec. 18-16. - Past fund.

Nothing in this article affects any benefits accrued under the police and firemen's retirement fund which was replaced in 1981 by the police retirement plan created in section 18-39 and the firefighters' retirement plan created in section 18-64. The provisions of the police and firemen's retirement fund shall govern all appeals and requests with respect to the police and firemen's retirement fund. Appeals relating to former police shall be determined by the police retirement board; appeals relating to former firefighters shall be determined by the firefighters' retirement board.

(Code 1964, § 9.1630; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-17. - Reserved.

Editor's Note: Section 18-17 was deleted by Ord. No. 12868, § 1, adopted Feb. 4, 1991; such deleted provisions pertaining to exempt governmental plans and deriving from Code 1964, § 9.1640.

Sec. 18-18. - Financial integrity of funds.

The city council shall provide the necessary funds to make the police retirement plan and the firefighters' retirement plan actuarially and financially sound for as long as the plans are maintained.

(Code 1964, § 9.1650; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-19. - Right of council to amend article.

The city council shall have the same right to amend this article in every particular as it has to amend any ordinance that it may adopt.

(Code 1964, § 9.1660; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-20. - Interpretation and administration.

This article shall be interpreted and administered:

- (1) Conservatively, to reduce the obligations of the fund, to prevent the overpayment or mispayment of any sum and to maintain the actuarial and financial soundness of the fund. In the event of doubt as to any provision, it shall be interpreted against the payment of any benefit.
- (2) In light of and in conformity with the provisions of the federal and state constitutions, federal and state statutes, and the home rule charter and ordinances of the city.
- (3) In such a manner as to confirm and continue the status of the police retirement plan and the firefighters' retirement plan as exempt governmental plans.

(Code 1964, § 9.1670; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-21. - Right to benefits; when fixed.

(a) *Age or length of service.* The rights of a retiree to retirement benefits based on age or length of service under the police retirement plan or the firefighters' retirement plan are defined by the plan provisions in effect at the time the retiree left city employment.

(b) *Disability.* The rights of a retiree to retirement benefits based on disability under the police retirement plan or the firefighters' retirement plan are defined by the plan provisions in effect at the time the retiree was determined to be disabled and left city employment.

(c) *Death.* The rights of surviving spouses, surviving children and other persons entitled to death benefits upon the death of a covered employee under the police retirement plan or the firefighters' retirement plan are determined by the plan provisions in effect at the time of the death of the covered employee. The rights of surviving spouses, surviving children and other persons entitled to death benefits upon the death of a retiree under the police retirement plan or the firefighters' retirement plan are determined by the plan provisions in effect at the time the retiree left city employment.

(Code 1964, § 9.1680; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-22. - Assets of plans; investment; administration.

(a) The director of finance shall serve as administrator for the police retirement fund and firefighters' retirement fund and of all assets, payments and deposits made or received from prior plans. The director of finance shall keep the books and records of the plans and cause them to be audited annually by an independent auditor as part of the city's annual audit. The director of finance shall annually prepare and have available as public information for each plan, a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year in accordance with section 105.661 RSMo.

The director of finance shall have all powers necessary to discharge the duties of plan administrator, including, but not by way of limitation, authority to make the initial determination of the right of any person to any interest in or eligibility for any benefit under the plans. The director of finance may adopt rules to implement the police retirement plan and the firefighters' retirement plan. All rules and decisions of the director of finance shall be uniformly and consistently applied to all covered employees in similar circumstances. When making a determination or calculation, the director of finance shall be entitled to rely upon information furnished by a covered employee or beneficiary, the city, the legal counsel of the city, or the actuary. The director of finance shall issue directions concerning all benefits which are to be paid from the trust fund pursuant to the provisions of the plans. The director of finance may require a covered employee to complete and file with the director of finance an application for pension and all other forms approved by the director of finance, and to furnish all pertinent information requested by the director of finance.

(b) The director of finance shall account for, separately:

- (1) Those assets necessary to maintain the actuarial and financial soundness of the police retirement fund;
- (2) Those assets necessary to maintain the actuarial and financial soundness of the firefighters' retirement fund.

These funds shall at all times be invested in a manner consistent with the laws of the United States and the State of Missouri and the ordinances and charter of the city.

(c) Nothing in this article requires segregation of assets nor permits or authorizes the partition of fund assets by the boards of the respective funds.

(d) All assets of the funds created by this article, and all assets necessary to maintain the obligations of past funds, may be jointly invested with profits, losses, income and charges with respect thereto being received, borne, or shared by the funds in proportion to the amount of the assets invested by the fund or past fund.

(e) Whenever, in the director of finance's opinion, a person entitled to receive any payment of a fund benefit is under a legal disability or is incapacitated in any way so as to be unable to manage personal financial affairs, the director of finance may make payments to such person or to the person's legal representative or relative. Any payment of a benefit or installment thereof in accordance with the provisions of this section shall be a complete discharge of any liability for the making of such payment under the provisions of the plans.

(Code 1964, § 9.1690; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-23. - Assets of funds.

The assets of the funds shall consist of:

- (1) Funds transferred from the police and firemen's retirement fund;
- (2) Any and all funds given or donated to the funds from any source, including private gifts, bequests, devises or grants; provided, that all such funds are subject to the limitations set forth in section 401(a)(1) of the Internal Revenue Code.
- (3) The net earnings on all investments and the interest earned thereon;
- (4) The contributions of the respective covered employees; and
- (5) An amount appropriated in the annual city budget sufficient to raise the amount in the respective retirement fund to that level which, according to actuarial evaluation, is necessary to make the retirement fund financially sound.

(Code 1964, § 9.1700; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-24. - Investment committee.

(a) Investments shall be made by the director of finance or the director's designee under the direction and review of the investment committee. The investment committee shall establish a general policy for investments, and the fund shall be invested by the director of finance in accordance with that policy. The investment committee shall review the investments

from time to time as it shall deem appropriate. The director of finance shall make a quarterly report of investments and disbursements.

(b) The investment committee shall consist of:

- (1) Two (2) members of the firefighters' retirement board selected by that board; one (1) of whom shall be a citizen and the other a firefighter; and
- (2) Two (2) members of the police retirement board selected by that board; one (1) of whom shall be a citizen and the other a police officer; and
- (3) The director of finance.

(c) The director of finance shall be a nonvoting member of the investment committee; the affirmative vote of three (3) members of the committee shall be necessary to take any action.

(d) The policies of the committee shall be advisory and subject to the review of the city council which may affirm or reject such policies and direct the director of finance's investments accordingly.

(Code 1964, § 9.1710; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-25. - Diversion of funds.

Neither the administrator, the investment board nor the respective boards of either retirement fund shall attempt to cause or permit the diversion or use of any of the assets of the retirement funds other than for the specific purposes and uses herein set forth.

(Code 1964, § 9.1720; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-26. - Administrator to make disbursements.

The payment of any benefit, whether of a continuing or single nature, shall be made by the administrator in accordance with standard city procedures and the provisions of this article.

(Code 1964, § 9.1730; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-27. - Reserved.

Editor's note—

Ord. No. 18160, § 1, adopted July 6, 2004, repealed § 18-27, which pertained to benefits from prior plans. See also the Code Comparative Table.

Sec. 18-28. - Employment of professional services.

The administrator, the police retirement board or the firefighters' retirement board may, under the procedures established by city ordinance, employ the services of an investment counselor, attorney, actuary or other professional to assist in their duties. If services are rendered to more than one (1) fund, payment for such services shall be debited against the funds in proportion to their fund balances.

Unless such services are so acquired, the administrator shall provide financial services and the city counselor shall provide legal services.

Such services, when provided by city staff persons, shall be charged against the funds in the same manner and at the same rate as charged the enterprise funds of the city.

(Code 1964, § 9.1750; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-29. - Penalty.

Any person who shall knowingly or willfully make any false statement in regard to applying for or securing a pension or disability benefit under the retirement plans herein established, or who shall falsify, cause or permit to be falsified any record or records of such retirement plan in any attempt to defraud such retirement plan as a result of such act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00), or be imprisoned for not more than one (1) year, or shall be subject to both such fine and imprisonment. In addition, all rights, interest and privileges of such person under such retirement plan shall be revoked and canceled.

(Code 1964, § 9.2080; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-30. - Miscellaneous.

(a) The city may terminate the plans at any time. Upon the termination of the plans the city shall direct and require liquidation of the trust after payment of expenses by the payment or provision for the payment of benefits. Any distribution after termination of the plans may be made, in whole or in part, to the extent that no discrimination in value results, in cash, in securities or other assets in kind (based on their fair market value as of the date of distribution), or in nontransferable annuity contracts providing for pensions commencing at the covered employees' eligible retirement dates, as the city, in its discretion, shall determine.

In no event shall the city receive any amounts from the trust upon termination of the plans except that, and notwithstanding any other provision of the plans, (i) the city shall receive such amounts, if any, as may remain after the satisfaction of all liabilities of the plans and arising out of any variations between actual requirements and expected actuarial requirements, and (ii) the city may receive the amount of any contribution to the extent such contribution was made under mistake of fact.

If the city partially or completely terminates either of the plans or discontinues contributions to either plan, members of the affected plan shall be one hundred (100) percent vested in the plan benefits to the extent such benefits are funded.

(b) The laws of the state and the ordinances of the city shall govern, control and determine all questions arising with respect to the plans and the interpretation and validity of their provisions. The interpretation of the provisions shall be made in such a manner as to confirm and continue its status as qualified plans and trust under the code.

(c) No pension payable under the plans shall exceed the limitations under Internal Revenue Code Section 415 and such limitations are expressly incorporated into the plans by this reference.

(Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Secs. 18-31--18-34. Reserved.

DIVISION 2.

POLICE OFFICERS

Sec. 18-35. - Definitions and rules of construction.

The following definitions and rules of construction apply to this division:

Active service. The regular service of a covered police employee and sick leave and vacation accrued and actually taken as a result of that employment, as well as military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended. It shall exclude periods spent by an otherwise active employee while on any inactive pay status such as lost time, leave of absence or other leave for military service. Such voluntary or involuntary absences of a covered police employee shall not be counted as time spent in active service and covered employment.

Administrator. The director of finance of the city.

Child. The natural or legally adopted child of a covered police employee or retiree, who is unmarried and under the age of eighteen (18), shall be deemed a child for all purposes under this division. A stepchild who is unmarried, under the age of eighteen (18), and domiciled with and under the control and supervision of a covered police employee, shall be deemed a child under this division for purposes of disability benefits. A stepchild who is unmarried, under the age of eighteen (18), and domiciled with and under the control and supervision of a covered police employee or retiree, shall be deemed a child for purposes of death benefits.

Code. The Internal Revenue Code of 1986, as amended.

Covered employment. The active service of a covered police employee and service covered by another plan established by this article.

Covered police employee. A person employed by the Columbia Police Department as a full-time, regular police officer. This term shall exclude clerical employees, watchmen, school traffic guards, turnkeys, volunteers and any other employee or associate, regardless of whether they are commissioned as a police officer, when they are not a salaried full-time, regular police officer of the city. This term shall exclude the chief of police. Notwithstanding the foregoing, a person hired by the Columbia Police Department on or after October 1, 2012 as a police officer, shall participate in the police retirement fund in accordance with the terms and provisions set forth in division 5 of article II of this chapter set forth herein.

Duty-related disability or death. A disability or death which results from a disease contracted or an injury sustained by a covered employee while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place. Duty-related disability or death shall include a disability or death which results from a disease contracted or an injury sustained by an off-duty covered employee acting under color of the employee's commission. A disability or death resulting from a disease contracted or an injury sustained by an off-duty covered employee while in paid employment of another entity shall only be considered a duty-related disability or death if the covered employee was acting under color of the employee's commission within the limits of the City of Columbia at the time the disability was sustained.

Highest average salary. The average of the thirty-six (36) months of covered employment, whether or not consecutive, in which such covered police employee's salary was the highest, or, if the employee has less than thirty-six (36) months of service, then the average salary over the employee's entire period of service. For the purposes of calculating the thirty-six (36) months of highest average, no period shorter than twelve (12) months shall be used. "Salary," as used in this definition, includes only compensation included in computing the employee's contributions to the police retirement fund.

Non-duty-related disability or death. A disability or death other than a duty-related disability or death.

Pick up. This term has the same meaning in this division as it has in Code Section 414(h).

Plan year. The twelve-month period commencing on each October 1 and ending on the following September 30.

Retiree. A former covered police employee entitled to receive benefits from the police retirement fund.

Social Security and Workers' Compensation entitlements. The amount of Social Security or Workers' Compensation benefits to which a claimant would be entitled as a result of the claimant's covered employment, regardless of whether a claimant has actually made application for such benefits. Failure of a claimant to apply for such a benefit shall result in the calculation

of the claimant's benefits under the police retirement fund as if such benefits are actually being received. Only an adverse determination by the appropriate Social Security or Workers' Compensation authority shall be deemed a bar to such reductions and such a determination shall be conclusive upon the police retirement board consideration of the amount of such an entitlement. Determination of entitlement shall be fixed as of the date of application for benefits from the police retirement fund.

Surviving spouse. The spouse of a covered police employee or retiree to whom the employee was married at the date of the covered police employee's or retiree's death. Effective September 16, 2013, "spouse" means a person, as of the earlier of an employee's or retiree's annuity starting date or death, who is alive and to whom an employee or retiree is legally married under the laws of the state where the marriage occurred (regardless of the laws of the state where the employee, retiree or spouse are domiciled); provided such marriage is evidenced by a valid marriage certificate or other proof acceptable to the Administrator. For the avoidance of doubt, any references to "spousal" or "married" in this Plan shall be determined in accordance with this section 18-35.

Trustee. The City of Columbia.

Trust fund. The assets held by the trustee at the time of the adoption of this division and such assets as thereafter increased or decreased by contribution, investment, reinvestment, expenses (including any taxes), and distributions.

Year(s) of service. A plan year in which a covered police employee has at least two hundred sixty (260) days of service. A covered police employee who has fewer than two hundred sixty (260) days of service in a plan year which includes the date the employee's employment or reemployment commenced shall in each case receive a partial year of service equal to the number of the employee's days of service in such plan year divided by two hundred sixty (260).

(Code 1964, § 9.1780; Ord. of 12-20-82; Ord. No. 10953, § 1, 3-17-86; Ord. No. 11745, § 1, 1-4-88; Ord. No. 12868, § 1, 2-4-91; Ord. No. 13698, § 1, 6-7-93; Ord. No. 15072, § 1, 12-2-96; Ord. No. 15276, § 1, 7-7-97; Ord. No. 15300, § 1, 7-21-97; Ord. No. 16406, § 1, 4-3-00; Ord. No. 17444, § 1, 9-16-02; Ord. No. 17521, § 1, 11-18-02; Ord. No. 18160, § 1, 7-6-04; Ord. No. 20234, § 1, 4-6-09; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12; Ord. No. 22235, § 1, 9-15-14)

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

Sec. 18-36. - Police retirement board--Memberships; terms; compensation.

(a) The police retirement board is hereby established. The board shall consist of five (5) members, two (2) of whom shall be members of the police department, two (2) of whom shall be registered voters and residents of the city. The chief of police shall be an ex officio, nonvoting member of the board.

(b) The police members of the board shall be elected by a majority vote of the covered police employees for terms of two (2) years.

(c) The citizen members shall be appointed by the city council for two-year terms. Appointments to fill vacancies shall be for unexpired terms only. The citizen members shall be chosen from applicants who are not employees of the city.

(d) No board member shall receive any compensation for service, although reasonable expenses of members shall be reimbursed in the same manner as provided for reimbursement of council expenses.

(e) Members shall serve until their successors are appointed.

(f) The board shall elect a chair from its voting members.

(Code 1964, § 9.1890; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-37. - Same--Meetings; quorum; attendance; vacancies.

The board shall hold one (1) regular meeting each quarter at a time and place to be determined by the board, and may hold such additional meetings as may be required for the transaction of business. A quorum for the transaction of business at such meetings shall be a majority of the duly appointed and acting members of the board. The chief of police shall not be counted toward determining a quorum. The chair of the board is authorized to excuse any member from attendance at a board meeting; provided, that the member requested to be excused before the meeting. Any member who is absent, without being excused, from two (2) consecutive regular meetings shall automatically forfeit the office. It shall be the duty of the chair of the board to promptly notify the appointing authority of the vacancy.

(Code 1964, § 9.1900; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-38. - Same--Powers and duties.

(a) The board shall oversee and establish policies for the police retirement trust, advise the city council and the director of finance upon the administration of the fund, shall hear appeals from the decisions of the director of finance in accordance with the provisions of this article and such additional rules as it shall adopt.

(b) Records of hearings before the board and its minutes shall be kept. These records of the proceedings of the board shall be open to the public during all regular business hours; however, the records of medical examinations of any retiree or applicant for retirement shall be closed records.

(c) The board shall have exclusive original jurisdiction to receive, hear and rule upon all appeals from decisions of the administrator for benefits from the fund under the contested case provisions of chapter 536 RSMo.

(d) The board may prescribe rules and regulations, not inconsistent with state laws or this article, to govern and control the hearing, consideration and disposition of all appeals, and other administrative matters and proceedings before the board.

(e) The board shall advise the council in order that a high degree of care is exercised to keep the police retirement fund safely invested in such securities as will afford the greatest return consistent with safety of principal, but such investments shall be limited to such securities as are, or may be eligible by the laws of the State of Missouri.

(Code 1964, § 9.1910; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-39. - Creation of police retirement plan and fund.

There is hereby created, pursuant to the constitution and laws of Missouri, the police retirement plan for the retirement of covered police employees. The plan of retirement includes benefits paid on account of age, service, disability, and death. In order to maintain such benefits, a police retirement fund is hereby created and shall be maintained as the council deems appropriate from public funds appropriated by the council, from the contributions of covered employees and from such other funds and sources as have been previously set forth.

This fund shall be a trust, within the meaning of section 401(a) of the Code, created for the exclusive benefit of covered police employees, retirees, their spouses and minor children. At no time prior to the satisfaction of all liabilities with respect to covered police employees, retirees and their beneficiaries under the trusts, shall any part of the corpus or income be used for, or diverted to, purposes other than for the exclusive benefit of covered police employees, retirees or their beneficiaries.

Except as otherwise provided in this plan, the trust fund shall be retained for the exclusive benefit of covered employees and their beneficiaries, shall be used to pay benefits to such persons, to pay administrative expenses to the extent not paid by the city, and shall not revert to or inure to the benefit of the city.

(Code 1964, § 9.1760; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-40. - Contributions to the police retirement fund.

(a) Covered police employees shall be assessed and required to pay into the fund three and five-tenths (3.5) percent of their compensation. "Compensation," as used in this subsection, includes salary, wages, overtime pay, amounts contributed to a cafeteria plan under Code section 125, amounts contributed to a deferred compensation plan under Code section 457, amounts contributed to this plan on behalf of a covered employee and picked up by the city under Code section 414(h), sick leave buy back payments, automobile allowance payments, and cash in lieu of vacation paid under section 19-129(b). Compensation does not include payment for unused vacation days or unused floating holidays, workers compensation payments, safety awards, or any other payment or benefit not listed in this subsection.

(b) The contributions of covered police employees shall be deducted from their biweekly compensation and placed in the police retirement fund. Deduction of contributions shall be a term and condition of employment; acceptance and continuance in employment shall be deemed to be the assent of an employee to deductions.

(c) The city shall pick up employee contributions required of covered police employees. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the Code. The city shall pick up these contributions from funds established and available, which funds would otherwise have been designated as employee contributions and paid to the retirement fund.

Pursuant to section 414(h) of the Code, these employee contributions so picked up shall not be included in gross income for tax purposes until such time as they are distributed by refund or benefit payment.

(d) The city shall pay into the police retirement fund all amounts that are needed, in addition to the contributions of covered police employees, to make the fund actuarially and financially sound.

(e) The Administrator, shall return to the appropriate city fund any city contribution made by mistake.

(Code 1964, § 9.1770; Ord. No. 9961, § 1, 10-3-83; Ord. No. 12868, § 1, 2-4-91; Ord. No. 13698 § 1, 6-7-93; Ord. No. 14982, § 1, 9-16-96; Ord. No. 15072, § 1, 12-2-96; Ord. No. 17444, § 1, 9-16-02; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-41. - Reserved.

Sec. 18-42. - Retirement by reason of age or service.

(a) A covered police employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65) or upon having completed twenty (20) years of active service without regard to age. For purposes of this section and eligibility to retire after having completed twenty (20) years of active service without regard to age, active service shall include military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended (USERRA), only to the extent any contributions required under section 18-40 of this Code are made to the police retirement fund either during the period of qualified military service under USERRA or within five (5) years from the date of reemployment.

(b) A former covered police employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65).

(c) The administrator shall pay to a retiree, retired on account of age or service, retirement benefits determined by subsections (1) or (2) below. The plan benefits of subsection

(1) below apply to employees hired after October 1, 1991 and employees employed on October 1, 1991 who elected the benefits of subsection (1). The plan benefits of subsection (2) below apply to employees employed on October 1, 1991 who elected the benefits of subsection (2).

- (1) A retiree retired due to age or service shall receive three (3) percent of highest average salary per year of covered employment up to twenty (20) years. For each year of service in covered employment over twenty (20), the retiree shall receive an additional two (2) percent of highest average salary per year, up to a maximum of seventy (70) percent for twenty-five (25) years of service. This benefit shall continue for life. In the first month of each plan year, the retirement benefit shall be increased by six tenths (0.6) percent (i.e. annual compound COLA).
- (2) A retiree covered under this option of the plan shall receive, up to age sixty-two (62), three (3) percent of highest average salary per year of covered employment up to twenty (20) years. For each year of service in covered employment over twenty (20), the retiree shall receive an additional two (2) percent of highest average salary per year, up to a maximum of seventy (70) percent for twenty-five (25) years of service. In addition, a covered police employee retiring prior to age sixty-two (62) according to the eligibility requirements of this plan shall receive an increase in the first month of each plan year after retirement of two (2) percent of the retirement benefits per year up to age sixty-two (62). After age sixty-two (62), all employees retired under this option shall receive two and twenty hundredths (2.20) percent of the highest average salary times the number of years of continuous service up to twenty (20) years. For each year over twenty (20), one and seventy hundredths (1.70) percent of highest average salary is added. The maximum benefit is fifty-two and five tenths (52.5) percent of highest average salary with twenty-five (25) years of continuous service. The benefit calculated at age sixty-two (62) is then increased by two (2) percent for each year from retirement to age sixty-one (61). The benefits calculated at age sixty-two (62) shall be increased each future year of retirement by two (2) percent. The benefit calculated at age sixty-two (62) is then payable from age sixty-two (62) and increased in each future year by two (2) percent of the preceding year's benefit amount.

(d) Upon approval of any application for benefits by the administrator, the applicant shall be entitled to receive monthly benefit payments beginning on the last day of the month immediately following the month in which employment ends. A married retiree eligible for survivor benefits under Section 18-47(2) shall receive a 66 2/3% joint and survivor annuity which is the actuarial equivalent of a single life annuity under this Section 18-42. The actuarial equivalent shall be based on assumptions for the “applicable interest rate” and “applicable mortality table” as determined under Code Section 417(e).

(e) If, when a covered police employee's employment is terminated, the reserve value of the employee's retirement benefits is less than five thousand dollars (\$5,000.00), the administrator shall pay the employee the amount of the reserve value in a single lump sum payment. "Reserve value" is the actuarial equivalent of the pension benefits the covered police employee would otherwise be eligible to receive under the police retirement plan. The single lump sum payment shall be made as soon as possible after employment is terminated and shall be in lieu of all other retirement benefits otherwise due the employee under the police retirement plan. The single lump sum payment shall be a complete discharge of all liabilities of the police retirement fund to the employee. This subsection shall not apply to covered police employees who retire on disability.

(f) In accordance with the requirements of Section 401(a)(9) of the Code, distribution of retirement benefits under this section shall begin no later than April 1 of the year in which the retiree either attains age seventy and one-half (70 1/2) or retires, whichever is later. Any distribution options in the police retirement plan inconsistent with the provisions of Section 401(a)(9) of the Code are overridden by the provisions of the Code.

(Code 1964, § 9.1790; Ord. of 12-20-82; Ord. No. 9917, § 1, 8-15-83; Ord. No. 9961, § 1, 10-3-83; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-43. - Disability benefits.

(a) A covered police employee who sustains a duty-related disability or a covered police employee having completed one (1) continuous year or more of covered employment who sustains a nonduty-related disability shall be entitled to the disability benefit set out in this section. The covered police employee shall be entitled to the disability benefit only while the disease or injury renders the employee unfit for the regular duties of the employee's covered employment.

Upon the termination of the disability, payment of the benefit shall cease; provided, however, that no disability shall be deemed to have terminated so long as the covered police employee is unable to return to the employee's former regular duties solely because of the disability or a residual effect thereof. Upon termination of a disability, no right of automatic reemployment exists. Reemployment shall be governed by the provisions of the city's personnel code.

(b) Eligible covered police employees shall be paid from the police retirement fund, from Workers' Compensation benefits, from Social Security benefits or from some combination thereof, the following benefits:

- (1) To a covered police employee, disabled with a duty-related disability, a disability benefit equal to fifty (50) percent of the employee's highest average salary plus ten (10) percent of that salary for each unmarried dependent child under the age of eighteen (18), to an amount not to exceed ninety (90) percent of the employee's highest average salary. Such benefit shall be payable monthly.

- (2) To a covered police employee, disabled with a nonduty-related disability, a disability benefit equal to two and one-half (2.5) percent of the employee's highest average salary per year of covered employment plus an additional one-half (.5) percent of that salary per year for each unmarried dependent child under the age of eighteen (18), up to a maximum of four (4) children. Such benefit shall be payable monthly.
- (3) Duty and nonduty-related disability benefits paid to any covered police employee shall be offset dollar for dollar by the excess of income received by the retiree over ninety (90) percent of the employee's highest average salary. For purposes of this section, income shall be defined as the combination of disability retirement benefits provided herein, social security, workers' compensation benefits, other long-term disability benefits, and compensation for other employment. After a retiree accumulates twenty (20) years of combined service in covered employment and time receiving disability benefits or age sixty-five (65), the income offset shall cease.
- (4) In the event of a lump sum Workers' Compensation settlement, the amount of the monthly income to be used as income offset in the disability retirement benefit shall be determined by converting the lump sum Workers' Compensation amount to a single life monthly annuity of equivalent value for the benefit recipient, using the mortality table and interest rate used in the most recent actuarial valuation of the fund. For purposes of this section, future medical awards shall not be considered a part of Workers' Compensation benefits or entitlements. In addition, the monthly disability benefit shall be reduced by the amount of the single life monthly annuity as determined herein.
- (5) For purposes of calculating the income offset for disability retirement benefits, the final average salary shall be adjusted on the anniversary date of the retiree's becoming eligible for disability retirement benefits by the percentage change in the consumer price index for this region of the country from January 1 of the previous year to January 1 of the current year.
- (6) An employee who receives disability benefits for a duty-related disability shall receive credit for covered employment for each year of duty-related disability retirement up to a maximum, when combined with years of actual covered employment, of twenty (20) years. At that point disability retirement benefits shall cease and the retiree shall receive retirement benefits based on years of service.
- (7) Any person disabled prior to June 7, 1993, and any person who is receiving nonduty-related disability benefits may, upon reaching age

sixty-five (65) years, elect to receive, in lieu thereof, retirement benefits based on age.

(c) After the approval of any disability benefit, the administrator shall from time to time, review the disability of the retiree to determine whether or not the disability continues to exist. Reexamination shall take place at least once each year unless the board shall determine otherwise. The administrator may require any retiree receiving a disability benefit to undergo a medical examination to review the status of the disability. The administrator may request the retiree to undergo an examination with a doctor of the retiree's choosing and at the retiree's expense or may require a medical examination with a doctor of the administrator's choosing at the expense of the police retirement fund.

- (1) Any retiree refusing to submit to a medical examination after ten (10) days' written notice from the administrator shall waive and forfeit all rights to benefits from the date of the notice until such time as the retiree submits to the required examination. If such refusal continues for one (1) calendar year from the date of notice, all rights to any benefits shall immediately cease and the retiree's benefits schedule shall escheat to the police retirement fund.
- (2) If the reexamination shows that the disability no longer exists, the right to benefits for disability shall immediately cease. A hearing on the continuance of the disability may be had before the administrator upon the retiree's written request within ten (10) days of the administrator's notification.

(Code 1964, § 9.1800; Ord. No. 13698 § 1, 6-7-93; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Secs. 18-44--18-46. Reserved.

Editor's note—

Ord. No. 18160, § 1, adopted July 6, 2004, repealed §§ 18-44--18-46, which pertained to physical examinations; retirement benefits due to age or service; and disability retirement benefits. See also the Code Comparative Table.

Sec. 18-47. - Death benefits.

Upon the death of a covered police employee or retiree, there shall be paid to the surviving spouse and unmarried minor children a benefit from the police retirement fund, from Workers' Compensation and from Social Security from some combination thereof, as below described:

- (1) There shall be paid to the surviving spouse of a covered police employee a monthly benefit equal to two-thirds (2/3) of the retirement benefit to which the

deceased employee would have been entitled had the employee met the age or service requirement on the date of the employee's death. The benefit paid to the surviving spouse shall not be reduced by any Social Security entitlement; provided, however, that the benefit paid from the police retirement fund when added to the Social Security entitlement shall not exceed ninety (90) percent of the salary which the covered police employee was receiving immediately prior to death.

- (2) There shall be paid to the surviving spouse of a retiree a monthly benefit equal to two-thirds ($2/3$) of the retirement benefit to which the deceased retiree was receiving immediately prior to death. The benefit paid to the surviving spouse shall not be reduced by any Social Security entitlement; provided, however, that the benefit paid from the police retirement benefit when added to the Social Security entitlement shall not exceed ninety (90) percent of the salary which the deceased retiree was receiving immediately prior to retirement. The surviving spouse benefit under this Section 18-47(2) shall be the actuarial equivalent of the $66 \frac{2}{3}\%$ joint and survivor annuity under Section 18-42. The actuarial equivalent shall be based on assumptions for the “applicable interest rate” and “applicable mortality table” as determined under Code Section 417(e).
- (3) If there is no surviving spouse eligible to receive benefits under the provisions of this subsection, the surviving unmarried children under the age of eighteen (18) shall divide equally the benefit to which a surviving spouse would have been entitled. The death benefit shall be payable upon the last day of the month immediately following the month in which the death occurred.
- (4) Upon remarriage of the surviving spouse of a covered police employee or retiree, benefits allowed under this section shall cease if the surviving spouse was not married to and living with the covered police employee or retiree for a period of at least two (2) years prior to the death of the covered police employee or retiree.
 - a. If the surviving spouse is over forty (40) years of age at the time of remarriage, benefits provided under this section shall continue for the life of the surviving spouse.
 - b. If the surviving spouse is under forty (40) years of age upon remarriage, then benefits to which the spouse is entitled shall continue for a period of ten (10) years after the remarriage.
- (5) When a covered police employee or a retiree dies without a surviving spouse or other survivor entitled to benefits under this section, there shall be paid a funeral benefit of one thousand dollars (\$1,000.00). The funeral benefit shall be paid to the personal representative of the estate of the deceased employee, or if no personal representative has been appointed within forty-five (45) days of death, then to the person who actually paid the funeral and burial expense with respect to such deceased person, upon proof of such payments, or, if proof of such payment

has not been made within sixty (60) days after such death, then to the mortuary that actually incurred the expense of the funeral and burial of such deceased person.

(Code 1964, § 9.1840; Ord. of 12-20-82; Ord. No. 10310, § 1, 9-17-84; Ord. No. 12668, § 1, 7-2-90; Ord. No. 13555 § 1, 1-4-93; Ord. No. 13708 § 1, 6-21-93; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-48. - Workers' compensation entitlements.

Benefits provided under the police retirement plan shall reduced by the amount of any Workers' Compensation entitlement in the manner set forth by these sections. Nothing herein shall be interpreted or administered to work a reduction of the total of the benefits paid and the entitlements due a covered employee below the benefit which would otherwise be payable under this division had the entitlements not been considered.

(Code 1964, § 9.1850; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-49. - Applications for benefits.

(a) Applications for benefits to be paid from the retirement fund must be made upon the forms provided by the administrator and contain full information from which the board may determine the eligibility of the applicant. If such application be founded upon disability, full information concerning the nature and extent of the injury must be furnished with the application, and the applicant must likewise submit to examination by a physician designated by the administrator. The administrator may hold hearings and take and preserve evidence touching the nature and extent of injuries upon which claims for benefits on account of disability are claimed, and may thereafter approve or deny such application.

(b) No more than one (1) monthly payment shall be made at any one (1) time; no payment shall be made more than ten (10) days in advance of the period to which it applies. This provision shall not prevent the lump sum settlement of past liability for benefits.

(c) Any claimant denied benefits by a decision of the administrator or any claimant or covered police employee or retiree otherwise aggrieved by any decision of the administrator may appeal such decision to the police retirement board. Such appeal must be in writing and filed within ten (10) days of the date of the administrator's decision. The board shall hold a hearing, take evidence and render a written decision including findings of fact and conclusions of law. Such decision shall be appealable by any person aggrieved by any decision of the police retirement board or by the administrator under the provisions of the Missouri Administrative Procedure Act.

(Code 1964, § 9.1860; Ord. No. 13708 § 1, 6-21-93; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-50. - Refunds.

(a) When the covered employment of a covered police employee ends, the employee shall have the right to withdraw in a lump sum from the fund, contributions which the employee made. The lump sum withdrawal shall include interest on the contribution at the annual investment rate of return of the fund as determined by the annual actuarial report for each year in which contributions were made by the covered employee, compounded annually from the last day of the calendar year in which such covered employee contributions are made to the date of withdrawal. Withdrawal of contributions by a covered police employee under this ordinance shall terminate all rights to benefits unless reinstated as herein provided.

(b) A covered police employee who has withdrawn the contributions made by the employee with interest under provisions of subsection (a) hereof or received a lump-sum distribution under section 18-42(e) may, in the event of reemployment as a covered employee, reinstate benefits thereby forfeited within twelve (12) months from the date of reemployment by repaying to the fund the contributions and interest withdrawn from the fund or the lump-sum distribution, plus interest on the sum in the amount of the annual investment rate of return of the fund as determined by the annual actuarial report for each year that the contribution remained withdrawn from the fund, compounded annually from the date the sum was withdrawn or lump-sum distribution was made to the date of repayment. The time which a covered police employee is absent from covered employment shall not be deemed to be reinstated by the repayment of prior contributions.

(c) If the covered employment of a covered police employee is terminated by the employee's death and the employee is not entitled to plan benefits other than the funeral benefit authorized by section 18-47(4), the contributions of the employee to this plan and any amounts contributed to this plan and picked up by the city under code section 414(h) for the deceased employee shall be refunded or distributed, upon request, to the estate of the deceased employee. Interest on the contributions or distributions so refunded shall be calculated as above.

(Code 1964, § 9.1870; Ord. of 12-20-82; Ord. No. 11744, § 1, 1-4-88; Ord. No. 12868, § 1, 2-4-91; Ord. No. 13708 § 1, 6-21-93; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-51. - Benefits not assignable or subject to execution.

The benefits payable from the police retirement fund shall not be assignable or subject to counter-claim, recoupment or set off. Except for qualified domestic relations orders, benefits payable from the police retirement fund shall not be subject to assessment, garnishment, execution, injunction, or any other decree, order, process, or proceeding in any court for the payment of any debt of any beneficiary, and the sum shall be held and distributed solely for the purpose of this article. This provision shall not prevent the police retirement board from pursuing a retiree or other beneficiary of the police retirement plan for recovery of benefits erroneously paid or to recover benefits paid due to fraud, duress or the concealment of any material fact necessary to properly process a claim for benefits.

(Code 1964, § 9.1880; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-52. - Miscalculation of benefits, payment of interest on underpayment or overpayment.

Whenever a miscalculation of benefits due a retiree or beneficiary which results in an underpayment is discovered, interest on the underpayment shall be paid to the retiree or beneficiary at a rate equal to the annual investment rate of return on the police retirement fund as determined by the annual actuarial statement for each year of the underpayment. Whenever an overpayment is discovered, the retiree or beneficiary shall repay the amount erroneously paid in excess of the benefit due him plus interest for the time of overpayment equal to the annual investment rate of return on the fund as determined by the annual actuarial statement for each year of overpayment. If the amount of overpayment and interest thereon is greater than one (1) monthly benefit payment, repayment shall be made to the fund in the same manner as provided for reimbursement by the retiree of lump sum worker's compensation benefits in section 18-43 of this article.

(Ord. No. 13708 § 1, 6-21-93; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-53. - Forfeitures.

Forfeitures shall not be applied to increase the benefits any employee would otherwise receive under the police retirement plan.

(Ord. No. 18160, § 1, 7-6-04)

Sec. 18-54. - Compensation limits.

The annual compensation of each covered police employee taken into account under the police retirement plan shall not exceed the compensation limits of section 401(a)(17) of the Code, as adjusted for inflation.

(Ord. No. 18160, § 1, 7-6-04)

Sec. 18-55. - Direct transfer of eligible rollover distributions; rollover notice.

(a) To the extent required by section 401(a)(31) of the Code, if the distributee of any eligible rollover distribution elects to have the distribution paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee to trustee transfer to the specified eligible retirement plan.

(b) The plan administrator shall give covered police employees an understandable written explanation of rollover rules within a reasonable period before making an eligible rollover distribution.

(Ord. No. 18160, § 1, 7-6-04)

Secs. 18-56--18-59. Reserved.

DIVISION 3.

FIREFIGHTERS

Sec. 18-60. - Definitions and rules of construction.

The following definitions and rules of construction apply to this division:

Active service. The regular service of a covered firefighter employee and sick leave and vacation accrued and actually taken as a result of that employment, as well as military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended. It shall exclude periods spent by an otherwise active employee any inactive pay status such as lost time, leave of absence or other leave for military service. Such voluntary or involuntary absences of a covered firefighter employee shall not be counted as time spent in active service and covered employment.

Administrator. The director of finance of the city.

Child. The natural or legally adopted child of a covered firefighter employee.

Code. The Internal Revenue Code of 1986, as amended.

Covered employment. The active service of a covered firefighter employee and service covered by another plan established by this article.

Covered firefighter employee. A person hired by the Columbia Fire Department as a full-time, regular firefighter. This term shall exclude clerical employees, volunteers and any other employee or associate, regardless of whether they are commissioned as a firefighter, when they are not a salaried full-time, regular firefighter of the city. Notwithstanding the foregoing, a person employed by the Columbia Fire Department on or after October 1, 2012 as a firefighter, shall participate in the firemen's retirement fund in accordance with the terms and provisions set forth in division 6 of Article II of this chapter set forth herein.

Highest average salary. The average of the thirty-six (36) months of covered employment, whether or not consecutive, in which such covered firefighter employee's salary was the highest, or, if the employee has less than thirty-six (36) months of service, then the average salary over the employee's entire period of service. For the purposes of calculating the thirty-six (36) months of highest average salary, no period shorter than twelve (12) months shall be used. "Salary," as used in this definition, includes only compensation included in computing the employee's contributions to the firefighters' retirement fund.

Pick up. This term has the same meaning in this division as it has in Code Section 414(h).

Plan year. The twelve-month period commencing on each October 1 and ending on the following September 30.

Retiree. A former covered firefighter employee entitled to receive benefits from the firefighters' retirement fund.

Surviving spouse. The spouse of a covered firefighter employee or retiree to whom the employee was married at the date of the covered firefighter employee's or retiree's death. Effective September 16, 2013, "spouse" means a person, as of the earlier of an employee's or retiree's annuity starting date or death, who is alive and to whom an employee or retiree is legally married under the laws of the state where the marriage occurred (regardless of the laws of the state where the employee, retiree or spouse are domiciled); provided such marriage is evidenced by a valid marriage certificate or other proof acceptable to the Administrator. For the avoidance of doubt, any references to "spousal" or "married" in this Plan shall be determined in accordance with this section 18-60.

Trustee. The City of Columbia.

Trust fund. The assets held by the trustee at the time of the adoption of this division and such assets as thereafter increased or decreased by contribution, investment, reinvestment, expenses (including any taxes), and distributions.

Year(s) of service. A plan year in which a covered firefighter employee scheduled for eight-hour shifts has at least two thousand (2,000) hours of service. A covered firefighter employee who has fewer than two thousand (2,000) hours of service in a plan year which includes the date the employee's employment or reemployment commenced shall in each case receive a partial year of service equal to the number of the employee's hours of service in such plan year divided by two thousand (2,000). For a covered firefighter employee scheduled for twenty-four-hour shifts, year(s) of service, means a plan year in which the covered firefighter employee has twelve (12) calendar months with at least nine (9) shifts of service per month. A covered firefighter employee who has fewer than twelve (12) months of service in a plan year which includes the date the employee's employment or reemployment commenced shall in each case receive a partial year of service equal to the number of the employee's months of service in such plan year divided by twelve (12).

(Code 1964, § 9.1940; Ord. No. 10953, § 1, 3-17-86; Ord. No. 11745, § 1, 1-4-88; Ord. No. 12868, § 1, 2-4-91; Ord. No. 15212, § 1, 4-21-97; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12; Ord. No. 22235, § 1, 9-15-14)

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

Sec. 18-61. - Firefighters' retirement board--Memberships; terms; compensation.

(a) The firefighters' retirement board is hereby established. The board shall consist of five (5) members, two (2) of whom shall be members of the fire department, two (2) of whom

shall be registered voters and residents of the city. The fire chief shall be an ex officio nonvoting member of the board.

(b) The firefighter members of the board shall be elected by a majority of the covered firefighter employees for terms of two (2) years.

(c) The citizen members shall be appointed by the city council to two (2) year terms. Appointments to fill vacancies shall be for unexpired terms only. The citizen members shall be chosen from applicants who are not employees of the city.

(d) No board member shall receive any compensation for service, although reasonable expenses of members shall be reimbursed in the same manner as provided for reimbursement of council expenses.

(e) Members shall serve until their successors are appointed.

(f) The board shall select a chair from its voting members.

(Code 1964, § 9.2050; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-62. - Same--Meetings; quorum; attendance; vacancies.

The board shall hold one (1) regular meeting each quarter at a time and place to be determined by the board, and may hold such additional meetings as may be required for the transaction of business. A quorum for the transaction of business at such meetings shall be a majority of the duly appointed and acting members of the board. The fire chief shall not be counted toward determining a quorum. The chair of the board is authorized to excuse any member from attendance at a board meeting; provided, that the member requested to be excused before the meeting. Any member who is absent, without being excused, from two (2) consecutive regular meetings shall automatically forfeit the office. It shall be the duty of the chair of the board to promptly notify the appointing authority of the vacancy.

(Code 1964, § 9.2060; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-63. - Same--Powers and duties.

(a) The board shall oversee and establish policies for the fire retirement trust, advise the city council and the director of finance upon the administration of the fund, shall hear appeals from the decisions of the director of finance in accordance with the provisions of this article and such additional rules as it shall adopt.

(b) Records of hearings before the board and its minutes shall be kept. These records of the proceedings of the board shall be open to the public during all regular business hours; however, the records of medical examinations of any retiree or applicant for retirement shall be closed records.

(c) The board shall have exclusive original jurisdiction to receive, hear and rule upon all appeals from decisions of the administrator for benefits from the fund under the contested case provisions of chapter 536 RSMo.

(d) The board may prescribe rules and regulations, not inconsistent with state laws or this article, to govern and control the hearing, consideration and disposition of all appeals, and other administrative matters and proceedings before the board.

(e) The board shall advise the city council in order that a high degree of care is exercised to keep the firefighter's retirement fund safely invested in such securities as will afford the greatest return consistent with safety of principal, but such investments shall be limited to such securities as are, or may be eligible by the laws of the State of Missouri.

(Code 1964, § 9.2070; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-64. - Creation of firefighters' retirement plan and fund.

There is hereby created, pursuant to the constitution and laws of Missouri, the firefighters' retirement plan for the retirement of covered firefighter employees. The plan of retirement includes benefits paid on account of age, service, disability, and death. In order to maintain such benefits, a firefighters' retirement fund is hereby created and shall be maintained as the council deems appropriate from public funds appropriated by the council, from the contributions of covered employees and from such other funds and sources as have been previously set forth.

This fund shall be a trust, within the meaning of Section 401(a) of the Code, created for the exclusive benefit of covered firefighter employees, retirees, their spouses and minor children. At no time prior to the satisfaction of all liabilities with respect to covered firefighter employees and their beneficiaries under the trusts, shall any part of the corpus or income be used for, or diverted to, purposes other than for the exclusive benefit of covered firefighter employees, retirees or their beneficiaries.

Except as otherwise provided in this plan, the trust fund shall be retained for the exclusive benefit of employees and their beneficiaries, shall be used to pay benefits to such persons, to pay administrative expenses to the extent not paid by the city, and shall not revert to or inure to the benefit of the city.

(Code 1964, § 9.1920; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-65. - Contributions to the firefighters' retirement fund.

(a) The contribution of each covered firefighter employee shall be fifteen and twenty four hundredths (15.24) per cent of the employee's compensation. "Compensation," as used in this subsection, includes salary, wages, overtime pay, amounts contributed to a cafeteria plan under Code section 125, amounts contributed to a deferred compensation plan under Code section 457, and any amounts contributed to this plan on behalf of a covered employee and

picked up by the city under Code section 414(h), sick leave buy back payments, automobile allowance payments, and cash in lieu of vacation payments under section 19-129(b). Compensation does not include payment for unused vacation days or unused floating holidays, workers compensation payments, safety awards, or any other payment or benefit not listed in this subsection.

(b) In addition to other employee contributions set forth in this section, each covered firefighter employee shall pay into the firefighters' retirement fund one and eight hundredths (1.08) percent of the employee's compensation. This amount is to pay for the 1997 improvements in disability retirement benefits and is subject to periodic adjustment.

(c) The contributions of covered firefighter employees shall be deducted from their biweekly compensation and placed in the firefighters' retirement fund. Deduction of contributions shall be a term and condition of employment; acceptance and continuance in employment shall be deemed to be the assent of an employee to deductions.

(d) The city shall pick up employee contributions required of covered firefighter employees. The contributions so picked-up shall be treated as employer contributions in determining tax treatment under the code. The city shall pick up these contributions from funds established and available, which funds would otherwise have been designated as employee contributions and paid to the retirement fund.

Pursuant to section 414(h) of the Code, these employee contributions so picked up shall not be included in gross income for tax purposes until such time as they are distributed by refund or benefit payment.

(e) The city shall pay into the firefighters' retirement fund all amounts that are needed, in addition to the contributions of covered firefighter employees, to make the fund actuarially and financially sound.

(f) The administrator, shall return to the appropriate city fund any city contribution made by mistake.

(Code 1964, § 9.1930; Ord. No. 10299, § 1, 9-4-84; Ord. No. 18868, § 1, 2-4-91; Ord. No. 13117 § 1, 9-16-91; Ord. No. 13555 § 1, 1-4-93; Ord. No. 13816 § 1, 9-20-93; Ord. No. 14597 § 1, 8-21-95; Ord. No. 14982, § 1, 9-16-96; Ord. No. 15381, § 1, 10-6-97; Ord. 16614, § 1, 9-18-00; Ord. No. 16632, § 1, 10-2-00; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-66. - Reserved.

Sec. 18-67. - Retirement by reason of age or service.

(a) A covered firefighter employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65) or upon having completed twenty (20) years of active service, without regard to age. For purposes of this section and eligibility to retire after having

completed twenty (20) years of active service without regard to age, active service shall include military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended (USERRA), only to the extent any contributions required under section 18-65 of this Code are made to the firefighters' retirement fund either during the period of qualified military service under USERRA or within five (5) years from the date of reemployment.

(b) A former covered firefighter employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65).

(c) The administrator shall pay to a retiree, retired on account of age or service, the following retirement benefits:

- (1) To a retiree with less than twenty (20) years of active service, a retirement benefit equal to two (2) percent of the retiree's highest average salary multiplied by the number of years of active service.
- (2) To a retiree who has completed at least twenty (20) years of service, a retirement benefit equal to seventy (70) percent of the employee's highest average salary plus two (2) percent per year for each year of active service in excess of twenty (20) years, up to a maximum benefit of eighty (80) percent of the highest average salary of the retiree.
- (3) The retirement benefit shall be increased each year on the anniversary date of the retiree's retirement by two (2) percent.

(d) Upon approval of any application for benefits by the administrator, the applicant shall be entitled to receive monthly benefit payments beginning on the last day of the month immediately following the month in which employment ends. A married retiree eligible for survivor benefits under Section 18-72(c) shall receive a 100% joint and survivor annuity which is the actuarial equivalent of a single life annuity under this Section 18-67. The actuarial equivalent shall be based on assumptions for the "applicable interest rate" and "applicable mortality table" as determined under Code Section 417(e).

(e) If, when a covered firefighter's employment is terminated, the reserve value of the employee's retirement benefits is less than five thousand dollars (\$5,000.00), the administrator shall pay the employee the amount of the reserve value in a single lump sum payment. "Reserve value" is the actuarial equivalent of the pension benefits the covered firefighter employee would otherwise be eligible to receive under the firefighters' retirement plan. The single lump sum payment shall be made as soon as possible after employment is terminated and shall be in lieu of all other retirement benefits otherwise due the employee under the firefighters' retirement plan. The single lump sum payment shall be a complete discharge of all liabilities of the firefighters' retirement fund to the employee. This subsection shall not apply to covered firefighter employees who retire on disability.

(f) In accordance with the requirements of section 401(a)(9) of the Code, distributions of retirement benefits under this section shall begin no later than April 1 of the year in which the retiree either attains the age of seventy and one-half (70 ½) or retires, whichever is later. Any distribution options in the firefighters' retirement plan inconsistent with the provisions of section 401(a)(9) of the Code are overridden by the provisions of the Code.

(Code 1964, § 9.1950; Ord. No. 9917, § 1, 8-15-83; Ord. No. 10299, § 1, 9-4-84; Ord. No. 12868, § 1, 2-4-91; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-68. - Disability benefits.

(a) A covered firefighter employee who contracts a disease or sustains accidental injuries resulting in disability while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place, or a covered firefighter employee having completed one (1) continuous year or more of covered employment who contracts a disease or sustains accidental injuries resulting in disability at any time, shall be entitled to the disability benefit set out in this section. The covered firefighter employee shall be entitled to the disability benefit only while the disease or injury renders the employee unfit for the regular duties of the employee's covered employment.

Upon the termination of the disability, payment of the benefit shall cease; provided, however, that no disability shall be deemed to have terminated so long as the covered firefighter employee is unable to return to the employee's former regular duties as a firefighter solely because of the disability or a residual effect thereof. Upon termination of a disability, no right of automatic reemployment exists. Reemployment shall be governed by the provisions of the city's personnel code. If a formerly disabled employee ceases to be disabled and is again available for employment with the city, the board or the administrator shall immediately notify the city human resources department of that availability. With the permission of the employee, medical records of the board shall be forwarded which document that availability.

(b) A covered firefighter employee, disabled as provided for in subsection (a), is eligible to receive a disability benefit equal to fifty (50) percent of the employee's highest average salary plus ten (10) percent of that salary for each unmarried child under the age of eighteen (18), who was a dependent of the employee both at the time the employee became entitled to receive disability benefits and during the period for which the benefit is payable, to an amount not to exceed ninety (90) percent of the employee's highest average salary. Such benefit shall be payable monthly.

(c) When a person receiving the disability benefit is eligible for the retirement benefit due to age or service, the person shall receive the greater of (a) the disability benefit being received, or (b) the age or service benefit. Eligibility for retirement due to service shall be based on years of active service plus years of service accrued while on disability retirement up to a maximum of twenty (20) years or actual years of service, whichever is greater. The age or service benefit shall be based on salary at the time of termination of employment and years of

active service plus years of service accrued while on disability retirement up to a maximum of twenty (20) years or actual years of service, whichever is greater.

(d) After the approval of any disability benefit, the administrator shall, from time to time review the disability of a retiree to determine whether or not the disability continues to exist. Reexamination shall take place at least once each year unless the board shall determine otherwise. The administrator may require any retiree receiving a disability benefit to undergo a medical examination to review the status of the disability. The administrator may request the retiree to undergo an examination with a doctor of the retiree's choosing and at the retiree's expense or may require a medical examination with a doctor of the administrator's choosing at the expense of the firefighters' retirement fund.

- (1) Any retiree refusing to submit to a medical examination after ten (10) days' written notice from the administrator shall waive and forfeit all rights to benefits from the date of the notice until such time as the retiree submits to the required examination. If such refusal continues for one (1) calendar year from the date of notice, all rights to any benefits shall immediately cease and the retiree's benefits shall escheat to the firefighters' retirement fund.
- (2) If the reexamination shows that the disability no longer exists, the right to benefits for disability shall immediately cease. A hearing on the continuance of the disability may be had before the administrator upon the retiree's written request made within ten (10) days of the administrator's notification.

(Code 1964, § 9.1960; Ord. No. 18160, § 1, 7-6-04)

Secs. 18-69—18-71. –Reserved.

Sec. 18-72. - Death benefits.

(a) Subject to the provisions of subsection (b), upon the death of a covered firefighter employee, there shall be paid to the surviving spouse and unmarried minor children a benefit from the firefighters' retirement fund, as below described:

- (1) To the surviving spouse in monthly installments equal to fifty (50) percent of such deceased employee's highest average salary.
- (2) To the lawful guardian of such deceased employee's surviving, unmarried children under the age eighteen (18), a monthly benefit equal to the Social Security benefit to which they would have been entitled, fixed as of the date of application, if the deceased firefighter had been covered by Social Security. If there is no surviving spouse eligible to receive benefits under the provisions of subsection (1), then the surviving unmarried children under the age of eighteen (18) shall divide equally one-half (1/2) of the

benefit to which a surviving spouse would have been entitled. The death benefit shall be payable upon the last day of the month immediately following the month in which the death occurred.

(b) The surviving spouse and minor children of a covered firefighter employee who dies before completing one (1) continuous year of covered employment shall be entitled to death benefits only if the employee died as a result of contracting a disease or a sustaining accidental injuries while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place.

(c) Upon the death of a retiree, there shall be paid to the surviving spouse a monthly benefit equal to one hundred (100) percent of the deceased retiree's retirement benefit at the time of the retiree's death.

(d) Upon the death of a covered firefighter employee or retiree not otherwise entitled to a benefit under the provisions of this section, or of a retiree who has retired from active service subsequent to September 30, 1984, there shall be paid a funeral benefit of one thousand dollars (\$1,000.00) to be distributed to the next of kin as follows: first, to the surviving spouse; if there is no surviving spouse, then to the children under eighteen (18) of the deceased who were residing with the deceased at the time of death; if there is no surviving spouse or minor children in the home, then to the other children of the deceased; if there is no surviving spouse, minor children in the home, or other children, then to the mother and father of the deceased. If there is no next of kin as enumerated above, the funeral benefit shall be paid to the personal representative of the estate of the deceased, or if no personal representative has been appointed within forty-five (45) days of death, then to the person who actually paid the funeral and burial expense with respect to such deceased person, upon proof of such payments, or, if proof of such payment is not made within sixty (60) days after such death, then to the mortuary that actually incurred the expense of the funeral and burial of such deceased person.

(e) Upon remarriage of the surviving spouse of a covered firefighter employee or retiree, benefits allowed under this section shall cease if the surviving spouse was not married to and living with the covered firefighter employee or retiree for a period of at least two (2) years prior to the death of the covered firefighter employee or retiree.

- a. If the surviving spouse is over forty (40) years of age at the time of remarriage, benefits provided under this section shall continue for the life of the surviving spouse.
- b. If the surviving spouse is under forty (40) years of age upon remarriage, then benefits to which the spouse is entitled shall continue for a period of ten (10) years after the remarriage.

(Code 1964, § 9.2000; Ord. No. 10299, § 1, 9-4-84; Ord. No. 13555 § 1, 1-4-93; Ord. No. 13792 § 1, 9-7-93; Ord. No. 14597, § 1, 8-21-95; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-73. - Workers' compensation entitlement.

Benefits provided under the firefighters' retirement plan shall not be reduced by the amount of any Workers' Compensation entitlement in the manner set forth by these sections.

(Code 1964, § 9.2010; Ord. No. 10299, § 1, 9-4-84; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-74. - Applications for benefits.

(a) Applications for benefits to be paid from the retirement fund must be made upon the forms provided by the administrator and contain full information from which the board may determine the eligibility of the applicant. If such application be founded upon disability, full information concerning the nature and extent of the injury must be furnished with the application, and the applicant must likewise submit to examination by a physician designated by the administrator. The administrator may hold hearings and take and preserve evidence touching the nature and extent of injuries upon which claims for benefits on account of disability are claimed, and may thereafter approve or deny such application.

(b) No more than one (1) monthly payment shall be made at any one (1) time; no payment shall be made more than ten (10) days in advance of the period to which it applies. This provision shall not prevent the lump sum settlement of past liability for benefits.

(c) Any claimant denied benefits by a decision of the administrator or any claimant or covered firefighter employee otherwise aggrieved by any decision of the administrator may appeal such decision to the firefighters' retirement board. Such appeal must be in writing and filed within ten (10) days of the date of the administrator's decision. The board shall hold a hearing, take evidence and render a written decision including findings of fact and conclusions of law. Such decision shall be appealable by any person aggrieved by any decision of the firefighters' retirement board or by the administrator under the provisions of the Missouri Administrative Procedure Act.

(Code 1964, § 9.2020; Ord. No. (13792 § 1, 9-7-93; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-75. - Refunds.

(a) When the covered employment of a covered firefighter employee ends, the employee shall, have the right to withdraw in a lump sum from the fund contributions which the employee made. The lump sum withdrawal shall include interest on the contribution at the annual investment rate of return of the fund as determined by the annual actuarial report for each year in which contributions were made by the covered employee, compounded annually from the last day of the calendar year in which such covered employee contributions are made to the date of withdrawal. Withdrawal of contributions by a covered firefighter employee under this division shall terminate all rights to benefits unless reinstated as herein provided.

(b) A covered firefighter employee who has withdrawn the contributions made by the employee with interest under the provisions of subsection (a) or received a lump-sum

distribution under section 18-67 (e) may, in the event of reemployment as a covered employee, reinstate benefits thereby forfeited within twelve (12) months from the date of reemployment by repaying to the fund the contributions and interest withdrawn from the fund or the lump-sum distribution, plus interest on the sum in the amount of the annual investment rate of return of the fund as determined by the annual actuarial report for each year that the contribution remained withdrawn from the fund, compounded annually from the date the sum was withdrawn or lump-sum distribution was made to the date of repayment. The time which a covered firefighter is absent from covered employment shall not be deemed to be reinstated by the repayment of prior contributions.

(c) If the covered employment of a covered firefighter employee is terminated by the employee's death and the employee is not entitled to plan benefits other than the funeral benefit authorized by section 18-72(d), the contributions of the employee to this plan and any amounts contributed to this plan and picked up by the city under code section 414(h) for the deceased employee shall be refunded or distributed, upon request, to the estate of the deceased employee. Interest on the contributions or distributions so refunded shall be calculated as above.

(Code 1964, § 9.2030; Ord. of 12-20-82; Ord. No. 11744, § 1, 1-4-88; Ord. No. 12868, § 1, 2-4-91; Ord. No. 13792 § 1, 9-7-93; Ord. No. 18160, § 1, 7-6-04; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-76. - Benefits not assignable or subject to execution.

The benefits payable from the firefighters' retirement fund shall not be assignable or subject to counter-claim, recoupment or set off. Except for qualified domestic relations orders, benefits payable from the firefighters' retirement fund shall not be subject to assessment, garnishment, execution, injunction, or any other decree, order, process or proceeding in any court for the payment of any debt of any beneficiary, and the sum shall be held and distributed solely for the purpose of this division. This provision shall not prevent the fire retirement board from pursuing a retiree or other beneficiary of the firefighters' retirement plan for recovery of benefits erroneously paid or to recover benefits paid due to fraud, duress or the concealment of any material fact necessary to properly process a claim for benefits.

(Code 1964, § 9.2040; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-77. - Miscalculation of benefits, payment of interest on under or overpayment.

Whenever a miscalculation of benefits due a retiree or beneficiary which results in an underpayment is discovered, interest on the underpayment shall be paid to the retiree or beneficiary at a rate equal to the annual investment rate of return on the firefighters' retirement fund as determined by the annual actuarial statement for each year of the underpayment. Whenever an overpayment is discovered, the retiree or beneficiary shall repay the amount erroneously paid in excess of the benefit due him plus interest for the time of overpayment equal to the annual investment rate of return on the fund as determined by the annual actuarial statement for each year of overpayment. If the amount of overpayment and interest thereon is greater than one (1) monthly benefit payment, repayment shall be made to the fund by deduction

from the monthly retirement benefit a single life monthly annuity which has been determined from the value of the amount of overpayment and interest thereon using the mortality tables and accepted actuarial standards.

(Ord. No. 13792 § 1, 9-7-93; Ord. No. 18160, § 1, 7-6-04)

Sec. 18-78. - Forfeitures.

Forfeitures shall not be applied to increase the benefits any employee would otherwise receive under the firefighters' retirement plan.

(Ord. No. 18160, § 1, 7-6-04)

Sec. 18-79. - Compensation limits.

The annual compensation of each covered firefighter employee taken into account under the firefighters' retirement plan shall not exceed the compensation limits of section 401(a)(17) of the Code, as adjusted for inflation.

(Ord. No. 18160, § 1, 7-6-04)

Sec. 18-80. - Direct transfer of eligible rollover distributions; rollover notice.

(a) To the extent required by section 401(a)(31) of the Code, if the distributee of any eligible rollover distribution elects to have the distribution paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee to trustee transfer to the specified eligible retirement plan.

(b) The plan administrator shall give covered firefighter employees an understandable written explanation of rollover rules within a reasonable period before making an eligible rollover distribution.

(Ord. No. 18160, § 1, 7-6-04)

Secs. 18-81--18-84. Reserved.

DIVISION 4.

DEFERRED RETIREMENT OPTION PROGRAM

Sec. 18-85. - Generally.

Subject to the provisions of this division 4, the deferred retirement option program, hereinafter referred to as the DROP, is a program under which a covered employee of the police retirement fund or the firefighter's retirement fund may elect to participate, deferring receipt of

retirement benefits while continuing employment with the city. The deferred monthly benefits shall accrue on behalf of the covered employee, plus interest compounded monthly, for the specified period of the DROP participation, as provided herein. Upon termination of employment, the covered employee shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of the DROP.
(Ord. No. 19636, § 1, 8-20-07)

Sec. 18-86. - Eligibility of covered employee to participate in the DROP.

(a) The following are eligible to participate in the DROP: A covered police employee eligible to receive retirement benefits under section 18-42(a) or 18-94(a), or a covered firefighter employee eligible to receive retirement benefits under section 18-67(a) or 18-107(a).

(b) A covered employee eligible under subsection (a) may voluntarily make an election to participate in the DROP at any time during the period beginning on the effective date of the DROP and ending on the day prior to the sunset date provided for in section 18-91(a).

(Ord. No. 19636, § 1, 8-20-07; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-87. - Participation in the DROP.

(a) A covered employee eligible under section 18-86(a) may elect to participate in the DROP (hereafter referred to as a "DROP member") for a period not to exceed a maximum of the later of: (i) sixty (60) consecutive calendar months immediately following the date on which the employee first reaches his or her normal retirement date as provided under section 18-86(a); or (ii) sixty (60) consecutive calendar months immediately following the date of the DROP election. However, a covered employee who has reached his or her normal retirement date under section 18-86(a) prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed sixty (60) consecutive calendar months immediately following the effective date of the DROP.

(b) Upon deciding to participate in the DROP, the covered employee shall submit, on forms required by the administrator:

- (1) A written voluntary election to participate in the DROP, which includes selection of the DROP participation and termination dates, which satisfy the limitations stated in subsection (a). Such termination date shall be in a binding letter of resignation with the Columbia Police Department or Columbia Fire Department, as applicable, establishing a deferred termination date. The DROP member may change the termination date within the limitations of subsection (a), but only with the written approval of the chief of police or the fire chief, as applicable; and
- (2) Any other information required by the administrator.

(c) Participation in the DROP does not alter the DROP member's employment status and such DROP member shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs.

(d) Contributions required under sections 18-40,18-65, 18-93 and 18-106 shall continue during the period of DROP participation by a DROP member.

(Ord. No. 19636, § 1, 8-20-07; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-88. - Benefits payable under the DROP.

(a) Effective with the date of DROP participation, the DROP member's initial normal monthly benefit, including creditable service, optional form of payment, and highest average salary, and the effective date of retirement shall be fixed. The beneficiary established in sections 18-47, 18-72, 18-96 or 18-109, respectively, shall be the beneficiary eligible to receive any DROP benefits payable if the DROP member dies prior to the completion of the period of DROP participation. In the event a joint annuitant predeceases the DROP member, the DROP member may name a beneficiary to receive accumulated DROP benefits payable. Such retirement benefit, any annual cost of living adjustments and interest shall accrue monthly in the trust fund. Such interest shall accrue at an effective annual rate of four (4) percent for DROP members with an effective DROP date on or before September 1, 2012 and two (2) percent for DROP members with an effective DROP date after September 1, 2012 compounded monthly, on the prior month's accumulated ending balance, up to the month of the termination or date of death.

(b) The effective date of DROP participation of a DROP member shall be the first day of the month selected by the DROP member to begin participation in the DROP, provided such date is properly established, with the written confirmation and the approval of the Administrator, on forms required by the Administrator.

(c) Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the DROP member terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each DROP member's accrued benefits under the DROP shall be calculated and provided periodically to DROP members.

(d) At the conclusion of the member's DROP, the Administrator shall distribute the DROP member's total accumulated DROP benefits, subject to and in accordance with the following provisions:

1. The Administrator shall receive written verification that such DROP member has terminated employment.
2. The terminated DROP member or, if deceased, such DROP member's named beneficiary, shall elect on forms provided by the Administrator to receive payment of the DROP benefits in accordance with one of the options listed below. For a DROP member or beneficiary who fails to elect a method of payment within

sixty (60) days of termination of the DROP, the Administrator will pay a lump sum as provided in subparagraph (a) below.

(a) Lump sum. All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP member or surviving beneficiary.

(b) Direct rollover. All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code.

(c) Partial lump sum. A portion of the accrued DROP benefits, plus interest, shall be paid to the DROP member or surviving beneficiary, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. The proportions shall be specified by the DROP member or surviving beneficiary.

3. The form of payment selected by the DROP member or surviving beneficiary shall comply with the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code.

4. A DROP member who fails to terminate employment at the conclusion of the DROP period shall be deemed not to be retired, and the DROP election shall be null and void. The covered employee shall be eligible to receive, upon termination of employment, his or her normal retirement benefit determined immediately prior to the effective date of the DROP election, including creditable service accumulated after the date of the DROP election, and using the highest average salary as determined immediately prior to the effective date of the DROP election.

(e) The accrued benefits of any DROP member, and any contributions accumulated under the DROP, shall be subject to sections 18-51, 18-76, 18-100 or 18-113, respectively.

(f) DROP members shall be eligible for disability retirement benefits, as provided for in sections 18-43, 18-68, 18-95 or 18-108, respectively, and shall receive the DROP benefits, plus interest, accrued to the date of disability in accordance with the election made under subsection (d)(2).

(g) A DROP member shall not be eligible for refunds as provided for under sections 18-50, 18-75, 18-99 and 18-112.

(Ord. No. 19636, § 1, 8-20-07; Ord. No. 21405, § 1, 8-20-12; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-89. - Death benefits under the drop.

(a) Upon the death of a DROP member, the DROP member's named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP, in accordance with sections 18-47, 18-72, 18-96 or 18-109, respectively.

(b) The normal retirement benefit accrued to the DROP on the day preceding the date of death of the DROP member shall be the final monthly benefit credited for such DROP member.

(c) Eligibility to participate in the DROP terminates on the day preceding the date of death of the DROP member. If the DROP member dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, death benefits shall be paid in accordance with sections 18-47, 18-72, 18-96 or 18-109, respectively.

(Ord. No. 19636, § 1, 8-20-07; Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-90. - Administration of program.

(a) The administrator shall make such rules as are necessary for the effective and efficient administration of this division 4. The administrator shall not be required to advise DROP members of the federal tax consequences of an election related to the DROP, but may advise DROP members to seek independent advice.

(Ord. No. 19636, § 1, 8-20-07)

Sec. 18-91. - Sunset provisions.

(a) No covered employee may elect to participate in the DROP after sixty (60) consecutive months following the effective date of the DROP. Notwithstanding the foregoing, a new DROP member effective on or after August 20, 2012 shall be eligible to participate in the DROP for a sixty (60) consecutive month period beginning on or after August 20, 2012 but not later than August 20, 2017.

(b) A DROP member shall cease participation in the DROP and shall cease accruing any benefits under the DROP at the end of his or her participation period provided for in section 18-87(a).

(c) The effective date of the DROP under this division 4 shall be August 20, 2007. Notwithstanding the foregoing, effective August 20, 2012 a second DROP effective date shall begin August 20, 2012.

(Ord. No. 19636, § 1, 8-20-07; Ord. No. 21405, § 1, 8-20-12)

DIVISION 5.

POLICE OFFICERS HIRED ON OR AFTER OCTOBER 1, 2012

Sec. 18-92. - Definitions and rules of construction.

The definitions and rules of construction in section 18-35 apply to this division except as otherwise provided in this division. The following definitions and rules of construction apply to this division in place of anything to the contrary in this Article II:

Covered police employee. A person hired by the Columbia Police Department as a full-time, regular police officer on or after October 1, 2012. This term shall exclude clerical employees, watchmen, school traffic guards, turnkeys, volunteers and any other employee or associate, regardless of whether they are commissioned as a police officer, when they are not a salaried full-time, regular police officer of the city. This term shall exclude the chief of police.

Highest average salary. The average of the thirty-six (36) consecutive months of covered employment in which such covered police employee's salary was the highest, or, if the employee has less than thirty-six (36) months of service, then the average salary over the employee's entire period of service. For the purposes of calculating the thirty-six (36) months of highest average, no period shorter than twelve (12) months shall be used. "Salary," as used in this definition, includes only compensation included computing the employee's contributions to the police retirement fund.

(Ord. No. 21455, § 1, 9-17-12, eff.10-1-12)

Sec. 18-93. - Contributions to the police retirement fund.

(a) Covered police employees shall be assessed and required to pay into the fund four and five-tenths (4.5) percent of compensation. "Compensation," as used in this subsection, includes salary, wages, overtime pay, amounts contributed to a cafeteria plan under Code Section 125, amounts contributed to a deferred compensation plan under Code Section 457, amounts contributed to this plan on behalf of a covered employee and picked up by the city under Code Section 414(h), sick leave buy back payments, automobile allowance payments, and cash in lieu of vacation paid under section 19-129(b) of the City Code. Compensation does not include payment for unused vacation days or unused floating holidays, workers compensation payments, safety awards, or any other payment or benefit not listed in this subsection.

(b) The contributions of covered police employees shall be deducted from their biweekly compensation and placed in the police retirement fund. Deduction of contributions shall be a term and condition of employment; acceptance and continuance in employment shall be deemed to be the assent of an employee to deductions.

(c) The city shall pick up employee contributions required of covered police employees. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the Code. The city shall pick up these contributions from funds

established and available, which funds would otherwise have been designated as employee contributions and paid to the retirement fund.

Pursuant to Section 414(h) of the Code, these employee contributions so picked up shall not be included in gross income for tax purposes until such time as they are distributed by refund or benefit payment.

(d) The city shall pay into the police retirement fund all amounts that are needed, in addition to the contributions of covered police employees, to make the fund actuarially and financially sound.

(e) The administrator, shall return to the appropriate city fund any city contribution made by mistake.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-94 - Retirement by reason of age or service.

(a) A covered, police employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65) or upon having completed twenty –five (25) years of active service without regard to age. For purposes of this section and eligibility to retire after having completed twenty-five (25) years of active service without regard to age, active service shall include military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended (USERRA), only to the extent any contributions required under section 18-93 are made to the police retirement fund either during the period of qualified military service under USERRA or within five (5) years from the date of reemployment.

(b) A former covered police employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65).

(c) The administrator shall pay to a retiree, retired on account of age or service, retirement benefits determined by subsection (1) below. The plan benefits of subsection (1) below apply to employees hired on or after October 1, 2012.

(1) A retiree retired due to age or service shall receive two (2) percent of highest average salary per year of covered employment up to twenty-five (25) years. For each year of service in covered employment over twenty-five (25), the retiree shall receive an additional one and five-tenths (1.5) percent of highest average salary per year, up to a maximum of fifty-seven and five-tenths (57.5) percent for twenty-five (25) years of service. This benefit shall continue for life. In the first month of each plan year, the retirement benefit shall be increased by six tenths (0.6) percent (i.e. annual compound COLA).

(d) Upon approval of any application for benefits by the administrator, the applicant shall be entitled to receive monthly benefit payments beginning on the last day of the month immediately following the month in which employment ends. A married retiree eligible for survivor benefits under section 18-96(2) shall receive a fifty (50) percent joint and survivor annuity which is the actuarial equivalent of a single life annuity under this section.. The actuarial equivalent shall be based on assumptions for the “applicable interest rate” and “applicable mortality table” as determined under Code Section 417(e).

(e) If, when a covered police employee's employment is terminated, and the reserve value of the employee's retirement benefits is less than five thousand dollars (\$5,000.00), the administrator shall pay the employee the amount of the reserve value in a single lump sum payment. "Reserve value" is the actuarial equivalent of the pension benefits the covered police employee would otherwise be eligible to receive under the police retirement plan. The single lump sum payment shall be made as soon as possible after employment is terminated and shall be in lieu of all other retirement benefits otherwise due the employee under the police retirement plan. The single lump sum payment shall be a complete discharge of all liabilities of the police retirement fund to the employee. This subsection shall not apply to covered police employees who retire on disability.

(f) In accordance with the requirements of Section 401(a)(9) of the Code, distribution of retirement benefits under this section shall begin no later than April 1 of the year in which the retiree either attains age seventy and one-half (70 1/2) or retires, whichever is later. Any distribution options in the police retirement plan inconsistent with the provisions of Section 401(a)(9) of the Code are overridden by the provisions of the Code.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-95. - Disability benefits.

(a) A covered police employee who sustains a duty-related disability or a covered police employee having completed one (1) continuous year or more of covered employment who sustains a nonduty-related disability shall be entitled to the disability benefit set out in this section. The covered police employee shall be entitled to the disability benefit only while the disease or injury renders the employee unfit for the regular duties of the employee's covered employment.

Upon the termination of the disability, payment of the benefit shall cease; provided, however, that no disability shall be deemed to have terminated so long as the covered police employee is unable to return to the employee's former regular duties solely because of the disability or a residual effect thereof. Upon termination of a disability, no right of automatic reemployment exists. Reemployment shall be governed by the provisions of the city's personnel code.

(b) Eligible covered police employees shall be paid from the police retirement fund, from Workers' Compensation benefits, from Social Security benefits or from some combination thereof, the following benefits:

- (1) To a covered police employee, disabled with a duty-related disability, a disability benefit equal to fifty (50) percent of the employee's highest average salary plus ten (10) percent of that salary for each unmarried dependent child under the age of eighteen (18), to an amount not to exceed ninety (90) percent of the employee's highest average salary. Such benefit shall be payable monthly.
- (2) To a covered police employee, disabled with a nonduty-related disability, a disability benefit equal to two and one-half (2.5) percent of the employee's highest average salary per year of covered employment plus an additional one-half (.5) percent of that salary per year for each unmarried dependent child under the age of eighteen (18), up to a maximum of four (4) children. Such benefit shall be payable monthly.
- (3) Duty and nonduty-related disability benefits paid to any covered police employee shall be offset dollar for dollar by the excess of income received by the retiree over ninety (90) percent of the employee's highest average salary. For purposes of this section, income shall be defined as the combination of disability retirement benefits provided herein, social security, workers' compensation benefits, other long-term disability benefits, and compensation for other employment. After a retiree accumulates twenty-five (25) years of combined service in covered employment and time receiving disability benefits or age sixty-five (65), the income offset shall cease.
- (4) In the event of a lump sum Workers' Compensation settlement, the amount of the monthly income to be used as income offset in the disability retirement benefit shall be determined by converting the lump sum Workers' Compensation amount to a single life monthly annuity of equivalent value for the benefit recipient, using the mortality table and interest rate used in the most recent actuarial valuation of the fund. For purposes of this section, future medical awards shall not be considered a part of Workers' Compensation benefits or entitlements. In addition, the monthly disability benefit shall be reduced by the amount of the single life monthly annuity as determined herein.
- (5) For purposes of calculating the income offset for disability retirement benefits, the final average salary shall be adjusted on the anniversary date of the retiree's becoming eligible for disability retirement benefits by the percentage change in the consumer price index for this region of the country from January 1 of the previous year to January 1 of the current year.
- (6) An employee who receives disability benefits for a duty-related disability shall receive credit for covered employment for each year of duty-related

disability retirement up to a maximum, when combined with years of actual covered employment, of twenty-five (25) years. At that point disability retirement benefits shall cease and the retiree shall receive retirement benefits based on years of service.

- (7) Any person who is receiving nonduty-related disability benefits may, upon reaching age sixty-five (65) years, elect to receive, in lieu thereof, retirement benefits based on age.

(c) After the approval of any disability benefit, the administrator shall from time to time, review the disability of the retiree to determine whether or not the disability continues to exist. Reexamination shall take place at least once each year unless the board shall determine otherwise. The administrator may require any retiree receiving a disability benefit to undergo a medical examination to review the status of the disability. The administrator may request the retiree to undergo an examination with a doctor of the retiree's choosing and at the retiree's expense or may require a medical examination with a doctor of the administrator's choosing at the expense of the police retirement fund.

- (1) Any retiree refusing to submit to a medical examination after ten (10) days' written notice from the administrator shall waive and forfeit all rights to benefits from the date of the notice until such time as the retiree submits to the required examination. If such refusal continues for one (1) calendar year from the date of notice, all rights to any benefits shall immediately cease and the retiree's benefits schedule shall escheat to the police retirement fund.
- (2) If the reexamination shows that the disability no longer exists, the right to benefits for disability shall immediately cease. A hearing on the continuance of the disability may be had before the administrator upon the retiree's written request within ten (10) days of the administrator's notification.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-96. - Death benefits.

Upon the death of a covered police employee or retiree, there shall be paid to the surviving spouse and unmarried minor children a benefit from the police retirement fund, from Workers' Compensation and from Social Security, or from some combination thereof, as below described:

- (1) There shall be paid to the surviving spouse of a covered police employee a monthly benefit equal to one-half (1/2) of the retirement benefit to which the deceased employee would have been entitled had the employee met the age or service requirement on the date of the employee's death. The benefit paid to the surviving spouse shall not be reduced by any Social Security entitlement;

provided, however, that the benefit paid from the police retirement fund when added to the Social Security entitlement shall not exceed ninety (90) percent of the salary which the covered police employee was receiving immediately prior to death.

- (2) There shall be paid to the surviving spouse of a retiree a monthly benefit equal to one-half (1/2) of the retirement benefit to which the deceased retiree was receiving immediately prior to death. The benefit paid to the surviving spouse shall not be reduced by any Social Security entitlement; provided, however, that the benefit paid from the police retirement benefit when added to the Social Security entitlement shall not exceed ninety (90) percent of the salary which the deceased retiree was receiving immediately prior to retirement. The surviving spouse benefit under this subsection shall be the actuarial equivalent of the fifty (50) percent joint and survivor annuity under section 18-94. The actuarial equivalent shall be based on assumptions for the “applicable interest rate” and “applicable mortality table” as determined under Code Section 417(e).
- (3) If there is no surviving spouse eligible to receive benefits under the provisions of this subsection, the surviving unmarried children under the age of eighteen (18) shall divide equally the benefit to which a surviving spouse would have been entitled. The death benefit shall be payable upon the last day of the month immediately following the month in which the death occurred.
- (4) Upon remarriage of the surviving spouse of a covered police employee or retiree, benefits allowed under this section shall cease if the surviving spouse was not married to and living with the covered police employee or retiree for a period of at least two (2) years prior to the death of the covered police employee or retiree.
 - a. If the surviving spouse is over forty (40) years of age at the time of remarriage, benefits provided under this section shall continue for the life of the surviving spouse.
 - b. If the surviving spouse is under forty (40) years of age upon remarriage, then benefits to which the spouse is entitled shall continue for a period of ten (10) years after the remarriage.
- (5) When a covered police employee or a retiree dies without a surviving spouse or other survivor entitled to benefits under this section, there shall be paid a funeral benefit of one thousand dollars (\$1,000.00). The funeral benefit shall be paid to the personal representative of the estate of the deceased employee, or if no personal representative has been appointed within forty-five (45) days of death, then to the person who actually paid the funeral and burial expense with respect to such deceased person, upon proof of such payments, or, if proof of such payment has not been made within sixty (60) days after such death, then to the mortuary that actually incurred the expense of the funeral and burial of such deceased person.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-97. - Workers' compensation entitlements.

Benefits provided under the police retirement plan shall be reduced by the amount of any Workers' Compensation entitlement in the manner set forth by these sections. Nothing herein shall be interpreted or administered to work a reduction of the total of the benefits paid and the entitlements due a covered employee below the benefit which would otherwise be payable under this division had the entitlements not been considered.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-98. - Applications for benefits.

(a) Applications for benefits to be paid from the retirement fund must be made upon the forms provided by the administrator and contain full information from which the board may determine the eligibility of the applicant. If such application be founded upon disability, full information concerning the nature and extent of the injury must be furnished with the application, and the applicant must likewise submit to examination by a physician designated by the administrator. The administrator may hold hearings and take and preserve evidence touching the nature and extent of injuries upon which claims for benefits on account of disability are claimed, and may thereafter approve or deny such application.

(b) No more than one (1) monthly payment shall be made at any one (1) time; no payment shall be made more than ten (10) days in advance of the period to which it applies. This provision shall not prevent the lump sum settlement of past liability for benefits.

(c) Any claimant denied benefits by a decision of the administrator or any claimant or covered police employee or retiree otherwise aggrieved by any decision of the administrator may appeal such decision to the police retirement board. Such appeal must be in writing and filed within ten (10) days of the date of the administrator's decision. The board shall hold a hearing, take evidence and render a written decision including findings of fact and conclusions of law. Such decision shall be appealable by any person aggrieved by any decision of the police retirement board or by the administrator under the provisions of the Missouri Administrative Procedure Act.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-99. - Refunds.

(a) When the covered employment of a covered police employee ends, the employee shall have the right to withdraw in a lump sum from the fund, contributions which the employee made. The lump sum withdrawal shall include interest on the contribution at the annual investment rate of return of the fund as determined by the annual actuarial report for each year in which contributions were made by the covered employee, compounded annually from the last

day of the calendar year in which such covered employee contributions are made to the date of withdrawal. Withdrawal of contributions by a covered police employee under this ordinance shall terminate all rights to benefits unless reinstated as herein provided.

(b) A covered police employee who has withdrawn the contributions made by the employee with interest under provisions of subsection (a) hereof or received a lump-sum distribution under section 18-94(e) may, in the event of reemployment as a covered employee, reinstate benefits thereby forfeited within twelve (12) months from the date of reemployment by repaying to the fund the contributions and interest withdrawn from the fund or the lump-sum distribution, plus interest on the sum in the amount of the annual investment rate of return of the fund as determined by the annual actuarial report for each year that the contribution remained withdrawn from the fund, compounded annually from the date the sum was withdrawn or lump-sum distribution was made to the date of repayment. The time which a covered police employee is absent from covered employment shall not be deemed to be reinstated by the repayment of prior contributions.

(c) If the covered employment of a covered police employee is terminated by the employee's death and the employee is not entitled to plan benefits other than the funeral benefit authorized by section 18-96(5), the contributions of the employee to this plan and any amounts contributed to this plan and picked up by the city under Code Section 414(h) for the deceased employee shall be refunded or distributed, upon request, to the estate of the deceased employee. Interest on the contributions or distributions so refunded shall be calculated as above.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-100. - Benefits not assignable or subject to execution.

The benefits payable from the police retirement fund shall not be assignable or subject to counter-claim, recoupment or set off. Except for qualified domestic relations orders, benefits payable from the police retirement fund shall not be subject to assessment, garnishment, execution, injunction, or any other decree, order, process, or proceeding in any court for the payment of any debt of any beneficiary, and the sum shall be held and distributed solely for the purpose of this article. This provision shall not prevent the police retirement board from pursuing a retiree or other beneficiary of the police retirement plan for recovery of benefits erroneously paid or to recover benefits paid due to fraud, duress or the concealment of any material fact necessary to properly process a claim for benefits.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-101. - Miscalculation of benefits, payment of interest on underpayment or overpayment.

Whenever a miscalculation of benefits due a retiree or beneficiary which results in an underpayment is discovered, interest on the underpayment shall be paid to the retiree or beneficiary at a rate equal to the annual investment rate of return on the police retirement fund as determined by the annual actuarial statement for each year of the underpayment. Whenever an

overpayment is discovered, the retiree or beneficiary shall repay the amount erroneously paid in excess of the benefit due him plus interest for the time of overpayment equal to the annual investment rate of return on the fund as determined by the annual actuarial statement for each year of overpayment. If the amount of overpayment and interest thereon is greater than one (1) monthly benefit payment, repayment shall be made to the fund in the same manner as provided for reimbursement by the retiree of lump sum worker's compensation benefits in section 18-97 of this article.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-102. - Forfeitures.

Forfeitures shall not be applied to increase the benefits any employee would otherwise receive under the police retirement plan.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-103. - Compensation limits.

The annual compensation of each covered police employee taken into account under the police retirement plan shall not exceed the compensation limits of Section 401(a)(17) of the Code, as adjusted for inflation.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-104. - Direct transfer of eligible rollover distributions; rollover notice.

(a) To the extent required by Section 401(a)(31) of the Code, if the distributee of any eligible rollover distribution elects to have the distribution paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee to trustee transfer to the specified eligible retirement plan.

(b) The plan administrator shall give covered police employees an understandable written explanation of rollover rules within a reasonable period before making an eligible rollover distribution.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

DIVISION 6.

FIREFIGHTERS HIRED ON OR AFTER OCTOBER 1, 2012

Sec. 18-105. - Definitions and rules of construction.

The definitions and rules of construction in section 18-60 apply to this division except as otherwise provided in this division. The following definitions and rules of construction apply to this division in place of anything to the contrary in this article II:

Covered firefighter employee. A person hired by the Columbia Fire Department as a full-time, regular firefighter on or after October 1, 2012. This term shall exclude clerical employees, volunteers and any other employee or associate, regardless of whether they are commissioned as a firefighter, when they are not a salaried full-time, regular firefighter of the city.

Duty-related disability or death. A disability or death which results from a disease contracted or an injury sustained by a covered employee while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place. Duty-related disability or death shall include a disability or death which results from a disease contracted or an injury sustained by an off-duty covered employee acting under color of the employee's commission. A disability or death resulting from a disease contracted or an injury sustained by an off-duty covered employee while in paid employment of another entity shall only be considered a duty-related disability or death if the covered employee was acting under color of the employee's commission within the limits of the City of Columbia at the time the disability was sustained.

Highest average salary. The average of the thirty-six (36) consecutive months in the last one hundred and twenty (120) consecutive months of covered employment in which such covered firefighter employee's salary was the highest, or, if the employee has less than thirty-six (36) months of service, then the average salary over the employee's entire period of service. For the purposes of calculating the thirty-six (36) months of highest average salary, no period shorter than twelve (12) months shall be used. "Salary," as used in this definition, includes only compensation included in computing the employee's contributions to the firefighters' retirement fund.

Nonduty-related disability or death. A disability or death other than a duty-related disability or death.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-106. - Contributions to the firefighters' retirement fund.

(a) The contribution of each covered firefighter employee shall be four (4) percent of the employee's compensation. "Compensation," as used in this subsection, includes salary, wages, overtime pay, amounts contributed to a cafeteria plan under Code Section 125, amounts contributed to a deferred compensation plan under Code Section 457, and any amounts

contributed to this plan on behalf of a covered employee and picked up by the city under Code Section 414(h), sick leave buy back payments, automobile allowance payments, and cash in lieu of vacation payments under section 19-129(b). Compensation does not include payment for unused vacation days or unused floating holidays, workers compensation payments, safety awards, or any other payment or benefit not listed in this subsection.

(b) The contributions of covered firefighter employees shall be deducted from their biweekly compensation and placed in the firefighters' retirement fund. Deduction of contributions shall be a term and condition of employment; acceptance and continuance in employment shall be deemed to be the assent of an employee to deductions.

(c) The city shall pick up employee contributions required of covered firefighter employees. The contributions so picked-up shall be treated as employer contributions in determining tax treatment under the code. The city shall pick up the contributions from funds established and available, which funds would otherwise have been designated as employee contributions and paid to the retirement fund.

Pursuant to Section 414(h) of the Code, these employee contributions so picked up shall not be included in gross income for tax purposes until such time as they are distributed by refund or benefit payment.

(d) The city shall pay into the firefighters' retirement fund all amounts that are needed, in addition to the contributions of covered firefighter employees, to make the fund actuarially and financially sound.

(e) The administrator, shall return to the appropriate city fund any city contribution made by mistake.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-107. - Retirement by reason of age or service.

(a) A covered firefighter employee shall be eligible to receive retirement benefits: (i) upon reaching the age of fifty-five (55) and upon having completed at least one (1) year of active service; or (ii) upon having combined age and active service equal to eighty (80). For purposes of this section, active service shall include military leave which qualifies under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.) as now enacted, or hereafter amended (USERRA), only to the extent any contributions required under section 18-106 are made to the firefighters' retirement fund either during the period of qualified military service under USERRA or within five (5) years from the date of reemployment.

(b) A former covered firefighter employee shall be eligible to receive retirement benefits upon reaching the age of sixty-five (65).

(c) The administrator shall pay to a retiree, retired on account of age or service, the following retirement benefits:

- (1) A retirement benefit equal to two and five-tenths (2.5) percent of the retiree's highest average salary multiplied by the number of years of active service.
- (2) If a retiree is age fifty (50) and not yet age fifty-five (55) at the date of retirement, the retirement benefit payable under section 18-107(c)(1) will be reduced by five-tenths (0.5) of a percent for each month that the retirement date precedes age fifty-five (55).

(d) Upon approval of any application for benefits by the administrator, the applicant shall be entitled to receive monthly benefit payments beginning on the last day of the month immediately following the month which employment ends. A married retiree eligible for survivor benefits under section 18-109(c) shall receive a fifty (50) percent, sixty-six and two-thirds ($66 \frac{2}{3}$) percent, seventy-five (75) percent or one hundred (100) percent joint and survivor annuity based on his or her election which is the actuarial equivalent of a single life annuity under this section 18-107. The actuarial equivalent shall be based on assumptions for the "applicable interest rate" and "applicable mortality table" as determined under Code Section 417(e).

(e) If, when a covered firefighter's employment is terminated, and the reserve value of the employee's retirement benefits is less than five thousand dollars (\$5,000.00), the administrator shall pay the employee the amount of the reserve value in a single lump sum payment. "Reserve value" is the actuarial equivalent of the pension benefits the covered firefighter employee would otherwise be eligible to receive under the firefighters' retirement plan. The single lump sum payment shall be made as soon as possible after employment is terminated and shall be in lieu of all other retirement benefits otherwise due the employee under the firefighters' retirement plan. The single lump sum payment shall be a complete discharge of all liabilities of the firefighters' retirement fund to the employee. This subsection shall not apply to covered firefighter employees who retire on disability.

(f) In accordance with the requirements of Section 401(a)(9) of the Code, distributions of retirement benefits under this section shall begin no later than April 1 of the year in which the retiree either attains the age of seventy and one-half or retires, whichever is later. Any distribution options in the firefighters' retirement plan inconsistent with the provisions of Section 401(a)(9) of the Code are overridden by the provisions of the Code.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12; Ord. No. 22235, § 1, 9-15-14)

Sec. 18-108. - Disability benefits.

(a) A covered firefighter employee who contracts a disease or sustains accidental injuries resulting in disability while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place, or a covered firefighter employee having completed one (1) continuous year or more of covered employment who contracts a disease or sustains accidental injuries resulting in disability at any time, shall be entitled to the disability benefit set out in this section. The covered firefighter employee shall be

entitled to the disability benefit only while the disease or injury renders the employee unfit for the regular duties of the employee's covered employment.

Upon the termination of the disability, payment of the benefit shall cease; provided, however, that no disability shall be deemed to have terminated so long as the covered firefighter employee is unable to return to the employee's former regular duties as a firefighter solely because of the disability or a residual effect thereof. Upon termination of a disability, no right of automatic reemployment exists. Reemployment shall be governed by the provisions of the city's personnel code. If a formerly disabled employee ceases to be disabled and is again available for employment with the city, the board or the administrator shall immediately notify the city human resources department of that availability. With the permission of the employee, medical records of the board shall be forwarded which document that availability.

(b) A covered firefighter employee shall be paid from the firefighters' retirement fund the following benefits:

- (1) To a covered firefighter employee, disabled with a duty-related disability, a disability benefit equal to two and five-tenths (2.5) percent of the employee's highest average salary multiplied by the number of years of active service counted as if the employee had worked to age sixty (60). Such benefit shall be payable monthly.
- (2) To a covered firefighter employee, disabled with a nonduty-related disability, a disability benefit equal to two and five-tenths (2.5) percent of the employee's highest average salary multiplied by the number of years of active service at the time of disability retirement. Such benefit shall be payable monthly.

(c) When a person receiving the disability benefit is eligible for the retirement benefit due to age or service, the person shall receive the greater of (i) the disability benefit being received, or (ii) the age or service benefit. Eligibility for retirement due to service shall be based on years of active service plus years of service accrued while on disability retirement. The age or service benefit shall be based on salary at the time of termination of employment and years of active service plus years of service accrued while on disability retirement.

(d) After the approval of any disability benefit, the administrator shall, from time to time review the disability of a retiree to determine whether or not the disability continues to exist. Reexamination shall take place at least once each year unless the board shall determine otherwise. The administrator may require any retiree receiving a disability benefit to undergo a medical examination to review the status of the disability. The administrator may request the retiree to undergo an examination with a doctor of the retiree's choosing and at the retiree's expense or may require a medical examination with a doctor of the administrator's choosing at the expense of the firefighters' retirement fund.

- (1) Any retiree refusing to submit to a medical examination after ten (10) days' written notice from the administrator shall waive and forfeit all

rights to benefits from the date of the notice until such time as the retiree submits to the required examination. If such refusal continues for one (1) calendar year from the date of notice, all rights to any benefits shall immediately cease and the retiree's benefits shall escheat to the firefighters' retirement fund.

- (2) If the reexamination shows that the disability no longer exists, the right to benefits for disability shall immediately cease. A hearing on the continuance of the disability may be had before the administrator upon the retiree's written request made within ten (10) days of the administrator's notification.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-109. - Death benefits.

(a) Subject to the provisions of subsection (b), upon the death of a covered firefighter employee or retiree, there shall be paid to the surviving spouse a benefit from the firefighters' retirement fund, as below described:

- (1) There shall be paid to the surviving spouse of a covered firefighter employee a monthly benefit equal to one hundred (100) percent of the retirement benefit to which the deceased employee would have been entitled had the employee met the age or service requirement on the date of the employee's death. The surviving spouse benefit under this section shall be the actuarial equivalent of the one hundred (100) percent joint and survivor annuity under section 18-107. The actuarial equivalent shall be based on assumptions for the "applicable interest rate" and "applicable mortality table" as determined under Code Section 417(e). The death benefit shall be payable upon the last day of the month immediately following the month in which the death occurred.
- (2) There shall be paid to the non-spouse beneficiary of a covered firefighter employee who has a duty-related death, a monthly benefit equal to one hundred (100) percent of the retirement benefit to which the deceased employee would have been entitled had the employee worked to age sixty (60) with at least five (5) years of service on the date of the employee's death. The death benefit shall be payable upon the last day of the month immediately following the month in which the death occurred.
- (3) There shall be paid to the non-spouse beneficiary of a covered firefighter employee who has a nonduty-related death, a monthly benefit equal to one hundred (100) percent of the retirement benefit to which the deceased employee would have been entitled had the employee met the age or service requirement on the date of the employee's death. The death benefit

shall be payable upon the last day of the month immediately following the month in which the death occurred.

(b) The surviving spouse of a covered firefighter employee who dies before completing one (1) continuous year of covered employment shall be entitled to death benefits only if the employee died as a result of contracting a disease or a sustaining accidental injuries while in the actual discharge and performance of the duties of the employee's covered employment at some definite time and place.

(c) Upon the death of a retiree, there shall be paid to the surviving spouse a monthly benefit equal to fifty (50) percent, sixty-six and two-thirds (66 2/3) percent, seventy-five (75) percent or one hundred (100) percent of the deceased retiree's retirement benefit at the time of the retiree's death as previously elected under section 18-107(d) of this chapter.

(d) Upon remarriage of the surviving spouse of a covered firefighter employee or retiree, benefits allowed under this section shall cease if the surviving spouse was not married to and living with the covered firefighter employee or retiree for a period of at least two (2) years prior to the death of the covered firefighter employee or retiree.

- (1) If the surviving spouse is over forty (40) years of age at the time of remarriage, benefits provided under this section shall continue for the life of the surviving spouse.
- (2) If the surviving spouse is under forty (40) years of age upon remarriage, then benefits to which the spouse is entitled shall continue for a period of ten (10) years after the remarriage.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12; Ord. No. 22235, § 1, 9-15-14)

Sec. 18-110. - Workers' compensation entitlement.

Benefits provided under the firefighters' retirement plan shall not be reduced by the amount of any Workers' Compensation entitlement in the manner set forth by these sections.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-111. - Applications for benefits.

(a) Applications for benefits to be paid from the retirement fund must be made upon the forms provided by the administrator and contain full information from which the board may determine the eligibility of the applicant. If such application be founded upon disability, full information concerning the nature and extent of the injury must be furnished with the application, and the applicant must likewise submit to examination by a physician designated by the administrator. The administrator may hold hearings and take and preserve evidence touching the nature and extent of injuries upon which claims for benefits on account of disability are claimed, and may thereafter approve or deny such application.

(b) No more than one (1) monthly payment shall be made at any time; no payment shall be made more than ten (10) days in advance of the period to which it applies. This provision shall not prevent the lump sum settlement of past liability for benefits.

(c) Any claimant denied benefits by a decision of the administrator or any claimant or covered firefighter employee otherwise aggrieved by any decision of the administrator may appeal such decision to the firefighters' retirement board. Such appeal must be in writing and filed within ten (10) days of the date of the administrator's decision. The board shall hold a hearing, take evidence and render a written decision including findings of fact and conclusions of law. Such decision shall be appealable by any person aggrieved by any decision of the firefighters' retirement board or by the administrator under the provisions of the Missouri Administrative Procedure Act.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-112. - Refunds.

(a) When the covered employment of a covered firefighter employee ends, the employee shall, have the right to withdraw in a lump sum from the fund contributions which the employee made. The lump sum withdrawal shall include interest on the contribution at the annual investment rate of return of the fund as determined by the annual actuarial report for each year in which contributions were made by the covered employee, compounded annually from the last day of the calendar year in which such covered employee contributions are made to the date of withdrawal. Withdrawal of contributions by a covered firefighter employee under this division shall terminate all rights to benefits unless reinstated as herein provided.

(b) A covered firefighter employee who has withdrawn the contributions made by the employee with interest under the provisions of subsection (a) or received a lump-sum distribution under section 18-107(e) may, in the event of reemployment as a covered employee, reinstate benefits thereby forfeited within twelve (12) months from the date of reemployment by repaying to the fund the contributions and interest withdrawn from the fund or the lump-sum distribution, plus interest on the sum in the amount of the annual investment rate of return of the fund as determined by the annual actuarial report for each year that the contribution remained withdrawn from the fund, compounded annually from the date the sum was withdrawn or lump-sum distribution was made to the date of repayment. The time which a covered firefighter is absent from covered employment shall not be deemed to be reinstated by the repayment of prior contributions.

(c) If the covered employment of a covered firefighter employee is terminated by the employee's death and the employee is not entitled to plan benefits as provided in section 18-109(b), the contributions of the employee to this plan and any amounts contributed to this plan and picked up by the city under Code Section 414(h) for the deceased employee shall be refunded or distributed, upon request, to the estate of the deceased employee. Interest on the contributions or distributions so refunded shall be calculated as above.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-113. - Benefits not assignable or subject to execution.

The benefits payable from the firefighters' retirement fund shall not be assignable or subject to counter-claim, recoupment or set off. Except for qualified domestic relations orders, benefits payable from the firefighters' retirement fund shall not be subject to assessment, garnishment, execution, injunction, or any other decree, order, process or proceeding in any court for the payment of any debt of any beneficiary, and the sum shall be held and distributed solely for the purpose of this division. This provision shall not prevent the fire retirement board from pursuing a retiree or other beneficiary of the firefighters' retirement plan for recovery of benefits erroneously paid or to recover benefits paid due to fraud, duress or the concealment of any material fact necessary to properly process a claim for benefits.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-114. - Miscalculation of benefits, payment of interest on under or overpayment.

Whenever a miscalculation of benefits due a retiree or beneficiary which results in an underpayment is discovered, interest on the underpayment shall be paid to the retiree or beneficiary at a rate equal to the annual investment rate of return on the firefighters' retirement fund as determined by the annual actuarial statement for each year of the underpayment. Whenever an overpayment is discovered, the retiree or beneficiary shall repay the amount erroneously paid in excess of the benefit due him plus interest for the time of overpayment equal to the annual investment rate of return on the fund as determined by the annual actuarial statement for each year of overpayment. If the amount of overpayment and interest thereon is greater than one (1) monthly benefit payment, repayment shall be made to the fund by deduction from the monthly retirement benefit a single life monthly annuity which has been determined from the value of the amount of overpayment and interest thereon using the mortality tables and accepted actuarial standards.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-115. - Forfeitures.

Forfeitures shall not be applied to increase the benefits any employee would otherwise receive under the firefighters' retirement plan.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-116. - Compensation limits.

The annual compensation of each covered firefighter employee taken into account under the firefighters' retirement plan shall not exceed the compensation limits of Section 401(a)(17) of the Code, as adjusted for inflation.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

Sec. 18-117. - Direct transfer of eligible rollover distributions; rollover notice.

(a) To the extent required by Section 401(a)(31) of the Code, if the distributee of any eligible rollover distribution elects to have the distribution paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee to trustee transfer to the specified eligible retirement plan.

(b) The plan administrator shall give covered firefighter employees an understandable written explanation of rollover rules within a reasonable period before making an eligible rollover distribution.

(Ord. No. 21455, § 1, 9-17-12, eff. 10-1-12)

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