MILWAUKEE
CITY CHARTER

Published by Authority of the
COMMON COUNCIL

Edited by Legislative Reference Bureau
Office of the City Clerk

CITY OFFICIALS

2016 to 2020

Mayor
Tom Barrett

Council President
Ashanti Hamilton

The Common Council
(By Aldermanic District)

1. Ashanti Hamilton
2. Cavalier Johnson
3. Nik Kovac
4. Robert J. Bauman
5. James A. Bohl, Jr.
6. Milele A. Coggs
7. Khalif Rainey
8. Robert G. Donovan
9. Chantia Lewis
10. Michael Murphy
11. Mark A. Borkowski
12. Jose G. Perez
13. Terry L. Witkowski
14. Tony Zielinski
15. Russell W. Stamper, II

City Clerk: Jim Owczarski
Deputy: Richard G. Pfaff

City Attorney
Grant F. Langley

City Comptroller
Martin Matson

City Treasurer
Spencer Coggs

Municipal Judges

Branch 1
Valarie Hill

Branch 2
Derek Mosley

Branch 3
Phil Chavez

FORWARD

The Milwaukee City Charter is a compilation of laws affecting the City of Milwaukee adopted by the Wisconsin Legislature and the Milwaukee Common Council. It contains the original 1874 charter and all amendments to it subsequently adopted. It also contains session laws adopted by the Legislature which affect the city but are not printed in the Wisconsin Statutes.

In 1984, the Charter was printed in its current format of an updatable looseleaf. A number of session laws contained in the previous (1977) edition of the Charter were removed because of actions by the State Legislative either repealing them or incorporating them into the printed Wisconsin Statutes. A list of those removed and where they are located in the statutes is contained in Appendix I.

As changes are made to this Charter by the Common Council, replacement pages will be issued, along with specific instructions regarding pages to be removed or inserted.

Keith Broadnax, Manager
Legislative Reference Bureau
April, 2016

The numbering system for the Milwaukee City Charter and Code of Ordinances is patterned on that used for the Wisconsin Statutes (except for the use of dashes in place of parentheses) and is as follows:

Chapter		Section		Subsection		Paragraph		Subdivision		Subparagraph
70	-	10	-	3	-	a	-	4	-	b

If there are questions regarding the numbering system, or the correct method of citation, please contact the Legislative Reference Bureau.

MILWAUKEE CITY CHARTER
TABLE OF CONTENTS

Chapter	Title	Page
1	City Boundaries and Property	1
2	City Officers	3
3	Duties and Authority of City Officers	5
4	Common Council	15
5	City Employes and Officers	25
6	Emergency Management and Homeland Security	31
7	Commissioner of Public Works	39
8	Commissioner of Building Inspection and City Engineer	49
10	Public Lands	53
11	Improvements and Special Assessments	57
12	Sewerage Commission; Sewers and Laterals	73
13	Harbor and Bridges	79
14	Water Works	83
15	Public Debt	91
16	Purchasing	95
17	Commissioner of Health	101
18	Budget and Tax Levy	109
19	Taxation and Assessment	117
20	Miscellaneous Provisions	125
22	Police and Fire Departments	135
34	Firemen's Annuity and Benefit Fund	141
35	Policemen's Annuity and Benefit Fund	183
36	Employe's Retirement System	301

Appendix I Session Laws Removed From Charter 447
Appendix II Statutes Made Applicable 448
Appendix III Statutes Made Inapplicable 449
Appendix IV Session Laws Formerly Applicable 450
Appendix V Statutes In 1984 Edition 453
Appendix VI Session Laws in 1984 Edition 454
Appendix VII Text of Session Laws Applicable To Milwaukee 458

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through September 20, 2016.

Revised 9/20/2016
Suppl. #181

CHAPTER 1
CITY BOUNDARIES AND PROPERTY

TABLE

1-01	Incorporation of city
1-02	Boundaries
1-03	Alteration of common council districts
1-04	Election of common council members
1-05	Redistricting
1-06	Attendance at meetings; election in annexed areas.
1-07	Effects of revision on general charter law
1-08	Exemption from levy and sale
1-09	City property

1-01. Incorporation of City. 1. A MUNICIPAL CORPORATION. All the district of country in the county of Milwaukee contained within the limits and boundaries hereinafter described, shall be a city by the name of Milwaukee; and the people now inhabiting, and those who shall hereinafter inhabit, within the district of country so described, shall be a municipal corporation by the name of the city of Milwaukee, and shall have the general powers possessed by municipal corporations at common law; and, in addition thereto, shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

2. BOUNDARY LINES. (S. 1, subch. 1, ch. 184, L. 1874.) Current total boundary lines of the city are of public record with the secretary of state and the register of deeds of Milwaukee county.

1-02. Boundaries. All cities whether organized under a general or special charter are hereby continued as bodies corporate by the name and style which they now bear, until the same is duly changed. The district or territory now embraced within the limits and boundaries of such cities, as now described, shall continue to be the boundaries of such cities until changed by law. Any city may direct a survey of its present boundaries to be made, and when properly attested such survey may be filed in the office of the register of deeds in the county or counties which such city is located and when so filed such survey and plat shall be the prima facie evidence of the facts therein set forth, and after the lapse of one year such a survey and plat shall be conclusive evidence of such facts. Any citizen may, by appropriate legal procedure, test the correctness of said survey and plat. The time such action is pending shall be excluded from the above limitation of time. Subsequent extensions of the boundaries of such cities may be surveyed and such surveys filed in the manner above provided and may be tested in the same manner and with like effect as a survey and plat of the original boundaries. *(S. 925-21b Stats., 1907.)*

1-03. Alteration of Common Council Districts. The city of Milwaukee elects to adopt s. 62.08, Wis. Stats., with respect to alteration of common council districts.

(HISTORY: Section 1-03 am. Ch. Ord. 199, File #54-416-a, June 1, 1954; formerly s. 1-06.

1-03 rc. Ch. Ord. 420, File #75-65, May 27, 1975.

1-03-1 & 4 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.

1-03 rc. File #901267, Mar. 5, 1991; eff. May 21, 1991.)

1-04. Election of Common Council Members.

1. The common council of the city of Milwaukee shall consist of one alderman elected from each ward, as the wards of said city may from time to time be constituted. Effective April 19, 1988, a male member of the common council shall be designated an "alderman" and a female member of the common council shall be designated an "alderwoman."

2. Each alderman shall be elected for a term of 4 years at the regular city election in 1932 and every 4 years thereafter.

3. In event of the passage of any ordinance redistricting, readjusting, renumbering or changing the boundaries of wards, aldermen shall be elected from the wards so constituted at the regular quadrennial city election next following the time when such ordinance shall have taken effect. Nor in event of such redistricting, readjusting, renumbering or changing shall this charter ordinance be construed to shorten the term of any alderman theretofore elected or to prohibit any such alderman from continuing to be a member of the common council until the term for which he was elected expires.

(HISTORY: Section 1-04 cr. Ch. Ord. 38, File #45337, Oct. 6, 1930.

1-04-1 am. Ch. Ord. 562, File #85-132-a, Oct. 14, 1986; eff. Dec. 29, 1986.)

1-05. Redistricting. 1. During the period between the effective date of any ordinance redistricting the wards of the city of Milwaukee and the time when aldermen shall have been elected and qualified for the wards provided for by such ordinance, the old ward lines shall be considered continued in effect for the purpose of determining who is a local alderman or a ward alderman within the meaning of any charter or other law or provision requiring or providing for the signature or approval or any other action on the part of a local or ward alderman, it being the intention hereof that during such period the rights, duties and obligation of the existing aldermen shall not be affected or changed by such ordinance, but that such aldermen shall continue to have and exercise the same rights, duties and obligations with respect to the wards for which they were respectively elected as though such redistricting had not become effective.

2. Except as above provided, however, nothing herein contained shall be considered to limit the effect of any such ward redistricting ordinance.

(HISTORY: Section 1-05 cr. Ch. Ord. 39, File #46016, Jan. 26, 1931.)

1-06. Attendance at Meetings; Election in Annexed Areas. 1. ATTENDANCE AT MEETINGS. Aldermen shall receive an annual salary which shall be paid as are the salaries of other city officers. For nonattendance at a regularly called standing committee meeting or of a special council committee meeting, a fine of $2.50 shall be imposed upon any absent member. For nonattendance at a regular council meeting a fine of $5 will be imposed. The council may remit such fine upon the presentation of satisfactory excuses. Fines shall be deducted from such salaries.

2. ELECTION IN ANNEXED AREAS. Whenever any area is consolidated with or annexed to the city of Milwaukee and the common council has determined that the area is large enough to warrant having an alderman, an election to fill the office shall be held in accordance with the provisions of state statutes.

(HISTORY: Section 1-06 am. Ch. Ord. 528, File #83-1483, Jan. 4, 1984.)

1-07. Effect of Revision on General Charter Law. The revision of the general charter law by this act shall not affect the application of any provisions of the general charter heretofore adopted by any city of the first class under special charter, but such provisions shall as to such cities retain the same force and application as they had before the enactment of this act. *(S. 315, Ch. 242, L. 1921.)*

1-08. Exemption from Levy and Sale. All property, real and personal, now or at any time hereafter belonging to said city, shall be exempt from levy and sale under or by virtue of any execution; provided, that any such property, real or personal, shall be subject to levy and sale by virtue of any execution issued on a judgment for the purchase money thereof. Nor shall any real or personal property of any inhabitant of said city, or of any individual or corporation, be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city. *(S. 9, Subch. 20, Ch. 184, L. 1874; S. 22, Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)*

1-09. City Property. All property, real, personal, or mixed belonging to the city of Milwaukee is hereby vested in the corporation created by this act (Ch. 184, L. 1874). This act shall take effect and be in force from and after its passage and publication. *(S. 10, Subch. 20, Ch. 184, L. 1874; S. 21, Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)*

CHAPTER 2
CITY OFFICERS

TABLE

2-01	Officers of City
2-02	Spring Primaries
2-03	Election and Term
2-04	Appointed Officers
2-05	Appointees Hold Over

2-01. Officers of City. The officers of said city shall be a mayor, one alderman from each ward, constituting a common council, a city treasurer, a city comptroller, a city attorney, a city clerk, commissioner of public works, a city engineer, a commissioner of assessments, district assessors, a board of commissioners of the public debt, commissioner of health, a chief of police, one chief engineer of the fire department, one or more harbor masters, 3 inspectors of election for each ward or election precinct and as many firemen, policemen and such other officers and agents as may be provided for by ch. 184, L. 1874, or as the common council may from time to time direct.

(HISTORY: Ch. Ord. 310, File #64-4089, Apr. 6, 1965.

2-01 am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)

2-02. Spring Primaries. A primary shall be held in the city of Milwaukee for the nomination of candidates for city offices whenever 3 or more candidates file nomination papers for a city office. If the number of candidates for any city office does not exceed 2 times the number to be elected to such office, no primary shall be held for such office and the names of such candidates shall be printed upon the official ballot for the ensuing election. If candidates for any city office have been nominated by primary, no further candidates shall be nominated by nomination papers.

(HISTORY: Ch. Ord. 163, File #51-1351, Sept. 25, 1951.)

2-03. Election and Term. In all cities of the first class, however incorporated, the mayor, the treasurer, city attorney, comptroller, and one alderman from each ward shall be elected on the first Tuesday in April for a period of 4 years beginning April, 1924, and quadrennially thereafter. The officials so elected shall enter upon the duties of their respective offices on the 3rd Tuesday in April in the year of their election, and shall hold their respective offices for the term of 4 years and until their successors shall be elected and qualified.

(HISTORY: S. 1, Ch. 122, L. 1923.)

2-04. Appointed Officers. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council, or by the mayor, or in such manner as the common council may direct, except when otherwise directed in ch. 184, L. 1874. The city clerk, the commissioner of public works, city engineer, commissioner of assessments, commissioner of health, chief of police and chief engineer of the fire department, shall respectively hold their offices for the terms for which they are respectively elected or appointed.

(HISTORY: Ch. Ord. 310, File #64-4089, Apr. 6, 1965.

2-04 am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)

2-05. Appointees Hold Over. Whenever provision is made by the law of the state for any city of the first class, whether organized under a special charter or under the general laws of the state, for appointments in such city, and whenever, in such case, no provision is made in regard to the holding over of appointees, such appointees shall hold over until their successors shall have been appointed and shall have qualified.

(HISTORY: S. 963, Stats., 1919)

[This page blank]

CHAPTER 3
DUTIES AND AUTHORITY OF CITY OFFICERS

TABLE

MAYOR AND COUNCIL PRESIDENT

3-01 Mayor
3-02 Council President

CITY ATTORNEY

3-03 City Attorney: Duties and Powers
3-04 City Attorney: Vacancy
3-05 City Attorney: Assistants
3-06 Actions Against City Officers or Employes

CITY TREASURER

3-07 Treasurer: Duties
3-09 Treasurer: Special Deputy
3-11 Funds on Hand in City Treasury
3-12 Control of Funds

CITY COMPTROLLER

3-14 Comptroller: Annual Statement
3-15 Deputy Comptroller, Clerk, Treasurer
3-16 Authority to Sign Checks
3-16.5 Internal Audit
3-17 Accounting Methods
3-18 Comptroller: Other Duties
3-19 Claims
3-20 Oaths and Affidavits
3-20.5 Special Deputy Comptroller
3-21 Pay Rolls

OTHER REGULATIONS

3-22 Officers: Oath and Bond
3-23 Liability When Sued in Official Capacity
3-24 Failure to Deliver Records to Successor
3-25 City Corporate Seal
3-25.5. City Mark
3-26 City Clerk
3-26.5 Special Deputy City Clerk
3-27 Checks
3-28 Expenditures when Legality is Questioned
3-29 Commissions and Fees Prohibited
3-30 Prohibited Practices
3-31 Sales to Public Utilities Prohibited
3-32 Employment of Architects

MUNICIPAL COURT

3-34 Municipal Court

3-01. Mayor. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced; and that all officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer, and the head of the fire department and of the police of the city, and in case of a riot or other disturbance, or whenever he and the chief of police shall deem it necessary for the prevention of threatened disorder or for the preservation of the public peace and the good order of the city, they may appoint as many special or temporary policemen as they may deem necessary. Such special or temporary policemen shall serve for such length of time as the mayor and chief of police shall deem necessary, and shall receive such compensation for their services as the common council shall provide or direct, but the term of said special policemen shall in no case exceed the time of two weeks. *(S. 2, Ch. 324, L. 1882.)*

3-02. Council President. 1. The common council shall, at the first meeting for organization after the general city election, choose by ballot from their number a president, who shall preside over their meetings for the term of office to which members of the common council were elected.

2. In case of a vacancy in the office of mayor, the president of the common council and by a direct line of succession and in the order herein set forth the persons elected or appointed to the following offices or positions shall have and exercise all the powers and discharge all the duties of the mayor, until such time as his successor shall be elected as hereinafter provided. The direct line of succession shall be as follows:

a. President of the common council.

b. Chairman of the committee on finance-personnel.

c. The chairman of the remaining standing committees of the common council in the order of their seniority, that is, the length of service in the office of alderman; and in the event such time of service be equal, then as to such chairmen, in the alphabetical order of their surnames.

d. The remaining aldermen in the order of their seniority, that is, the length of service in the office of alderman, and in the event such time of service be equal, then as to such aldermen, in the alphabetical order of their surnames.

3. The president of the common council while filling the vacancy as acting mayor may continue to serve as president of the common council, in addition to exercising the powers and responsibilities of the office of mayor, until such time as a new mayor is elected, but the acting mayor shall not take part in any vote of the common council during that period. The common council president shall serve as acting mayor until a successor shall be elected for the residue of the unexpired term.

4. In the event the mayor is unable to perform the duties of his office by reason of absence or sickness, the president of the common council and the other persons aforementioned in the same line of succession provided for in the event of a vacancy in the office of the mayor shall have the powers and duties of the mayor until such time as the mayor shall resume his duties, provided that if any person lower on the list of the line of successionor order as herein set forth shall be exercising such powers and discharging such duties and a person higher on the list of succession or order shall become available to serve, such powers and duties are forthwith vested in the person higher on the list or order.

(S. 3-02 rc. Ch. Ord. 453, F#77-1311, Jan. 17, 1978. S. 3-02-3 am. File #001375, Feb. 6, 2001; eff. April 24, 2001.)

3-03. City Attorney: Duties and Powers.

1. The city attorney shall:

a. Conduct all the law business of the corporation and of the departments thereof, and all other law business in which the city shall be interested, when so ordered by the common council.

b. When required, furnish written opinions upon subjects submitted by the mayor or the common council, or any of its committees, or any other department of the municipal government.

c. Keep a docket of the cases to which the city may be a party in any court of record as directed by the common council, in which shall be briefly entered all steps taken in each cause, and which shall, at all times, be open to the inspection of the mayor, comptroller or any committee of the common council.

d. Draft ordinances, bonds, contracts, leases, conveyances and other such instruments of writing as may be required by the business of the city.

e. Examine and inspect tax and assessment rolls and all proceedings in reference to the levying and collection of taxes and assessments.

f. Perform such other duties as may be prescribed by the charter and ordinances of the city.

2. The city attorney may appoint 4 deputy city attorneys, who shall be authorized to do all acts required by law of the city attorney. Assistant city attorneys appointed by the city attorney pursuant to city service laws and provisions shall be authorized, subject to the control and supervision of the city attorney or his deputies to do all acts required by law of the city attorney; provided, that the city attorney shall be responsible to the city for all the acts of such deputy city attorneys and assistant city attorneys. *(Am. File #891403, Dec. 19, 1989; eff. March 14, 1990.)*

3-04. City Attorney: Vacancy. In case of a vacancy in the office of city attorney of the city of Milwaukee, the deputy city attorney having the longest tenure in that position shall have full power and authority, and it is hereby made his duty to exercise the office and perform the duties of city attorney until such vacancy shall be filled in the manner provided by law at the ensuing general municipal election. *(Am. Ch. Ord. 446, June 30, 1977.)*

3-05. City Attorney: Assistants. The common council of cities whether organized under the general law or special charters may employ an attorney to assist the city attorney in, or to take charge of, any matter or litigation in which the city is interested, when in the judgment of the common council it is deemed proper to employ such assistants, and may compensate him for the services so rendered. *(S. 926-160 Stats., 1907.)*

3-06. Actions Against City Officers or Employes. 1. The common council of any city, however incorporated, may by ordinance or resolution authorize the city attorney to defend actions brought against any officer or employe of such city or of any board or commission thereof growing out of any acts done in the course of his employment or out of any alleged breach of his duty as such officer or employe, excepting actions brought to determine the right of such officer or employe to hold or retain his office or position and excepting also actions brought by such city against any officer or employe thereof.

2. Nothing in this act contained nor any action taken by any city or by any city attorney pursuant to the provisions of this act shall be construed to impose any liability, either for costs, damages or otherwise, upon such city or city attorney. *(S. 1 and 2, Ch. 79, L. 1925.)*

3-07 Treasurer: Duties. The treasurer shall receive all moneys belonging to the city, and shall keep an accurate account of those moneys in suitable cashiering and financial management information systems to be provided for that purpose. The treasurer shall prepare financial reports as requested by the mayor and common council.
(S. 6, Subch. 3, Ch. 184, L. 1874.
3-07 am. File#111432, May 22, 2012; eff. August 11, 2012.)

3-09. Treasurer: Special Deputy. The city treasurer may appoint and designate a competent person within his or her office to serve as special deputy city treasurer with authority to act in his or her stead in all matters without additional compensation. The appointment shall be in writing and copies filed with the city clerk. This authority may be revoked and amended in the same manner. The special deputy may perform any and all acts required by law of the city treasurer. The city treasurer shall be responsible for all acts of the special deputy and may require that additional bonds be furnished to assure faithful performance. The special deputy shall, before entering upon his or her duties, take the oath required of city officers.
(S. 9, Ch. Ord. 310, Apr. 6, 1965.
3-09 rc File #111432, May 22, 2012; eff. August 11, 2012.)

3-11. Funds on Hand in City Treasury. The city treasurer may keep on hand in the city treasury a sum sufficient to meet the operating cash needs of the city.
(S. 1, Ch. 74, L. 1907.
3-11 rc File #111432, May 22, 2012; eff. August 11, 2012.)

3-12. Control of Funds. Nothing in this act contained shall be so construed as to authorize the treasurer to apply funds so retained by him, or so to be drawn from the bank on his check countersigned by the comptroller, to purposes other than those to which the same funds are appropriated by law. The common council may at any time, when in their opinion the safety or interests of the city require it, direct all sums so deposited to be paid into the treasury of the city, or to such other bank or banks as they may select under the law. *(S. 10, Subch. 17, Ch. 184, L. 1874.)*

3-14. Comptroller: Annual Statement. The city comptroller shall report annually to the common council, a statement in detail of the expenses of the city during the preceding year, and likewise a detailed estimate of the revenue necessary to be raised for the ensuing year; and the fiscal year of the city shall commence on January 1st.
(S. 10, Ch. Ord. 310, Apr. 6, 1965.
3-14 am File #121651, April 9, 2013; eff. June 25, 2013.)

3-15. Deputy Comptroller, Clerk, Treasurer. The comptroller, clerk and treasurer may, each, appoint a deputy, for whose acts they shall respectively be responsible. Such deputies, after taking the oath of office required to be taken by their principals, may respectively perform all the duties imposed by law or the ordinances of the city, on said principals respectively; and shall likewise be subject to the same liabilities and penalties.
(S. 20, Subch. 3, Ch. 184, L. 1874.
3-15 am File #111432, May 22, 2012; eff. August 11, 2012.)

3-16. Authority to Sign Checks. The city treasurer and the city comptroller are hereby authorized to designate some person in their respective departments who shall have authority to sign checks on behalf of the city treasurer and city comptroller, respectively, when the city treasurer or his deputy, or the city comptroller or his deputy may be absent from his office and is unable, therefore, to sign such checks. The city treasurer and the city comptroller shall make such designation in writing, naming the person to whom such authority is delegated and shall file the original of such designation with the city clerk. The designation, so filed, shall be operative until withdrawn by the city treasurer or the city comptroller as the case may be or a new designation is provided. In the event of such designation, the officer making such designation shall be liable for the acts of such designee unless a surety bond in the amount of not less than $50,000 is obtained to save the city harmless from any unauthorized acts of such designee. *(S. 1, Ch. Ord. 289, Oct. 30, 1962.)*

3-16.5 Internal Audit. 1. AUDIT PLAN.

a. The auditing division of the city comptroller's office shall develop an annual audit plan and submit the plan to the finance and personnel committee of the common council.

b. The audit plan shall include, at a minimum, each planned audit, including the type of audit and auditable unit, identifying the department, board, commission, service program, function or policy to be audited.

c. The auditing division may change the audit plan and initiate, conduct or expand the scope of the audit or investigation if the auditing division determines that any of the following is true:

c-1. Fraud, abuse or illegality may have occurred or is occurring.

c-2. An audit finding requires expansion of the audit or investigation in progress.

c-3. A risk assessment analysis changes an auditable unit's risk profile.

d. If the annual audit plan reported to the finance and personnel committee is amended, all changes to the annual audit plan shall be reported to the finance and personnel committee in the next status report required under sub. 3-a-2.

2. REVIEWS. The auditing division shall conduct an assessment of any audit or special project request of the mayor, common council, city comptroller, city department, board or commission and report the results of the review in the next status report required under sub. 3-a-2.

3. AUDIT STATUS REPORTS. The following audit status reports shall be submitted to the finance and personnel committee:

a-1 An annual report of the audit activities of the success or failure of previously-audited departments in implementing the recommendations of their audits.

a-2. Semi-annual reports of the audit activities, including on-going audits, pending audits, audit requests, and possible subjects for future audits.

b. The auditing division shall submit an annual report to the common council, indicating the type of complaints and actions taken for all activities reported through the hotline.
(*3-16.5 cr File #140242, June 3, 2014; eff. August 19, 2014.)*

3-17. Accounting Methods. It shall be the duty of the comptroller, or, if there is no comptroller, of such other officer as performs the duties incident to the office of comptroller, by whatsoever name he may be designated, to prescribe methods of accounting for all the departments, commissions, and boards of the city, by whatever name known, and to provide as nearly as may be for a uniform system of accounting for such departments. Provided, however, if any dispute shall arise between the comptroller and the head of a department or any of the commissions or boards of as to what system of accounting is best adapted to the needs of such department, commission or board, such dispute shall be submitted to the common council and the decision of the common council shall be final and conclusive. Whenever the common council of any such city shall have approved the system of accounting for the various departments, commissions and board of the city, said system shall not be superseded or materially changed without the approval of the common council. *(S. 3, Ch. Ord. 118, Feb. 24, 1942.)*

3-18. Comptroller: Other Duties. 1. a. Said comptroller, in addition to his other powers and duties, shall have authority to examine and investigate the reports, vouchers and accounts and such other papers and books of any office, board or department of the city as relate to or in any way affect the finances of such city, and shall also have authority to establish methods of auditing bills payable by the city, and shall establish a voucher system whereby any warrants, checks or orders drawn and paid by the city shall be accessible for public audit at all times. After the establishment of such method of auditing bills payable and said voucher system, it shall be unnecessary for the comptroller to report to the common council bills presented to him, nor shall it be necessary for the common council to pass upon and allow such bills, nor to publish in its proceedings the bills so paid, but said comptroller shall have power and authority to audit, adjust, and if found to be proper charges against the city, allow all such bills certified by the department incurring the indebtedness, growing out of any contract or agreement made by or on behalf of such city in accordance with appropriations made by the common council. When any such bill or bills shall have been processed by the comptroller in accordance with this provision, if and in the event there is at the time sufficient money in the general fund of the city to the city's credit for such purposes in any bank or banks to meet the amount of such bill or bills, the proper city officers may draw a bank check for such sums. If there is not sufficient money in the general fund or in such banks, an order shall be drawn by the mayor and city clerk and countersigned by the comptroller, specifying the purpose for which it is drawn and to whom payable and reciting that it is payable on or before February 1 of the following year out of any funds in the treasury belonging to the city and not otherwise appropriated, all such orders to be made payable to the order of the person in whose favor they are drawn; and such orders shall be transferable by endorsement and shall be received in payment of any taxes or assessment levied by the authority of the city, except taxes for interest and sinking fund on general obligation city bonds and notes without further action of the common council.

b. The comptroller shall have power to make such further provisions as to report by heads of the department and require such other information from heads of departments as may be reasonably necessary or proper to make the powers hereby conferred effective.

c. The powers herein given are subject to direction by the common council. *(S. 2, Ch. Ord. 326, Nov. 29, 1966.)*

2. He shall examine all estimates of work to be done by the commissioner of public works of the city, and countersign all contracts entered into by said commissioner of public works, and all certificates of work given by him; and also all contracts made in behalf of the city; and no contract entered into or certificate issued against property, shall be of any validity unless countersigned by the comptroller, except as otherwise expressly provided in ch. 184, L. 1874. *(S. 11, Ch. Ord. 310, Apr. 6, 1965.)*

3. The comptroller shall keep a list of all certificates issued against property, and no later than the last regular meeting of the common council in November, shall report to

the council a schedule of all the lots or parcels of land, which, under ch. 184, L. 1874, may be subject to any special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on each such lot or parcel of land, with a full statement of the several acts done and performed in reference to such special taxes or assessments, which said schedule shall be verified by the affidavit of the comptroller, and shall be prima facie evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they shall deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of ch. 184, L. 1874. *(Sub. 3 am. File #891484, Jan. 16, 1990; eff. April 4, 1990.)*

5. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, the collector of the water rates, and of any other officer authorized to collect or receive, or charged with the duty of collecting or receiving moneys for the city, and shall perform such other duties as are prescribed in ch. 184, L. 1874, and as the common council may from time to time direct. *(S. 14, Ch. Ord. 310, Apr. 6, 1965.)*

6. The comptroller shall keep a record of all his acts and doings, which record shall be open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party. *(S. 16, Ch. Ord. 310, Apr. 6, 1965.)*

3-19. Claims. Except as provided in ss. 3-17 and 3-18, all claims and demands filed with the common council against the city, before their allowance by the common council, shall be reviewed for availability of funds by the comptroller, and immediately after the allowance by the common council of any claim or demand, it shall be the duty of the clerk to furnish to the comptroller information of such allowance. The comptroller shall process such claim or demand for payment, if and in the event there is at the time sufficient money in the general fund of the city to the city's credit for such purpose in any bank or banks to meet the amount of such claim or demand, the proper city officers may draw a bank check for such sum. If there is not sufficient money in the general fund or in such banks, an order shall be drawn by the mayor and city clerk and countersigned by the comptroller, specifying the purpose for which it is drawn and to whom payable and reciting that it is payable on or before February 1 of the following year out of any funds in the treasury belonging to the city and not otherwise appropriated, all such orders to be made payable to the order of the person in whose favor they are drawn; and such orders shall be transferable by endorsement and shall be received in payment of any taxes or assessment levied by the authority of the city, except taxes for interest and sinking fund on general obligation city bonds and notes without further action of the common council. *(S. 3, Ch. Ord. 326, Nov. 29, 1966.)*

3-20. Oaths and Affidavits. The comptroller shall be authorized to administer oaths and affirmations in all matters arising under the laws and ordinances of the city; and he may require all parties having claims or accounts against the city to verify the same by affidavit. In all cases of doubt arising under any claim or contract against or with the city, he shall inquire into the same; and for this purpose he may examine parties and others under oath; and if any person shall swear or affirm falsely, touching the expenditure of any of the money of the city or in support of any claim against the said city, such person shall be subject to indictment or information, and on conviction thereof, shall be punished as for willful and corrupt perjury. *(S. 15, Ch. Ord. 310, Apr. 6, 1965.)*

3-20.5. Special Deputy Comptroller. The city comptroller may appoint and designate a competent person within his office, to act in his stead in all matters, a special deputy city comptroller without additional compensation. Such an appointment shall be in writing and copies thereof filed with the city clerk. Such authority may be revoked and amended in the same manner. The special deputy may perform any and all acts required by law of the city

comptroller. The city comptroller shall be responsible for all acts of said special deputy and may require that additional bonds be furnished to assure his faithful performance thereof.

(HISTORY: Section 3-20.5 am. Ch. Ord. 523, F#83-304, July 12, 1983.)

3-21. Payrolls. 1. In every city of the first class, whether organized under general or special charter, it shall be the duty of the head, or heads, of every department of the city government, and of all boards and commissioners thereof, by whatever name known, to file with the city comptroller, payrolls as a basis for the disbursement of all funds appropriated for salaries and wages of all the officers and employes of said city, in his or their department.

2. The comptroller of any such city of the first class, in addition to his other powers or duties, shall have authority and it shall be his duty to prescribe the form of such payrolls and the certificates thereon. He may also prescribe contents of payrolls and may require such information in support thereof as he may deem desirable; provided, however, that the payrolls for each of the departments and of all boards and commissions thereof and the requirements of each of said departments and of all boards and commissions thereof as to supporting information shall be as nearly uniform as may be and the payrolls of each department and of all boards and commissions thereof shall be sworn to by the clerk in the department and of all boards and commissions thereof making up the said payroll, and shall bear the certificate of the head of the department or executive officer of the board or commission stating that he has examined and approves the payroll and that to the best of his knowledge and belief it is correct.

(HISTORY: S. 925-135d, Stats. 1919.

3-21-2 am. Ch. Ord. 207, File #54-2597-a, Dec. 28, 1954.)

3-22. Officers: Oath and Bond. 1. The city of Milwaukee elects to adopt s. 62.09(4)(a), Wis. Stats., with respect to the duration of time specified for taking and filing the official oath after notice of election or appointment.

2. Every person elected or appointed to any office established by the city charter shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed in the constitution of this state, and file the same duly certified by the officer administering the same with the clerk of the city. Before entering upon the duties of his office, the treasurer shall be covered by a bond executed to the city of Milwaukee in such sum and containing such conditions requiring the faithful discharge of the duties of his office as the common council may require. The common council may from time to time require new and additional bonds from the treasurer and may remove him from office for refusing or neglecting to give proper bonds. The common council may also require that other officers and employes be covered by faithful performance or honesty type bonds, either in individual form or under a blanket bond, or both, the cost of which bond may be paid by the city. All aforesaid bonds shall be filed in the office of the city clerk.

(HISTORY: Section 3-22 am., Ch. Ord. 327, File #66-1827-b, Dec. 13, 1966.

3-22 rn. to 3-22-2, File #940239, June 28, 1994; eff. Sept. 14, 1994.

3-22-1 cr., File #940239, June 28, 1994; eff. Sept. 14, 1994.)

3-23. Liability When Sued in Official Capacity. No officer of any city, no matter how organized, shall be required to file an undertaking, or any other bond required on appeal in any court when such party has been sued in his official capacity, except in actions of quo warranto or any other kind of action involving directly the title to his office, nor shall any city officer be liable for any costs or damages, but costs or damages, if any, shall be awarded against the city.

(S. 925-269m Stats. 1919.)

3-24. Failure to Deliver Records to Successor. If any person, having been an officer in said city, shall not, within 10 days after notification and request, deliver to his successor in office, all property, books, papers and effect of every description, in his possession, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city $100, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state. *(S. 11, Subch. 3, Ch. 184, L. 1874.)*

3-25. City Corporate Seal. 1. DESIGN. The corporate seal of the city shall be circular and have 5 scenes depicting aspects of the city in the following manner:

a. The largest scene shall have the Lake Michigan lakefront at sunrise and be located in a circle in the middle of the seal. In a border around the circle shall be 7, 5-pointed stars which adjoin the block letters "WIS." which shall be located at the top of the border.

b. Proceeding clockwise, the border shall be surrounded by 4 oblong scenes of:

b-1. A railroad train.

b-2. A depiction of the first City Hall building.

b-3. A steamboat on Lake Michigan.

b-4. A tri-level historical house.

c. Surrounding the scenes shall be a large border in which the words "CITY OF MILWAUKEE" adorn the upper semi-circle of the seal, and the lower semi-circle shall contain the words "INCORPORATED JAN. 31 1846". The semi-circles shall be separated by a 5-point star on each side.

2. USE. The city clerk shall be responsible for the care and custody of the corporate seal as provided in s. 3-26-2-a. The city clerk may use the seal for official municipal purposes only.

3. PROHIBITIONS. The use, reproduction or depiction of the city's corporate seal for any reason other than municipal purposes, by anyone other than the city clerk, is prohibited.

4. PENALTY. Any person violating this section shall upon conviction forfeit not more than $1,000.

(HISTORY: Section 3-25 cr. File #911073, May 4, 1993; eff. July 20, 1993.)

3-25.5. City Mark. 1. DESIGN. The common council shall designate by resolution an official city mark. The mark shall be as on file in the office of the city clerk.

2. USE. The mark shall appear on all city vehicles, external correspondence and media.

3. COMPLIANCE. All city departments shall be in compliance with this section by the effective date of this ordinance (May 15, 2012). Vehicles, correspondence and media not in compliance by this date shall be brought into compliance as they are replaced.

(HISTORY: Section 3-25.5 cr., File #111114, Feb. 28, 2012; eff. May 15, 2012.)

3-26. City Clerk. 1. The clerk of all such cities, however, incorporated, shall be elected by the common council of such city on the 3rd Tuesday of April, 1924, for a period of four years, and quadrennially thereafter.

2. a. The clerk shall be elected by the common council for the term of 4 years. He shall keep the corporate seal and all papers and records of the city.

b. It shall be his duty to attend all meetings of the common council and to keep a full record of their proceedings. He shall draw and sign all orders on the treasury (except as otherwise provided in this act), in pursuance of an order or resolution of the common council, and shall keep a full and correct account thereof in books or files provided for that purpose. Copies of any and all books, papers, instruments or documents duly filed and kept in his office, and of the endorsements thereon, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be in evidence in all courts and places of the contents thereof and of such endorsements in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations, authorized to be taken by and under the laws of this state; and shall perform such other duties as may be required of him by the common council.

(HISTORY: Section 3-26-1 cr., S. 2, Ch. 122, L. 1923.)

Section 3-26-2 am., Ch. Ord. 61, File #51261, Apr. 17, 1933.)

3-26.5. Special Deputy City Clerk. The city clerk may designate as a special deputy city clerk a competent person within his office to act for and in his stead in specified matters. Such an appointment shall be in writing and copies filed in the city clerk's office setting forth the specific acts the special deputy is authorized to perform in the name of the city clerk. Such authority may be revoked and amended in the same manner. Within the scope of his specified authority, the special deputy may perform any and all acts required by law of the city clerk.

(HISTORY: Section 3-26.5 cr., Ch. Ord. 512, F#80-847, Jan. 19, 1982.)

3-27. Checks. 1. The common council of the city of Milwaukee may by resolution designate funds deposited by the city with any bank or banking association which shall be drawn out in one or

more of the following methods, as stated in such resolution, to-wit:

a. By checks signed personally by the said treasurer or the deputy treasurer appointed pursuant to the provisions of s. 3-15 and countersigned personally by the comptroller of said city or the deputy comptroller of said city appointed pursuant to the provisions of said section; or,

b. By checks bearing the printed or stamped facsimile signature of said treasurer, adopted by him as a facsimile signature, and countersigned personally by said comptroller or deputy comptroller; or,

c. By checks signed personally by the said treasurer or deputy treasurer, and bearing the printed or stamped facsimile signature of said comptroller adopted by him as a facsimile countersignature; or,

d. By checks bearing the printed or stamped facsimile signature of said treasurer or of said deputy treasurer, adopted by him as a facsimile signature, and bearing the printed or stamped facsimile signature of said comptroller or of said deputy comptroller, adopted by him as a facsimile countersignature.

2. Before any facsimile signature shall be used as above provided, a specimen of same, duly certified by the officer of whose signature it is a facsimile, shall be filed in the office of the clerk of said city.

3. Any bank or banking association permitting the withdrawal of such funds by checks bearing or purporting to bear facsimile signatures as aforesaid, in accordance with the resolution of said common council, shall be fully warranted and protected in making payment upon any such check and said city waives any and all claims against said bank on account thereof, if the facsimile signature or signatures thereon resemble the facsimile signature adopted and filed by the said treasurer, or deputy treasurer, or the facsimile countersignature adopted and filed by said comptroller, or deputy comptroller, as the case may be, notwithstanding that said facsimile or purported facsimile signature or signatures may have been placed on such checks by some person without authority, or otherwise wrongfully using the mechanism of the treasurer or his deputy or the comptroller, or his deputy, or other mechanism, to print, stamp, or affix said facsimile or purported facsimile signature or signatures; unless said bank or banking association, in making such payment, shall not have acted in good faith or shall have failed to use the same diligence inspecting such checks before paying the same as is used by banks in said city in inspecting checks to pay bearing handwritten signatures. *(S. 1, 2 and 3, Ch. Ord. 108, Jan. 2, 1940.)*

3-28. Expenditures When Legality is Questioned. Any city official of any city, no matter how organized, who is holding money in his official capacity, or any city official who has authority to countersign may, if informed in writing by the city attorney when demand is made for the money or demand is made that he countersign a resolution or ordinance involving the expenditure of money, that doubt exists in regard to the legality of the resolution or ordinance passed involving the expenditure of money, immediately refuse to act further in such matter until such matter is determined by the courts, and no costs shall be taxed against the party himself, but in case any costs shall be taxed, or damages, in case any damages shall be provided, are awarded, they shall be paid by the city. *(S. 925-260m Stats., 1913.)*

3-29. Commissions and Fees Prohibited. 1. BOND, INSURANCE, ETC. No officer or employe of the city of Milwaukee shall receive any premium, commission, fee or other thing of value on account of the sale or furnishing of any bond, undertaking, policy of insurance, or contract of indemnity, guaranty or suretyship to the city or to any of its officers, boards or commissions, or to any person, firm or corporation in connection with any contract to which the city or any of its officers, boards or commissions may be a party in interest.

(HISTORY: Ch. Ord. 43, June 15, 1931. Section 3-29-1 am., File #130365, Sept. 24, 2013; eff. Dec. 10, 2013.)

2. VIOLATIONS. Any violation of sub. 1 shall constitute malfeasance in office and any officer or employe of the city found guilty thereof shall thereby forfeit his office or position. Charges in writing against any officer, duly sworn to by any taxpayer or elector of the city, may be filed with the common council, and thereupon such proceedings shall be had as are now provided for by charter in cases of impeachment of officers, and if such officer is found guilty by the common council of violation of sub. 1 his office shall be declared vacant by the common

council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for the period of 12 months thereafter. Charges against any employe of the city may be made in like manner and filed with the board of civil service commissioners, and thereupon such proceedings shall be had as are now provided by law in the case of appeals from discharge. If such employe is found guilty by said board of violations of sub. 1 his position shall be declared vacant and he shall not be eligible to appointment or employment by the city of Milwaukee for the period of 12 months thereafter. *(Ch. Ord. 31, Sept 24, 1928.)*

3-30. Prohibited Practices 1. No officer or head of any department of the city government shall during regular working hours employ or use any city employe for any private purpose whatsoever.

2. No officer or head of any department or employe of the city government, unless specially authorized by the common council, shall use any city owned apparatus or equipment for any private purpose whatsoever.

3. No officer, agent, or employe of the city government shall be retained or employed by any common carrier or by any public utility corporation except such public utilities as are owned by the city or by any other municipal corporation, except in such cases where the disqualification of this section is specially waived by resolution of the common council.

4. No officer, member of any commission, agent or employe of the city shall in connection with the purchase or sale of any land by the city be retained or employed by any purchaser or owner thereof or act as agent or broker for such owner or purchaser or receive any fee or commission or any other thing of value from such owner or purchaser.

5. No officer, agent or employe of the city (except assessors while engaged at their official duty as required by law) shall appraise or assess for any city purpose any real or personal property in which such city officer, agent or employe has any direct or indirect pecuniary interest.

6. No officer, agent or employe of the city shall sell stock or bonds of any company in which he is interested to any contractor or other person doing business with the city nor shall any such officer, agent or employe of the city sell or attempt to sell stock or bonds or solicit funds or subscriptions of any kind from any other person by offering or promising to obtain for the person so solicited some special privilege, favor or appointment in connection with the city affairs or government.

7. Any violation of this section shall constitute malfeasance in office and any officer, member of any commission or agent or employe of the city found guilty thereof shall thereby forfeit his office or position. Charges in writing against any officer, member of any commission or agent duly sworn to by a taxpayer, or elector of the city may be filed with the common council, and thereupon such proceedings shall be had as are now provided for by charter in cases of impeachment of officers, and if such officer, member of any commission, agent or employe is found guilty by the common council of violation of this section his office or position shall be declared vacant by the common council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for a period of 12 months thereafter. Charges against any employe of the city may be made in like manner and filed with the board of city service commissioners, and thereupon such proceedings shall be had as are now provided by law in the case of appeals from discharge. If such employe is found guilty by said board of violation of this section, his position shall be declared vacant and he shall not be eligible to appointment or employment by the city of Milwaukee for the period of 12 months thereafter. *(Ch. Ord. 44, June 15, 1931.)*

3-31. Sales to Public Utilities Prohibited. No officer of the city shall directly or indirectly sell any real or personal property or any interest therein or merchandise, commodities or any services of whatever nature or description, to any public utility transacting business or operating within the city of Milwaukee, nor shall any such officer sell to such public utility anything of value from which a commission or premium or any other consideration may be paid to him or anyone else on or in his behalf as a result thereof from which he may derive directly or indirectly a personal profit, consideration or gain. Any violation of this section shall constitute malfeasance in office and any officer found guilty thereof shall thereby forfeit his office. Charges in writing against any officer duly sworn to by a

taxpayer or elector of the city may be filed with the common council, and thereupon such proceedings shall be had as are now provided for by charter in cases of impeachment of officers, and if such officer is found guilty by the common council of violating this section, his office shall be declared vacant by the common council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for a period of 12 months thereafter. The word "services" as used in this section shall not be construed so as to include the regular employment of any city officer by any public utility upon a salary or wage basis. *(HISTORY: Section 3-31 cr. Ch. Ord. 129, File #46-1671, Nov. 25, 1946.)*

3-32. Employment of Architects. No officer, department, board or commission under the control of the common council of the city of Milwaukee shall employ any architect other than the one in the city service without first securing the approval of the common council to such action. *(HISTORY: Section 3-32 cr. Ch. Ord. 50, File #48453, Jan. 11, 1932.)*

3-34. Municipal Court. 1. COURT CREATED. Pursuant to the authority granted by s. 755.01 and ch. 755, Wis. Stats., there is established the municipal court for the city of Milwaukee. The municipal court shall constitute a separate department within city of Milwaukee government.

2. MUNICIPAL JUDGE. Pursuant to the authority of s. 755.01, Wis. Stats., there are created 3 offices of municipal judge of the city of Milwaukee, which shall be designated branch one, branch 2 and branch 3. One of the judges shall be designated as presiding judge within the municipal court for administrative purposes by the chief judge of the first judicial administrative district of the state of Wisconsin.

a. Term. Each municipal judge shall be elected to a 4-year term. Temporary appointments to fill vacancies in the office of municipal judge shall be made as provided in s. 800.06, Wis. Stats. A permanent vacancy in the office of municipal judge shall be filled pursuant to s. 8.50, Wis. Stats.

b. Eligibility. A municipal court judge shall be an attorney licensed to practice law in Wisconsin.

c. Salary. The rates of pay of municipal judge shall be determined by the common council.

d. Engaging in Outside Business or Profession. Except as provided in SCR ch. 60, Wisconsin supreme court rules, as amended, no municipal judge elected pursuant to this section may engage in outside employment, including the private practice of law, for compensation or pecuniary reward during his or her term. Any person who intentionally violates this subsection shall be fined no less than $100 nor more than $1,000; provided, however, that the penalty under this subsection does not limit the power of the common council to remove a municipal judge for cause, or by recall, or by any other means pursuant to state law.

3. JURISDICTION. a. City Ordinances. Each municipal judge shall have the jurisdiction provided by state law, including but not limited to because of enumeration, that provided by chs. 755 and 800, Wis. Stats., and exclusive jurisdiction of violations of city of Milwaukee ordinances.

b. Contempt of Court and Penalty. Each judge may punish for contempt as provided in s. 800.12, Wis. Stats., and may impose a forfeiture therefor not to exceed $50 or, in default thereof, a jail sentence not to exceed 7 days.

c. Sessions of Court. Sessions of the court shall be as directed by the mayor and the common council either in the form of ordinances or resolutions, and scheduling shall be arranged by the chief court administrator.

4. OFFICERS AND STAFF. a. Chief Court Administrator. The chief court administrator shall be appointed by the presiding municipal court judge and confirmed by the common council. Each term shall be for a period of 3 years, commencing on the first day of October, 1989, and every 3rd year thereafter. In the case of a vacancy during any term, the appointee shall hold office for the unexpired term of his or her predecessor. In all cases, the chief court administrator shall hold office for the specified term to which he or she was appointed, confirmed qualified and thereafter until a successor is appointed, confirmed qualified. The chief court administrator shall receive a salary to be determined by the common council. Before entering upon the duties of the office, each chief court administrator shall take and subscribe the oath of office prescribed by the constitution of

the state and contained in s. 19.01, Wis. Stats., and file the same duly certified by the official administering the same with the city clerk.

b. Municipal Court Staff. In addition to the 3 municipal court judges, the municipal court commissioners and the chief court administrator, the municipal court staff shall include such municipal court clerks as are authorized by the common council, to be appointed by the chief court administrator from civil service lists submitted for that purpose, said clerks to remain in the classified city civil service. The staff shall further include police officers designated by the chief of police who shall serve as bailiffs, and such additional administrative and clerical staff, selected through the usual procedures of the city civil service, as are authorized by the common council.

5. PROCEDURE. a. State Law. The procedures to be operative in the municipal court shall be as prescribed by state law including, but not limited to because of enumeration, chs. 66, 755 and 800, Wis. Stats.

b. Administrative Regulations. The municipal court and the municipal judges shall be subject to such rules of procedures as may be promulgated from time to time by the chief judge of the first judicial administrative district of the state of Wisconsin.

c. Treasurer to Receive Collections. All monies belonging to the city which are received by a municipal judge, shall be paid to the city treasurer on a daily basis.

d. Temporary Absence of Judge. Whenever a municipal judge shall be temporarily absent, his or her office shall be filled for the period of the absence by one or more municipal judges from other municipalities within the state of Wisconsin, as provided for by s. 800.06(1)(a), Wis. Stats., in accordance with the terms of agreements, which the chief court administrator shall execute with the alternate judges. Agreements fixing the compensation to be paid to such alternate judges and the manner of payment shall be established by the common council.

(HISTORY: Section 3-34 rc. Ch. Ord. 509, F#76-375-n, July 24, 1981.

3-34-4-a am. Ch. Ord. 563, F#86-507, Oct. 14, 1986; eff. Dec. 29, 1986.

3-34-2-b rn. File #960180, June 4, 1996; eff. Aug. 20, 1996.

3-34-2-b cr. File #960180, June 4, 1996; eff. Aug. 20, 1996.

3-34-2-c rn. File #960180, June 4, 1996; eff. Aug. 20, 1996.

3-34-2-a am. File #971626, Feb. 10, 1998; eff. April 28, 1998.

3-34-2-d am. File #971626, Feb. 10, 1998; eff. April 28, 1998.

3-34-4 am. File #971626, Feb. 10, 1998; eff. April 28, 1998.

3-34-5-d am. File #971626, Feb. 10, 1998; eff. April 28, 1998.

3-34-5-d am. File #140778, Oct. 14, 2014; eff. Dec. 30, 2014.

CHAPTER 4
COMMON COUNCIL

TABLE

4-01	Legislative Authority
4-02	Certain Statutes Inapplicable
4-03	Powers of City, How Construed
4-04	Powers of City
4-05	Conduct of Common Council Business
4-06	Ordinances; Passage and Publication
4-08	Effect of Time Requirements on Elections and Duties
4-09	Reconsideration at Special Meetings
4-10	Management of Finances and Property
4-11	Auditing Accounts
4-12	Sick Leave; Vacation; Overtime
4-14	Funds for Concerts
4-15	Funds for Celebrations
4-16	Garbage Facilities
4-18	Disqualification of Bidder for Printing
4-19	Suspension or Discontinuation of Proceedings Publication
4-20	Proof of Publication
4-21	Appropriations and Ordinances; Procedure
4-23	Mayoral Approval of Council Actions
4-24	Public Utility Franchises
4-25	Common Council Member to Hold No Other City Office
4-26	Voting on Matters in which Member has a Personal Interest
4-27	Interest in City Contracts
4-28	Malfeasance
4-29	Publication of Laws
4-30	City Reports
4-31	Discharge of Judgment or Penalty
4-32	Claims
4-33	Restrictions on Wooden Buildings
4-34	Prevention of Fires

4-01. Legislative Authority. The municipal government of the city shall be vested in the mayor and common council; and the style of all ordinances shall be "the mayor and common council do ordain," etc. *(S. 1, Subch. 4, Ch. 184, L. 1874.)*

4-02. Certain Statutes Inapplicable. No city of the first class, whether organized under general or special charter, shall hereafter in any manner be deemed to be operating under the provisions of Sections 925-2 to 925-294, both inclusive, unless said city shall specifically elect to come under the said sections in the manner prescribed by Sections 925-2 to 925-6, inclusive, or unless any of said sections shall contain an express provision declaring it to be applicable to cities operating under special charter, provided, however, that the term "all cities" in the general charter statute shall not be deemed to be such an express provision. *(S. 925-6a Stats. 1921.)*

4-03. Powers of City, How Construed. 1. All cities of the first class in this state are hereby granted the powers necessary to give full force and effect to the intention hereof.

2. Whenever the legislature has heretofore granted to any city, however incorporated, a general welfare clause, preceded or followed by specific grants of power, such specific grants shall not be construed as restrictions upon such general welfare clause, but such general welfare clause shall be given a liberal construction, to the end that the cities may exercise all powers granted therein or reasonably implied therefrom.

3. All statutes enacted by the legislature granting to such cities any powers or prescribing the method and manner of executing said powers shall be given a liberal construction, to the end that such cities shall be given the largest possible power and leeway of actions under such statutes.

4. Whenever the legislature has heretofore or may hereafter grant any such city power to do anything, such power shall be construed as including all things necessary to carry out said grant; and whenever, in construing any statute granting any powers or any rights to cities, there shall arise merely a question of doubt as to whether the legislature intended to grant any power or right, whether expressed or implied, such doubt, shall be resolved in favor of the city possessing such power or right, whether such power or right shall concern the above or the manner of carrying out any power or right.

5. Such cities are hereby empowered to employ experts and to provide for commissions and to pay salaries therefor, to investigate and report upon any matter which may concern the city, and to act in any advisory capacity to any public official or body. *(S. 1, Ch. 678, L. 1913.)*

4-04. Powers of City. Any city of the first class organized under special charter may exercise the powers granted to cities under general laws of 1907 in the manner prescribed by such law and subject to the same limitations. *(S. 926-42 Stats. 1907.)*

4-05. Conduct of Common Council Business.

1. The common council shall hold stated meetings at such times and places as it shall appoint. The mayor or the president of the common council may call special meetings by notice of at least 24 hours, except that in an emergency as determined by the mayor a 6-hour notice shall suffice, to each of the members, to be served at the member's city hall office. Special meetings may also be called on not less than 6 hours' notice by the president at the written request of the majority of the members of the council at the time of the request. Special meetings shall also be called on not less than 24 hours' notice by the president at the written request of 5 members of the council at the time of the request.

2. The common council shall determine the rules for their own government and proceedings, provided such rules are consistent with the provisions of ch. 184, L. 1874. A majority of the members at the time of the meeting shall be required to constitute a quorum for the transaction of business, but a smaller number may adjourn. Their session shall be open and public and their proceedings shall be recorded. All their papers and records, and all the election returns, shall be deposited with the clerk of the common council, and may be examined at any time in the presence of the clerk.

3. Each member of the common council shall have one vote on any one question. The ayes and noes may be required by any member. On all questions, ordinances or resolutions for assessing and levying taxes, or for the appropriation or disbursement of money, or creating any liabilities or charge against the city or any fund thereof, the vote shall be taken by ayes and noes. Every vote by ayes and noes shall be entered at length upon the journal.

4. The common council shall be the judge of the election and qualification of its own members, and may:

a. Punish its members or other persons present, by fine, for disorderly behavior.

b. Compel the attendance of its members upon its sessions, and employ the police of the city for that purpose.

c. Fine or expel any member for neglecting his or her duty as such member, or for unnecessary absence from the sessions of the council.

5. At all elections or confirmations by the common council, the vote shall be given orally, and shall be duly recorded by the clerk in the journal. The concurrence of a majority of the members at the time of the vote shall be necessary to an election or confirmation.

6. The common council is a continuing body, and unfinished business pending before it shall not lapse or go down with the council year, but all pending business before the common council, or any committee thereof, at the termination of any council year shall be considered as pending before the common council of the next succeeding council year, or the corresponding committee thereof, and may be acted upon and disposed of by the council of such succeeding year in the same manner and with the same effect as if no change in such common council had taken place, by the expiration of the council year.

(HISTORY: Section 4-05 am. Ch. Ord. 514, File #81-1661, Feb. 25, 1982.

4-05 am. Ch. Ord. 564, File # 86-802, Feb. 3, 1987; eff. Apr. 20, 1987.

4-05-1 am. File # 121726, May 21, 2113; eff. August 10, 2013.)

4-06. Ordinances; Passage and Publication.

1. All ordinances, rules, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the common council at the time of the vote except when otherwise specifically provided. No ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against the city or charge upon any fund thereof shall be adopted without a vote in its favor of a majority of the members of the common council at the time of the vote, which vote shall be taken by the ayes and noes and entered among the proceedings of the council.

2. Every ordinance to establish or change the grade of any street or alley shall be introduced into the common council upon the recommendation of the city engineer and shall be passed by an affirmative vote of 2/3 of the members of the common council at the time of the vote. A listing of the streets and alleys, specifying the portions thereof affected, shall be set forth within the body of the ordinance, with the proposed grades detailed in substantiating data attached to the ordinance file. The official record of the grades for all streets and alleys shall be kept by the city clerk.

3. All ordinances passed by the common council shall be signed by its presiding officer, attested by the city clerk and approved by the mayor and shall be published in the official newspaper of the city before the same shall be in force. The publication of each ordinance in the official newspaper shall contain the number of the common council file from which it originated, the dates of passage and publication, the relating clause and either the full text of the ordinance or a notice of where the full text of the ordinance can be obtained. Publication shall be within 15 days of passage, excluding Saturdays, Sundays or holidays and shall be proved by an affidavit of the foreman or publisher of the official newspaper. The city clerk shall file the affidavit, which shall be deemed sufficient evidence of publication, with its respective ordinance file and the ordinance shall be engrossed by the city clerk and kept on file as part of the official record of the city.

(HISTORY: Section 4-06 rc. Ch. Ord. 339, File #67-410-a, Mar. 19, 1968.

4-06-0 (title) am. Ch. Ord. 564, 86-802, Feb. 3, 1987; eff. Apr. 10, 1987.

4-06-0 (title) rc. File #86-2041, Apr. 1, 1987; eff. May 31, 1987.

4-06-1 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.

4-06-2 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987

4-06-3 am. File #86-2041, April 1, 1987; eff May 31, 1987.)

4-08. Effect of Time Requirements on Elections and Duties. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had on any subsequent day by order of the common council; and if any of the duties enjoined by this act or the ordinances or by-laws of the city, to be done by any officer at any specified time, are not then done or performed, the common council may appoint another time at which the said acts may be done and performed. *(S. 7, Subch. 20, Ch. 184, L. 1874.)*

4-09. Reconsideration at Special Meetings. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken. *(S. 6, Subch. 4, Ch. 184, L. 1874.)*

4-10. Management of Finances and Property. The common council shall have the management and control of the finances, and of all the property of the city, except as in this act or otherwise provided, and shall likewise, in addition to all other powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for the government and good order of the city --- for the benefit of the trade, commerce and health thereof --- for the suppression of vice --- for the prevention of crime --- and for carrying into effect the powers vested in said common council, as they shall deem expedient; and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws and regulations. And such ordinances, rules, by-laws and regulations are hereby declared to be, and have the force of law; provided, that they be not repugnant to the constitution of the United States or of this state. And for these purposes the common council shall have authority --- anything in any general law or this state to the contrary notwithstanding --- by ordinances, resolutions, by-laws, rules or regulations. *(Intro. par. S. 3, Subch. 4, Ch. 184, L. 1874.)*

(Note: Following the above intro. par. are numerous numbered subsections relating to specific authority which subsections are not set forth herein. For powers of the city, see also S. 3, Art. XI, Wis. Const., S. 66.01 Stats. and S. 62.11(5) Stats., made applicable by Ord. 203, F#50790, passed Feb. 6, 1933.)

4-11. Auditing Accounts. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, board of public works, and all other officers or agents of the city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers, for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their duties in pursuance to this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, or any authorized committee thereof, it shall be the duty of the common council to declare the office of such person vacant. The common council shall order suits and proceedings at law against any officer and agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties. And they shall also make a full record of all such settlements and adjustments. *(S. 9, Subch. 4, Ch. 184, L. 1874.)*

4-12. Sick Leave; Vacation; Overtime. 1. The common council of any city of the first class, however incorporated, is hereby empowered to grant sick leave with pay to employes of any such city, and such common council is empowered to provide uniform rules and regulations governing the amount, extent, care, reports and other matters incident to such leave.

2. The common council of any such city, however incorporated, is hereby empowered to grant vacation periods with pay to any such employes and to provide uniform rules and regulations governing the extent of said vacation and other matters incident thereto.

3. The common council of any such city, however incorporated, is hereby empowered to pay to employes of such city compensations for overtime and to provide uniform rules and regulations governing the amount and the means of determining when any such employe shall be compensated for overtime. *(S. 1 thru 3, Ch. 279, L. 1923.)*

4-14. Funds for Concerts. The common council is authorized to appropriate funds for the aid of any orchestral society or other similar musical organizations in the giving of concerts in the city of Milwaukee. *(Section 4-14 am., Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)*

4-15. Funds for Celebrations. The common council may appropriate money to defray the expenses of celebrations or observances. The money appropriated for any of such purposes shall be expended in such manner and under such control as the common council shall direct. Any appropriation to defray the expenses of any celebration or observance shall be conditioned that such event or activity is open to the general public. Such moneys shall not be expended except upon the adoption of a resolution by the common council declaring that the event or activity for which the moneys are appropriated have a municipal purpose and promote the best interests and general welfare of the city. The resolution appropriating said moneys shall further provide that such funds or any part thereof shall not be used in any manner or for any purpose which violates the separation of church and state doctrine or aid, directly or indirectly, any political campaign or partisan cause. *(Section 4-15 rc. Ch. Ord. 428, File #75-1355, Nov. 11, 1975.)*

4-16. Garbage Facilities. Every city of the first class in this state, whether organized under special or general law, is hereby authorized to provide for the disposal of the garbage of such city by the reduction process, or otherwise, and to sell and dispose of the products obtained in the process of garbage disposal or reduction in such manner as such city may determine; and every such city is hereby authorized to incur indebtedness and to issue bonds in the manner provided by law for the erection and maintenance of garbage reduction or disposal plants. This act shall be liberally construed in favor of the city exercising the powers herein granted, and shall not be construed as a limitation upon any powers now possessed by any such city. *(S. 926-180 Stats. 1917.)*

4-18. Disqualification of Bidder for Printing. Whenever the lowest bidder for printing the proceedings of the common council for the said city shall appear to the comptroller of the said city and the committee of the common council on printing, to be incompetent or otherwise unreliable for doing the same, the said comptroller and committee shall report to the common council of said city a schedule of all the bids for such printing, together with their objections to accepting the bid of the lowest bidder therefor, and thereupon the common council shall have power either to order such printing to be let to the next lowest bidder who shall appear to be competent and reliable, or to order such printing to be relet. *(Section 4-18 am. Ch. Ord. 71, File #53697, June 11, 1934.)*

4-19. Suspension or Discontinuation of Proceedings Publication. 1. The common councils or board of aldermen of cities of the first or second class, whether operating under general or special charter, are hereby authorized, by resolution duly adopted by a majority of all the members elect of said body, to suspend or discontinue the publication of the proceedings of the common council or of the board of aldermen for such period as they may deem proper.

2. Nothing of this act shall be construed as authorizing the breaking of any contract for any such printing that may have been already entered into. Any resolution suspending the publication of proceedings shall take effect after its adoption upon the expiration of any contract now existing. *(S. 1 and 2, Ch. 98, L. 1897.)*

4-20. Proof of Publication. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length and time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. *(S. 10, Subch. 3, Ch. 184, L. 1874.)*

4-21. Appropriations and Ordinances; Procedure. 1. All resolutions appropriating money, or creating any charge against any city funds, and all accounts and ordinances, shall be referred to appropriate committees and shall only be acted on by the common council at a subsequent council meeting not held on the same day.

2. If a report is made by a committee upon an ordinance or a resolution appropriating money out of, or creating any charge against any city fund, the report shall be countersigned by the city comptroller, and the comptroller shall not countersign any such report, unless there is a sufficient portion of the proper city fund unappropriated to meet the appropriation or charge.

3. When a committee shall report by resolution upon a matter referred to it by the common council, action upon such resolution may, in the discretion of the council, be taken without further committee recommendation.

4. No portion of any city fund shall be transferred to, or borrowed from, or by any other of said funds at any time, or for any purpose whatsoever, so as to increase any fund to an amount in excess of the estimate for such fund as fixed by the common council.

5. Action upon any report of a committee made to the common council may be deferred to the next regular meeting of the common council by request of 1/5 of the members present.

6.a**.** The common council may take any matter described in sub. 1 from committee by a majority vote of the members of the common council in office at the time of the vote, provided the following conditions are met:

a-1. At least 30 days have passed since the matter was introduced at a common council meeting and referred to a committee.

a-2. A notice of intent to take the matter from committee has been filed with the city clerk at least 24 hours prior to the time of the common council meeting.

a-3. With respect to an ordinance, the city attorney has approved the legality and enforceability of the ordinance, providing that the following ordinances shall not be subject to this subdivision:

a-3-a. General salary, prevailing wage and positions ordinances.

a-3-b. Bus franchise ordinances.

a-3-c. Ordinances establishing width and grade of streets, alleys and sidewalks, and medial island change ordinances.

a-3-d. Official map changes and zoning district ordinances.

a-3-e. Taxi stand location ordinances.

a-3-f. Specific locations of stopping ordinances and parking ordinances.

a-3-g. Ordinances designating specific locations of certain traffic regulations.

a-4. With respect to any matter appropriating money out of, or creating any charge against any city fund, the city comptroller has indicated in writing that there is a sufficient portion of the proper city fund unappropriated to meet the appropriation or charge.

b. If a matter is taken from committee pursuant to par. a, the common council may proceed to consider and take action on the matter, providing the committee had previously held a public hearing on the matter. If a public hearing has not been held previously by the committee, the common council may hold a public hearing on the file, and then proceed to take action, or may refer the file to the committee from which it was taken, or to another committee, with a directive that a public hearing be held on the file at the next regularly scheduled meeting of the committee.

(HISTORY: Section 4-21 am. Ch. 310, File #64-4089, Apr. 6, 1965.

4-21 rc. File #970963, June 16, 1998; eff. Sept. 1, 1998.)

4-23. Mayoral Approval of Council Actions. Every act, ordinance, by-law, regulation, resolution or appropriation, which has been passed by the common council, before it shall take effect, and within 5 days after its passage, shall be certified by the city clerk, and presented to the mayor for approval. If the mayor approves, he or she shall sign it. If not, the mayor shall return it within 7 days, Saturdays, Sundays and holidays to be excluded, with objections stated in writing, to the city clerk. The clerk shall submit the objections to the common council no later than their next regular meeting thereafter. The council shall enter the objections upon the record of their proceedings, and shall proceed to reconsider the matter. Resolutions relating to the city's position on proposed state or federal legislation may be approved in whole or in part by the mayor, and the part approved shall take effect, and the part objected to shall be returned in the same manner as provided for other resolutions adopted by the common council. If, after reconsideration, 2/3 of the members at the time of the vote, or 3/4 of the members at the time of the vote if such majority was necessary as specified by law to originally pass the measure, should vote to pass the act, ordinance, by-law, regulation, resolution or appropriation, it shall take effect and be in force as an act or law of the city. Otherwise it shall be null and void. All such votes, after receiving the objections of the mayor, shall be taken by yeas and nays, and entered upon the journal of proceedings of the common council. If the mayor shall not return any act, ordinance, by-law, resolution or appropriation, after presentation by the city clerk, within 7 days, Saturdays, Sundays and holidays to be excluded, it shall take effect in the same manner as if the mayor had signed it.

(HISTORY: Section 4-23 am. Ch. Ord. 557, File #85-1776, Mar. 25, 1986; eff. June 10, 1986.

4-23 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.

4-23 am. File #881728, Jan. 24, 1989; eff. April 11, 1989.)

4-24. Public Utility Franchises. 1. Any person, copartnership or association, including public utility corporations, whether presently operating under a franchise, privilege or permit either from the city of Milwaukee or the state of Wisconsin, or not, desiring to manufacture, supply or furnish, by means of pipes or mains, directly or indirectly, natural gas or a mixed gas containing natural gas, to consumers within the city, or to change over from one type of gas to another, shall first make an application in writing to the common council for a permit to occupy streets, highways or other

public places within the city, setting forth the standards, quality and character of such service, the approximate cost to the gas users within the city, the heating value of the gas to be furnished, the cost to all classes of users of any parts or equipment or the cost of any changeover that will be required within the city in detail, and such other information in the premises which the said common council or a committee thereof may require.

2. Upon receiving any such application the common council shall order a public hearing either before it or a committee thereof.

3. The applicant shall furnish any additional information or data that the common council or such committee may require in the premises.

4. The common council may grant or refuse such permit or franchise, or may, in its discretion, refer the same to an advisory referendum vote for approval or disapproval by the voters of the city on a special ballot to be approved therefor by the common council at such time as the common council may direct. The common council shall not grant a permit if it finds the granting of a permit is not in the best interest of the public health, safety and welfare.

5. Nothing herein contained shall be interpreted as relieving the applicant from complying with any provision of the Wisconsin statutes relating to public utilities.

6. Any person, firm or corporation violating any of the provisions of this section shall, upon a conviction thereof, be punished by a fine not to exceed $500 for each offense, and each day of any violation shall be deemed to constitute a separate offense.

7. Should any section, or any provision of any section of the foregoing 6 sections be found or held invalid, the remaining sections and the remaining provisions of each of said sections shall be deemed valid and of full force and effect. *(Section 4-24 cr., Ch. Ord. 113, File #70494, Feb. 10, 1941.)*

4-25. Common Council Member to Hold No Other City Office. No member of the common council shall hold any other city office, and if any member of the common council shall, while a member, accept any other elective public office, he shall be deemed to have vacated his office as a member of the common council. *(S. 1, Ch. 55, L. 1887.)*

4-26. Vote on Matters in which Member has a Personal Interest. No member of the common council shall vote upon any question, matter or resolution in which he may be directly or indirectly interested. *(S. 2, Subch. 19, Ch. 184, L. 1874.)*

4-27. Interest in City Contracts. No member of the common council shall be a party to or interested in any job or contract with the city, and any contract in which any such member may be so interested shall be null and void, and in case and money shall have been paid in any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and from the member of the council interested in the same. *(Section 4-27 am. Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)*

4-28. Malfeasance. 1. MAJORITY VOTE. A majority of all the members elect of the common council shall have power to dismiss from office, for malfeasance in office in said city, any person elected or appointed to office in said city, except justices of the peace. And the common council shall provide by ordinance the manner of hearing and disposing of complaints against such officers. *(S. 7, Subch. 19, Ch. 184, L. 1874.)*

2. INVESTIGATION. Whenever any charges of official misconduct shall be preferred against any member of the common council of the city of Milwaukee, or any officer of said city, the common council shall appoint a committee to investigate such charges; and it shall be the duty of the committee, as soon as practicable after their appointment, to investigate the matter of any charges which may have been so preferred, and to report the results of their investigation to the said common council, and in case such committee shall deem it necessary or proper for the purposes of their investigation, they may examine witnesses on oath in relation to any such charges; and the several members of such committee are hereby authorized and empowered to administer oaths to witnesses to be examined, for the purposes of such examination. *(S. 8, Subch. 19, Ch. 184, L. 1874.)*

3. SUBPOENAS. Subpoenas may be issued for the purpose of procuring attendance of witnesses before any committee appointed pursuant to the preceding section (S. 8, subch. 19, ch. 184, L. 1874.). Each subpoena shall state when and where, and before whom, the witness is required to appear and testify, and may require such attendance forthwith, or on a future day named, and the production of books, records, documents and papers therein to be designated. All such subpoenas shall be signed by the city clerk of said city, and shall be issued under the seal of said city, and may be served in the same manner, and shall have the same force and effect as subpoenas issued out of the circuit court. Any willful or corrupt false swearing by any witness or person giving testimony before such committee or any member thereof, or making depositions to any material fact relating to the matter under investigation before such committee shall be deemed guilty of perjury, and shall be punished as such in the manner provided by law. The provisions of law in respect to the attachment of witnesses subpoenaed before justices of the peace and compelling the attendance of such witnesses to appear and testify before them, are hereby applied to the case of witnesses subpoenaed before such committee, and such committee may exercise the powers of arrest, fine and imprisonment for contempt vested in the court in such cases. Writs of attachment and commitment for contempt shall be signed by the chairman of such committee. *(S. 9, Subch. 19, Ch. 184, L. 1874.)*

4-29. Publication of Laws. 1. The common council of the city of Milwaukee are hereby authorized to cause this act [ch. 184, L. 1874], together with any other acts or parts of acts of the legislature of Wisconsin relating to it, affecting said city, and also any of the ordinances, by-laws, rules and regulations of said city or any of its departments, and any other acts, resolutions, contracts or other documents relating to or affecting said city, to be printed and published in book form, and such book shall be deemed prima facie evidence of the contents and passage, and shall be a sufficient publication of all such acts, ordinances, by-laws, rules, resolutions and regulations, printed copies of the ordinances, by-laws, resolutions and regulations of the city of Milwaukee in any newspaper, book, pamphlet or other form purporting to be published by authority of the common council of said city shall be admitted in all courts of this state as presumptive evidence of such ordinances, laws, resolutions and regulations, and of the due passage, publication and recording thereof. *(S. 1, Ch. 30, L. 1889.)*

2. This act [ch. 184, L. 1874] shall not invalidate any legal act done by the common council of the city of Milwaukee, or by its officers, nor divest their successors under this act of any rights of property or otherwise, or of any liability which may have accrued to, or been created bysaid corporation prior to the passage of this act. *(S. 16, Subch. 20, Ch. 184, L. 1874.)*

4-30. City Reports. The common council of any city of the first class, however incorporated, is hereby empowered to publish reports of the city's activities for any year or for successive years or of the work and activities of any department, bureau, board or commission of the city government of such city or of other public matters. Any such report may include summaries or detailed statements of the work of any department, bureau, board or commission of the city government in such form as the common council deems expedient including the departments, bureaus, boards or commissions which are financed by an independent tax, provided that such common council may authorize any department, bureau, board or commission to publish a separate report in addition to the report published by the common council. *(S. 1, Ch. 225, L. 1923.)*

4-31. Discharge of Judgment or Penalty. No penalty or judgment recovered in favor of the city shall be remitted or discharged without payment, and no resolution for a stay of prosecution for a violation of a city ordinance shall be passed, except by an affirmative vote in either case of 2/3 of the members of the common council at the time of the vote.

(HISTORY: S. 3, Subch. 20, Ch. 184, L. 1874.

4-31 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987)

4-32. Claims. Whenever a claim against the city shall be settled by the common council, the reason for such action must be stated in writing. Whenever such settlement is made upon the recommendation of the city attorney or his assistant, or other legal officer, the reason therefor must be stated in writing, signed and filed with the city clerk, and published with the proceedings of the common council. *(S. 925-121a, Stats. 1907; Section*
4-32 am, File #001619, March 20, 2001; eff. June 5, 2001.)

4-33. Restrictions on Wooden Buildings. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected, placed or repaired; and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty percent of the value thereof, and to prescribe the manner of ascertaining such damage. *(S. 1, Subch. 14, Ch. 184, L. 1874.)*

4-34. Prevention of Fires. 1. AUTHORITY. The common council shall have power:

a. To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove pipes, ovens, boilers and similar apparatus used in and about any building, and to cause the same to be removed, or placed in a safe and secure condition.

b. To prevent the deposit of ashes in unsafe places.

c. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

d. To regulate and prevent the use of fire works or fire arms.

e. To authorize the mayor, aldermen and other officers of the city to keep away from the vicinity of any fire persons not authorized or necessary, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires, and for the safety and protection of persons from injury thereby, as the common council may deem expedient.

2. ENFORCEMENT. Whenever any person shall refuse to obey any lawful order of the mayor or of any engineer, alderman or policeman at any fire, it shall be lawful for the officer giving such order, to arrest, or to direct orally any policeman, constable, watchman or any citizen to arrest such person, or to confine him temporarily in any safe place until such fires shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest or confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding $15.

(HISTORY: Section 4-34-1 am. Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.

Text of current 4-34-2 originally cr. as S. 9, Subch. 14, Ch. 184, L. 1874.)

[This page blank}

CHAPTER 5
CITY EMPLOYES AND OFFICERS

TABLE

5-01	City service; offices excepted
5-02	Residency requirements
5-03	Examination notice
5-05	Compensation for services
5-06	Bi-weekly payment of salary
5-09	Interest in contracts
5-10	Pecuniary interest in public service contracts
5-11	Conflicts of interest
5-12	False certification of work
5-13	Prohibited practices
5-50	Deferred compensation plan

5-01. City Service; Offices Excepted. Officers of the city of Milwaukee who are elected by the people, or who by the statutes are required to be elected by the city council, inspectors and clerks of election, one deputy in each department whose office was created or exists by reason of statute, heads of any principal departments of the city, all members of the fire and police departments and all other employes of the fire and police departments, one private secretary of the mayor and any other officers, clerks or employes in the service of the city whose positions in the judgment of the city service commissioners cannot for the time being be subjected, with advantage to the public service, to the general rules prepared under the civil service law, shall not be affected as to their election, selection or appointment by such rules made by said commissioners.

(HISTORY: Section 5-01, am., Ch. Ord. 310, File #64-4089, April 6, 1965.)

5-02. Residency Requirements. 1. RESIDENCY REQUIRED. Every law enforcement, fire and emergency employe shall establish and maintain his or her actual residence within 15 miles of the jurisdictional boundaries of the city of Milwaukee. Any such employe who does not reside within the prescribed distance from the city shall be ineligible for employment by the city, and he or she shall be separated from service under this section and the applicable rules of the city service commission or the fire and police commission. These commissions shall be vested with the responsibility for the administration, interpretation and enforcement of the residency requirement, including the designation of emergency personnel.

2. DEFINITION. The term "residence" employed in this section shall be construed to mean the actual living quarters which must be maintained by an employe specified in sub. 1. Neither where an employe votes nor the payment of taxes of any kind by itself by an employe shall be deemed adequate to satisfy the requirements of this section, nor shall the provisions of this section be satisfied by the maintaining of a rented room or rooms by an employe solely for the purpose of establishing residence within 15 miles of the jurisdictional boundaries of the city when it appears that his or her residence is outside of the prescribed distance from the city. Ownership of real property within the city, when not coupled with maintaining of actual living quarters within the prescribed distance from the city as herein required, shall be deemed insufficient to meet the requirements of this section. The city service commission or the fire and police commission is authorized to investigate complaints made to either commission with respect to the residence of employes of the city and may initiate any such investigation on its own motion. Whenever such investigation shall be made, the city service commission or the fire and police commission shall make a finding with respect to whether or not such an employe is or is not actually residing within the prescribed distance from the city in accordance with the requirements set forth herein and their accompanying rules. No consideration shall be given by the city service commission or the fire and police commission to the fact that such employe intends to maintain a residence within 15 miles of the jurisdictional boundaries of the city if the employe actually does not maintain such a residence as herein provided for.

3. DUAL RESIDENCE. In cases in which dual or multiple residences are rented, owned or maintained by an employe, it is not sufficient for the employe to claim that he or she meets the residency requirement because of rental, ownership or maintenance of a residence within the prescribed distance from the city if the employe's actual living quarters are not within 15 miles of the jurisdictional boundaries of the city. The city service commission or the fire and police commission shall make a final determination in dual or multiple residence cases

as to which location constitutes an employe's actual living quarters, and it shall be the location which will be considered in establishing whether an employe complies with the intent of this section and appropriate rules relating to residency. Decisions involving dual or multiple residency shall be based upon the totality of circumstances present in each case. The decision of the city service commission or the fire and police commission shall be final in respect to whether or not such employe's residence satisfies the provisions and requirements of this section.

4. ACTION BY DEPARTMENT HEAD. Whenever a department head finds that an employe does not reside within the prescribed distance from the city, the department head shall immediately file a written complaint against that employe to effectuate the separation of that employe from the service.

5. EXTENSION. Whenever it shall appear to the city service commission or the fire and police commission that good cause exists for granting extensions of time to employes of the city to obtain residences within 15 miles of the jurisdictional boundaries of the city, or if it shall appear to the city service commission or the fire and police commission that a new or prospective employe of the city would require a reasonable period of time in order to establish a residence within the prescribed distance from the city so as to meet the requirements of this section, the city service commission or the fire and police commission may allow such employe a period of not to exceed 6 months in which to satisfy the requirements of this section.

6. HARDSHIP EXCEPTIONS.

a. Whenever it shall appear to the city service commission or the fire and police commission, considering standards enumerated in the commission's rules, that an employe should be granted temporary exception from the requirements of this section, the city service commission or the fire and police commission shall make a finding based upon the evidence presented.

b. If a city employe weds an employe of another jurisdiction which also has a residency requirement, mandating that its employe reside within 15 miles of that jurisdiction's boundaries, and if that employment is in effect at the time of the marriage, the city service commission or the fire and police commission may grant the city employe an exemption from the city's residency requirements, provided that the following conditions are and remain in effect:

b-1. That the other jurisdiction is willing to enter into an appropriate reciprocity agreement with the city service commission or fire and police commission concerning such transactions.

b-2. That the city employe actually resides with his or her spouse within 15 miles of the jurisdictional boundaries of the spouse's jurisdiction.

b-3. That both employing jurisdictions retain their respective residency policies.

b-4. That the response time required for the exempted employe to arrive at work in emergency situations be reasonable as determined by the commission.

b-5. That the residency requirements of the other jurisdiction would preclude the married couple from living within 15 miles of the jurisdictional boundaries of the city of Milwaukee.

7. COMPLIANCE. In construing and applying the provisions of this section, the provisions of any section inconsistent herewith shall be deemed amended so as to be in all respects consistent with the provisions of this section.

(HISTORY: Section 5-02 rc. Ch. Ord. 226, File #56-1775-a, Sept. 18, 1956.

5-02-1 rc., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-2 am., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-2 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-3 am. Ch. Ord. 253, File #59-395-a, June 9, 1959.

5-02-3 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-3 cr., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-3 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-4 rc., File #941973, Dec, 17, 1996; eff. Mar. 10, 1997.

5-02-4 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-4 rp., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-5 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-5 ra., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6 rc., Ch. Ord. 427, File #73-2118-a, Nov. 11, 1975.

5-02-6 am., File #941973, Dec. 17, 1996; eff. Mar. 10, 1997.

5-02-6 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-6 ra., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6-a am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6-b-0 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6-b-1 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6-b-2 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-6-b-5 am., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-7 rc., Ch. Ord. 427, File #73-2118-a, Nov. 11, 1975.

5-02-7 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-7 rn., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-8 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-8 rp., File #160453, July 26, 2016; eff. Oct. 11, 2016.

5-02-9 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-9 rp., File #160453, July 26, 2016; eff. *Oct. 11, 2016.*

5-02-10 rn., File #160453, July 26, 2016; eff. Oct. 11, 2016.)

5-03. Examination Notice. 1. TO BE POSTED. Notice of each examination to be held by the board of city service commissioners of the city of Milwaukee shall be given by posting such notice in or immediately adjacent to the office of the said board at least 10 days prior to the last day announced for receipt of applications, and said posting shall be such as to make the said notice readily accessible to public view. Nothing herein shall prohibit or restrain the said board or its chief examiner from giving such further publicity as it or he may deem to be useful.

2. APPLICATION FORM. Every application for examination by the board of city service commissioners, in order to entitle the applicant to be examined, must be on a form prescribed by the said board, and shall include such facts regarding age, residence, citizenship, education, experience and other subjects as are customarily called for in civil service application blanks. Such other information shall be furnished by the applicant as may reasonably be required regarding the applicant's fitness for the public service.

(HISTORY: Section 5-03 am. Ch. Ord. 120, File #74714-a, July 13, 1942.

5-03 am. Ch. Ord. 149, File #48-2837-a, March 28, 1949.)

5-05. Compensation for Services. No officer or employe receiving a salary from any city whether organized under general or special law, shall receive for service of any kind or nature rendered such city any compensation therefor other than the salary fixed and provided for such office, except as provided in the salary ordinance. This section shall apply to all officials now serving or hereafter elected or appointed to public place. Provided, that for the purposes of this section moneys or funds held by any such city as pension funds shall not be considered or construed to be city money or funds, and that the payment to or receipt by any person of any money from any such funds shall not be construed as the payment or receipt of money or compensation from such city. Provided further, that this section shall not apply to nor be construed to prohibit the employment of any such official or employe by any school board of such city for the purpose of supervision, teaching or other duties in any evening or night school, social center, summer school, or other extension activity, and that the payment to or receipt by any such person of any money for such service shall not be construed to be in conflict with this section.

(HISTORY: Section 5-05 am. Ch. Ord. 500, File #80-1709, Jan. 20, 1981.

5-05 am. File #071050, Feb. 5, 2008; eff. Apr. 22, 2008.)

5-06. Bi-weekly Payment of Salary. 1. Officers and employes of the city of Milwaukee shall be paid bi-weekly.

2. Deductions for time off for which officers and employes employed on a 40 hour week basis are not entitled to pay shall be 1/10 of the bi-weekly rate of pay for each day missed.

3. The comptroller is directed to devise and enforce methods of calculating pay deductions for time worked and time off for employes compensated on other than a 40 hour week or on an irregular time basis and for employes on a 2000 hour per year basis.

(HISTORY: Section 5-06 am. Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.

5-06-1 am. Ch. Ord. 391, File #72-723, July 28, 1972.)

5-09. Interest in Contracts. No person interested, directly or indirectly as principal or surety, in any contract or agreement written or verbal, to which the said city shall be a party in interest, or to which any officer or board under this act (ch. 184, L. 1874 as amended) shall officially be a party, for the construction of any sewer, pavement or building, or the performance of any public work whatever, or involving the expenditure, receipt or disposition of money or property of the said city, or by any officer or board under this act, shall be eligible to any office or appointment in said city that will in any manner give him official cognizance or authority over the subject matter of such interest; and if any person thus interested shall be elected or appointed to office, his election or appointment shall be void, and such office shall be deemed vacant. *(Section 5-09 am. Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)*

5-10. Pecuniary Interest in Public Service Contracts. No person shall be eligible to any city office who directly or indirectly has any pecuniary interest in any contract for furnishing heat, light, water, power, or other public service to or for such city, or who is a stockholder in any corporation which has any such contract. Any such office shall become vacant upon the acquiring of any such interest by the person holding such office. *(S. 961 Stats. 1919.)*

5-11. Conflicts of Interest. If any member of the common council, or other officer of the corporation, after his election or appointment, or while in office shall become or cause himself to become interested, directly or indirectly, in any contract or agreement, whether written or verbal, to which the corporation shall be a party in interest, or to which any officer or board under this act (ch. 184, L. 1874) shall officially be a party, or in any question, subject or proceeding pending before the common council or on which such officer may be called upon to act officially, with intent to gain, directly or indirectly, any benefit, profit, or pecuniary advantage, or if an attorney of any court of record shall, while a member of the common council, prosecute or be interested in the prosecution of any action against said city of Milwaukee, or any of its officers, he shall be removed from his office, and the same shall be declared vacant by the common council; and he shall be deemed guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison for not more than one year, or by fine of not more than $5,000 nor less than $500, or by both such fine and imprisonment, in the discretion of the court; provided, however, that the provisions of this section shall not be considered as applying to purchases in open market, nor to the performance of any work for the city the cost of which shall not exceed the sum of $200.

(HISTORY: Section 5-11 am., Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)

5-12. False Certification of Work. If any member of the common council, or other officer or agent of the city government, or any person employed, appointed or confirmed by the common council or appointed by any department of the city government, shall knowingly certify that any work has been done for said city, or any contract with said city has been completed in compliance with the terms thereof when in fact such work had not been done, or said contract had not been completed, such member of the common council, officer or agent, shall be removed from office, and his office declared vacant, and no such officer, agent or employe, shall again be elected, appointed or employed by, or for the city of Milwaukee, to any office, place or position whatever. *(S. 45, Ch. 144, L. 1875.)*

5-13. Prohibited Practices. If any member of the common council, or other officer or agent of the city government, shall, directly or indirectly, accept or agree to accept or receive, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange, draft, order or certificate, or any security for the payment of money or goods or chattels, or any deed of writing containing a conveyance of land or conveying or transferring an interest in real estate, or any valuable contract in force, or any other property or reward whatever, in consideration that such member of the common council, or other officer or agent, will vote affirmatively or negatively, or that he will not vote, or that he will use his interest and influence, on any question, ordinance, resolution, contract, or other matter or proceeding, pending before the common council, or on which such officer or agent may be called upon to decide or act in any particular manner, such member of the common council, officer, or agent, shall be removed from office and his office declared vacant by the common council; and both he and the person or persons offering or paying such consideration, directly or indirectly, shall be deemed guilty of felony, and, on conviction thereof, shall be punished by imprisonment in

the state prison for not more than three years nor less than one year, or by fine not exceeding five thousand dollars nor less than five hundred dollars, or by both such fine and imprisonment at the discretion of the court. *(S. 6, Subch. 19, Ch. 184, L. 1874.)*

5-50. Deferred Compensation Plan.

1. ESTABLISHED. There is established a deferred compensation plan for employes of the city. Such plan shall be an eligible deferred compensation plan under s. 457 of the Internal Revenue Code and shall be by specific written agreement between such employes and the city which shall provide for deferral of such amount of compensation from the employe's wages as requested by the employe. Payments to participating employes under the plan shall be made in accordance with agreements executed between the city and the employes.

2. ELIGIBILITY. Employes of the city who receive compensation in the form of wages and salaries shall be eligible for participation in the deferred compensation plan. In order to participate, employes must file a written election.

3. INVESTMENT OF FUNDS. All amounts of compensation deferred under the plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of participants and beneficiaries as provided in s. 457 of the Internal Revenue Code. For purposes of this subsection, custodial accounts and contracts described in s. 457(g) of the Internal Revenue Code shall be treated as trusts. Such compensation, property, rights and income shall be invested at the discretion of the board in the manner authorized for deferred compensation funds under ss. 40.82(2) and 881.01, Wis. Stats. Such compensation, property, rights and income shall be held subject to the anti-alienation provisions contained in s. 62.63(4), Wis. Stats.

4. ADMINISTRATION. The common council may by ordinance establish a board to supervise the plan. The board shall serve as a fiduciary under s. 881.01, Wis. Stats., with respect to assets of the plan, provided however, the board shall not be deemed to have breached its fiduciary duties for permitting participants and beneficiaries to exercise control over assets in their individual account; participants and beneficiaries shall not be deemed to be fiduciaries by reason of exercising control over the assets in their individual account; and no person who is otherwise a fiduciary shall be liable for loss, or by reason of any breach, which results from participants or beneficiaries exercising control over assets in their individual account. Participants or beneficiaries shall be deemed to exercise control over the assets in their account if the board offers them a range of investment alternatives sufficient to provide them with a reasonable opportunity to choose from at least 3 investment alternatives, each of which is diversified, each of which has materially different risk and return characteristics, which in the aggregate enable the participant or beneficiary choosing among them to achieve a portfolio with aggregate risk and return characteristics at any point within the range normally appropriate for the participant or beneficiary, and each of which when combined with investments in the other alternatives tends to minimize through diversification the overall risk of a participant=s or beneficiary=s portfolio. The board may promulgate such rules as may be necessary to supervise and direct such plan and to secure approval of the Internal Revenue Service so that amounts of compensation deferred by a participant will be includable in the income of the participant or his or her beneficiary only when such amounts are paid or otherwise made available. Proper city officers are authorized to execute on behalf of the city such agreements as are formulated by the board in the implementation of the plan. Deferred compensation held in the name of the city or the custodian for the exclusive benefit of the participants and beneficiaries in accordance with the plan shall be invested at the direction of the board in accordance with the requirements of law. The comptroller shall prescribe accounting procedures for the plan. Whenever the city shall so contract with other employers, the board shall jointly administer 2 or more separate deferred compensation plans.

5. COMPLIANCE. Common council resolution file No. 73-2160-a adopted Oct. 8, 1974, as amended by common council resolution file No. 73-2160-b adopted Dec. 23, 1974, and as further amended by common council resolution file No. 73-2160-c adopted July 29, 1975, the master agreement heretofore executed

5-50-5-City Employes And Officers

On behalf of the city on Dec. 16, 1975, joinder agreements heretofore executed between the city and participating employes and such other elements of the amended plan as have been finally approved by the Internal Revenue Service are approved, confirmed and ratified effective upon their respective dates as implementations of the deferred compensation plan authorized by this ordinance meeting the requirements established under this section.

(HISTORY: Section 5-50 cr. Ch. Ord. 441, File #73-2160-g, Jan. 18, 1977.

5-50-1 am. File #912292, April 15, 1992; eff. July 6, 1992.

5-50-2 am., Ch. Ord. 492, File #80-277-a, July 29, 1990.

5-50-3 rc. File #912292, April 15, 1992; eff. July 6, 1992.

5-50-3 am File #980689, Sept. 23, 1998; eff. Dec. 9, 1998.

5-50-4 am., Ch. Ord. 476, File #73-2160-i, June 15, 1979.

5-50-4 am., Ch. Ord. 519, File #82-1295, Nov. 9, 1982.

5-50-4 am. File #971476, Jan. 20, 1998; eff. April 7, 1998

5-50-4 am. File #980689, Sept. 23, 1998; eff. Dec. 9, 1998.

5-50-3 am. File #020229, June 4, 2002; eff. August 20, 2002.

5-50-3 am. File #061049, Dec. 12, 2006; eff. Mar. 5, 2007.

5-50-4 am. File #061049, Dec. 12, 2006; eff. Mar. 5, 2007.)

CHAPTER 6
EMERGENCY MANAGEMENT AND HOMELAND SECURITY

TABLE

6-01	Purpose
6-03	Definitions
6-05	Organization
6-07	Emergency Powers
6-09	Powers of the Mayor
6-11	Director of Emergency Management and Homeland Security
6-13	Designation of Emergency Temporary Locations
6-15	Departmental Emergency Response and Continuity of Operations Plans
6-17	Duties of Departments
6-19	Utilization of Existing Services and Facilities
6-21	Cooperation
6-23	Funding
6-25	Emergency Management Services Expenses
6-27	Enforcement
6-29	Penalty
6-31	Prior Rights and Obligations Preserved
6-33	Vacancies
6-35	Vacancies in the Office of Mayor
6-37	Vacancies in the Office of Common Council
6-39	Emergency Interim Successors
6-41	Residence Requirements Suspended
6-43	Preservation of Essential Public Records

6-01. Purpose. 1. PURPOSE. By reason of the existing and increasing possibility of an emergency existing within the city whenever conditions arise by reason of a riot or civil commotion, a disaster, or an imminent threat of a disaster that impairs transportation, food or fuel supplies, medical care, fire, health or police protection, or other critical systems of the city, and to insure that preparations of this city will be adequate to deal with such disasters; to provide for the common defense; and to protect the lives and property and to preserve the peace, health, safety and general welfare, it is declared to be necessary:

a. To create the office of emergency management and homeland security.

b. To confer upon the mayor, the common council and upon other officers of the city certain extraordinary powers in a period of emergency.

c. To provide for cooperation or mutual aid with other political subdivisions, private agencies and individuals relative to emergency management activities, in a manner that is consistent with the incident command system and the city's emergency response plan.

2. POLICY. It is further declared to be the purpose of this chapter and the policy of the city that organization, training and planning for emergency management and homeland security are the continuing responsibility of each department or office of city government. Emergency management and homeland security planning and preparation shall follow insofar as possible the normal lines of governmental administration. Such planning and preparation shall provide for the maximum use of volunteer organizations and volunteer efforts on the part of all residents of the city.

3. EXECUTIVE POWERS. It is further declared to be the purpose of this chapter and the policy of the city to permit the temporary suspension by ordinance, resolution or executive proclamation of the requirements of any city ordinance or resolution during a period of emergency which the common council or mayor deems necessary to allow immediate response to meet the exigencies and needs of the extraordinary conditions existing, and to grant to the mayor during such period broad executive powers to discharge the responsibility and duties placed on him by statute and this chapter.

6-03. Definitions. In this chapter:

1. BIOLOGICAL AGENT means any of the following:

a. A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is specified under 42 CFR 72, Appendix A.

b. A genetically modified micro-organism or genetic element from an organism under par. a that is shown to produce or encode for a factor associated with a disease.

c. A genetically modified micro-organism or genetic element that contains nucleic acid sequences coding for a toxin under par. a or its toxic subunit.

d. An agent specified by the state department of health services by rule.

2. BIOTERRORISM means the intentional use of any biological, chemical or radiological agent to cause death, disease or biological malfunction in a human, animal, plant or other living organism in order to influence the policy of a governmental unit or to intimidate or coerce the civilian population.

3. CHEMICAL AGENT means a substance that has chemical properties that produce lethal or serious effects in humans, plants, animals, or other living organisms.

4. DIRECTOR means the head of the office of emergency management and homeland security as provided in ch. 323, Wis. Stats.

5. DISASTER means a severe or prolonged natural or human-caused occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of the city, or critical systems, including computer, telecommunications, or agricultural systems.

6. EMERGENCY MANAGEMENT AND HOMELAND SECURITY means all measures undertaken by or on behalf of the city to do the following:

a. To prepare for and minimize the effect of a disaster or the imminent threat of a disaster.

b. To make repairs to or to restore infrastructure or critical systems that are destroyed or damaged by a disaster.

7. EMERGENCY OPERATIONS CENTER means the facility from which command and control takes place of a large disaster, catastrophic event or incident requiring extraordinary city resources.

8. EMERGENCY RESPONSE PLAN means the plan that identifies the various city department functions to be performed during a disaster.

9. GOVERNOR means the governor of the state of Wisconsin or anyone legally administering the office of governor.

10. INCIDENT COMMAND SYSTEM means a functional management system established to control, direct and manage the roles, responsibilities and operations of all the agencies in a multi-jurisdictional or multi-agency emergency response.

11. PUBLIC HEALTH EMERGENCY means the occurrence or imminent threat of an illness or health condition that meets the following criteria:

a. Is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent.

b. Poses a high probability of either of the following:

b-1. A large number of deaths or serious or long-term disabilities among humans.

b-2. A high probability of widespread exposure to a biological, chemical or radiological agent that creates a significant risk of substantial future harm to a large number of people.

12. RADIOLOGICAL AGENT means radiation or radioactive material at a level that is dangerous to humans, animals or other living organisms**.**

6-05. Organization. 1. CREATED. To carry out the policies and purposes of this chapter, there is created the office of emergency management and homeland security under the executive direction and control of the mayor.

2. DIRECTOR. The director, who shall be appointed by the mayor and confirmed by the common council shall:

a. Have administrative control of the office of emergency management and homeland security.

b. Develop and promulgate emergency plans consistent with state and federal plans, direct the emergency management and homeland security program and perform such other duties related to emergency management and homeland security as are required by the common council.

c. Coordinate the city's emergency management and homeland security preparedness, planning and exercises.

d. Direct participation in emergency management and homeland security programs and exercises ordered by the adjutant general of the Wisconsin department of military affairs.

e. Advise the county head of emergency management services on local emergency management programs and submit such reports as he or she requires.

6-07. Emergency Powers. 1. Pursuant to s. 323.14(4), Wis. Stats., the common council is empowered to order, by ordinance or resolution, an emergency existing within the city. The period of emergency shall be limited by ordinance or resolution to an emergency or the imminent threat of an emergency.

2. The emergency power of the common council conferred under sub. 1 includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection and welfare of persons and property within the city in the emergency and includes the power to bar, restrict or remove unnecessary traffic, both vehicular and pedestrian, from the public way, notwithstanding any provision of chs. 341 to 349, Wis. Stats., as amended, or any other provisions of law.

3. If, because of the emergency conditions, the common council is unable to meet with promptness, the mayor or acting mayor shall exercise by proclamation all of the powers conferred upon the common council under sub. 1 or 2 which within the discretion of mayor or acting mayor appear necessary and expedient for the purposes of this chapter. The proclamation shall be subject to ratification, alteration, modification or repeal by the common council as soon as it can meet, but the subsequent action taken by the common council shall not affect the prior validity of the proclamation.

4. The office of emergency management and homeland security shall not be employed to interfere with the orderly process of a labor dispute.

6-09. Powers of the Mayor. 1. EXECUTIVE DIRECTION. The mayor shall have executive direction and control of the office of emergency management and homeland security and shall be responsible for the carrying out of provisions of this chapter and ch. 323, Wis. Stats., as amended. During a period of emergency, the mayor shall assume command and direct control over all emergency management and homeland security operations and functions within the city.

2. COOPERATION WITH OTHER AGENCIES. The mayor is authorized to cooperate with other political subdivisions, other states, the federal government, and with federally recognized American Indian tribes and bands in all emergency management and homeland security matters pertaining to the city, state and nation. The mayor shall comply, so far as is practicable and consistent with the emergency management and homeland security requirements of the city, with program guides of the emergency management and homeland security agencies of the federal government and the state of Wisconsin. He or she shall prepare or cause to be prepared reports of emergency management and homeland security preparations, programs or progress which are required for eligibility or participation in financial or other assistance made available by or through the federal government or the state of Wisconsin.

3. DELEGATION OF AUTHORITY. The mayor is further authorized and empowered to:

a. Make, amend and rescind orders, rules, regulations and emergency management plans within the limits of the authority conferred upon him or her under this chapter, consistent with emergency management statutes and plans of the state of Wisconsin and the federal government.

b. Enter into shelter licenses or other similar arrangements with other political subdivisions, or governmental or private agencies, or individuals. However, no expenditures of public funds or any obligation of such funds shall be made without prior approval of the common council, except during periods of emergency.

c. Delegate administrative and contracting authority vested in him or her under this chapter, and authorize the subdelegation of such authority.

d. Declare by proclamation a state of emergency and the termination thereof unless the common council by resolution shall sooner declare the termination of the state of emergency. When the proclamation is issued, the governor shall be immediately notified of its contents.

4. SAFETY PROTECTION. a. The mayor shall have the power during a period of emergency to take such action as he or she deems necessary to preserve or protect the lives, health and safety of persons and property and to provide emergency assistance to any victims during such period. The mayor shall not be required to comply with the procedures and formalities prescribed by any other ordinance or

resolution of the city pertaining to the performance of public work, the issuance of temporary permits, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, or the requisition or purchase of supplies and materials. Such power or authority shall, however, not exceed the amount appropriated by the common council, and set aside and remaining in an emergency management and homeland security fund. In no event shall the liability of the city exceed the fair and reasonable value of the services, supplies, equipment or materials furnished by virtue of the exercise of such power or authority.

b. The mayor shall have the power after a proclamation of emergency, and until the state of such emergency is terminated, to commandeer materials, services and property in the public interest and safety.

c. The mayor shall immediately notify the common council president to convene the council as soon as conditions permit.

6-11. Director of Emergency Management and Homeland Security. The director shall serve as the manager of the emergency operations center and shall facilitate the coordination among city department and other levels of government when the center is activated.

1. The director shall direct the planning and training of all city departments relating to emergency management and homeland security. The director shall maintain liaison with and cooperate with emergency management and homeland security agencies and organizations of other political subdivisions within the state of Wisconsin, other states and the federal government, and shall have such additional administrative authority, duties and responsibilities as are delegated to him or her by the mayor or as may be granted by ordinance or resolution of the common council. The director shall not exercise command authority over any officer or employe in charge of any other city department.

2. The director may employ technical, clerical and other personnel, as the needs of the everyday emergency management and homeland security services require subject to the prior approval of the common council. Such personnel shall be selected or appointed according to existing ordinances and the procedures and rules of the city service commission or as otherwise provided by the common council.

3. The director shall prepare or cause to be prepared and maintain a comprehensive and current emergency response plan for emergency management, homeland security, and continuity of governmental operations plans for the city and its inhabitants. The plan shall be coordinated with the national incident command system and national response plan, and the plans of the state of Wisconsin and the county of Milwaukee.

4. The director shall, in accordance with the city's emergency response plan, procure, or cause to be procured, supplies and equipment and take and cause to be taken all other preparations for any future partial or full mobilization of emergency management and homeland security organizations in advance of a disaster, or for the imminent threat of a disaster to assure the availability of adequately trained and equipped forces of necessary emergency management and homeland security personnel in a period of emergency.

5. The director may recommend to the mayor appointments for emergency management and homeland security assignments of city officers or employes as may be necessary for an efficient emergency management and homeland security organization in addition to those expressly provided for in this chapter.

6. The director shall make, or cause to be made with the mayor's approval, studies and surveys of industries, resources, services and facilities in this city and surrounding political subdivisions as may be necessary to ascertain the capabilities of the city relative to emergency management and homeland security operations and to plan for use thereof.

7. The director shall be the central point for the news media, city employes, public officials and the public regarding the operations of city government during a period of emergency. The director shall also establish and maintain a public information program, consistent with the incident command system, to inform the public of protective measures planned or to be taken by the government during a period of emergency. The director shall inform the public to the maximum extent possible of the necessity of self-help and protection and keep the public informed of the availability of self-help and protection materials and publications.

8. The director may, with the prior approval of the mayor, authorize expenditures within the budgeted funds established or provided by either the common council or the state or federal government or other agencies, in carrying out the provisions of this chapter. Expenditures of such budgeted city funds shall be in accordance with ch. 65, Wis. Stats.

6-13. Designation of Emergency Temporary Locations. 1. ALTERNATE SITES. The mayor may designate, subject to common council approval, alternate sites as the emergency temporary locations of government where all, or any part, of the public business may be conducted whenever during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of city government at the regular or usual places. The alternate sites may be within or without the territorial limits of the city and may be within or without those of the state of Wisconsin. With the approval of the mayor, department heads shall from time to time designate specific places for their subordinates and employes to report upon the commencement of an emergency, if it is desirable for such persons to report to a place other than that designated by the mayor as the temporary site of government.

2. EXERCISE OF AUTHORITY. While the public business is being conducted at a temporary location, the mayor, common council and other city officers shall possess and exercise all executive, legislative, administrative and judicial powers and functions conferred upon the mayor, common council and city officers under state law. Those powers and functions, except judicial, may be exercised in light of the exigencies of the emergency situation without regard to the compliance with time-consuming procedures and formalities prescribed by law. All acts of the mayor, common council and officers shall be valid and binding as if performed within the territorial limits of the city.

6-15. Departmental Emergency Response and Continuity of Operations Plans. 1. Each city department shall develop and maintain a departmental continuity of operations plan. Each departmental emergency response and recovery plan shall include, but not be limited to:

a. Risk and vulnerabilities assessment.

b. Identification of key staff and the means of contacting key staff during a period of emergency.

c. The activities of the department during a period of emergency.

d. Identification of critical and non-critical personnel job duties.

e. Identification of alternate sites for departmental functions.

f. Identification of alternate locations for storage of supplies, records and other critical items.

g. An outline of the process of restoring departmental services following a period of emergency.

2. Each department shall annually submit a copy of the department's continuity of operations plan to the director for review to assure consistency with the city's emergency response plan.

6-17. Duties of Departments. 1. It shall be the duty of all city departments to perform the functions and provide the necessary resources identified in the city's emergency response plan to respond to a disastrous or catastrophic incident.

2. All city departments shall cooperate with the director in developing, maintaining and exercising the city's emergency response plan.

6-19. Utilization of Existing Services and Facilities. 1. In carrying out the provisions of this chapter, the director shall utilize the services, equipment, supplies and facilities of existing departments, bureaus, offices, commissions, committees, authorities and agencies of the city to the maximum extent practicable. The officers, agents, employes and personnel of all such departments, bureaus, offices, commissions, committees, authorities and agencies of the city shall cooperate with the office of emergency management and homeland security.

2. It shall be a condition of employment by the city that every city employe, present and future, may be required to receive training in and assignment to an emergency management position, consistent with the education, training, experience and the job classification or position occupied by the employe. The mayor or director may exempt employes from this requirement.

6-21. Cooperation. 1. The city may cooperate with other jurisdictions under s. 66.0301, Wis. Stats., to furnish services, combine offices and finance emergency management and homeland security services.

2. The mayor may, subject to the approval of the common council, in collaboration with other public or private agencies, enter into mutual aid agreements or arrangements for reciprocal emergency management and homeland security aid. The agreements or arrangements shall be consistent with the currently existing state of Wisconsin statutes and the state of Wisconsin emergency management and homeland security plan and the currently existing plan and program of the federal government. In a period of emergency, the office of emergency management and homeland security shall render assistance in accordance with provisions of any mutual aid agreement or arrangement.

6-23. Funding. 1. APPROPRIATION. The common council shall appropriate such money as it deems necessary for the carrying out of the purposes of this chapter, such money to be deposited in a special account to be known as the "emergency management and homeland security fund." The money, except as otherwise specifically provided, shall be disbursed in the manner prescribed for the disbursement of public funds, excepting in case of a period of emergency, in which event the mayor may disburse such appropriated funds within his or her discretion for emergency management or homeland security services without the signature or countersignature of any other city officer or compliance with any other ordinance.

2. SUPPLIES. Whenever during a period of emergency the federal government or the state of Wisconsin or any agency or officer thereof, or any person, firm or corporation shall offer to the city or to the office of emergency management and homeland security, equipment, supplies, materials, aids, expenses, assistance or funds by way of gift, grant, contribution or loan or otherwise for the purposes of emergency management or homeland security, the mayor, on behalf of the city, may accept such offer, and upon such acceptance, may authorize any officer of the city or the director to receive the same, subject to the terms of the offer and the rules and regulations, if any, of the offerer or agency making the offer. The acceptance or receipt shall not create or cause any liability on the part of the city, the director, or any officer, agent or employe thereof or of the city for failure to comply with the terms of such offer and the rules and regulations, if any, of the offerer or agency making the offer. All funds or moneys so received shall be disbursed in the manner prescribed for the disbursement of public funds.

3. PROGRAM GRANTS. City agencies applying for emergency management or homeland security grants shall coordinate with the director to ensure continuity with the goals of the city's emergency response plan and overall homeland security strategy.

6-25. Emergency Management Services Expenses. Except as expressly provided for in this chapter, no person shall expend any funds of the city in carrying out any emergency management or homeland security activity authorized herein without prior approval by the common council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior approval of the common council.

6-27. Enforcement. The director, department heads, officers, agents, employes and all other city and emergency management and homeland security personnel shall execute, enforce and obey such lawful orders, rules and regulations as may be issued by the mayor during a period of emergency.

6-29. Penalty. Any person, who willfully refuses to comply with any lawful order of the mayor during a period of emergency shall upon conviction by a court of record forfeit a sum not exceeding $1,000, and in default of payment be imprisoned not exceeding 40 days.

6-31. Prior Rights and Obligations Preserved. This chapter shall not invalidate any act done, obligation or contract made or incurred by the city or in its behalf by any officer or duly authorized emergency management or homeland security organization, committee or agency pursuant to the authorization of any ordinance or resolution existing prior to August 15, 2007, nor shall this chapter divest the city, any committee, agency, or officer thereof of any rights of property, contracts or any other rights or of any liability or obligation which may have been created or accrued prior to the effective date of this chapter.

6-33. Vacancies.

1. TEMPORARY VACANCIES. If during the period of emergency resulting from a disaster or the imminent threat of a disaster, any officer except the mayor or a common council member, or employe fails or is unable to report to his or her assigned duties and location, his or her position shall thereupon be deemed temporarily vacant. When there is no succession provided by law, or an emergency interim successor designated under s. 6-39, the mayor or his or her successor may designate another city officer or employe to act in his stead with all the powers, responsibilities and duties of the office or position but without change in classification or salary. The mayor or his or her successor shall authorize department heads to make such temporary appointments to positions within their departments. In those cases where a deputy is provided by law, he or she shall immediately succeed to any temporary vacancy upon the same terms. When neither the officer nor the deputy is present, the mayor shall make a temporary appointment of another city officer or employe to the vacancy. Immediately upon the return of the permanent officer or employe, he or she shall resume duties and the temporary appointee shall return to his or her regular position.

2. PERMANENT VACANCIES. If during the period of emergency any officer or employe shall be known to be dead or shall fail to report to his or her assigned duties and location for 60 days, in the absence of factual knowledge to the contrary, he or she shall be presumed to be dead or to have forfeited his or her position which shall thereupon be deemed permanently vacant. Public notice of such vacancy shall be given by the best means available and if the office or position shall not be claimed by notice in writing to the mayor within 10 days thereafter, the vacancy may be filled. Vacancies in positions subject to civil service commission or fire and police commission law shall be filled as provided therein. Vacancies in the office of the city comptroller, city treasurer and city attorney shall, except where the deputy shall have succeeded to office by law, until the next municipal election, be filled by appointment by the mayor, subject to confirmation by the common council. Vacancies in the office of the mayor shall be filled by an acting mayor succeeding to office as prescribed in s. 6-35. Vacancies in the office of common council member shall be filled as prescribed in s. 6-37. Vacancies in appointive positions shall be filled as prescribed by law.

6-35. Vacancies in the Office of Mayor. During the period of emergency the position of mayor shall be deemed temporarily vacant if he or she shall either fail to or be unable to perform his or her assigned duties. Vacancies in the office of mayor shall automatically be filled during the period of the emergency until the elected mayor shall resume his or her duties, by a direct line of succession by those persons elected or appointed to the following offices prior to the emergency in the order set forth in this section. If any such person lower on the list of succession shall have assumed the office and any such person higher on the list of succession shall become available to serve, the office shall be relinquished in such case to the person higher on the list.

1. The president of the common council.

2. Chair of the common council committee on finance and personnel.

3. The chairs of the remaining standing committees of the common council in the order of their length of service as common council member, and in the event such time of service is equal, in the alphabetical order of their surnames.

4. The remaining council members in the order of the length of service as common council member, and in the event such time of service is equal, in the alphabetical order of their surnames.

5. The city comptroller.

6. The city treasurer.

7. The city attorney.

8. The deputy city comptroller.

9. The deputy city treasurer.

10. The deputy city attorneys in the order of the length of service as deputy city attorney, and in the event such time of service is equal, in the alphabetical order of their surnames.

11. The director of administration.

12. The commissioner of public works.

13. The commissioner of health.

14. The commissioner of city development.

15. The commissioner of neighborhood services.

16. The commissioner of assessments.

17. The city clerk.

6-37. Vacancies in the Office of Common Council. Temporary vacancies in the office of common council shall remain vacant. Permanent vacancies, as determined under s. 6-33-2, may be filled for the continuance of an emergency resulting from enemy action in the form of an attack by appointment by the common council by a vote of not less than 3/4 of the remaining elected council members. After cessation of the emergency, the vacancy shall be filled by special election as provided under s. 17.23(1)(b), Wis. Stats.

Note: Section 6-37 of the charter is further amended, effective the day after the Wisconsin secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read:

6-37. Vacancies in the Office of Common Council. Temporary vacancies in the office of common council shall remain vacant. Permanent vacancies, as determined under s. 6-33-2, may be filled for the continuance of an emergency resulting from a disaster or the imminent threat of a disaster by appointment by the common council by a vote of not less than 3/4 of the remaining elected council members. After cessation of the emergency, the vacancy shall be filled by special election as provided under s. 17.23(1)(b), Wis. Stats.

6-39. Emergency Interim Successors. Department heads, subject to such regulations as the mayor issues, or any ordinances or resolutions enacted by the common council, shall designate by title, if feasible or by named person, emergency interim successors and specify their order of succession. Department heads shall notify the director of all such designations. The department head shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The department head shall designate a sufficient number of persons so that there will be not less than 3 nor more than 7 deputies or emergency interim successors or any combinations thereof at any time. If any officer or his or her deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his or her designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist is filled in accordance with applicable law or until the department head or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his or her office.

6-41. Residence Requirements Suspended. Notwithstanding any provisions of law to the contrary, during the period of emergency any city officer or employe may establish his or her domicile wherever practical without prejudice to his or her status. Upon termination of the emergency all city officers and employes shall forthwith re-establish their domiciles within the city unless the time therefore shall be extended for a reasonable time by the city service commission or the fire and police commission upon a finding of hardship.

6-43. Preservation of Essential Public Records. The city information management committee shall establish a system for the preservation of essential city records necessary for the continuity of governmental functions in the event of emergencies or natural or man-made disasters. The committee shall notify the director of the system established for the preservation of essential city records.

LEGISLATIVE HISTORY
CHAPTER 6

Abbreviations:
am = amended ra = renumbered and amended rn = renumbered
cr = created rc = repealed and recreated rp = repealed

Section	Action	File	Passed	Effective
Ch. 6	rc	070188	5/30/2007	8/15/2007
6-01	am	75-1310	10/21/75	1/6/76
6-01-1	am	100324	7/27/2010	10/12/2010
6-01-3	am	100324	7/27/2010	10/12/2010
6-03	rc	100324	7/27/2010	10/12/2010
6-03-2	am	83-2538	5/15/84	8/1/84
6-03-2	rc	880330	2/14/89	5/5/89
6-03-3-g	am	881394	12/20/88	3/13/89
6-05-1	am	100324	7/27/2010	10/12/2010
6-05-2-a	am	100324	7/27/2010	10/12/2010
6-07-1	am	100324	7/27/2010	10/12/2010
6-07-2	am	100324	7/27/2010	10/12/2010
6-07-4	am	100324	7/27/2010	10/12/2010
6-08	am	75-1310	10/21/75	1/6/76
6-09	am	75-1310	10/21/75	1/6/76
6-09-1	am	100324	7/27/2010	10/12/2010
6-09-2	am	100324	7/27/2010	10/12/2010
6-09-3-b	am	100324	7/27/2010	10/12/2010
6-09-3-d	am	100324	7/27/2010	10/12/2010
6-09-4-a	am	100324	7/27/2010	10/12/2010
6-09-4-b	am	100324	7/27/2010	10/12/2010
6-10	am	75-1310	10/21/75	1/6/76
6-11-0	am	100324	7/27/2010	10/12/2010
6-11-1	am	100324	7/27/2010	10/12/2010
6-11-3	am	100324	7/27/2010	10/12/2010
6-11-4	am	100324	7/27/2010	10/12/2010
6-11-7	am	100324	7/27/2010	10/12/2010
6-13	ra	100324	7/27/2010	10/12/2010
6-13-2	cr	100324	7/27/2010	10/12/2010
6-15	am	75-1310	10/21/75	1/6/76
6-15-1-b	am	100324	7/27/2010	10/12/2010
6-15-1-c	am	100324	7/27/2010	10/12/2010
6-15-1-g	am	100324	7/27/2010	10/12/2010
6-16	am	75-1310	10/21/75	1/6/76
6-17	am	75-1310	10/21/75	1/6/76
6-18	am	75-1310	10/21/75	1/6/76
6-19	cr	55-960	7/26/55	10/4/55
6-19-1	am	100324	7/27/2010	10/12/2010
6-20	am	75-1310	10/21/75	1/6/76
6-20-14	am	951345	1/23/96	4/9/96
6-20-16	rc	881394	12/20/88	3/13/89
6-20-17	am	951009	12/19/95	3/13/96
6-21	cr	55-960	7/26/55	10/4/55

6-- Emergency Management And Homeland Security

6-21-2	am	100324	7/27/2010	10/12/2010
6-22	am	75-1310	10/21/75	1/6/76
6-23	cr	55-960	7/26/55	10/4/55
6-23-1	am	100324	7/27/2010	10/12/2010
6-23-2	am	100324	7/27/2010	10/12/2010
6-27	am	100324	7/27/2010	10/12/2010
6-29	am	100324	7/27/2010	10/12/2010
6-33-1	am	100324	7/27/2010	10/12/2010
6-37	am	100324	7/27/2010	10/12/2010
6-41	am	100324	7/27/2010	10/12/2010
6-43	am	100324	7/27/2010	10/12/2010

CHAPTER 7
COMMISSIONER OF PUBLIC WORKS

TABLE

GENERAL

7-01 Commissioner of public works, appointment
7-02 Salary, full time, oath

DUTIES

7-03 Records
7-04 Duties
7-05 Powers
7-065 Board of assessment, secretary

AUTHORITY

7-08 Special deputies
7-09 Charges of misconduct
7-10 Fire and Police Alarm Systems
7-12 Authorization to employ help

CONTRACTS

7-14 Duties when common council orders public work
7-15 Advertising and bids
7-16 Asphalt for streets, not by brand
7-17 Barriers, requirements in contract, when working on public streets
7-18 Indemnification requirements in contracts
7-19 Approval of contracts and bonds
7-20 No power to contract in excess of appropriation
7-21 Review of contracts by comptroller
7-22 Services
7-23 Work done without intervention of public contract
7-25 Powers and duties re contracts
7-26 Payment on contract as work progresses
7-27 Suspended public work
7-28 Authority to contract use of patented material
7-29 Special assessments for royalty on patented article

OTHER REGULATIONS

7-30 Abandoned vehicles
7-31 Vacation of streets and public grounds
7-32 Third party liens
7-33 City forester

7-01. Commissioner of Public Works: Appointment. 1. In all cities of the first class, whether organized under special charter, or under the general law, there is created the office of commissioner of public works.

2. The commissioner shall be a qualified professional engineer registered under the laws of Wisconsin.

(HISTORY: Section 7-01-0 (title) am. File #880330, Feb. 14, 1989; eff. May 5, 1989.)

7-01-2 rc. File #880330, Feb. 14, 1989; eff. May 5, 1989.)

7-02. Salary; Full Time, Oath. Such commissioner of public works shall receive a salary to be fixed by the common council of such city, and every commissioner appointed under this act shall devote all his time and attention to said office, and shall not during the term of his office be actively engaged in any other business or profession. Such commissioner of public works shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by the constitution of the state and file the same duly certified by the official administering the same with the clerk of such city.

(HISTORY: Section 7-02 am. Ch. Ord. 173, File #49-2739-b, May 6, 1952.)

7-03. Records. Such commissioner shall keep a record of all his acts and doings, and keep and preserve all contracts, plans, estimates and profiles, which at all times shall be open to the inspection of the common council or any member thereof, or of any committee appointed by said council. He shall report his acts and doings in detail to the common council on or before the 1st day of March in each year, and oftener if required by the common council. *(S. 5, Subch. 5, Ch. 184, L. 1874.)*

7-04. Duties. It shall be the duty of the commissioner of public works to take special charge and superintendence, subject to such ordinances as may be lawfully passed by the common council, of all streets, alleys, highways, sidewalks, crosswalks, bridges, walks, public grounds, engine houses, and of all other public buildings and grounds belonging to the city or any of the wards of such city, except such public

grounds as under the laws of this state or the charter provisions or ordinances of the city are otherwise under the care and supervision of other officers; of all sewers and the work pertaining thereto; and of all public works commenced or undertaken by such city, except as otherwise expressly provided by law. He shall have power to make contracts in the name and behalf of the city in the manner and under the limitations prescribed by the laws of this state or the charter of the city of Milwaukee having reference to the board of public works or the commissioner of public works. He shall perform all the duties prescribed by this charter ordinance, and such duties as are now executed by boards of public works in cities of the first class to which ch. 297 of the laws of [Wisconsin] 1907 shall apply, and such other duties as the common council may from time to time require. It shall be his duty to supervise and control the collection, removal and disposal of garbage in the city, subject to such ordinances and resolutions as the common council may adopt.

(HISTORY: Section 7-04 cr. Ch. Ord. 112, File #70405, Dec. 2, 1940.)

7-05. Powers. The said commissioner of public works shall have the exclusive power to grant permits, subject to such regulations and restrictions as may be prescribed by the ordinances of the city, for the moving of houses, along or across streets, alleys or walks, and to regulate the building of vaults under streets, alleys or sidewalks. No building material or other obstruction of any kind shall be placed on the streets, walks, or other public grounds of the city, without the written permit of said commissioner. He shall have power, subject to such ordinances as may be lawfully passed by the common council, to regulate and control the manner of using streets, alleys or walks, for laying down gas or water pipes and sewers, and to determine the location and depth thereof, and to cause the prompt repair in such time and manner as he shall direct, of streets, alleys and walks, whenever such pipes or sewers may be taken or altered. And in case any corporation or individual shall neglect to repair or restore to its former condition, any street, alley or sidewalk so excavated, taken up or altered, within the time and in the manner directed by said commissioner, the said commissioner shall cause the same to be done at the expense of such corporation or individual. *(S. 20, Ch. 144, L. 1875.)*

7-065. Board of Assessment, Secretary. The commissioner of public works shall be the permanent secretary of the board of assessment, and in this capacity shall be its chief administrative officer and permanent technical advisor. The secretary shall appoint such other employes and technical advisors and experts on valuation of property and damages and benefits of property as may be deemed necessary. All appointments shall be made in accordance with the provisions of ss. 63.18 to 63.52, Wis. Stats., and with the provisions of the Wisconsin Statutes and the charter ordinances applying to the board of city service commissioners of said city. All positions and the compensation thereof shall be established by the common council of said city. Employes, excluding the secretary of the board of assessment, shall be validated into the civil service and shall have the tenure and all the rights, privileges and benefits of civil service employment.

(HISTORY: Section 9-02-2 (currently 7-065) am. Ch. Ord. 436, File #76-757, Oct. 5, 1976.

9-02-2 rn. administratively to 7-065 in December, 1984.)

7-08. Special Deputies. The commissioner of public works may from time to time appoint and designate competent persons within the department of public works to act for and in his stead in specified matters, as special deputy commissioners of public works without additional compensation. Such appointments shall be in writing and copies thereof filed with the city clerk and city comptroller setting forth the specific acts each such deputy is authorized to perform in the name of the commissioner. Such authority may be revoked or amended in the same manner. Within the scope of their specified authority, such deputies may perform any and all acts required by law of the commissioner. The commissioner shall be responsible for all acts of such deputies and may require that additional bonds be furnished to assure their faithful performance thereof.

(HISTORY: Section 7-08 cr. Ch. Ord. 225, File #56-1456-a, July 24, 1956.)

7-09. Charges of Misconduct. Whenever any charge of official misconduct or inefficiency shall be preferred against said commissioner of public works, the common council of such city shall hear such charges as soon as practicable after they have been filed with the clerk of such city,

whose duty it shall be to communicate the same to the common council; and in case such common council shall deem it necessary or proper for the purpose of such hearing, they may meet and examine witnesses on oath in relation to any such charges. Such oath shall be administered by the city clerk or the president of the common council of such city. Subpoenas may be issued for the purpose of procuring the attendance of witnesses before such common council, and which subpoena shall state when and where and before whom the witness is required to appear and testify, and may require such attendance forthwith, or on a future day named, and the production of books, records, documents and papers therein to be designated. All such subpoenas shall be signed by the city clerk of such city and shall be issued under the seal of such city, and may be served in the same manner and shall have the same force and effect as subpoenas issued out of the circuit court of the county within which such city may be situated. Any willful or corrupt false swearing by any witness or person testifying before such common council, or making deposition to any material fact relating to the matter under investigation before such common council shall be deemed guilty of perjury and punished as such in the manner provided by law. The provisions of law with respect to the attachment of witnesses subpoenaed before justices of the peace and compelling attendance of such witnesses to appear and testify before them are applied to the case of witnesses subpoenaed before such common council. A majority of all the members elect of the common council of such city shall have power to dismiss such commissioner from office for malfeasance or inefficiency in office, upon due hearing as hereinbefore provided. *(S. 17, Ch. 297, L. 1907.)*

7-10. Fire and Police Alarm Systems. The department of public works shall have entire control and management of the construction, maintenance and repair work of the fire and police alarm systems, and all the records, apparatus, instruments, wires, cables, batteries, telephone and signal stations whatsoever connected with or relating to such construction, maintenance and repair work in the city; provided that the chief engineer of the fire department shall continue to have charge of the operation, the chief operator and operators of the fire alarm switchboard, and that the chief of police shall have charge of the operation, the chief operator and operators of the police alarm switchboard and of the operation, radio engineer, radio operators and radio electrical mechanics of the police department.

(HISTORY: 7-10 am. File 961317, Dec. 17, 1996; eff. Mar. 10, 1997.

7-10-0 (title) am. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-10-1 rp. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-10-2 rp. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-10-3 rp. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-10-4 rn. to 7-10 and am. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.)

7-12. Authorization to Employ Help. 1. The commissioner of public works is authorized to employ from time to time such clerks and workmen as he may deem necessary for the discharge of the duties of his office, and any person appointed or employed by such commissioner in pursuance of this act may at any time be removed or discharged for incompetence by such commissioner, provided however, that the maximum number of clerks and workmen shall be prescribed by the common council of such city by resolution or ordinance, and that the salaries or wages for the same shall be fixed by resolution or ordinance by such common council. *(S. 2, Ch. 188, L. 1919.)*

2. All appointments by the commissioner of public works shall be made subject to and in accordance with the laws of the state respecting the civil service in cities to which this act shall apply.

(HISTORY: S. 12, Ch. 297, L. 1907.

7-12-2 am. File #010860, Nov. 9, 2001; eff. Jan. 29, 2002.)

7-14. Duties when Common Council Orders Public Works. 1. SEALED BIDS, REVERSE AUCTION BIDS, ETC.

a. Whenever any public work or improvement or, notwithstanding the provisions of s. 16-05-1, other work, shall be ordered by the common council, the commissioner of public works shall advertise for proposals. A plan or profile of the work to be done, accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done, and of the kinds and quality of material to be furnished, shall be placed on file in the office of the commissioner for the information of bidders and others. Such advertisement shall be published at least 2 days in the official city papers, and shall state the work to be done and the time for doing the same, which shall in all cases be such reasonable time as may be necessary to

enable a contractor with proper diligence to perform and complete such work.

b. The commissioner of public works shall solicit sealed, competitive bids, or conduct a reverse auction as defined s. 16-05-3-d, or a combination of these 2 methods when awarding contracts under this section. The commissioner of public works shall establish and maintain a reverse auction bidding process, either in-house, or through a hosting vender, or by sharing the reverse auction vehicle established by the city purchasing director, and this reverse auction bidding process shall comply with vender notice and fairness policies. This reverse auction bidding process shall be designed, established and used as a tool to ensure goods and services purchased by the city are purchased at market-competitive rates. Under this section, a reverse auction shall not be used in awarding a contract for the construction, execution, repair, remodeling or improvement of a public work or building, or for the furnishing of supplies or material of any kind for the construction, execution, repair, remodeling or improvement of a public work or building required by law to be let by bidding.

c. Each sealed, competitive bid shall be accompanied with a bid bond of a surety company licensed to do business in the state of Wisconsin, to the city of Milwaukee in such penal sum, not less than 10% if the amount of the bid. Prior to a reverse auction participants shall provide a bid bond as described in this paragraph equal to 10% of the highest bid the bidder expects to make during the reverse auction and no bid greater than 10 times the face amount of bidder's bid bond will be registered as a bona fide bid. The bond shall be conditioned that such bidder will execute and perform the work for the price mentioned in the proposals and according to the plans and specifications on file, in case the contract shall be awarded to the bidder. In case of default on the bidder's part to execute a contract to perform the work specified and to comply with all requirements set forth in the bidding documents, including the furnishings of a performance and payment bond, the bid bond shall be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, but not more than 10% of a reverse auction participant's lowest bid, as liquidated damages, in any court having jurisdiction of the action, unless the common council shall, by resolution, direct that no action shall be commenced.

d. A bidder required by the commissioner of public works to provide a bid bond per par. c may satisfy this requirement by depositing with the commissioner of public works cash or a certified check equal to 10% of the face amount of the bid, under an agreement that the same shall be returned to such bidder in case the contract for the work is not awarded to such bidder, or in case the bidder does not default in the execution of the contract if it is awarded to such bidder, and that in case the contract is so awarded, and the bidder fails to execute a contract to perform the work specified, for the price named in the bid, within a reasonable time after such contract is prepared and ready for execution, then said sum of money shall become the property of the city, as fixed and liquidated damages for such default, and shall be paid by the commissioner to the city treasurer, per s. 1, Ch. 3878, L. 1889.

2. COMMISSIONER OF PUBLIC WORKS; CONTRACTS TO LOWEST BIDDER, SURETIES, RELETTING. a. All contracts shall be awarded to the lowest responsible bidder, who shall have complied with the foregoing requisitions; provided, that no contract shall be entered into by the commissioner of public works, unless the contractor furnish a performance and payment bond by a surety company licensed to do business in the state of Wisconsin guaranteeing to the satisfaction of said commissioner the performance of such contract by the contractor under the superintendence and to the satisfaction of said commissioner and evidence of such insurance as the commissioner of public works in conjunction with the city comptroller shall determine to protect the interests of the city. Provided further, that whenever the lowest bid for any work to be let by said commissioner, shall appear to said commissioner to be unreasonably high, the said commissioner is authorized to reject all bids therefor, and to re-let the work anew; and whenever any bidder shall be, in the judgment of said commissioner, incompetent or otherwise unreliable for the performance of the work for which he bids, the said commissioner shall report to the common council of the said city a schedule of all the bids for such work with a recommendation to accept the bid of the lowest competent and reliable bidder for such work, with his reasons for such recommendations, and thereupon it shall be lawful for the said common council to direct the said commissioner either to let the work to such lowest competent and reliable bidder, or to re-let the same anew; and provided further, that the said commissioner may reject the bid of any person who shall previously have willfully or negligently failed to complete any work or contract entered into by him with the city or any officer or department thereof, or who shall have willfully or negligently failed to enter into a contract

for any work or improvement that shall have been previously awarded to him by said commissioner. The failure to let such contract to the lowest responsible bidder, in compliance with any provision of this section, shall not invalidate such contract, or any special assessment thereunder, or for the work done in virtue thereof.

b. All contracts awarded under ss. 7-14-2 and 7-22 of the city charter shall be awarded by the commissioner of public works to the lowest responsible bidder determined in accordance with any applicable city ordinances relating to the participation of minority, woman, small business or local business enterprises or requiring participation of city residents. Following the opening of any bid where the commissioner has considered compliance with such city ordinances, the commissioner shall publish in an official city newspaper his or her determination as to the lowest responsible bidder. Any bidder who objects to the determination based on the consideration of such city ordinances, may appeal the recommendation by filing a written appeal with the commissioner within 5 working days of the date of publication. The appeal shall state the specific objection to the determination, including supporting documentation, and specify an alternative determination. Any appeals that do not conform to this paragraph shall not be considered. The commissioner shall schedule a hearing before the public works contract appeals committee which shall be comprised of the chair of the economic development committee or his or her designee, a member of the economic development committee selected by the chair and the director of administration or his or her designee to be held within 5 days of receipt of the appeal. The public works contract appeals committee shall have the authority by majority vote to affirm or set aside the determination of the commissioner and its decision in this regard shall be final. In the event that a timely appeal meeting the requirements of this paragraph is not filed, or the committee affirms the commissioner's determination following a timely appeal, the commissioner shall make an award in accordance with his or her determination.

3. PERFORMANCE BOND. a. All contracts involving $10,000 or more for performance of labor or furnishing materials when the same pertain to any public improvement or public work shall contain a provision for the payment by the prime contractor of all claims for labor performed and materials furnished, used or consumed in making the public improvement or performing the public work.

b. Such contracts whose cost exceeds $10,000 in cost but does not exceed $25,000, shall not be made unless the prime contractor gives either an irrevocable letter of credit or a performance and payment bond or bonds issued by a surety company licensed to do business in the state of Wisconsin. Such bond shall carry a penalty of not less than 50% of the contract price, and shall be conditioned for the faithful performance of the contract and the payment to each person entitled thereto of all the claims for labor performed and materials furnished under the contract to be used or consumed in making the public improvement or performing the public work as provided in the contract and this section. No assignment, modification or change of the contract, or change in the work covered thereby, or any extension of time for the completion of the work may release the sureties on the bond or bonds.

c. Such contracts exceeding $25,000 in cost shall not be made unless the prime contractor gives a performance and payment bond or bonds issued by a surety company licensed to do business in the state of Wisconsin. Such bond shall carry a penalty of not less than the contract price, and shall be conditioned for the faithful performance of the contract and the payment to each person entitled thereto of all the claims for labor performed and materials furnished under the contract to be used or consumed in making the public improvement or performing the public work as provided in the contract and this section. No assignment, modification or change of the contract, or change in the work covered thereby, or any extension of time for the completion of the work may release the sureties on the bond or bonds.

(HISTORY: Section 7-14 am. Ch. Ord. 310, File #64-4089, April 6, 1965.

7-14-1, am. Ch. Ord. 494, File #80-1093, Oct. 21, 1980.

7-14-1, am. Ch. Ord. 566, File #86-1898, Feb. 24, 1987; eff. May 11, 1987.

7-14-1; am. File #101210, March 23, 2011; eff. June 8, 2011.

7-14-1-a am. File #872441, March. 29, 1988; eff. June 14, 1988.

7-14-1-b am. File #871460, Nov. 17, 1987; eff. Feb. 7, 1988.

7-14-1-b am. File #111161, Jan. 18, 2012; eff. April 4, 2012.

7-14-2 am. Ch. Ord. 494, File #80-1093, Oct. 21, 1980.

7-14-2 rn to 7-14-2-a, File #901996, Apr. 23, 1991; eff. July 9, 1991.

7-14-2-b cr. File #901996, Apr. 23, 1991; eff. July 9, 1991. This provision became null and void after June 30, 1993, per the provisions of File #901996.

7-14-2-b cr. File #930436, July 6, 1993; eff. Sept. 21, 1993.

7-14-2-b am. File #980966, Oct. 30, 1998; eff. Jan. 18, 1999.

7-14-2-b am. File #020885, Nov. 8, 2002;eff. Jan. 27, 2003.

7-14-2-b am. File #080685, March 25, 2009, eff. June 9, 2009.

7-14-2-b am. File #110087, Oct. 11, 2011, eff. Dec. 27, 2011.

7-14-3 cr. Ch. Ord. 494, File #801093, Oct. 21, 1980.

7-14-3 am. Ch. Ord. 546, File #84-1633, Feb. 12, 1985; eff. April 30, 1985.

7-14-3 am. File #871460, Nov. 17, 1987; eff. Feb. 7, 1988.

7-14-3 am. File #872441, March 29, 1988; eff. June 14, 1988.

7-14-3 am. File #891610, Dec. 19, 1989; eff. March 14, 1990.

7-14-3 ra. File #910806, Mar. 29, 1994; eff. June 15, 1994.

7-14-3 rc. File #981569, Mar. 2, 1999; eff. May 18, 1999.

7-14-3-a am. File #980533, July 24, 1998, eff. October 12, 1998.

7-14-3-b cr. File #910806, Mar. 29, 1994; eff. June 5, 1994.)

7-15. Advertising and Bids. Any city mentioned in the above section [S. 950-90b Stats. (1919)] at its option may, in providing for any such public work or improvement to be done, and before calling for bids thereon, through its proper authorities adopt different plans and specifications requiring the use of different kinds of materials for the proposed work or improvements to be made, whether patented or not, thereby bringing one kind of article, material or process in competition with one or more other kinds of articles, materials or processes designed to accomplish the same general purpose, and call for bids for each such kind of article, material or process, and thereafter let a contract for one kind of article, material or process; provided, that before any contract is let the bids received on all the different kinds of articles, materials or processes for which plans or specifications were prepared and upon which bids were called for shall be received, opened and considered before the kind of article or process to be used in such work or improvement shall be decided upon by the proper city authorities, and thereupon the proper city authorities shall first determine which kind of article, material or process shall be used in the work to be done, and thereafter and thereupon the contract shall be let to the lowest and responsible bidder for the kind of article, material or process so selected for use in the proposed public work or improvement. *(S. 925-90c Wis. Stats 1919.)*

7-16. Asphalt for Streets, not by Brand. No special brand of asphalt shall be required by name to be furnished in specifications for paving or repairing of streets with asphalt in cities of the first class. Every contract made by any city of the first class, its officers or agents pursuant to or founded upon specification, plan, detail or drawing of any kind or nature, requiring by name any particular or special brand of asphalt to be furnished for street paving or repairing shall be wholly void. *(S. 1, Ch. 107, L. 1903.)*

7-17. Barriers, Requirements in Contract, when Digging on Public Streets. Whenever any board or officer of the city shall let any work or improvement which shall require the digging up, use or occupancy of any street, alley, highway, or public grounds of said city, there shall be inserted in the contract therefor substantial covenants, requiring such contractor, during the night time, to put up and maintain such barriers and lights as will effectually prevent the happening of any accident in consequence of such digging up, use or occupancy of said street, alley, highway or other public grounds, for which the city might be liable; and also such other covenants and conditions as experience has proved or may prove necessary to save the city harmless from damages. And it shall also be provided in such contracts, that the party contracting with the city shall be liable for all damages occasioned by the digging up, use or occupancy of the street, alley, highway or public grounds, or which may result therefrom, or which may result from the carelessness of such contractor, his agents, employes or workmen. *(S. 11, Subch. 5, Ch 184, L. 1874.)*

7-18. Indemnification Requirements in Contracts. Whenever any work or improvement shall be let by contract to any person or persons, firm or corporation, covenants shall be inserted in such contract, binding such person or persons, firm or corporation, to save, and indemnify, and keep harmless, the said city against all liabilities, judgments, costs and expenses which may in any wise come against said city in consequences of the granting of such contract, or which may in any wise result from the carelessness or neglect of such person or persons, firm or corporation, or his

or its agents, employes or workmen, in any respect whatever; and in every such case where judgment is recovered against the city by reason of the carelessness or negligence of such person, persons, firm or corporation so contracting, or his, their or its agents, employes or workmen, and when due notice has been given of the pendency of such suit, such judgment shall be conclusive against such person, persons, firm or corporation, not only as to the amount of damages, but as to their liability to said city.

(HISTORY: Section 7-18 am. Ch. Ord. 495, File #80-1097, Oct. 21, 1980.)

7-19. Approval of Contracts and Bonds.

1. PURPOSE. This section is enacted to provide procedures for the execution of contracts by the department of public works.

2. EXECUTION. All contracts entered into, and all public notices required by law to be given by the commissioner of public works shall be countersigned by the comptroller, in the manner proscribed by the comptroller, and shall have no force unless so countersigned. All contracts entered into by the said commissioner, and all bonds taken by him or her, shall be entered into in the name of, and shall be executed to the city of Milwaukee. The term Acontracts@ includes agreements, and amendments and changes to contracts.

(HISTORY: S. 13, Subch. 5, Ch. 84, L. 1874.

7-19 am. File #871460, Nov. 17, 1987; eff. Feb. 7, 1988.

7-19 rc. File #041403, May 20, 2005; eff. Aug. 8, 2005.)

7-20. No Power to Contract in Excess of Appropriation. The said commissioner of public works shall have no power, by contract or otherwise, to exceed in the doing of any work, in any one year, the sum appropriated for such work by the said common council, or by law, for such year. *(S. 14, Subch. 5, Ch. 184, L. 1874.)*

7-21. Review of Contracts by Comptroller. It shall be the duty of the said commissioner of public works to deliver to the comptroller of said city, with each contract to be countersigned by him, as accurate an estimate as can be made of the aggregate contract price of the work, to be let by such contract; and it shall be the duty of the comptroller to keep a record of such estimates applicable to each fund, and to refuse to countersign any contract the amount of which shall exceed the balance of the fund to which such contract may be chargeable. *(S. 15, Subch. 5, Ch. 184, L. 1874.)*

7-22. Services. 1. COMMISSIONER TO PURCHASE. Notwithstanding s. 16-05-1, the commissioner of public works may provide for the purchase of services necessary for the use of the department of public works in carrying out its responsibilities and duties under Wisconsin statutes and applicable local law.

2. BIDDING REQUIREMENTS WHEN IN EXCESS OF $25,000 AND LESS THAN $50,000. a. All work and the purchase of all materials, supplies, and equipment and services pursuant to sub. 1 chargeable to any city fund, when the cost exceeds $25,000 and is less than $50,000, shall be let by contract after the commissioner of public works shall obtain 3 quotes.

b. All quotes obtained under par. a shall be retained by the commissioner of public works for a period of 7 years.

c. All contracts let under this section that are not fulfilled by the company providing the lowest quote shall be reported to the committee on finance and personnel semi-annually in January and July.

3. BIDDING REQUIREMENTS WHEN IN EXCESS OF $50,000. All work and the purchase of all materials, supplies, and equipment and services pursuant to sub. 1 chargeable to any city fund, when the cost exceeds $50,000, shall be let by contract to the lowest bidder in the manner provided by s. 7-14-2. No indebtedness shall be incurred in excess of $50,000 without a formal contract, let to the lowest bidder. All work done or materials, supplies, equipment and services purchased, exceeding in cost $50,000, shall be done and purchased, when practicable, by the commissioner, by contract, which shall be let after due notice, inviting proposals, in the manner provided for the letting of contracts for the doing of public work. All accounts for such work, or for the furnishing of such materials, supplies, equipment and services shall, before being paid, be audited by the comptroller, and all such accounts for work done or materials, supplies, and equipment and services furnished, under the supervision of the commissioner of public works, shall be certified by the commissioner before being audited.

4. EXCAVATIONS OR DEMOLITION. This section does not apply to filling of excavations or demolition of any building or structure or part thereof which is being razed pursuant to s. 66.05 or 254.595, Wis. Stats., as amended, or for the abatement of nuisances in accordance with applicable city ordinances. The commissioner of building inspection shall have full authority to provide for the demolition of any building or structure or part thereof being razed pursuant to

the Wisconsin statutes or for the abatement of nuisances in accordance with applicable city ordinances, including the publication of invitations for bids for public works under s. 7-14.

5. RESTORATION OR MOTHBALLING. Notwithstanding the other provisions of this section and the provisions of ss. 7-14 and 16-05-1, the commissioner of city development shall have full authority to provide for the improvement, restoration or mothballing of city-owned habitable neighborhood property, as well as improved neighborhood property identified as special consideration property pursuant to s. 304-49-2. This authority includes the authority to publish invitations for bids for public works under s. 7-14.

(HISTORY: Section 7-22-2 am. Ch. Ord. 566, File #86-1898, Feb. 24, 1987; eff. May 11, 1987

7-22 rc. File #872441, March 29, 1988; eff. June 14, 1988.

7-22-4 cr. File #100427, Sept. 21, 2010; eff. Dec. 6, 2010.

7-22-2 ra. File #121397, April 30, 2013; eff. July 16, 2013.

7-22-2 cr. File #121397, April 30, 2013; eff. July 16, 2013.

7-22-3 and 4 rn. File #121397, April 30, 2013; eff. July 16, 2013.)

7-23. Work Done without Intervention of Public Contract. 1. COMMON COUNCIL APPROVAL. Whenever the commissioner of public works deems it for the interest of the city, or whenever in the prosecution of any public work, the commissioner is of the opinion that the proposed work can be better and more cheaply done without the intervention of a formal contract, the commissioner shall report the same to the common council with the reason therefor, and the common council may, by resolution, authorize the commissioner to procure the necessary materials therefor and to employ workers to do such work. Such authority shall not be given unless approved by the votes of at least 3/4 of the members of the common council at the time of the vote. Such authority shall not be exercised unless the comptroller shall, as provided in s. 19, subch. 5, ch. 184, laws of Wisconsin for 1874, as amended by s 16, ch. 324, laws of Wisconsin for 1882 and s. 1, ch. 23, laws of Wisconsin for 1887, advise the commissioner that there are sufficient funds available for such proposed work or purchases.

2. FUNDS TO BE APPROPRIATED. Whenever the commissioner of public works is authorized by the vote of at least 3/4 of the members of the common council at the time of the vote, the commissioner may let a contract or contracts or enter into an agreement for the doing of any work for which such necessary materials have been purchased, without the intervention of a formal contract. In case such resolutions shall thereafter be duly passed by the vote aforesaid by the common council and take effect, the money so appropriated may, upon itemized statements duly audited by the commissioner of public works and city comptroller be drawn out of the city treasury upon the order of the mayor and clerk, countersigned by the city comptroller.

3. REPORT TO COMPTROLLER. It shall be the duty of the said commissioner of public works, before causing such work to be done, to deliver to the comptroller a statement in writing of the work authorized and proposed to be done as provided in s. 18, subch. 5, ch. 184, laws of Wisconsin for 1874, as amended by s. 16, ch. 324, laws of Wisconsin for 1882, showing the nature and estimated costs thereof, and the fund to which the same is chargeable; and it shall be the duty of the comptroller to enter such statement in the record mentioned in s. 15, subch. 5, ch. 184, laws of Wisconsin for 1874; and in case the comptroller shall be satisfied that the cost of such proposed work will exceed the amount available for the purpose of the fund out of which the same is to be paid, it shall be his duty to so advise the commissioner of public works, and the resolution of the common council, passed as provided in s. 18, subch. 5, ch. 184, laws of Wisconsin for 1874, as amended, shall be inoperative.

(HISTORY: Section 7-23 am. Ch. Ord. 310, File #64-4089, Apr. 6, 1965.

7-23-1 and 2 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.)

7-25. Powers and Duties Re Contracts. 1. The said commissioner shall reserve in every contract the right to determine finally all performance of such contract, or doing of the work specified therein; and the right in case of the improper or imperfect performance thereof, to suspend such work at any time, or to order the entire reconstruction of the same, if improperly done, orto re-let the same to some other competent party; and also the right, in case such work shall not be prosecuted with such diligence, and with such number of men as to insure its completion within the time limited by contract, to suspend such work and re-let the same to some other competent party or employ men and

secure material for the completion of the same, and charge the cost thereof to the contractor.

2. And power is given to the said commissioner to adjust and determine all questions as to the amount earned under any contract by the contractor or contractors according to the true intent and meaning of the contract; and such adjustment and determination by said commissioner shall be final between the parties and binding upon them. If the amount of damages to be paid to the city shall exceed the amount due from the city to such contractor or contractors, according to such determination and adjustment, then the difference or balance in favor of the city according to such determination and adjustment, shall be recoverable at law in an action in the name of the city against such contractor or contractors and their sureties, in any court having jurisdiction.

3. Every contract with the city shall be made expressly subject to the powers given to said commissioner by this section, and shall also contain a covenant or agreement on the part of the contractor and his sureties, that in case such contractor shall fail to fully and completely perform his contract within the time therein limited for the performance thereof, such contractor shall pay to the city as liquidated damages for such default, a certain and definite sum for each day's delay in completing the contract after the time therein limited for its completion, which daily sum shall be determined and fixed by the commissioner of public works before the contract for the work shall be let, and shall be stated in the advertisement for proposals for the work, and shall be inserted in the contract, and shall be in addition to inspector day charges set forth in the department of public works' specifications.

(HISTORY: Section 7-25 am. Ch. Ord. 333, File #67-953, July 25, 1967.)

7-26. Payments on Contract as Work Progresses.

1. RETAINED PERCENTAGES. As the work progresses under a contract involving $1,000 or more for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or materials, regardless of whether proposals for the contract are required by law to be advertised, the commissioner shall, from time to time, grant the contractor an estimate of the amount and proportionate value of the work done, which entitles the contractor to receive the amount of the estimate, less the retainage, from the proper fund. The retainage shall be an amount equal to not more than 5% of the estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the commissioner determines that the work is not proceeding satisfactorily, but amounts previously retained shall not be paid to the contractor. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained but the total retainage shall not be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. When the work has been substantially completed, except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the commissioner are valid reasons for noncompletion, the commissioner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. For the purposes of this subsection, estimates may include any fabricated or manufactured materials and components specified, previously paid for by the contractor and delivered to the work site or properly stored and suitable for incorporation in the work embraced in the contract.

2. EXTENSION OF TIME FOR COMPLETION OF CONTRACT. The commissioner is authorized to extend or enlarge the time limited by the terms of the contract for the performance thereof.

3. PAYMENT FROM SPECIAL ASSESSMENTS. Any person entering into any contract with the city who agrees to be paid from special assessments shall have no claim upon the city in any event, except from the collection of the special assessments made for the work contracted for. No work that is to be paid for by special assessments shall be let except to a contractor who agrees to this provision.

4. ADDITIONAL WITHHOLDING. Nothing in this section shall prejudice the right of the commissioner to withhold additional amounts to cover lien claims filed with the city.

(HISTORY: Section 7-26 am. Ch. Ord. 387, File #72-340, June 12, 1972; 7-26 rc. File #041492, March 16, 2005, eff. May 31, 2005.)

7-27. Suspended Public Work. In case the prosecution of any public work shall be suspended by, or in consequence of, the default of any contractor, it shall be the duty of the commissioner of public works to report the fact immediately to the common council, with a statement of the condition of the work and an estimate of the probable cost of completing the same in the manner required by the contract. *(S. 22, Subch. 5, Ch. 184, L. 1874.)*

7-28. Authority to Contract Use of Patented Material. The commissioner shall have power, under the authority of the common council, to make a contract or contracts with the patentee or his or her licensees or assigns to use any patent or patented article, process, combination or work, for the city, at a stipulated sum or royalty for the use thereof. And thereupon the commissioner shall have power to order any work, whether chargeable to the city or to lots, parts of lots or parcels of land therein, to be done with the use of the patent or patented article, process, combination or work; and whenever the owner or agent of any lot, part of lot or parcel of land in the city, or other person authorized by law to do the work, shall do the same and use the patent or patented article, process, combination or work in doing the same, he shall pay to the said city the sum or royalty chargeable therefor by the patentee, his licensees or assigns to the city under the contract, and shall be liable to suit by the city therefor; or the amount of the sum or royalty may be charged as a special assessment upon the respective lots, parts of lots, and parcels of land in front of which the patent was so used, and collected for the use of the city as other special taxes are collected: and whenever any work, chargeable by special assessment to any lots, parts of lots, or parcels of land, shall be done with the use of the patent or patented article, process, combination or work, the sum or royalty chargeable therefor by the patentee, his or her licensees, or assigns, under the contract, shall be charged against the lots, parts of lots or parcels of land, for the use of the city, in the special assessment, in addition to the other cost of doing the work, and shall be included in a separate certificate of the special assessment. A special assessment or charge under this section may be settled and paid as provided in s. 19-15-1. *(S. 23, Subch. 5, Ch. 184, L. 1874. 7-28 am. File #121802, July 23, 2013; eff. Oct. 9, 2013.)*

7-29. Special Assessments for Royalty on Patented Article. Whenever the said commissioner of public works shall have let, or shall hereafter let any contract or any work chargeable to lots or land in the city, to be done with the use of any patent or patented article, in pursuance of s. 7-28, and have omitted or shall omit at the time of making the assessment for the work against property chargeable therewith, to make any assessment or issue a "separate certificate" against the property for the sum or royalty chargeable for the use of such patent or patented article, in pursuance of s. 7-28, the commissioner of public works shall have power, and it shall be his or her duty to make such assessment for the sum or royalty chargeable for the use of the patent or patented article, as soon as may be thereafter, and to include the same in a separate certificate for such special assessment for the use of the the city; and such assessment and certificate shall be as binding, and have the same effect when so subsequently made, as if the same had been made at the same time as the assessment for the contract price of doing such work. An assessment or charge under this section may be settled and paid as provided in s. 19-15-1. *(S. 24, Subch. 5, Ch. 184, L. 1874. 7-29 am. File #121802, July 23, 2013; eff. Oct. 9, 2013.)*

7-30. Abandoned Vehicles. 1. DECLARED A NUISANCE. Any motor vehicle or trailer left or abandoned on any highway or public property within the city is declared to be a public nuisance and may be abated as herein provided. A motor vehicle or trailer which has been allowed to remain standing on a highway or public property in the city for more than 72 hours after a police officer placards the motor vehicle or trailer and 48 hours after mailing a notice to the last known address of the owner, or any vehicle or trailer left in a condition of disrepair without valid registration plates, shall be deemed to have been abandoned within the meaning of this subsection.

2. TO BE REMOVED. It shall be the duty of the commissioner of public works, whenever any motor vehicle is left or abandoned in any street or public place in the city, to remove or cause the removal of such motor vehicle from such street or public place to a place designated by the commissioner of public works for the storage of such motor vehicles. At any time prior to the sale thereof as herein provided any person establishing his ownership or right of possession to such vehicle may reclaim and obtain possession of the same by paying to the

commissioner of public works a reasonable sum for the storage and towing thereof and other expenses incident to the care of the same.

3. WHEN NOT RECLAIMED. After any such motor vehicle shall have been stored for 30 days and shall not have been reclaimed, if the estimated value of the motor vehicle is equal to or less than the towing and storage charges, the commissioner of public works may dispose of the vehicle unless it is a substantially complete vehicle older than 19 model years of age. The commissioner may sell motor vehicles with an estimated value greater than the towing and storage charges or substantially complete vehicles older than 19 model years of age. Notice of the sale shall be published in a daily paper having a general circulation in the city of Milwaukee for 3 days, but the same notice may include one or more motor vehicles. At the sale the highest bid for any such motor vehicle shall be accepted; unless the same is, in the judgment of the commissioner inadequate, in which event all bids may be rejected. In case all bids are rejected or no bid is received, the commissioner may either readvertise the sale or adjourn the same from time to time to a definite date each time or sell such motor vehicle at a private sale or junk the same.

4. TO BAR ALL PRIOR CLAIM. The sale of a motor vehicle under this section shall forever bar all prior claims thereto and interest therein except as hereinafter provided.

5. CLAIMS AGAINST CITY. At any time within 2 years after the sale of a motor vehicle as provided herein, any person claiming ownership of such motor vehicle or a financial interest therein may present a claim to the common council setting forth such facts as are necessary to establish such ownership or interest. If the common council is satisfied as to the justice of such claim it may allow the same, but in no case shall the amount allowed exceed the sum paid into the city treasury as the result of the sale of such motor vehicle nor the amount of the interest of the claimant therein.

(HISTORY: Section 7-30 cr. Ch. Ord. 21, File #35563, June 20,1927; formerly s. 7.46, rn. Ch. Ord. 374, File #68-2596-a, Oct. 5, 1971.

7-30-1 rc. Ch. Ord. 534, File #83-2360, May 15, 1984.

7-30-3 formerly s. 7.46, am. Ch. Ord. 229, File #56-2271-a, Oct. 16, 1956.

7-30-3 formerly s. 7.46, am. Ch. Ord. 349, File #68-2428, Jan. 1969.

7-30-3 am. File #881394, Dec. 20, 1988; eff. March 13, 1989.

7-30-3 am. File #950105, May 16, 1995; eff. Aug. 2, 1995.

7-30-3 am. File #961311, Dec. 17, 1996; eff. Mar. 10, 1997.

7-30-3 am. File #111383, Feb. 28, 2012; eff. May 15, 2012.

7-30-3 am. File #120624, Sept. 25, 2012; eff. Dec. 11, 2012)

7-31. Vacation of Streets and Public Grounds.

1. The common council shall have the power, and are authorized to vacate, in whole or in part, such highways, streets, alleys, grounds, waterways and public walks within the corporate limits of the city, as in their opinion the public interest may require to be vacated, or such as in their opinion are of no public utility, whenever a petition is presented therefor signed by the owners of all the property which abuts upon the portion of any highway, street, alley, grounds, waterway or public walk which is proposed to be vacated. A certified copy of the ordinance or resolution vacating any such highway, street, alley, grounds, waterway or public walk shall be filed by the city clerk with the register of deeds of Milwaukee county so that the same may appear upon the abstracts of all of said abutting property, so as to clearly show that the said highway, street, alley, grounds, waterway or public walk has been vacated.

2. Before any such ordinance or resolution shall be passed, it shall be referred to a committee and the usual committee hearing held.

3. Whenever the said common council shall so determine to vacate any such highway, street, alley, grounds, waterway or public walk without a petition signed by all of the owners of all the abutting property which abuts on said proposed vacation, then the necessity of such vacation shall be first established by the verdict of a jury as provided in s. 32.07, Wis. Stats.

4. Whenever the commissioner of public works is directed by said common council to make an assessment of damages or benefits in any vacation proceeding, the said assessment shall be made under the provisions of this chapter. *(Section 7-31 am. Ch. Ord. 4, File #30280, Aug. 3, 1925.)*

7-32. Third Party Liens. 1. TO FILE CLAIM. Any person, corporation or party that shall hereafter furnish supplies or materials for the use of the contractor or contractors, or of his or their assigns, in the performance of any contract made with the commissioner of public works of the city of Milwaukee, in the name of said city, or that shall do any labor for such contractor or contractors, or for his or their assigns, in the performance of any such contracts, shall have a lien for the amount due and unpaid by such contractor or contractors, or by his or their assigns, to the person, corporation or party furnishing such supplies or materials or doing such labor in the performance of such contract, upon any certificates of said commissioner and upon any city orders of said city, to be issued and delivered to such contractor or contractors, or to his or their assigns, under such contract; provided, that any person, corporation or party claiming a lien shall, within 20 days after the date of the last charge for such supplies or materials furnished, or labor done, file in the office of the city clerk of said city and in the office of the commissioner of public works of said city notices in writing of such claim, one notice in each office, which notice shall set forth the nature and particulars of the demand,the date and amount of each charge therefor, the name of the person or party indebted, and the amount that is justly due and owing to the claimant from the contractor or contractors or from his or their assigns for supplies or materials furnished or labor done in performance of a contract stating the general nature of the contract and its date, each of which notices shall be verified by the affidavit of the claimant; and provided, further, that within 20 days after the filing of such notice the claimant shall begin an action against the person or party named in such notice for the recovery of the amount of such claim, and for the enforcement of such lien in some court in Milwaukee county having jurisdiction of the matter, in which action the city of Milwaukee shall be made a party defendant and shall be served with process and may appear and defend as in other actions, but said city shall in no case be liable to any judgment for costs or charges in such action. In case of the filing of the notices as herein directed, claiming lien on any certificates or city orders or both, it shall be the duty of the respective officers having charge and custody of the same to retain them 20 days, and in case an action is begun within that time as herein provided, then to retain the same until the determination of such action in the court. *(S. 1, Ch. 261, L. 1882.)*

2. PAYMENT WITHHELD. No contractor under any such contract pursuant to sub. 1 and no assignee of any such contractor shall receive, either in certificates of the commissioner of public works or in city orders, any amount exceeding that provided for in s. 7-26 until after the expiration of 20 days from the completion of the work contracted for, or other termination of the contract; and if any person, corporation or party shall file notices of claim or ien, as provided in sub. 1 against such contractor or contractors, or his or their assigns, all certificates and all city orders not then delivered shall be held and retained by the respective officers in whose charge or custody they are, until 20 days after the filing of such notices, and if within such last period of 20 days an action shall be brought as provided in sub. 1, such certificates and such city orders shall be retained until determination of such action in court. *(Sub. 2 am. Ch. Ord. 358, File #68-1508-a, July 8, 1969.)*

3. COMPLIANCE. All contracts hereafter made by the commissioner of public works of said city shall refer to and be made subject to the provisions of this act [ch. 332, L. 1878]. *(S. 3, Ch. 332, L. 1878.)*

7-33. Forestry Operations. 1. The duties of the city forester and his assistants, heretofore under the supervision and direction of the board of park commissioners are transferred to the department of public works; provided, however, that the duty of making assessments heretofore made under sub. (e) of s. 10.20, Ch. Ord. 42, [File #46223] 1931, are transferred to the common council unless otherwise provided.

2. The management, control, improvement, and regulation, except the policing thereof, of public parks and boulevards, as provided by ss. 1 and 2, ch. 179, laws of 1891, as embodied in ss. 10.18 and 10.19 of the city charter, 1934, and of all such lands not heretofore transferred by the city of Milwaukee to the county of Milwaukee, are transferred to the department of public works to exercise the same; the policing thereof is hereby transferred to the police department of the city.

(HISTORY: Section 7-33 cr. Ch. Ord. 89, File #60180-c, Feb. 1, 1937.

7-33-0 (title) rc. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-33-1 rp. File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-33-2 rn. to 7-33-1 File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.

7-33-3 rn. to 7-33-2 File #951009, Dec. 19, 1995; eff. Mar. 13, 1996.)

CHAPTER 8
COMMISSIONER OF BUILDING INSPECTION AND CITY ENGINEER

TABLE

COMMISSIONER OF BUILDING INSPECTION

8-01	Commissioner of building inspection
8-02	Duties, authority of commissioner
8-025	Rules for connections to water and sewer systems
8-03	Admission to buildings; permit required to use street for deposit of building materials
8-04	Restraining order when work on building unsafe
8-06	Excavations, depressions, ditches

CITY ENGINEER

8-07	City engineer: appointment, duties
8-08	City engineer under commissioner of public works

8-01. Commissioner of Building Inspection. The commissioner of building inspection, or a member of the commissioner's executive leadership team, shall have had at least 5 years' experience as an architect, builder or in connection with supervision of building construction. The commissioner shall be covered by a bond as provided in s. 3-22.

(HISTORY: Section 8-01 rc. File #880330, Feb. 14, 1989; eff. May 5, 1989.

8-01 am. File #160315, July 6, 2016; eff. Sept. 21, 2016.)

8-02. Duties, Authority of Commissioner.

a. Duties. The duties of the commissioner of building inspection shall be to inspect the construction, alteration, repair, moving, demolition, use of building materials and equipment, plumbing, use and occupancy, housing facilities and the fire hazard condition of all buildings within the city and to ascertain whether such buildings meet the requirements of the laws of the state and the ordinances of the city. It shall also be the duty of the commissioner when he or she shall deem it necessary, to examine all accidents caused by the breaking or falling down of any building in the city, and also to ascertain what buildings in the city are unsafe and dangerous to be occupied, arising either from conditions of the building or the manner in which it is used. The commissioner shall identify all cases of the violation of any laws of the state or of any ordinances of the city relating to buildings.

b. Authority. The commissioner of building inspection shall have full power and authority to provide and contract for the demolition of any building or structure or part thereof being razed pursuant to the Wisconsin statutes, or for the abatement of nuisances in accordance with applicable code provisions.

(HISTORY: S. 3, Ch. 570, L. 1919.

8-02 am. Ch. Ord. 330, File #66-3437-a, June 23, 1967.

8-02 am. Ch. Ord. 351, File #65-2052-d, Apr. 15, 1969.

8-02 am. Ch. Ord. 498, File #79-1280, Jan. 20, 1981.

8-02 rc. File No. 130088, July 23, 2013; eff. Oct. 9. 2013.)

8-025. Rules for Connections to Water and Sewer Systems. The commissioner of building inspection with the approval of the common council, may also make rules and regulations for the proper ventilating and trapping of all drains, soilpipes and fixtures hereafter constructed to connect with or be used in connection with the sewerage or water supply of the city, and the common council may provide by ordinance for the enforcement of such rules and regulations, and may prescribe proper penalties and punishment for disobedience of the same. The commissioner of building inspection with the approval of the common council, may also make rules to regulate the use of vent, soil, drain, sewer and water pipes in all buildings in the city, which hereafter shall be proposed to be connected with the city water supply or sewerage, specifying the dimensions, strength and material of which the same shall be made, and which may prohibit the introduction into any building of any style of water fixture, trap or connection, the use of which shall have been determined to be dangerous to health or for any reason unfit to be used, and the commissioner shall require a rigid inspection by a skilled and

competent inspector under the direction of the commissioner of all plumbing and draining work and water and sewer connections hereafter done or made in any building in the city, and unless the same are done or made, and made according to the rules of the commissioner and approved by the commissioner, no connection of the premises with the city sewerage or water supply shall be allowed.

(HISTORY: S. 1, Ch. 463, L. 1887.

8-025 rn. from 14-25 and am. File #871181, Oct. 27, 1987.)

8-03. Admission to Buildings; Permit to Use Street for Deposit of Materials for Repair of Building. Such commissioner of building inspection may demand, and shall have admission to any building within such city of the first class at any time, except any building used exclusively as a place of residence of not exceeding 2 private families, for the purpose of inspecting the same, and in the performance of the duties of his office; and if such admission be refused and he be unable to obtain such admission for any reason after properly demanding the same at a reasonable time, he may apply to the judge of the circuit court of the county in which any such city is situated for a writ of assistance, and if the judge of said court be satisfied that it is proper and necessary for such commissioner to gain admission to such building, and is unable to do so, he may issue a writ of assistance to the sheriff of the county in which such city is situated, commanding said sheriff to enter in and upon said building with said commissioner, with such force as may be necessary to enable such commissioner to perform his duties. The commissioner of public works of any such city of the first class shall issue no permit to anyone to use any street for the deposit of material for the construction or repair of any building in such city unless such person shall first file with said commissioner his written consent, authorizing said commissioner of building inspection, upon reasonable notice and demand to enter into and upon and inspect said buildings and repairs.

(HISTORY: S. 4, ch. 570, L. 1919.

8-03 am. Ch. Ord. 498, File #79-1280, Jan. 20, 1981.)

8-04. Restraining Order When Work on Building Unsafe. When in the opinion of the commissioner of building inspection the erection or construction of any building within the city limits of any such city or the making of alterations or repairs upon any building within the city limits of any such city is being done in a reckless, careless or unsafe manner, or in violation of the provisions of any law or of ordinances of such city relating thereto, he may make application upon his verified complaint to any court of record of civil jurisdiction in the county in which such city is situated for an order restraining the person or persons constructing, erecting or repairing such building or buildings, and upon such application the court may issue such order restraining such person or persons from erecting, constructing or repairing such building or buildings until sufficient cause shall be shown for the dissolution of such restraining order. Such restraining order may be dissolved upon sufficient cause being shown, or upon the certificate in writing of the said commissioner of building inspection that the person or persons restrained therein and thereby have agreed to construct or erect such buildings or to make such alterations or repairs according to law and in conformity with the directions of the said commissioner of building inspection. No cost shall be taxed against such city of the first class in any event upon the dissolution of any such restraining order.

(HISTORY: S. 5, Ch. 570, L. 1919.

8-04 am. Ch. Ord. 498, File #79-1280, Jan. 20, 1981.)

8-06. Excavations, Depressions, Ditches, etc. 1. DEFINITIONS. The words and phrases used in this section shall have the meanings assigned to them in ch. 200 of the Milwaukee code. In addition, the term "commissioner of health" shall mean the legally designated health authority of the city of Milwaukee or his authorized representative, and the term "commissioner of public works" shall mean the legally designated head of the department of public works of the city of Milwaukee or his authorized representative.

2. PUBLIC HAZARDS OR NUISANCES. a. All excavations, depressions, pits, holes, gullies, ditches or similar depressions more than 12 inches deep and in which water to any depth may accumulate and be retained therein for a period of more than 48 hours on any lot, plot of land or premises shall constitute a public hazard or nuisance.

b. This section shall not apply to any lakes, streams, sloughs, bayous and marsh outlets or any other navigable waters as defined by s. 30.10, Wis. Stats. (1973) nor to any artificial bodies of water such as lakes or lagoons designed, created, developed or maintained for esthetic or recreational purposes; provided, however, that any nuisances or hazards created by the same shall be under reasonable control.

3. NOTICE TO ABATE NUISANCE. a. Served on owner. Except as regulated in par. d, in all cases where a public hazard or nuisance, as enumerated in sub. 2, is found to exist upon any premises within the city, the commissioner of health shall serve or cause to be served on the owner of the premises and on the holder of any encumbrances of record an order to abate such public hazard or nuisance within a reasonable time, not to exceed 30 days from the date of such notice by requiring the owner of the premises to fill in such hazard or nuisance to lot grade in an approved manner, or to provide positive drainage, connected in an approved manner to the city sewer, in conformity with the applicable city code of ordinances, or street so as not to flow on a streetwalk or to cause dampness or injury to any wall, yard or other area or premises. In the case of an immediate and imminent public health nuisance or hazard, the commissioner of health may require immediate temporary protection or abatement measures. In case of the owner's neglect or refusal to abate such public hazard or nuisance within the time herein prescribed, the commissioner of public works, upon notification by the commissioner of health, either through any available public agency or by contract or arrangement with private persons, shall cause such hazard or nuisance to be abated by the establishment of positive drainage or by the filling in of any or of all such excavations, depressions, pits, holes, gullies, ditches or similar depressions, the cost of which shall be charged against the real estate upon which such work was executed and shall be a lien upon such real estate and be assessed and collected as a special tax in addition to the fine or penalty as provided herein.

b. Obstructions. It shall be the duty of every owner of premises who obstructs the flow of any stream, ditch, drainage way, or impedes the flow of surface water by changing the grade of his property, or in any other manner, to provide adequate drainage by permitting the flow of such water substantially as freely as if the obstruction or impediment had not been created so as not to cause the impoundment of water on the property of another.

c. Compliance. Highway and street construction shall comply with the provisions of s. 88.87, Wis. Stats., 1973, to prevent the accumulation of water on any premises.

d. Excavations to be fenced, etc. Excavations for a basement or foundation of a building or structure on any premises executed under a permit issued by the commissioner of building inspection shall be fenced in, guarded, in an approved manner unless the construction of the building or structure proceeds immediately after the excavation has been completed, provided that no such excavation, whether or not completed, may be left open for more than 6 months whether fenced in, guarded or not without proceeding with the construction of the building or structure. Where such construction is not started within 6 months, the commissioner of building inspection shall serve an order on the owner of the premises and on the holder of any incumbrance of record to the effect that the construction of the building or structure on the

excavation begin forthwith or in the alternative that the excavation be filled within 4 days in an approved manner to lot grade. In case of the owner's neglect or refusal to abate such public hazard or nuisance, within the time herein prescribed, the commissioner of building inspection shall, either through any available public agency or by contract or arrangement with private persons, completely fill such excavations to lot grade in which case the cost of such work shall be charged against the real estate upon which such work was executed and shall be a lien upon such real estate and be assessed and collected as a special tax in addition to the fine or penalty as regulated herein.

4. PENALTIES. Any person being the owner of premises whereon any provision of this section has been violated and who shall omit, neglect, or refuse to comply with any order issued pursuant to this section shall be subject to the same penalties as provided in s. 200-19 of the Milwaukee code.

(HISTORY: Section 8-06 cr. Ch. Ord. 172, File #50-3543-b, Apr. 8, 1952.

8-06 am. Ch. Ord. 498, File #79-1280, Jan. 20, 1981.

8-06-1 am. Ch. Ord. 424, File #75-482, July 15, 1975.

8-06-1 am. File #871181, Oct. 27, 1987; eff. Jan. 11, 1988.

8-06-2 am. Ch. Ord. 424, File #75-482, July 15, 1975.

8-06-3-a am. Ch. Ord. 424, File #75-482, July 15, 1975..

8-06-3-b rn. Ord. 424, File #75-482, July 23, 1975.

8-06-3-b cr. Ord. 424, File #75-482, July 23, 1975.

8-06-3-c cr. Ord. 424, File #75-482, July 23, 1975.

8-06-4 am. Ch. Ord. 424, File #75-482, July 15, 1975.

8-06-4 am. File #871181, Oct. 27, 1987; eff. Jan. 11, 1988.)

8-07. City Engineer: Appointment, Duties. 1. The city engineer shall be a qualified professional engineer registered under the laws of Wisconsin.

2. The city engineer shall superintend and do or cause to be done all the civil engineering required by the commissioner of public works, in the management and prosecution of all public improvements committed to the city engineer's charge and all other surveying as may be directed by the commissioner or the common council. The city engineer shall possess the same powers in making surveys and plats within the city that are given by law to county surveyors, and the like validity and effect shall be given to his or her acts, and to all plats and surveys made by him or her, as are or may be given to the acts, plats and surveys of county surveyors. The city engineer shall keep a record of all official acts and doings, shall keep on file a copy of all plats of the lots, blocks and sewers embraced in the city limits, of profiles of streets, alleys and sewers, and of their grade and of all drafts and plans relating to bridges, harbors and any public buildings belonging to the city, and shall keep a record of the location of bench marks and permanent corner stakes from which subsequent surveys shall be started, all of which such records and documents shall be property of the city, open to the inspection of parties interested. The city engineer shall make an annual report of all the acts and doing of the engineer's department to the commissioner of public works on or before February 1.

(HISTORY: Section 8-07 rc. File #880330, Feb. 14, 1989; eff. May 5, 1989.

8-07-2 am. File #890298, Sept. 19, 1989; eff. Dec. 6, 1989.)

8-08. City Engineer Under Commissioner of Public Works. 1. The city engineer shall continue in the discharge of his duties in like manner as under previous laws, and shall discharge his duties under the direction of the commissioner of public works.

2. If any difference shall arise between said city engineer and the commissioner of public works in the discharge of their respective duties, the ruling of said commissioner of public works shall be supreme and final.

(HISTORY: Ch. 297, L. 1907.

8-08, am. Ch. Ord. 170, File #51-202, Jan. 2, 1952.

8-08 am. Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)

CHAPTER 10
PUBLIC LANDS

TABLE

10-01	Taking of land for public purpose
10-02	Exchange of lands with United States
10-03	Assessments for parks
10-04	Care of city lands
10-05	Submerged lands
10-06	Boulevards
10-07	Assessments against city property
10-08	Street widening along park

10-01. Taking of Land for Public Purpose 1. ACQUIRING OF PROPERTY. It shall be lawful for, and the right is hereby conferred upon cities of the first class and counties in this state having a population of two hundred and fifty thousand and upwards to purchase, acquire, enter upon, take, use and appropriate private property for the purpose of making, enlarging, extending, protecting and maintaining public parks, parkways, civic centers and playgrounds within the limits of such city or county whenever the common council or county board thereof shall by ordinance or resolution determine.

2. SALE OF LAND. a. It shall be lawful for, and the right is hereby conferred upon cities of the first class and counties having a population of two hundred and fifty thousand and upwards in this state to purchase, acquire, enter upon, take, use and appropriate neighborhood private property for the purposes herein specified for the protection and establishing public parks, parkways, civic centers and playgrounds, and after the improvement is made to re-sell such neighborhood property with restrictions as to building thereon and use thereof so as to carefully preserve the same for the purposes intended.

b. The ordinances or resolutions providing for the taking of such lands shall set forth why the use thereof and the control thereof is necessary to protect such public grounds or to establish new grounds and may include, in addition to the protection hereinbefore specified, the preservation of the view, appearance, light, air or usefulness in general of said premises for public purposes.

3. FOR PUBLIC USE. a. The taking, using, and appropriating, by the right of eminent domain as herein provided, of private property for the purpose of making, enlarging, extending, and maintaining public parks, parkways, civic centers and playgrounds, and of neighboring property, of such public parks, parkways, civic centers and playgrounds, in order to protect such public parks, parkways, civic centers and playgrounds, their environs, the preservation of the view, appearance, light, air, health, and usefulness thereof, by re-selling such neighboring property, with such restrictions in the deeds of re-sale as will protect said property, so taken for the aforesaid purpose, is hereby declared to be taking, using and appropriating of such private property for public use.

b. The proceeds arising from the re-sale of any such property, so taken, shall be deposited in the treasury of said cities, or counties and be subject to general appropriation by the council or county board of said city or county.

4. COMPENSATION. In all cases wherein cities or counties of this state shall hereafter take, use, and appropriate private property for the aforesaid purposes, by ordinance, if the compensation and damages arising therefrom cannot be agreed upon by the owners thereof and such cities or counties such compensation and damages shall be considered, ascertained, determined, awarded, and paid in the manner provided in sections 895 [now S. 61.36 Stats.] to 904 [now S. 61.38 Stats.], inclusive, and other appropriate provisions of the statutes.

5. CONTRACTS. Contracts may be made by the public authorities with owners of lands to improve such lands and to own the same after improvement is made subject to limitations as to building and use thereof. Such contracts when acknowledged and recorded in the register's office shall be a restriction on the right of the owner of the use of such land which can be enforced by the public, and shall extend to his grantee or grantees.

6. AUTHORITY. The power of the public authorities to carry out the purposes of this act shall not be limited to the section of the statutes herein referred to, but may be sought and exercised under other appropriate provisions thereof, the whole act to be liberally construed for the purposes herein referred to. *(S. 1 thru 6, Ch. 165, L. 1909.)*

10-02. Exchange of Lands with United States. Any city of the first class, whether organized under general laws or special charter, is hereby authorized and empowered to sell, convey, lease, or exchange to or with the United States government, any park or other public lands belonging to such city to be used as a site for an United States government light house or a life saving station, which sale, conveyance, lease or exchange shall first be recommended to such common council by the board of park commissioners of such city or other board or body having control or management of such park or other public lands, and thereupon the common council of such city may authorize the same by a resolution fixing the terms and conditions of the transaction; provided, that this act shall not apply to any portion of submerged land constituting the bed of Lake Michigan, granted by the state to such city for public park and boulevard purposes. *(S. 1, Ch. 202, L. 1911.)*

10-03. Assessments for Parks. Wherever a city of the first class hereafter shall have acquired land for park purposes by gift, purchase or otherwise, it may assess benefits accruing to any property benefited thereby, whether abutting or not, in the manner provided by law. In making any such assessment the damages that may have been sustained by the property shall be determined as provided by law. The amount chargeable against any lands by reason of the assessment may be made payable in annual installments as provided in s. 19-15-1 for such period not exceeding twenty years and drawing such rate of interest not exceeding 6% per annum as the common council may provide. *(S. 1, Ch. 392, L. 1929. 10-03 am. File No. 121802, passed July 23, 2013; eff. Oct. 9, 2013.)*

10-04. Care of City Lands. 1. The management, control, improvement and regulation of all boulevards, pleasureways, small parks, park plots and all such other city-owned lands which the common council may from time to time designate by ordinance or resolution are hereby placed under the management and care of the commissioner of public works of the city of Milwaukee.

2. The commissioner of public works may plant, transplant, remove, trim, spray, and otherwise care for, and protect all trees and shrubs, on or in that part of any street, the grade of which has been established, lying between the lot line and the curb, or in the center and side plots in all boulevards and parkways, and in all small parks, park plots and other city-owned lands over which the commissioner of public works exercises control, as he believes the best interest of the public requires.

3. The cost of planting, renewing and removing trees and shrubs and the cost of trimming, operating, caring for and maintaining any such trees or shrubs between the lot line and the curb in front of any lot or parcel of land abutting on a street, avenue or boulevard, shall not be chargeable to or assessed upon such lot or parcel of land, unless otherwise ordered by the common council.

4. The commissioner of public works shall advance out of proper funds sufficient money for doing said work.

5. Whenever the common council shall set aside any street or highway as a boulevard or pleasureway, it shall be lawful for the commissioner of public works to improve the center plot of such boulevard or pleasureway by laying out thereon of lawns, flower beds and other similar improvements.

6. The policing of all parks heretofore under the Milwaukee board of park commissioners and now under the control of the Milwaukee county park commission, is hereby transferred to the police department of the city of Milwaukee. *(S. 1 thru 6, Ch. Ord. 98, Mar. 14, 1938.)*

7. The cost of planting, renewing and removing, trimming, spraying and caring for trees and shrubs between the lot line and the curb in front of any lot or parcel of land abutting on a street, avenue or boulevard shall be chargeable to and assessed upon such lot or parcel of land in the manner prescribed in this charter ordinance. Provided, however, that

beginning January 1, 1932, the cost of trimming, spraying, caring for and maintaining any such trees and shrubs shall not be assessed but shall be charged to such fund as may be set up in the budget for that purpose. *(S. 1, Ch. Ord. 42., Apr. 20, 1931.)*

10-05. Submerged Lands. Any city of the first class, however incorporated, is hereby authorized to issue bonds to be retired and paid by the two-tenths of a mill tax on each dollar of the assessed value of its taxable property, to be used by the board of park commissioners for the purpose for filling in and improving and maintaining as a public park or boulevard any strip of submerged land provided for in chapter 352 of the laws of 1913, as well as any tax provided for in chapter 254 of the laws of 1913 for the purpose of filling in, improving and maintaining submerged land, as well as the tax provided for in any other law for any such purpose, it being the purpose of this section that any such city shall be authorized to issue bonds on the strength of the said mill tax levies, which said bonds are to be retired and paid for by said tax levies. *(S. 1, Ch. 111, L. 1915.)*

10-06. Boulevards. 1. AUTHORIZED. Any city within this state of the first or second class as defined by chapter 40a of Sanborn and Berryman's annotated statutes of this state and the acts amendatory thereof, whether operating under said chapter or under special charter is hereby authorized to set aside certain streets therein in the manner hereinafter designated to be known as boulevards or pleasure ways and may regulate the use of the same. *(S. 1, Ch. 167, L. 1895.)*

2. TO DESIGNATE BOULEVARDS. Any of the cities defined in Section 1, of this act, having a board of park commissioners or commissioners of public parks may, by a majority vote of the common council of such city, upon recommendation of said park commissioners or commissioners of public parks designate any street within such city and declare the same to be a boulevard or pleasure way and may provide for the use thereof and designate what character of vehicles may travel thereon; provided, that no such city shall be authorized to prohibit the ordinary use of any or all parts of such boulevard or pleasure way for the purpose of obtaining orders for, and the carrying of supplies or any other necessary things to, or from any place or residence fronting on said boulevard. *(S. 2, Ch. 167, L. 1895.)*

3. BY COUNCIL. Any of the cities designated in Section 1, of this act, which have no board of park commissioners or commissioners of public parks may, upon the recommendation of the mayor and a majority of such common council, adopt and prescribe rules and designate and declare certain streets to be boulevards or pleasure ways and regulate the use of the same in the same manner and with the same effect as if such cities had a board of park commissioners or commissioners of public parks. *(S. 3, Ch. 167, L. 1895.)*

4. VIOLATIONS. Any such city by its common council may prescribe penalties for the violation of any rule or regulation it may prescribe for the use of any such boulevard or pleasure way. *(S. 4, Ch. 167, L. 1895.)*

10-07. Assessments Against City Property. 1. In all cities of the first class in this state, whenever it shall be duly determined to grade, gravel, macadamize, curb, pave or repave or otherwise improve any street, avenue, highway or alley contiguous to or bordering upon any public park, public building or public grounds therein, or to repair any sidewalk, or to lay water pipe or sewer in such street, avenue, highway or alley, the cost of making such improvements and the laying of such water pipe or sewer and the expense of repairs of such sidewalks, shall be chargeable to such contiguous or bordering public park, public building or public grounds, in the same manner, and to the same extent, as if such public park, public building or public grounds were private property, and the amount so chargeable shall be paid out of the general city fund of such city. Provided, however, that nothing herein contained shall be construed to repeal, modify, supersede or amend the provisions of chapter 199 of the laws of 1899 entitled "An act relating to special assessments for grading, macadamizing, and improving streets in cities of the first class." *(S. 1, Ch. 246, L. 1901.)*

2. All acts and parts of acts including the provisions of any special charter, which are inconsistent with this act, and not in harmony with its provisions, are hereby declared modified, amended, superseded or repealed, in so far as they interfere with the provisions of this act, excepting only the provisions of chapter 199, laws of 1899. *(S. 2, Ch. 246, L. 1901.)*

10-08. Street Widening Along Park. 1. CITY MAY ACQUIRE LAND. Whenever proceedings shall be commenced in any city of the first class to make, open or widen a public alley, street or boulevard therein, and it shall be necessary for said purpose to use a strip of land along the border of any public park or other public place under the jurisdiction of the board of park commissioner, if any there be in such city, the common council in any such city shall have power to acquire such strip of land according to the provisions of this act. *(S. 1, Ch. 233, L. 1913.)*

2. PROCEDURE. The common council shall, except as herein otherwise provided, follow the procedure required by the laws of this state applicable to any such city relating to making, opening or widening of a street, alley or boulevard; provided, however, that nothing in this act contained shall permit any officer or department of such city to create any indebtedness, charge or claim whatsoever on account of the taking of any such strip of land payable out of any of the funds of such city which by law may be used only for public park or boulevard purposes. *(S. 2, Ch. 233, L. 1913.)*

CHAPTER 11
IMPROVEMENTS AND SPECIAL ASSESSMENTS

TABLE

11-01	Report on street improvements
11-02	Special assessments for street, alley, sidewalk and gutter improvements
11-03	Tree borders
11-04	Navigable canals
11-05	Docking and dredging
11-06	Special assessments along waterways
11-07	Docks
11-08	Procedure for improvements
11-09	Assessment of benefits
11-10	Alteration of street grade
11-11	Review of assessments
11-15	Street and highway widths
11-16	Center of roadway to determine assessments
11-17	Notice to public utilities of street work
11-18	Effect of invalid street grade alteration
11-19	Streets: grading; vacation
11-20	Financing of special assessments
11-22	Appeals of special assessments
11-23	Appeal exclusive remedy
11-24	Snow removal
11-25	Street cleaning and repair
11-26	Repair of unsafe sidewalks and driveways
11-27	Removal of nuisances
11-28	Special assessment accounting
11-29	Procedure when commissioner is interested in property
11-30	Removal of noxious weeds or plants
11-31	Street cleaning not to be assessed
11-32	Oiling of streets; removal of noxious weeds
11-33	Shade trees
11-34	Public improvements on concrete foundations
11-35	Extension of payments
11-36	Properties owned by corporations
11-37	Resurfacing
11-38	Petition for improvements
11-39	Arterial highway resurfacing
11-40	Exempt real estate
11-41	Effect on cemeteries
11-42	Cemetery land subject to special assessments for street, sewer and water pipes

11-01. Report on Street Improvements. The commissioner of public works of said city shall, by January 1 of each year, or as soon as practicable thereafter determine upon a general system for street improvements for the year ensuing and report the same to the common council, said report shall be advisory only and no street improvements shall be made except upon the passage of a proper resolution by the common council. After the report is made to the common council, the said system shall be carried out and not materially deviated from by the commissioner except in case of necessity. *(S. 5, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-02. Special Assessments for Street, Alley, Sidewalk and Gutter Improvements. The grading, graveling, macadamizing or paving to the center of any street or alley, and the grading, graveling, macadamizing, paving, sodding and curbing of any sidewalk, and the paving of any gutter, shall be chargeable to and payable by the lots fronting or abutting upon such street, alley, or gutter, or fronting, abutting, or adjacent to such sidewalk, to the amount which such grading, graveling, macadamizing, paving, sodding and curbing shall be adjudged by said commissioner to benefit such lots. The expense of all such improvements of work across streets at their intersection with streets and alleys, excepting sidewalks, and the expense of all such improvements for work across public grounds, and to the middle of streets and alleys adjacent to public grounds, and the construction of all crosswalks, shall be paid out of the funds appropriated for such purpose, except that the cost of the work and material for paving and the cost of grading any such street or alley intersection and for the long side of any corner

lot for the initial city of Milwaukee pavement may be assessed proportionately against any lots in the blocks touching on any such intersection to the amount such work shall be adjudged by the commissioner of public works to benefit such lots. After a street, alley or gutter has been constructed to the grade established by the common council and graveled, paved or macadamized in compliance with the order of the proper city authorities, the expense of maintaining, repaving, keeping in repair and cleaning such street, alley or gutter, and the pavement or other surface thereof, and of any other subsequent improvement of such street, alley or gutter, shall be paid out of the funds appropriated for such purpose provided, however, that when a street or alley which has been graveled or macadamized is ordered to be paved, the expense of such paving shall be chargeable to and payable by the lots fronting or abutting upon such street or alley to the amount which such paving shall be adjudged by said commissioner to benefit such lots as hereinbefore provided for the improvement of a street or alley; and further provided that when a change in the grade of any street or alley shall be ordered, the expense of cutting or filling incurred by such change of grade shall be chargeable to and paid by the lots fronting or abutting on the street or alley of which the grade shall be so changed; and provided further, that this section in relation to the maintaining, repaving, keeping in repair and cleaning of streets, alleys and gutters shall not apply to the laying, relaying, cleaning, sodding, curbing, repairing or grading of sidewalks. *(S. 6, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-03. Tree Borders. That portion of the street lying between the curb and the sidewalk, also known as the tree border, of any premises or property in the city of Milwaukee fronting on a street, the grade of which shall have been established, shall be leveled with the grade and seeded. In the event of the failure of the owner for a period of more than 30 days after being notified by the commissioner of public works so to do, the common council may by resolution direct the commissioner of public works to cause said plot to be graded and seeded and he shall keep an account of such work and he shall certify to the city comptroller the description of land, lots, parts of lots or parcels of land abutting on the street, avenue or boulevard in which any such work shall have been done, and the amount chargeable to each such piece of property; and the comptroller at the time of making his annual report to the common council of the lots or parcels of land subject to special assessments, shall include therein the lots or parcels of land so reported to him by the commissioner of public works with the amount chargeable thereto for work done during the preceding year, and the common council shall then levy and assess the same on the several lots or parcels of land described in said schedule and direct the proper officers to enter the several amounts set forth in said schedule on the next or subsequent tax roll and collect the same as a special tax against such lot or parcel of land and the said tax shall be a valid charge and lien against such lots, parts of land or parcels of land and the same shall be collected in all respects like other city taxes upon real estate. *(S. 1, Ch. Ord. 5, File #30656, Nov. 9, 1925.)*

11-04. Navigable Canals. The construction of the public navigable canals in said city; including the canals, water channels, and slips, laid out and established in the valley of the Menomonee river -- shall include all such excavations, dredging, and docking, as the common council shall by ordinance or resolution in its discretion require, to make the same suitable and convenient for navigation. The commissioner of public works shall, from time to time, with the approval of the common council, order the construction of the canals, water channels, and slips, in the valley of the Menomonee river, and shall cause the same to be done as they may deem necessary for the public interests, in accordance with the system of canals, water channel and slips, established in said valley pursuant to chapter ninety-one of the local laws of 1869. Whenever they shall order any portion of such work to be done, like proceedings shall be had as are provided by this chapter in case of grading streets; and the expense of such construction shall be apportioned by the commissioner of public works among, and shall be a charge and lien upon, the several lots or parcels of land extending to and abutting on said canals, water

channels or slips respectively, in proportion to the amount of work done opposite to such lots or parcels of land to be estimated by the city engineer, and shall be collected as other special taxes are levied and collected by and under this act, but no work in the construction of such canals, water channels or slips shall be ordered by said commissioner except on the petition in writing of the persons owning land adjoining the work to be done, to the extent of a majority of the lineal feet of such land, measured on the line of such proposed work; but in case any portion of such adjoining land is owned by persons not residents of the said city of Milwaukee, the said commissioner may order such work to be done on the petition of persons owning a majority of the lineal feet of such land owned by residents of the said city, measured on the line of such proposed work. *(S. 4, Subch. 7, Ch. 184, L. 1874, as mod. by Ch. 297, L. 1907.)*

11-05. Docking and Dredging. The docking and dredging of the Milwaukee, Menomonee and Kinnickinnic rivers, and of the public canals in said city, after their construction, opposite to any street or to public grounds abutting thereon, and the dredging of the middle ground of said rivers, and of said canals after their construction, further than 50 feet from either dock line shall be done at the cost of the city. The board of harbor commissioners, subject to the approval of the common council, shall have the power and is authorized and it shall be its duty when ordered by the common council, without petition in that behalf, to cause the Milwaukee, Menomonee and Kinnickinnic rivers, or any portion thereof, to be docked and dredged, and to proceed therein in like manner as in cases of grading and improving streets, to make the expense of reconstructing and repairing the docks of the rivers and canals in said city, and so much of the expense as is not chargeable to the city a lien and charge upon the lots and parcels of land, extending to and abutting on said rivers respectively. *(S. 1, Ch. Ord. 111, File #70404 Dec. 2, 1940.)*

11-06. Special Assessments Along Waterways. 1. SPE

state, and the dredging of such rivers and canals to a width of not to exceed fifty feet from their dock lines toward the centers shall be chargeable to and payable by the lots and parcels of land so fronting a river or public navigable canal in any such city.

b. After a river or navigable canal in any such city has been properly docked conformable to specifications made and filed in the office of the commissioner of public works, or other body in charge of such department in any such city, and has been dredged to a depth of twenty-one feet below the level of such river or navigable canal as heretofore or may hereafter be established and to a width of fifty feet from its dock line towards its center, in compliance with any order of the proper city authorities, and at the expense of the lots or parcels of land abutting thereon, and has been duly accepted by the city engineer of such city, or other officer authorized to accept the same, as complying with the above requirements, the expense of redredging such rivers or canals to a width of fifty feet from such dock lines to its center shall be chargeable to and paid out of the general city fund of such city.

c. Such commissioner of public works, or other body, shall have the same authority over such rivers and canals and lands and lots fronting thereon as they have over streets and lots or lands fronting thereon, and shall be governed by the same rules with respect thereto as in case of public improvements upon streets, except repairs of the sides of docks, wharves and revetments in front of lots or parts of lots along the sides of docks, banks of rivers and navigable canals in such city, which expenses shall be a lien and charge upon the lots or parcels of land extending to and abutting on such docks, rivers and canals respectively.

d. Provided, that the dredging chargeable to lots and lands fronting on such docks, rivers and canals shall be ordered done by any such city only when the middle portion of such rivers and canals respectively shall be dredged at the same time by the city; and provided further, that no part of the cost of construction of any of the public navigable rivers or canals of any such city shall be chargeable to the city or to any ward thereof, but the whole cost of such construction shall be chargeable exclusively to the lots and lands abutting thereon.

2. DREDGING. Whenever the government does any dredging of any navigable rivers or canals in any city of the first class partially or wholly at the expense of the federal government, in such cases the abutting property owner shall be chargeable with the dredging of the channel not to exceed fifty feet, extending from the established dock line; where there is any excess of fifty feet dredging to be done beyond that done by the United States government or chargeable to the abutting property, the expense thereof shall be paid by the city. *(S. 1 and 2, Ch. 463, L. 1909.)*

11-07. Docks. 1. SPECIAL ASSESSMENTS. Whenever in any city of the first class, whether organized under the general laws or special charter, the construction or repairing of docks along the banks of any navigable river or other navigable water in said city shall have been duly authorized, and specifications, together with an estimate of the cost of such work, have been prepared and filed, and the necessary assessments of benefits and damages against the several lots, parts of lots or parcels of land which may be deemed benefited or damaged by the proposed improvement, shall have been made and approved or confirmed, and the contract for such improvement shall have been entered into, the commissioner of public works may by notice duly published in the official newspapers of such city for six consecutive days, or if there be no such commissioner, the common council may within two weeks after the letting of such contract, by resolution determine that any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of such improvement, shall have the option at any time within thirty days after the publication of said notice or the passage and publication of such resolution, to apply for an extension of the payment of such assessment of benefits to his or their property, by paying therefor in equal annual installments or such a period as the commissioner of public works or the common council may in such notice or resolution, as the case may be, determine, not less than five and not exceeding ten years; the first installment to become due and payable without interest immediately after the completion of the first tax sale succeeding the date of the bond hereinafter provided for.

2. INSTALLMENT PAYMENTS. Any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of any such improvement, may within thirty days after the first publication of such notice of the commissioner of public works, or of such resolution to the common council, make application to the commissioner of public works, or if there be no such commissioner, to the city clerk, for the extension of the payment of such assessment of benefits to his other property, and such application shall contain an agreement that in consideration of the privilege granted by such resolution, the applicant will make no objection to any want of power, illegality or irregularity in regard to the assessment against his property, and will pay the same in equal annual installments, together with interest upon the unpaid balances at a rate not exceeding six per cent per annum, and for such a term of years as in such notice or resolution may have been provided. Such application shall also contain a brief description of the property and a statement that the applicant is the owner thereof. After the expiration of the time within which such application may be made an assessment list shall be prepared containing a description of each piece of property, the owner or owners of which have agreed to pay for such improvement in installments, showing the amounts chargeable to such property, together with the necessary columns to which the installment assessments shall be extended, the amount of each installment and interest, and when payable, and a copy of each such assessment shall be filed with the city clerk, the city comptroller and the city treasurer.

In all cases where such agreement shall not be signed within the time limited the entire assessment shall be payable in the manner and at the time now provided for the payment of assessments on account of street or other improvements.

3. CONTRACTOR'S RESPONSIBILITY. Whenever any contract is entered into or such permanent improvement such contract shall, in addition to the requirements now provided for by law, stipulate that the contractor shall receive, to apply in payment of the contract price, dock improvement bonds upon or against the several lots, parts of lots or parcels of land, the owner or owners of which have agreed as hereinbefore provided to avail themselves of the privilege of paying for such improvement in equal annual installments; and upon the completion and performance of such contract the contractor shall receive on account and in payment for his work said bond or bonds upon or against said several lots, parts of lots or parcels of land, to an amount not exceeding the assessments of benefits against the same by reason of such improvement. *(S. 1 thru 3, Ch. 103, L. 1911.)*

4. IMPROVEMENT BONDS. After full performance of any such contract as is within the preceding section, if the owner or owners of any lot, parts of lots or parcels of land fronting or abutting on any river or other navigable waters of such city, which has been improved as therein provided, shall have applied for an extension of the time for the payment of assessments as is provided in next to the last preceding section, the commissioner of public works, or if there be no such commissioner, the city clerk, shall issue bonds against such lots, parts of lots or parcels of land for the amounts chargeable against such property, said bonds to be payable within the time limited in the notice or resolution provided for in section 1 hereof [sub. 1]. Such bonds shall be designated "Dock improvement bonds", bear the name of the river or other navigable water upon which said improvements are made, be made payable to the contractor doing the work or bearer, be negotiable, state the amount of work done by the contractor, the nature thereof and a description of the property upon which the same is chargeable, be issued in the name of the city and countersigned by its comptroller, but neither the city nor any officer thereof shall become liable or holden for any part thereof, either principal or interest, excepting for so much as has been actually collected by the city treasurer for the payment of such part of the improvement for which such bonds have been issued. Such bonds shall bear interest at a rate not exceeding six per cent per annum from and after the first day of February succeeding the date of issue and have attached thereto coupons, each in amount equal to the annual payment due on such bond together with the accrued interest. Said coupons and bonds shall be payable at the office of the city treasurer immediately after the completion of the tax collection each year to the extent of the moneys received by him on account of the improvements for which such bonds have been issued; they shall be a first lien against any lots, parts of lots or parcels of land on account of which they were issued, and in case of failure of the payment of any installment of the interest thereon when the same becomes due, the whole amount of any such bond, together with the interest chargeable against any such lot, part of lots or parcels of land, the owner or owners of which have failed to pay the annual assessment or interest, shall, at the election of the holder of such bonds, to be exercised within thirty days after such default forthwith become due and payable and may be recovered as mortgages are foreclosed; there may also be recovered a reasonable attorney's fee and costs. The owner or owners of any lots, parts of lots or parcels of land upon which bonds are issued may, at any time, pay to the city treasurer the entire unpaid assessment and accrued interest, and receive a release of the lien and assessment against their property by paying to said treasurer, in addition to said assessment and accrued interest, interest on said bonds for the period of three months after such payment. The issuance of said bonds shall be conclusive evidence of the regularity of all previous proceedings and the validity of said lien; and no want of power, illegality or irregularity in connection with the making of such assessments or the issue of such bonds shall invalidate said bonds. *(S. 4, Ch. 103, L. 1911.)*

5. COLLECTION BY CITY TREASURER. The proper city officer shall, in preparing the annual tax roll, enter the amount of the annual installment assessment, together with the accrued interest, against the several pieces of property on said tax roll according to the assessment list prepared and filed in the office of the city clerk for the term of years that such installment assessment list may cover and until the entire amount chargeable to such property on account of the improvement and interest thereon shall have been taxed and levied against such property; and such assessment shall be collectable by the city treasurer as other taxes are collected by him. He shall keep a separate account of the funds arising from the collection of such installment assessments and interest, and such funds shall not be diverted to the payment of any other improvement than that for which the same were collected, and enter upon each assessment list, in its proper column and place, such amounts as have been paid; such lists shall be open to the public for examination. As soon as the coupons or bonds shall have been paid by the city treasurer he shall cancel the same and turn them over to the city comptroller, by whom they shall be kept on file. *(S. 5, Ch. 103, L. 1911.)*

6. AUTHORITY. The lots, parts of lots or parcels of land fronting or abutting the aforesaid improvements shall be chargeable with the payment of the cost of the same to the extent of the benefit, which in the opinion of the commissioner of or board of public works, will actually accrue to the owner of such lots, parts of lots or parcel of land in consequence of such improvements. And the commissioner of or board of public works of such city shall have the same authority over such improvements, and the lots and lands fronting thereon, and over the navigable rivers and other navigable waters of such city as he or they now have in such cities over streets and lots or lands fronting thereon, and shall be governed by the same rules in respect thereto as in cases of improvement of streets, so far as applicable and not in conflict with this act, except that no exemption from liability for the payment of benefits for street improvements shall apply to dock improvements. *(S. 6, Ch. 103, L. 1911.)*

11-08. Procedure for Improvements. 1. ESTIMATE. Whenever the commissioner of public works shall deem it necessary to grade or otherwise improve any street, alley, sidewalk or public ground, or to erect and construct a bridge or viaduct over any ravine in said city of Milwaukee, or to dredge or dock any of the rivers or of the public canals after their first construction, or to abate any nuisance caused by stagnant water in said city, he shall cause to be made an estimate of the cost of such work, and shall put the same on file in his office, and such estimate shall be open to the inspection of any party interested.

2. PETITIONS AGAINST WORK. a. Thereupon the commissioner of public works shall make to the common council such recommendation in relation to the proposed work as the commissioner may deem proper. Upon adoption of the recommendation by the common council, in whole or in part, the commissioner may order so much of the work to be done as shall have been adopted, provided that no change of any previously established grade, and no such work, chargeable to lots and parcels of land fronting on or abutting on the same, except the grading, graveling and paving of streets, the paving of gutters and making of sidewalks, and except repairs, and docking and dredging, shall be ordered by resolution, ordinance or otherwise, unless a petition therefor shall first be presented to the common council, signed by residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of the city. For that purpose, every person in the actual possession of any lots or parcel of land fronting upon such improvements, under a contract in force for the purchase thereof from the owner, shall be held to be a freeholder within the meaning of this section, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Each person signing such petition as a resident or as the owner of property, shall be required to write after his or her signature a brief description of the property so owned, and of the place of residence in the city, and to annex thereto an affidavit that he or she is such resident and owner, and thereupon the person shall be taken

to be such resident and owner, and such petition shall be as valid and have the same effect as if the person were the owner of the property, and a resident of the city or district, as stated in the affidavit, although in fact it should thereafter appear that the person was not the owner or resident.

b. The common council may order the grading, graveling and paving of streets and alleys, the paving of gutters and the making of sidewalks, without such petition, provided, however, that in the absence of such petition, the resolution of the common council ordering the work shall have been referred by the council to one of its standing committees, and shall have been reported by such committee to the common council with their recommendation that it be adopted, before a vote shall be taken upon its adoption, and provided the resolution shall declare why it is necessary for the public interest to proceed without such petition, and shall also upon its passage be supported by the votes of 3/4 of the members of the common council at the time of the vote and the council member of the district or each district in which such grading, graveling or paving, or making of sidewalks, is done. No such resolution ordering the grading, graveling or paving of a street or streets or alley, the paving of gutters or the making of sidewalks, without a petition therefor shall be voted upon or passed at any meeting of the common council held within 2 weeks from the time of its presentation to the council, and the vote on its passage shall be taken by yeas and nays, and duly entered in the journal of proceedings. *(Sub. 2 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. April 20, 1987.)*

3. REQUEST FOR REPAIRS. Provided, further, that whenever the commissioner of public works shall deem it necessary to pave or otherwise improve, any street, alley or gutter, or any part of any street, alley or gutter, after the same has been once constructed to the grade established by the common council, and graveled, planked, paved or macadamized, the expense of maintaining, renewing, repairing or repaving thereof, shall be a lawful and proper charge against the funds appropriated for such purpose, and a majority of the residents of said city of Milwaukee, owning a majority of the feet in front of all the lots fronting on such proposed improvement, owned by residents of such city, shall file a petition with the said commissioner, for any payment or other improvement deemed by said commissioner to cost more than the estimate made by the commissioner, of the cost of improving said street, alley or gutter, said cost to be determined by said commissioner, it shall be the duty of said commissioner and of the common council to grant the request of such petition, and to proceed to repave, or otherwise improve, said street, alley or gutter, or any part thereof, named in said petition, according to the prayer of the petition, in the same manner as said commissioner and council are now required to maintain, renew, repair or repave any such street, alley or gutter; as the owner of property, shall be required to write after his signature thereto a brief description of the property so owned by him, and of the place of his residence in said city, and to annex thereto an affidavit that he is such resident and owner, and thereupon he shall be taken to be such resident and owner, and such petition shall be as valid and have the same effect as if such person were the owner of such property, and a resident of the city or district as stated in his affidavit, although in fact it should thereafter appear that he was not such owner or resident. The common council may order the grading, graveling and paving of streets and alleys, the paving of gutters and the making of sidewalks, without such petition, provided, however, that in the absence of such petition, the resolution of the common council ordering the work shall have been referred by the common council to one of its standing committees, and shall have been reported by such committee to the common council with their recommendation that it be adopted, provided, however, that all cost and expense of such repavement or other improvement, in case of such petition, in excess of the estimated cost of the work, made and filed in the office of the commissioner of public works, for the improvement of said street, alley or gutter, or part thereof, shall be chargeable to, and be made payable by, the lots fronting or abutting upon such street, alley or gutter, or part thereof, such excess to be apportioned by such commissioner to said lots, respectively, in

proportion to the benefits adjudged by said commissioner to have been conferred by said repavement, or other improvements, in the same manner that the original improvement of streets, alleys or gutters are now lawfully chargeable to, and made payable by such lots; provided further, that the petition for such repavement, or other improvement, required in this act, as a condition of increased cost, shall as to form, qualification of petitioners and otherwise, conform to the requirements in case of petitions for other work chargeable to lots, and requiring a petition therefor, as provided in said s. 20, ch. 324, laws of [Wisconsin] 1882, of which section this act is in part amendatory. *(Ch. Ord. 196, File #53-3331 Apr. 20, 1954; S. 8, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-09. Assessment of Benefits. Before ordering any work to be done by the owners of lots or lands fronting on the same, the commissioner of public works shall view the premises, and consider the amount proposed to be made chargeable against said several lots or pieces of land and the benefits which in his opinion will actually accrue to the owner of the same in consequence of such improvement, and shall assess against the several lots or pieces of land, or parts of lots or pieces of land, which he may deem benefited by the proposed improvement, the amount of such benefit which those lots or pieces of land will severally, in the opinion of said commissioner, derive from such improvement when completed in the manner contemplated in the estimate of the cost of such work, made as provided by s. 11-08, taking into consideration in each case any injury which in the opinion of the commissioner, may result to each lot or pieces of land from such improvement; and in case the benefits, in his opinion, amount to less than the cost of the improvement, the balance shall be paid out of the funds appropriated for such purpose; and said commissioner shall endorse his decision and assessment in every case on the estimate of the cost of such improvement filed in his office. *(S. 9, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-10. Alteration of Street Grade. In all cases in which the grade of any street has been permanently established by ordinance since Feb. 20, 1852, or shall hereafter be so established, and, after such permanent establishment thereof, and after such street shall have been actually graded to such established grade, the grade so established has been or shall be altered by the city, the owner of any lot or parcel of land which may be affected or injured in consequence of such alteration of grade shall be entitled to compensation therefor; and it shall be the duty of the commissioner of public works, before ordering to be done the work of actually changing such established grade by excavating or filling such street to the new grade as so altered, and at the time of making his assessment of benefits as provided in s. 11-09, to consider, determine and assess against the lots which he may deem benefited by the proposed improvement, to the amount of such benefits, the damages, costs and charges, including the cost of such improvement -- arising from such alteration of grade to the owner of any lot, parcel of land or tenement, which may be affected or injured in consequence thereof, taking into consideration in each case any advantages and benefits which may be conferred thereby upon such lot, parcel of land or tenement, in common with other property on the street affected by such grade; and the excess of the said damages, costs and charges over the benefits assessed as provided in s. 11-09, shall be paid out of the fund appropriated for such purpose; provided, that no owner of any lot, parcel of land or tenement, who shall personally or by his authorized agent have signed a petition asking for such alteration of grade, or a petition asking for the grading of a street in conformity with such altered grade, shall be entitled to compensation, but every such owner shall be deemed thereby to have waived and relinquished all claim to compensation for any injury in consequence thereof; and no damages, costs or charges arising to such owner from such alteration of grade, shall be assessed or paid to such owner. *(S. 10, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-11. Review of Assessments. As soon as any assessment of benefits or damages, or both, shall be made, as in the preceding sections of this chapter, the said commissioner shall give notice to all parties interested, by advertisement for not less than four days in the

official papers of the said city, that such assessment has been made and is ready for inspection in his office, and that the same will be open for review and correction by the said commissioner, at his office, for not less than four days after the first publication of such notice, during certain hours, not less than two hours of each lay day, and that all persons interested will be heard by said commissioner in objection to such assessment, and generally, in the matter of such review and correction. It shall be sufficient to state in such notice, in brief, what such assessment has been made for, and in what locality, and no further notice or publication of such assessment shall be necessary. During the time mentioned in such notice, the said commissioner shall hear objections and evidence, and he shall have power to review, modify and correct such assessment, in such manner as he shall deem just, at any time during such review, and for three days thereafter; and thereupon said commissioner shall endorse such corrected and completed assessment upon or annex the same to the estimate of the cost of such improvement, made and filed in his office, as provided in section 6, of this chapter [s. 11.08], as amended, and shall file a duplicate of such estimate and assessment in the office of the city clerk, who shall lay the same before the common council at its next meeting; and thereupon the common council may confirm or correct said assessments, or any of them, or may refer the same back to the commissioner of public works for revision and correction; and the said common council, and the said commissioner of public works shall respectively have the like powers, and perform the like duties, in relation to such assessment, and any subsequent assessment made pursuant to such reference by the common council, as are prescribed and conferred in relation to the first assessment. *(S. 6, Ch. 388, L. 1889.)*

11-15. Street and Highway Widths. 1. COUNCIL APPROVAL. The common council of the city of Milwaukee where it is deemed that the general welfare will be promoted thereby may establish street and highway widths in excess of those actually and presently in use and may adopt plans showing the location and width proposed for any future street or highway.

2. PUBLICATION. Such streets or highways or plans therefor shall be shown on a map prepared for that purpose and filed in the office of the register of deeds and notice thereof shall be published in a newspaper of general circulation in the territory in which such streets or highways are located, once each week for 3 successive weeks, and shall be posted in at least 3 public and conspicuous places along each such street or highway. Such notice need not contain legally accurate descriptions but shall briefly set forth the action of the common council in language adequate to apprise the various property owners of the effect of such action.

3. MAP CHANGES. The common council may from time to time thereafter upon publication of notice alter, supplement or change the same and such alterations, supplements or changes shall be similarly filed in the office of the registrar of deeds.

4. ACQUISITION. The excess width of streets or highways actually or presently in use or the right of way acquired for those planned as aforesaid need not immediately be acquired for highway or street purposes but may be acquired at any time, in whole or in part, by the city of Milwaukee, provided, however, that no part shall be acquired any less than the full extent, in width, of the excess width to be made up of land on the same side of such highway or street nor for less than the full distance in length of such excess width lying within the limits of contiguous land owned by the same owner; provided, further, that any land so acquired, whether the excess width is acquired, for the length of the highway or street or not, shall at once become available for public highway purposes. The power to acquire such right of way or additional width of highway or street in portions as provided herein may be exercised for the purpose of acquiring such lands on advantageous terms to the city of Milwaukee, whether by reason of availing itself of any favorable offer of such land, or by reason of avoiding additional cost thereof on account of the erection or making of contemplated improvements thereon by the owner thereof, or by any other reason. *(S. 1 thru 4, Ch. Ord. 60, File #50607-a Feb. 20, 1933.)*

11-16. Center of Roadway to Determine Assessments. Hereafter in any city of the first class, however incorporated, when any street improvement of any kind is made in any such city and any portion of the cost thereof is assessable as benefits upon the abutting property, in assessing for street work, the center line of the roadway shall be the dividing line between abutting properties on the opposite sides of streets, regardless of whether or not the center line of any such roadway is on the center line of the street. *(S. 959-35h, Stats. 1919.)*

11-17. Notice to Public Utilities of Street Work. Hereafter in cities of the first class, whether incorporated under general law or special charter, whenever such city is contemplating paving any street therein with a pavement laid on a concrete foundation, if any such city shall give notice in writing through its commissioner of public works to any public service corporation, including telephone companies, electric light companies, telegraph companies, gas companies, and water companies, as well as street car companies, three months in advance of the actual beginning of work on the said pavement, to the effect that said pavement is going to be laid, then any such company is hereby required to lay all conduits, mains, pipes, wires or other underground construction in said street prior to the beginning of said pavement. After the said pavement is laid, the said city shall have the right to refuse to permit any such telephone company, telegraph company, gas company, electric light company, street car company, or other company to open any such pavement for the purpose of laying new mains, conduits or the installation of any other new equipment therein. *(S. 959-35i, Stats. 1919.)*

11-18. Effect of Invalid Street Grade Alteration. In every city of the first class, within this state, whether such city is organized under general or special charter, whenever the grade of any street of such city has been or shall hereafter be permanently established by ordinance, and such street actually graded to conform to such established grade, and the grade so established has been or may hereafter be changed or altered by such city; and whenever by any omission or error or other cause, the proceedings for such change of grade shall be determined to be without authority of law, illegal or unauthorized, the benefits accruing to any lot or parcel or land in consequence of the changed grade, shall be deducted in the estimation of damages. *(S. 1, Ch. 214, L. 1901.)*

11-19. Streets: Grading; Vacation. 1. Whenever the common council of the said city of Milwaukee shall have changed and altered the established grade of any street therein in the manner provided by law, after such street shall have been once graded and paved to the established grade, and any part or portion of said street shall have been improved and brought to the grade so altered and changed, it shall be, and is hereby made the duty of the said common council, to cause the remaining portion of said street, the grade of which has been so altered and changed, to be graded and graveled or paved to such altered and changed grade, within one year from the time of the improvement of any portion of said street, to the grade so changed and altered.

2. It shall not be necessary to give any notice except by publication in the official newspapers of said city, in the manner provided by law, to any person, of the vacation or proposed vacation of any street, alley or public place, under the provisions of section 22, of chapter 6, [S. 22, Subch. 6, Ch. 184, L. 1874], of said charter. *(S. 1, 2, Ch. 374, L. 1889.)*

11-20. Financing of Special Assessments. 1. CITIES OF FIRST CLASS. Hereafter in cities of the first class, however incorporated, no special assessment certificates shall be issued to contractors for the grading, graveling, macadamizing, or paving of streets or alleys, or the grading and laying of sidewalks, or the paving of gutters and the installation of curbing, nor for the digging or excavating or building of any sewers, or for any other street improvement whatever, but the contractor shall be paid as provided in s. 959-35c of Wis. Stats. of 1919.

2. PAYMENTS TO CONTRACTOR. Hereafter any city of the first class, however incorporated shall pay in cash any contractor when he shall have completed and performed any contract for any work specified in s. 959-35b of Wis. Stats. of 1919, and the said work shall have been accepted by the proper city authorities, but this provision shall not be construed to mean that the contractor shall be paid in full, but all laws now in force for the reservation of guaranty funds and reserve funds guaranteeing workmanship and material shall remain in full force and effect. This provision shall not be construed as in any way affecting the laws now in force and effect granting the right to the proper officers to make payments upon estimates; provided, however, that no contractor shall be paid during any year for any portion of the work assessable to abutting property unless the contract shall have been completed and the work accepted on or before the 10th day of November in said year. The assessable portion of such work performed under a contract which has been completed and accepted after said date shall be paid for at any time subsequent to May 1st of the succeeding year.

3. TO ISSUE BONDS. Any city of the first class, however incorporated, is authorized to issue bonds known as street improvement funding bonds for the purpose of financing the assessable portion of the cost of constructing sewers and making other street improvements in amounts sufficient to cover such portion of the estimated cost of doing said work. Such bonds shall be issued and sold in the same manner as other bonds of such city are issued and sold, except that it shall not be necessary to include such bonds in the budget of such city, nor shall it be necessary to submit the question of their issue to a referendum vote of the electors of such city. In case any such city, in the opinion of the city comptroller, shall have enough cash on hand in its general treasury to finance the improvements mentioned in the preceding sections, it shall not be necessary for said city to issue any bonds mentioned herein, and if any such city, in the opinion of the city comptroller, shall have enough cash in its general treasury to finance part of said improvements, it shall be necessary for the said city to issue only enough bonds, as provided for herein, to finance the remainder of the same. The bonds provided for herein shall be serial bonds payable at any specified time within six years, and shall bear interest at the rate of not to exceed six per cent per annum, payable either annually or semiannually as the common council may deem best. The said bonds shall be a direct obligation of the city and the full faith and credit of the city shall be pledged for their payment and no such bonds shall be issued unless at or before the time of issuing the same the council shall levy a direct annual tax sufficient to pay the principal and interest thereon as they fall due.

4. BONDS TO COVER. When improvements shall have been paid for in whole or part by such city without issuing such bonds, like bonds may later be issued at any time that it shall be necessary in the opinion of the city comptroller to refund to the general treasury of said city the amount of all or any part of the unpaid special assessment installments not yet due; but when such refunding bonds shall be issued the principal amount thereof due in any year shall not exceed the sum of such deferred installments which shall become due in such year. *(Ch. 220, L. 1933.)*

5. INSTALLMENT PAYMENTS. In any first class city, the amounts and time of payment of special assessments shall be as provided in applicable code provisions. If not otherwise prohibited by the laws of the state of Wisconsin, all charges, special charges, assessments and special assessments authorized under this chapter or ch. 7 and constituting a lien upon any lot, land or property shall be subject to payment and settlement by installment payments as provided in s. 19-15-1 at the option of the taxpayer.

6. ASSESSMENTS TO PAY FOR BONDS. Upon the collection of any and all special assessments and interest, as provided in the preceding sections, the moneys collected shall go first to repay any cash used out of the general city treasury, if such has been the case, and the remainder of the money so collected shall constitute a fund with which to pay the principal and interest on bonds issued under the provisions of s. 959-35d of Wis. Stats. of 1919, as they fall due. In any year in which there shall be on hand moneys derived from special assessments on account of work done during the preceding year or years, sufficient to pay the whole or a part of the principal falling due on such bonds, it shall be unnecessary for the city to collect more taxes for the payment of the principal on said bonds than are necessary to make up the difference between the amount which will become due in the ensuing year and

the amount so available for payment of the principal and interest on said bonds. Any such city shall have a first lien on the premises against which any such special assessment is levied or to be levied from the time the contractor is paid in cash to the full extent of all unpaid installments for doing said work and the interest thereon.

7. COUNCIL TO LEVY TAX. It shall be the duty of the common council in each and every year, in addition to all other taxes, to levy a tax which shall be sufficient to cover the special assessments for grading, graveling, macadamizing, or paving of streets or alleys, or the grading and laying of sidewalks, or the paving of gutters and the installation of curbing, or the digging or excavating for or building of any sewers, or for any street improvements whatsoever entered or to be entered on the tax roll of said year and which it is estimated will remain unpaid. *(S. 1, Ch. Ord. 200, File #49-1863-b, June 15, 1954. 11-20-5 rc. File #910799, Aug. 2, 1991; Oct. 21, 1991. 11-20-5 am. File #121802, July 23, 2013; eff. Oct. 9, 2013.)*

11-22. Appeals of Special Assessments. The owner of any lot or tract of land or tenement, who feels himself aggrieved by such assessment as confirmed by the common council, as to the amount of benefits thereby adjudged to accrue to him by reason of any improvements charged against his lot or parcel of land, or the amount of damages, costs and charges arising to such owner from an alteration or grade, may, within 20 days after such confirmation by the common council, appeal therefrom to the circuit court of Milwaukee county; and such appeal shall be taken, tried and determined, and bonds for costs shall be given and costs awarded therein, in like manner as in cases of appeals to the said circuit court provided for in ch. 6 of this act [subch. 6, ch. 184, L. 1874]. Such appeal shall not affect the rights of the contractor, or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken; and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount of benefit finally adjudged shall be paid by the city out of the funds appropriated for such purpose to the appellant, but not until he shall have done the work in question, or have paid the certificate issued for doing the same. The amount assessed by the commissioner of public works, or finally adjudged on appeal, for damages, costs, and charges arising from an alteration of the grade in excess of the amount charged against property deemed benefited, shall be paid by the city out of the funds appropriated for such purpose to the person or persons thereto entitled, within one year after the confirmation of the assessment by the common council, or after the final judgment therefor rendered by the court on appeal, as aforesaid; provided, that the time during which an appeal from such judgment may be pending in the supreme court shall not be deemed part of the year so limited. *(S. 11, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-23. Appeal Exclusive Remedy. The appeal given by the last preceding section from the assessment of the commissioner of public works as confirmed by the common council, to the said circuit court, shall be the only remedy for the recovery of any damages, costs and charges arising from any alteration of grade by the said city, or sustained by reason of any proceedings or acts of the said city or its officers, in the matter to which such assessment of damages or benefits relates; and no action at law shall be maintained for such damages or injuries, whether arising from an alteration of grade or otherwise. *(S. 12, Subch. 7, Ch. 184, L. 1874.)*

11-24. Snow Removal. 1. WHEN SPECIALLY ASSESSED. Whenever snow shall fall upon any of the sidewalks of the said city, so that the same shall be encumbered thereby, and such snow shall not be removed therefrom within twenty-four hours after the snow shall have ceased falling, the said commissioner shall have power, forthwith, without notice or letting, to employ persons or to make contract or contracts to remove such snow from any sidewalk or part of sidewalk in said city, where they shall by resolution declare it to be necessary, and to assess the cost thereof against all lots, parts of lots and parcels of land abutting on such sidewalk or part of sidewalk in the manner hereinafter directed. *(S. 15, Subch. 7, Ch. 184, L. 1874.)*

2. REPORT TO CITY CLERK. The council of every city incorporated under any special charter may cause the sidewalks within such city to be kept clear of snow or ice and

the expense thereof to be charged as a special tax against the abutting lots or parcels of land, when the owner or occupant fails to keep the walk clean. It shall be lawful for the council of such city by ordinance to designate some officer whose duty it shall be to keep the sidewalks clear of snow or ice in all cases where the owner or occupant of abutting lots or parcels of land fails to do so. Such officer shall act under such rules or ordinances as the council may prescribe, and the expense of clearing the snow or ice from sidewalks in front of any such lot, and in case of a corner lot, along the side thereof, shall be a lien thereon; and said officer shall keep an account of such expense and make a report of the same to the city clerk, who shall enter the amount therein charged to each lot or parcel of land in the next or subsequent tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other city taxes upon real estate, and no lot or parcel of land in such city shall be exempt from the payment thereof. This section shall not be construed as prohibiting the city authorities from imposing a fine or penalty, in addition to collecting such expenses, for neglecting to keep such sidewalks clear of snow or ice. *(S. 926-14, Stats. 1919.)*

11-25. Street Cleaning and Repair. It is the duty of the commissioner of public works with the consent of the aldermen of the proper district, unless otherwise provided by ordinance of the common council, to cause the streets, alleys and sidewalks in the city to be kept in proper repair, and in a cleanly and wholesome condition at all times, and for this purpose he is empowered with the consent of the aldermen of the district in which such street, alley or sidewalk is located, to employ the necessary labor, or to contract pursuant to law, for such cleaning and repairing as he may deem necessary for the safety and health of the people, the expense of such cleaning and repairing, except of sidewalks, shall be chargeable to and paid out of the funds appropriated for such purpose; and the said commissioner is also hereby empowered to cause sidewalks to be repaired, or to be taken up and relaid with new materials or with part new and part old materials, and to be restored to grade and to assess the expense thereof against the lot or piece of land in front of which such work may be done, in the manner provided by s. 11.28. *(S. 12, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-26. Repair of Unsafe Sidewalks and Driveways. Whenever any sidewalk, or part of any sidewalk, or driveway approach, shall, in the judgment of the commissioner of public works, declared by resolution to that effect, be in a dangerous condition to persons passing over it, for want of being repaired or remade, or on account of being above or below the grade established by the common council, the said commissioner shall have power to order the same to be forthwith repaired or remade, and thereupon forthwith to employ fit persons to repair or remake the same for a fair price, and charge the expense thereof to the lots, parts of lots, or parcels of land abutting thereon, by special assessment; and such assessment shall be a valid charge and lien upon such lots, parts of lots or parcels of land, without any estimate, notice, letting or other proceeding preliminary to the closing of such work, except the resolution of said commissioner so declaring such sidewalks or driveway approaches to be dangerous. *(Am. Ch. Ord. 484, File #79-1575, Dec. 21, 1979.)*

11-27. Removal of Nuisances. Whenever any nuisance, source of filth, or cause of sickness shall be found on private property, or in the alley in front or rear of such property, the common council, or the commissioner of building inspection, may order the owner or occupant thereof, at his own expense, to remove or abate the same within 24 hours from the date of the order, or within such time as may be named in said order; and if the owner or occupant shall refuse or neglect so to do, within the time named in said order, then the commissioner of public works or commissioner of building inspection shall forthwith cause said nuisance, source of filth, or cause of sickness to be abated or removed at the expense of the lot or tract of land in front or rear of which, or upon which such nuisance, source of filth, or cause of sickness may be found. *(S. 11-27 am., Ch. Ord. 549, F#85-3, May 14, 1985; eff. July 30, 1985.)*

11-28. Special Assessment Accounting. In all cases mentioned in ss. 11-24-1, 11-25, 11-26 and 11-27, wherein the commissioner of public works is authorized to do any work or cause the same to be done, and to charge or assess the expense thereof upon the lots, parts of

lots, or parcels of land upon or in front or rear of which such work may be done, the payment of the expense of such work shall be first made by any one of the methods or a combination thereof authorized by s. 66.54 (2), Wis. Stats. It shall be the duty of said commissioner to keep a strict account of the labor expended upon such work in front or rear of each such lot, part of lot or parcel of land, and the cost thereof and to make a report to the comptroller stating and certifying the description of the lots, parts of lots or parcels of land, in front or rear of, or upon which work chargeable thereto under any of said sections shall have been done by said commissioner, under authority thereof, the nature of the work so chargeable to each lot or parcel, and the amount actually expended therefor, and the comptroller shall, at the time of making his annual report to the common council of the lots or parcels of land subject to special tax or assessment, required by s. 3-18-3, include therein the said lots or parcels of land so reported to him by said commissioner of public works, with the aggregate amount chargeable thereto, according to such reports, for work done during the preceding year, under said ss. 11-24-1, 11-25, 11-26 and 11-27; and such amounts shall be levied on the lots or parcels of land respectively, to which they are so chargeable, in like manner as other special taxes are levied in said city. *(S. 13 Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-29. Procedure When Commissioner is Interested in Property. If any commissioner of public works shall in any case be directly interested in any property liable to be assessed with benefits on account of any public improvements, or entitled to an assessment of damages arising from an alteration of grade, the common council shall in such case appoint some disinterested person to act in his stead; and the person so appointed shall, for the particular case in which he is so appointed, possess all the powers and authority of, and be subject to all the duties and restrictions imposed by law upon the commissioner of public works. *(S. 20, Subch. 7, Ch. 184, L. 1874.)*

11-30. Removal of Noxious Weeds or Plants. The commissioner of public works, under direction of the common council, shall have power to make contracts for the removal of Canada thistles and other noxious plants and weeds from streets, alleys, and public grounds in any ward of the city; the cost thereof to be chargeable to the funds appropriated for such purpose. *(S. 14, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

11-31. Street Cleaning Not to be Assessed. From and after the first day of January, A.D. 1918, in cities of the first class, however incorporated, the cost of flushing, watering or sprinkling streets with water shall not be assessed to the lots, parts of lots or parcels of land in the front of which such work may be done. The cost of such work shall be paid out of the general city fund of such city. *(S. 959g, Stats. 1917.)*

11-32. Oiling of Streets; Removal of Noxious Weeds. 1. The entire cost for street oiling shall be charged to such fund as may be set up in the budget for that purpose, and no part thereof shall be assessed upon the real estate abutting the street or portions of the street oiled.

2. The cost for the destruction of noxious weeds and the removal of earth, stones, cinders, or other materials or debris from streets, sidewalks or alleys shall be assessed against each tract of land, chargeable therewith, pursuant respectively to ss. 66.96 to 66.98, Wis. Stats. and s. 11-28 of this charter. *(S. 1, Ch. Ord. 240, File #58-1352-a, Aug. 1. 1958.)*

11-33. Shade Trees. The common council shall have power to order by resolution, adopted by a vote of the majority of the members elect, the planting and preserving of shade trees in the streets of the city, at the cost of the lots, parts of lots and parcels of land, fronting or abutting on such improvements, and in pursuance of such resolution the commissioner of public works shall prepare plans and specifications and require such work to be done by the owners of property in front of which such work is to be done, and in default thereof to let the work by contract and assess the cost against such lots, parts of lots, and parcels of land and all the provisions of ch. 184, L. 1874, in relation to notices, proposals, contracts, payments and certificates for street

improvements shall be applicable to the work provided for in this section, but no assessment of benefits and damages shall be made in such cases and no notices in relation thereto shall be published; provided, however, that no such resolution for the planting or preserving of shade trees in the streets of the city shall be passed by the common council unless a petition therefor shall first be presented to said common council signed by the residents of the city owning a majority of the feet in front of all the lots fronting upon such proposed improvement owned by the residents of such city. *(S. 28, Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)*

11-34. Public Improvements on Concrete Foundations. Whenever in any city of the first, second or third class, however incorporated, a contract for making any permanent public improvement on a concrete foundation has been let, the expense whereof, or any portion thereof, shall be chargeable to adjacent lots or lands, and specifications together with an estimate of the cost of such work have been prepared and filed, and the necessary assessments of benefits and damages against the several lots, parts of lots or parcels of land which may be deemed benefited or damaged by the proposed permanent improvement shall have been made and approved or confirmed, and the contract for such improvement shall have been entered into, the commissioner of public works, or if there be no such board, the common council may, within two weeks after the letting of such contract, by resolution determine that any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of such improvement, shall have the option, at any time within thirty days after the passage and publication of such resolution, to apply for an extension of the payment of such assessment of benefits to his or their property by paying therefor in equal annual installments for such a period as the commissioner of public works or the council may in such resolution determine, not less than five and not exceeding ten years, the first installment to become due and payable, without interest, immediately after the completion of the first tax sale succeeding the date of the bond hereinafter provided for. *(S. 959-30, Stats. 1919.)*

11-35. Extension of Payments. Any owner or owners of any lots, parts of lots or parcels of land which may be assessed for benefits on account of any such permanent improvement may, within thirty days after the publication of such resolution, make application to the commissioner of public works, or, if there is no such commissioner, to the city clerk, for the extension of the payment of such assessment of benefits to his or their property, and such application shall contain an agreement that in consideration of the privilege granted by such resolution the applicant will make no objection to any want of power, illegality or irregularity in regard to the assessment against his property, and will pay the same in equal annual installments, together with interest upon the unpaid balances at a rate not exceeding six per centrum per annum and for such a term of years as in such resolution may have been provided. Such application shall also contain a brief description of the property and a statement that the applicant is the owner thereof. After the expiration of the time within which such application may be made an assessment list shall be prepared containing a description of each piece of property the owner or owners of which have agreed to pay for such improvement in installments, showing the amounts chargeable to such property, together with the necessary columns to which the installment assessments shall be extended, the amount of each installment and interest, and when payable, and a copy of each such assessment list shall be filed with the city clerk, the city comptroller and the city treasurer. In all cases where such agreement shall not be signed within the time limited the entire assessment shall be payable in the manner and at the time now provided for the payment of assessments on account of street or other improvements. *(S. 959-31, Stats. 1919.)*

11-36. Properties Owned by Corporations. Whenever in any city a special assessment against property shall have been duly ordered and made, and any such property shall be owned or operated by or on behalf of any corporation doing business in this state, a certified statement of the amount of such assessment and of the time when ordered may be signed by the city clerk and certified by him

under the seal of the city as having been duly and legally made, and upon the filing of such certificate in the office of the clerk of the circuit court of the county in which such property is located the same shall be a lien upon the property of any such corporation in such county and may be foreclosed by action in such court in the same manner as liens of mechanics and others upon real property may be foreclosed therein. The certified statement of such lien, so filed, signed and sealed, shall be prima facie evidence of the legality and correctness of all prior proceedings in the matter of such assessment and of the legality and validity of such assessment. *(S. 959-38, Stats. 1919; S. 128, Ch. 242, L. 1921.)*

11-37. Resurfacing. The common council may upon the recommendation of the commissioner of public works authorize the furnishing of materials and doing the work for the resurfacing of macadamized streets or any type of alley, or both streets and alleys, directly by the city without the making of an estimate or the letting of a formal contract. The entire cost of such resurfacing to the center of the roadway, streets or alleys, shall be assessed against the abutting property, provided, however, that on the long side of corner lots said assessment shall not exceed 1/2 of the entire cost of such resurfacing. Such assessment shall be placed on the tax roll and collected as other city taxes are collected. Such assessment shall be payable in the manner as provided in s. 959-35e of the Wis. Stats. of 1919, which by s. 312 of ch. 242 of the laws of Wisconsin for 1921 was withdrawn from the statutes without repealing the same and continued in force. The cost of the resurfacing of such street or roadway assessed against and paid by the abutting property owners thereon shall, when a permanent pavement or improvement is thereafter constructed on such street or roadway, constitute a credit or offset in favor of such abutting property owner upon the assessment limit as provided by law for the construction and payment thereof of permanent improvements and pavements. *(S. 27, Ch. Ord. 310, File #64-4089, Apr. 6, 1965.)*

11-38. Petition for Improvements. 1. COMMON COUNCIL REQUEST. In any city of this state of the first class whether organized under the general law or under special charter the common council may, when petitioned so to do, order the paving or repaving of streets or the repairing of streets by resurfacing with crushed stone or crushed stone and gravel and repairing of gutters and the curbing of sidewalks in said city.

2. PETITION. Said petition must be signed, before being presented to the common council, by residents of said city owning a 2/3 majority of the feet in front of all the lots fronting upon such proposed improvements, owned by residents of such city, and for that purpose, every person in the actual possession of any lot or parcel of land fronting upon such improvements, under a contract in force for the purchase thereof from the owner, shall be held to be a freeholder within the meaning of this act, and to be the owner of such real estate for the purpose of petitioning as owner thereof. Every person signing such petition as a resident, or as an owner of property, shall be required to write after his signature thereto a brief description of the property so owned by him, and of the place of his residence in said city, and to annex thereto an affidavit that he is such resident and owner, and thereupon he shall be taken to be such resident and owner, and such petition shall be as valid and have the same effect as if such person were the owner of such property, and a resident of the city or ward [district], as stated in his affidavit, although in fact it should thereafter appear that he was not such owner or resident. Said petition shall describe the kind of pavement to be constructed or the kind of crushed stone or crushed stone and gravel to be used in the making of said improvements, and no other material shall be used than that described in said petition, and the manner of doing said work and the making of said improvements.

3. OWNERS ASSESSED. The expense of such repairing to the center of any street and the repairing of any gutter and the curbing of any sidewalk shall be chargeable to and payable by the owner or owners of the lot or lots or parcels of land in front of which said work shall be ordered, to the amount which said work shall be adjudged by the commissioner of public works to benefit such

lots. And the expense of all such improvements or work across streets at their intersection with streets and alleys, excepting curbing, and the expense of all such improvements or work across public grounds, and to the middle of streets adjacent to public grounds, and the repairing of all crosswalks and all expense in excess of the benefits, shall be paid out of the general city fund. Provided, however, that in streets where there is a plot or park in the center, the owners of abutting property opposite such plot or park shall pay and be liable for the costs of said repairing, and the curbing up to the curb line of said plot or park, to the amount which such work shall be adjudged by the commissioner of public works to benefit such lots.

4. NOTICE. Upon the presentation of said petition, the common council may order the commissioner of public works to make the improvement petitioned for. Thereupon the commissioner of public works of such city, shall cause to be made an estimate of the cost of such work, and shall put the same on file in its office; and such estimate shall be open to the inspection of any party interested. And the commissioner of public works shall then proceed to cause such improvement to be made in the manner provided by law for other public work in such city; and the contract entered into for the doing of the same shall require the contractor to receive certificates upon or against the several lots, parts of lots or parcels of land which may be assessed, in front of which said work shall be ordered, to apply in payment of the contract price. As soon as said work shall have been done and accepted by the commissioner of public works said commissioner shall determine the proportionate expense properly chargeable to each lot, part of lot or parcel of land subject to contribute to the payment of the same. And the said commissioner shall give notice to all parties interested by advertisement for not less than four days in the official papers of the said city that such assessment has been made and is ready for inspection in its office, and that the same will be open for review and correction by the said commissioner at his office for not less than 4 days after the first publication of such notice, during certain hours, not less than 2 hours of each lay day; and that all persons interested will be heard by such commissioner in objection to such assessment, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief what such assessment has been made for and in what locality, and no other notice or publication of such assessment shall be necessary. During the time mentioned in such notice the said commissioner shall hear objections and evidence, and he shall have power to review, modify and correct such assessment at any time during such review and for 3 days thereafter; and thereupon said commissioner shall endorse such corrected and complete assessment or annex the same to the estimate of the cost of such improvement. And after such assessment has been made as aforesaid, the commissioner of public works shall issue to the contractor or contractors a certificate or certificates stating the amount assessed and chargeable to each lot or parcel of land, and the said amount shall be entered against such lot or parcel of land in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes.

5. APPEALS. The owner of any lot or tract of land who feels himself aggrieved by such assessment as to the amount of benefits thereby adjudged to accrue to him by reason of any such improvements charged against his lot or parcel of land may, within 20 days after such corrected and completed assessment shall have been endorsed or annexed to the estimate of cost of such improvement, appeal therefrom to the circuit court of the county in which said city is located; and all provisions of law now or hereafter in force in such city in reference to appeals from local assessments, shall be applicable to the taking, trial and determination of such appeal. Such appeal shall not affect the rights of the contractor or the proceedings in reference to his contract, but the certificate against the lot or parcel of land in question shall be given as if no appeal had been taken, and in case the appellant shall succeed, the difference between the amount charged in the certificate and the amount of the benefit finally adjudged shall be paid by the city out of the general city fund to the appellant, but not until he shall have paid the certificate issued for doing the same. *(S. 1 thru S. 5, Ch. 241, L. 1903.)*

11-39. Arterial Highway Resurfacing. Hereafter whenever the city of Milwaukee orders the resurfacing of any street not upon a concrete foundation, which street has been designated as an arterial highway either by the state, city or federal government authorities, the commissioner of public works is authorized to take said designation into consideration in assessing benefits against the abutting property and for that reason reduce the assessments against abutting property and increase the proportion to be paid out of city funds. *(S. 1, Ch. Ord. 33, File #41473, June 3, 1929.)*

11-40. Exempt Real Estate. Real estate exempted from taxation by the laws of the state shall be subject to special taxes as other real estate under this act. *(S. 12, Subch. 20, Ch. 184, L. 1874.)*

11-41. Effect on Cemeteries. Nothing in this act shall be considered or construed as repealing or modifying the charter or any existing law pertaining to, or in any way affecting the powers, rights, interests, property exemptions or privileges, of any corporation, society or association, now owning or using for cemetery or burial purposes any land within the limits described in section one of this act [ch. 449, laws of 1891]; and any provisions of the charter or ordinances of the city of Milwaukee, and acts amendatory thereof, and any general statutes of the state, prohibiting the location or use of lands for cemetery or burial purposes within the limits of the city of Milwaukee, or relating to the taking of lands for any public use, or to the opening, vacation or improvement of streets, alleys or highways, or to any other public work or improvements by said city, shall not have reference or application to such corporation, society or association, or any of the lands owned and used by them for cemetery or burial purposes; provided, however, any such corporation, society or association, if it request the same, shall be furnished by said city, upon such terms, and regulations as may be just, connections with its water and sewerage systems, and the service of its police and fire departments. *(S. 3, Ch. 449, L. 1891.)*

11-42. Cemetery Land Subject to Special Assessments for Street, Sewer and Water Pipes. All lands owned or used within the limits of any city of the first or second class by any corporation, society or association now or hereafter owning or using such lands for cemetery or burial purposes, shall be subject to all special assessments for the improvement of streets, or construction of sewers and the laying of water pipes in front of or adjoining the same, in the same manner as other lands abutting on such streets. *(S. 1, Ch. 93, L. 1897.)*

CHAPTER 12
SEWERAGE COMMISSION; SEWERS AND LATERALS

TABLE

12-01	Sewer district, entire city as one; bonds, tax levy for
12-02	District sewerage plan
12-03	Inspection of plan
12-04	Report of plan to common council
12-05	Common council approval
12-06	Plan revisions
12-07	Annual report to council on necessary sewers
12-08	Public works contracts
12-09	Assessments of benefits
12-10	Sewer connection charge to property not previously assessed
12-11	How to apportion special assessment when land subdivided
12-12	Execution of contracts and bonds
12-13	Sewer grades
12-14	Drain and service pipes
12-15	Maintenance of sewer laterals
12-16	Construction of drains and sewers
12-17	Construction and connection of laterals
12-18	Specifications for laterals
12-19	Work on private lot
12-20	Connection with public sewer
12-21	Damages, penalty
12-22	Sewer connection; permit required
12-23	Contractor to restore streets
12-27	Sewer service charges or rents

12-01. Sewer District, Entire City as One; Bonds, Tax Levy for. After Jan. 1, 1916, no city of the first class, however incorporated, shall issue any new sewerage bonds on sewer districts as provided in s. 926(3), Wis. Stats. of 1919, nor shall any such city after said date levy any tax for the cleaning, maintenance, repair or rebuilding of any sewer on said district plan, but after said date if any such city issues new bonds or levies any tax for any purpose mentioned herein, such city shall issue said bonds and levy said tax upon the entire city as one sewer district. Nothing in this section shall in any way interfere with any such city carrying out any obligation it may have in the past incurred under the provisions of s. 926(3) referred to above. *(S. 926(3m), Wis. Stats. 1919.)*

12-02. District Sewerage Plan. The commissioner of public works of said city shall cause to be made from time to time, as fast as the preliminary surveys can be completed, diagrams for each such district, in addition to an extension of those already made and adopted under and pursuant to the provisions of chapter two hundred and seventy-four of the local laws of 1870, which diagrams shall conform to the system of sewerage in the district, and show the plan thereof, and contain, as nearly as practicable, the lots, blocks and tracts of land, the main sewers to be constructed, the branch and minor sewers, the manholes, the catch basins and their connections through overflow pipes with the sewers, the sewers already constructed, and any other data deemed by him necessary for information: provided, that the plans for sewerage heretofore made and adopted pursuant to said chapter two hundred and seventy-four shall remain in full force and be deviated from only by authority of the common council; and that all sewers already constructed under chapter three hundred and ninety-nine of the local laws of 1869 or chapter two hundred and seventy-four of the local laws of 1870, shall be considered as part of the plan, to be in no respect altered or changed, and that other sewers previously constructed may be included in the diagrams to be prepared, so far as the same can be used in the proposed system of sewerage. *(S. 2, Subch. 8, Ch. 184 L. 1874; am. Ch. 297, L. 1907.)*

12-03. Inspection of Plan. On the completion of any such diagram, said commissioner shall give notice in the official papers of the city, for at least six days, that a plan of sewerage is open at his office for inspection. Any person owning real estate in such district may file with said commissioner written objections to the said plan, stating therein the nature and reason of his objections, and may also suggest improvements to said plan. *(S. 3, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-04. Report of Plan to Common Council. The said commissioner may reconsider and modify said plan, and at the expiration of ten days after the time such notice shall have been given to said resident freeholders of the district, shall report such plan to the common council for its approval. *(S. 4, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-05. Common Council Approval. The common council shall take such plan into consideration, and within thirty days after receiving the same shall return it to the commissioner approved, or, if objected to, with a statement in writing of such objections, or of any alterations or improvements thereof which they may deem desirable. *(S. 5, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-06. Plan Revisions. The said commissioner may, on return of such plan by the common council, modify or change the same in accordance with the suggestions of the common council, or may prepare a different plan which shall be again submitted to the common council, and may generally modify and change their action in the premises until a plan shall be mutually agreed upon by the commissioner and common council: provided, that no plan shall take effect until approved by the common council, and no plan thus approved shall be deviated from except by consent of the council; and, provided further, that sewers may be ordered and constructed in any district without the plans of such district being completed in their whole extent and all their details. *(S. 6, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-07. Annual Report to Council on Necessary Sewers. On or before March 1 in each year, the commissioner of public works shall report to the common council the sewers necessary, in his judgment, to be built during the current year. Such report shall be advisory only, and no sewers shall be constructed except upon the passage of a proper resolution by the common council. Where such resolution provides for special assessments, notice and hearing shall be as prescribed by law. Resolutions approving sewer construction shall be considered and disposed of in the same manner as provided in the case of ordinances and resolutions creating a charge or liability against the city. *(S. 12-07 rc. Ch. Ord. 244, File #58-1729-a, Sept. 16, 1958.)*

12-08. Public Works Contracts.

1. PUBLICATION BIDS. Whenever the laying and building of any sewer or the grading or making of any street or alley shall be ordered by the common council, the commissioner of public works shall advertise for proposals for doing the same. A plan or profile of the work to be done, accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done and of the kinds and quality of material to be furnished shall be placed on file in the office of the commissioner for the information of bidders and others. Such advertisements shall be published at least 2 days in the official city papers, and shall state the work to be done and the time for doing the same, which time shall in all cases be such a reasonable time as may be necessary to enable a contractor with proper diligence to perform and complete such work. *(Sub. 1 am. Ch. Ord. 566, File #86-1898, Feb. 24, 1987; eff. May 11, 1987.)*

2. ESTIMATES, BOND. All proposals for such work shall be sealed and directed to such commissioner of public works and shall be accompanied at the time of such bid or proposal with a bid bond of a surety company licensed to do business in the state of Wisconsin to the city of Milwaukee in such penal sum, not less than 10% of the amount of the bid, such bid bond to be conditioned that such bidder will execute and perform the work for the price mentioned in his proposals and according to the plans and specifications on file, in case the contract shall be awarded to him. In case of default on his part to execute a contract to perform the work specified and to comply with all requirements set forth in the bidding documents, including the furnishing of a performance and payment bond, said bid bond shall be prosecuted in the name of said city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action, unless the common council shall, by resolution, direct that no action shall be commenced; provided, that no bid bond shall be required of any bidder who, at the time he offers his bid or proposal aforesaid, shall deposit with the commissioner of public works cash or certified check equal to 10% of the bid, under an agreement that the same shall be returned to such bidder in case the contract for the work bid for is not awarded to such bidder, or in case he does not default in

the execution of the contract if it is awarded to such bidder, and that in case the contract is so awarded, and he shall fail to execute a contract, to perform the work specified, for the price named in his bid, within a reasonable time after such contract is prepared and ready for execution, then said sum of money shall become the property of said city, as fixed and liquidated damages for such default, and shall be paid by the said commissioner to the city treasurer. All bids unless fulfilling the requirements of this act shall be rejected. *(S. 12-08-2 rc. Ch. Ord. 501, File #80-1794, Feb. 10, 1981; eff. April 25, 1981; 12-08-2 am. File #871460, Nov. 17, 1987; eff. Feb. 7, 1988.)*

12-09. Assessment of Benefits. 1. COSTS ASSESSED. In any city of the first class, after any contract for work, let in pursuance to law and to be paid for in whole or in part by special assessments, shall have been entered into, the commissioner of public works in his judgment, shall make or cause to be made an assessment of benefits against all lots, parts of lots and parcels of land, in the area so benefited by the improvement according to the benefits to be derived. The cost of said work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the cost of any and all appurtenances essential to its usefulness or completion as a whole, a reasonable charge for the administrative staff of the city and the cost of any architectural, engineering, inspection and legal services and any other item of direct or indirect cost which may reasonably be attributable to the proposed work or improvement.

2. CORNER LOTS, SUBDIVISIONS. No assessment shall be made on a long side of a corner lot on which a sewer was laid; however, the said commissioner shall take into consideration the situation of such lot or parcel of land, with respect to its different fronts and all subdivision thereof by sale, contract, use or occupation in severalty and may assess subdivisions separately; and may also assess any subdivisions of such lot or parcel of land in connection with any other part of such lot or land contiguous thereto and most advantageously used in connection therewith.

3. EXISTING SEWERS. No assessment shall be made for reconstruction, replacement or enlargement of existing sewers. *(S. 12-09 am. Ch. Ord. 213, File #54-2270-b, Oct. 18, 1955.)*

12-10. Sewer Connection Charge to Property Not Previously Assessed. Before any property located within the city which abuts a public right of way or easement in which there is an existing sewer, not previously assessed against such property, shall be entitled to sewer service, such property shall be subject to the payment of a sewer connection charge equivalent to the amount which would be assessed against such property at the city assessment rate for sewers in effect at the time of application for connection. *(S. 12-10 rc. Ch. Ord. 248, File #58-3708-a, Mar. 3, 1959.)*

12-11. How to Apportion Special Assessment when Land Subdivided. Whenever any lot or parcel of land, shall be subdivided by sale or any other contract, after the assessment of benefits accruing to it by a system of sewerage shall have been made, and before such system shall have been fully carried out and extended to such lot - and the assessment on such work paid, - any party interested may give notice to the commissioner of such subdivision, and in such case, or when the said commissioner shall in any other way become cognizant of the fact of such subdivision, he may make an equitable apportionment of the said benefit tax against any said lot between the different parcels of it, but if, by neglect of the owners of the lot so subdivided, no such apportionment shall be made, then the entire lot shall be liable for the entire tax. *(S. 11, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-12. Execution of Contracts and Bonds. All contracts entered into by the commissioner of public works under this chapter before taking effect shall be signed by the commissioner of public works, and countersigned by the comptroller, and all bonds taken by him shall be entered into in the name of, and shall be executed to the city of Milwaukee, and shall be approved by the commissioner. All contracts entered into under this chapter shall be expressly subject to the powers given to said commissioner by chapter five of this act,

[Subch. 5, Ch. 184, L. 1874]. And in case any work shall be suspended in consequence of the default of any contract, or in case the bids shall be deemed excessive, or the parties making proposals for any work shall not be deemed responsible or proper parties to be entrusted with its performance, or shall have failed to complete any contract within the meaning of section ten of said chapter five [S. 10, Subch. 5, ch. 184, L. 1874], the said commissioner shall proceed as provided in said chapter. *(S. 12-12 am. File #871460, Nov. 17, 1987; eff. Feb. 7, 1988.)*

12-13. Sewer Grade. The grades of sewers to be constructed shall be fixed by the commissioner of public works with the approval of the common council, and the said commissioner shall make or cause to be made, a profile of such grades upon the plans of the sewer to be constructed, giving a sufficient number of bench marks and their elevation, and such other data as may be necessary to make future surveys. And in all cases the work shall be subject to the superintendence and direction of the said commissioner; and no contractor shall be entitled to recover compensation for any work executed by him, in any form of action, unless such work shall have been approved by the said commissioner, provided, that the said commissioner may from time to time, as the work progresses, at his discretion, grant to any contractor for a sewer an estimate of the amount and proportionate value of the work already done, withholding in all cases 15% of said estimate, which shall entitle the holder to receive the amount thereof, less such 15% from the public fund. *(S. 12-13 am. Ch. Ord. 17, File #34200, Jan. 31, 1927.)*

12-14. Drains and Service Pipes. Whenever the common council shall order the paving or repairing of any street in the city in which water, gas or steam mains and sewers, or any of them, shall have been previously laid and constructed, they may also by resolution require the commissioner of public works to cause water, gas and steam service pipes and house drains to be first laid in such street at the cost of the property fronting on such street, from the main sewer, water, gas and steam mains in such street, to a point between the curb line and the street line on either side of the street as determined by the commissioner of public works, at such intervals as the common council may order, along the whole length of such street to be paved; and the commissioner of public works shall thereupon give notice to the owners or occupants of the property adjoining such street, to be paved, by publication thereof for 6 days in the official papers, requiring them to do such work opposite their respective lots, according to a plan and specification to be before prepared and on file in the office of said commissioner, showing the location and size and the kind and quality of materials of such lateral sewers or drains, and water, gas and steam service pipe; and if such owners or occupants shall refuse or neglect to do the same before the paving or repairing of said street so ordered, and within 10 days after the publication of such notice, the said commissioner may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots fronting upon such work in the manner provided in s. 19, subch. 7, ch. 184, laws of 1874; and the same shall be levied and collected as other special assessments are levied and collected in said city; provided, that no street shall be paved or repaved by order of the common council, unless the water, gas and steam mains and service pipes, and necessary sewers and their connections shall, as required by the common council, be first laid and constructed in that portion of such street so to be paved or repaved. *(S. 12-14 am. Ch. Ord. 241, File #58-1353-a, Aug. 1, 1958.)*

12-15. Sewer Laterals. 1. MAINTENANCE. It shall be the duty of the abutting land owner to maintain in a reasonable state of repair all sewer laterals, including storm, sanitary and combined house sewers leading from the property to the main sewer. Where any lateral located within, under or on any street, alley or public way is either out of repair or has caused damage to the surface or substructure of the street in any way, the commissioner of public works shall order the abutting land owner to make the necessary repairs. If the owner refuses to comply with the order, or if the

owner cannot be determined or found, the commissioner shall make the repairs, assess the cost against the property abutting the lateral and notify the owner of the charges by certified letter.

2. PAYMENT. The owner of the abutting property upon which the lateral has been repaired shall have 45 days, from the date of the certified letter, to remit the entire payment or the charge shall be placed upon the tax roll as a special assessment in the following manner:

a. If the total amount of unpaid principal is less than $125, the amount shall be placed on the first available tax roll.

b. If the amount of unpaid principal is $125 or more, it shall be spread equally over the first available and next 5 succeeding tax rolls.

c. In addition to the unpaid principal, interest shall accrue at a monthly or annual rate specified in s. 115-42-8-b-3 of the Milwaukee code, beginning after the billing date of the charge. If the charge is not paid as provided in sub. 2, interest shall be charged from the original date of billing.

d. Amounts placed on the tax roll to be paid in installments shall be paid within the time allowed for the payment of general property taxes. If the charge is not paid within the proper time, it shall become delinquent and be dealt with in the same manner as a delinquent property tax.

(HISTORY: 12-15 rc. File #900750, Sept. 25, 1990; eff. Dec. 11, 1990.
12-15-a rn. to 12-15-1, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-b-0 rn. to 12-15-2-0, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-b-1 rn. to 12-15-2-a, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-b-2 rn. to 12-15-2-b, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-b-3 rn. to 12-15-2-c, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-b-4 rn. to 12-15-2-d, File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.
12-15-2-c am. File #950723, Sept. 27, 1995; eff. Dec. 13, 1995.)

12-16. Construction of Drains and Sewers. It shall be the duty of the said commissioner to see that proper drains or storm sewers, sanitary sewers or combined sewers are constructed from every lot in said city, which in his judgment requires it; and that such private drains or storm sewers, sanitary sewers or combined sewers are made to communicate with the public storm sewers, sanitary sewers and combined sewers in a proper manner; and he shall have power to require such number of private drains and storm sewers, sanitary sewers or combined sewers to be constructed as he may deem expedient. *(S. 12-16 am. Ch. Ord. 110, File #70043, Nov. 18, 1940.)*

12-17. Construction and Connection of Laterals. The said commissioner shall prescribe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into the public sewers, and shall determine the manner and plan of the connection of the same; the work of construction shall be in all cases subject to the superintendence and control of said commissioner, and shall be executed strictly in compliance with his orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewers shall be constructed. *(S. 19, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-18. Specifications for Laterals. The said commissioner shall have at his office, ready for the examination of the parties interested, the specifications of any private drains or sewers so ordered to be constructed, and he shall give to the lot owners six days' notice in the official papers to construct the same, designating therein a reasonable time within which the work shall be completed; and in case any lot owner neglects to do the work required of him to be done, within the time specified in said notice, he shall advertise for proposals and let the same by contract; and at the completion of the contract, shall give to the contractor a certificate or certificates against such lot or lots, which shall be proceeded with and shall have the like effect as other certificates given for work chargeable to lots. *(S. 20, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-19. Work on Private Lot. Any person who has taken such contract from said

commissioner to construct a private drain or sewer from any lot, shall be authorized to enter upon such lots and construct thereon such drain or sewer, and shall have free ingress and egress upon the same with men and teams for that purpose, and to deposit all the necessary building materials, and generally to do and perform all things necessary to a complete execution of the work. *(S.21, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-20. Connection with public sewer. No private drain shall be connected to any public sewer without the commissioner of public works first issuing a permit for the connection. The owner of any lot from which a private drain is connected to a public sewer shall pay the fee established by ordinance. *(S. 12-20 rc. File #871720, Jan. 26, 1988; eff. April 12, 1988.)*

12-21. Damages, Penalty. No person shall break open or make connections with any public sewer, except by the consent and under the direction of the commissioner of public works; and any person who shall do so, or shall willfully or maliciously obstruct, damage or injure any public or private sewer or drain in said city, or willfully injure any of the materials employed or used in said city for the purposes of sewerage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned in the county jail not to exceed three months. *(S. 23, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-22. Sewer Connection; Permit Required. In every city of the first class, however incorporated, the common council may provide by ordinance that no private drain shall be connected with any public sewer, which is either in the process of construction or completed, unless a permit for such connection shall first be obtained from some city officer designated in said ordinance, and a fee therefor be first paid to the city treasurer, which fee shall be fixed in said ordinance. *(S. 926-16, Wis Stats. 1921.)*

12-23. Contractor Restore Streets. Any contractor or other person acting under the direction of the commissioner of public works may lay sewers in and through any alleys and streets of said city, and through any breakwater into Lake Michigan, and also in any highways of Milwaukee county, whether within the limits of said city or not; provided, that it shall be the duty of such contractor to repair such streets, alleys, breakwaters, and highways, and to restore the same to their former condition, upon the completion of such sewers. *(S. 24, Subch. 8, Ch. 184, L. 1874; am. Ch. 297, L. 1907.)*

12-27. Sewer Service Charges or Rents.

1. SEWER SERVICE CHARGES OR RENTS AUTHORIZED. Sewer service charges or rents may be provided for by ordinance or resolution. The charge or rent may be imposed on such standards or by rates as are applicable to or appropriate for privately operated utilities or by any other standard or rate or means of measurement which results in a just and reasonable charge or rent for the use or availability for use of the sewer system of the city. The amount of the charge or rent may be administratively determined or shall be in such amount as is provided for in such ordinance or resolution.

2. SEWER UTILITY AUTHORIZED. A sewer utility may be created under any applicable statute or this charter for the purpose of imposing and collecting such charges or rents and when created, such utility shall have all of the powers and rights granted, permitted or appropriate to such utilities under the statutes.

3. EXEMPTIONS PROVIDED. Nothing in this charter or chapter shall have the effect of or be construed to prevent the city from imposing and collecting equitable sewer service charges or rents from any user or class of users of the sewer system of the city. The ordinance or resolution providing for the charge or rental may exempt any user or any class of users from such charges or rents, but such exemption shall not be arbitrarily granted.

4. POWERS ADDITIONAL. The provisions of this section are in addition to any powers now or hereafter existing under the statutes or this charter and are in addition to any other method or manner of imposing or collecting sewer service charges or rents as may be required or permitted by any statute whether specific or general.

5. RETROACTIVITY. This section shall be applicable to any ordinance or resolution providing for sewer service charges or rentals adopted on or after Oct. 18,1977. *(S. 12-27 cr. Ch. Ord. 451, File #77-1036-a, Dec. 29, 1977.)*

CHAPTER 13
HARBOR AND BRIDGES

TABLE

13-01	Harbor defined
13-02	Kinnickinnic river
13-03	Dock and wharf lines
13-04	Draw and swing bridges
13-05	Stationary or fixed bridges
13-06	Construction of bridges, council approval
13-07	Bridge construction, bids, plans
13-08	Damage to bridges, penalty
13-09	Special charter provisions precluding erecting of bridges repealed
13-10	Board of harbor commissioners; powers, duties
13-11	Harbor master

13-01. Harbor Defined. The harbor of Milwaukee shall include the Milwaukee river from Lake Michigan to the dam across said river in said city, and all those portions of the Kinnickinnic river and of the Menomonee river, and the canals, water channels and slips laid out and established in the valley of said Menomonee river under and in pursuance of chapter ninety-one of the local laws of 1869, which are within the limits of the city of Milwaukee, and also Lake Michigan to a distance of one mile from the shore along the east front of said city; and said rivers, and said canals, water channels and slips are hereby declared to be public highways and navigable from Lake Michigan to said dam and to the western and southern limits of said city. *(S. 1, Subch. 9, Ch. 184, L. 1874.)*

13-02. Kinnickinnic River. Whenever the survey and plat of the Kinnickinnic river describing the channel and dock lines of said river shall be made, adopted and established, recorded and filed, as provided by section twenty of chapter one hundred and twenty-nine of the laws of 1873, the water channel of said river as described and represented by such survey and plat shall be deemed to be and is hereby declared to be a public navigable river, subject to all laws and regulations applicable to it as such. *(S. 2, Subch. 9, Ch. 184, L. 1874.)*

13-03. Dock and Wharf Lines. The common council of said city shall have power, by ordinance, to establish dock and wharf lines upon the banks of the Milwaukee, Menomonee and Kinnickinnic rivers, and the public canals in said city wherever the same are not established by statute; to restrain and prevent encroachments upon said rivers and canals, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city, docks or wharves along the banks of said rivers and canals, where the same are not by law required to be constructed and maintained at the expense of the owners of the lots bounded on said rivers and canals respectively. *(S. 3, Subch. 9, Ch. 184, L. 1874.)*

13-04. Draw and Swing Bridges. Draw, swing, or movable bridges, with openings sufficient for the passage of vessels, shall be maintained and supported at the expense of the city, at the following places in said city, to-wit:

1. ACROSS THE MILWAUKEE RIVER: a. From North Water Street, in the 3rd Ward, to South Ferry Street, in the 5th Ward;

b. From North Broadway, in the 3rd Ward, to East Pittsburgh Avenue, in the 5th Ward;

2. ACROSS THE MENOMONEE RIVER AND CANALS: a. From North Plankinton Avenue, in the 4th Ward, to South 2nd Street, in the 5th Ward;

b. On North and South 6th Street, in the 4th and 5th Wards;

c. On North Muskego Avenue, in the 4th and 5th Wards. *(S. 1, Ch. 126, L. 1945.)*

13-05. Stationary or Fixed Bridges. Stationary or fixed bridges shall also be maintained at the expense of the city, across the Milwaukee river, on North Humboldt Avenue, in the 1st and 6th Wards; and on East North Avenue in the 1st, 6th, 13th and 18th Wards; and across the Kinnickinnic river, at the intersection of South 1st Street and West Lincoln Avenue. *(S. 1, Ch. 126, L. 1945.)*

13-06. Construction of Bridges; Council Approval. The common council may construct swinging or movable, or stationary or fixed, bridges across any of the rivers or canals in the city, in addition to those mentioned and provided for in ss. 13-04 and 13-05, and to alter, change, reconstruct or remodel any bridges in the city not specifically designated in this chapter as draw, swing or movable bridges to stationary or fixed bridges, or as stationary or fixed bridges to draw, swing or movable bridges, whenever in its judgment public convenience may require. Draw, swing or movable bridges shall be so constructed, altered, changed, reconstructed or remodeled as not unnecessarily to impede the navigation of the river or canal over which they may be constructed, altered, changed, reconstructed or remodeled so as not unnecessarily to impede tug and barge navigation of the river or canal. The act, resolution or ordinance for the construction of any such bridge shall require for its passage or adoption a vote of 2/3 of the members of the common council at the time of the vote, and shall have no force or validity without such vote.

(HISTORY: Section 13.06, S. 1, Ch. 126, L. 1945.

13.06 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.)

13-07. Bridge Construction, Bids, Plans. 1. Whenever the common council shall by ordinance or resolution order the construction of any bridge, the commissioner of public works may: a. Advertise for plans, with bids thereon, allowing each and every contractor to present his or her own plan and bid.

b. Prepare or procure plans and advertise for bids thereon.

c. Select the bid and plans as seem to be the best for the interest of the city.

d. Report the same together with all other plans and bids for the bridge to the council with the reasons for the choice.

2. The council may approve the selection and order contracts to be entered into accordingly, or may disapprove of the same, and by a vote of 2/3 of the members of the common council at the time of the vote in favor thereof, may select any other of the plans and bids so reported, and direct the commissioner of public works to enter into contract on the same.

3. No contract shall be entered into under this section without the authority of the council expressed by ordinance or resolution.

(HISTORY: Section 13.07, S. 9, Subch. 9, Ch. 184, L. 1874.

13.07 am. Ch. Ord. 564, File #86-802, Feb. 3, 1987; eff. Apr. 20, 1987.)

13-08. Damage to Bridges, Penalty. The general laws for the preservation of bridges, and the punishment by such laws provided for willful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any willful or malicious damage which may be done to either of them by any person or persons whomsoever; and the common council may from time to time make such bylaws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage being done to any of said bridges by any vessel or water craft, or by the master or any person in command thereof, such vessel or water craft may be proceeded against under the law to provide for the collection of demands against boats and vessels. *(S. 10, Subch. 9, Ch. 184, L. 1874.)*

13-09. Special Charter Provisions Precluding Erecting of Bridges Repealed. All those parts of special city charters heretofore passed prohibiting any city from erecting bridges over waters in whole or in part in this state are hereby repealed. *(Ch. 285, L. 1893; S. 926-4, Wis. Stats. 1919.)*

13-10. Board of Harbor Commissioners; Powers; Duties. The board of harbor commissioners shall have power to fix and regulate the tolls, dockage, wharfage, craneage, shedage, storage rates and rental or other charges which it shall deem necessary to make for the use of all publicly-owned docks, wharves, warehouses, piers, slips, basins and other harbor and airport facilities and railway tracks and belt railways. Copies of the schedule of such fees and charges shall be made available by the board upon request. Said board may also, with the approval of the common council, lease, either for exclusive or common use, such particular parcel or parcels of harbor lands or harbor facilities as it may deem

expedient to any party or parties for any purpose or use, requiring, involving or connected with the construction, maintenance, operation or use of any harbor facilities.

(HISTORY: S. 1, Ch. Ord. 257, Feb. 2, 1960. 13-10 am. File #071230, Jan. 15, 2008; eff. April 1, 2008.)

13-11. Harbor Master. 1. APPOINTMENT; POWERS. The board of harbor commissioners shall fill any vacancy in the existing position of harbor master and appoint any additional harbor masters which may be authorized by the common council, but all such appointments shall be in accordance with the provisions of ss. 63.18 to 63.53, Wis. Stats., as now in force or hereafter amended, and rules of the board of city service commissioners. The duties of any harbor master shall be those heretofore or hereafter prescribed by the common council by ordinance or resolution, and such additional duties, not in conflict with those prescribed by the common council, as shall be prescribed by the board of harbor commissioners from time to time.

2. TERM IN OFFICE. The compensation of any harbor master shall be fixed by the common council by ordinance. The term of service and tenure of any harbor master shall be as provided in ss. 63.18 to 63.53, Wis. Stats., and the said rules of the board of city service commissioners, and any harbor master shall be subject to removal, suspension, demotion or other disciplinary action by the board of harbor commissioners as provided in such statutes and rules.

3. POWER OF COMMON COUNCIL AND BOARD. a. The common council shall have power to enact ordinances to preserve the harbor and the peace and good order therein and on all property under the control of said harbor board; to prevent any use of said harbor or harbor property, or any act in relation thereto, inconsistent or detrimental to the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes, or other substance of filth, logs or floating matter; to prevent and remove all obstructions therein, and punish the authors thereof; to regulate and prescribe the mode and speed of entering and leaving the harbor, of passing the bridges, and of coming to and departing from the wharves, docks, and streets of such city by vessels or water craft of any kind whatsoever; to regulate through a harbor master or other authorized official the location of any vessel or water craft whatsoever, and such changes of station in, and use of, the harbor as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all vessels and water craft whatsoever; and to impose penalties for any violation of such ordinances.

b. The board of harbor commissioners shall have control over the construction and repair of docks abutting private property and publicly owned docks and shall have control and jurisdiction over public lands abutting on public waterways, but said board shall have no jurisdiction over the construction, maintenance and repair of public bridges, not connecting with the north or south harbor tracts.

c. Hereafter no dock line shall be established by the common council until the proposed line shall have been submitted to and approved by said board.

d. It shall not be mandatory upon the city to follow s. 30.04, Wis. Stats., during the existence and continuance of the board.

4. OTHER REPAIRS. This section shall not be construed in any manner to alter or interfere with the powers and duties of the commissioner of public works with respect to bridges and their appurtenances, sewers, or under water cable crossings or vehicular or other tunnels in the inner harbor, which have been or may be placed under his jurisdiction. *(S. 3 to 8, Ch. Ord. 112, File #70-405, Dec. 2, 1940.)*

[This page blank]

CHAPTER 14
WATER WORKS

TABLE
REGULATIONS

14-01 Water works, commissioner of public works in charge
14-02 Commissioner of public works to supply water
14-03 Commissioner of public works to construct hydrants and lay water pipes
14-04 Commissioner of public works authority to enter on land, to acquire property for water works
14-05 Power of eminent domain
14-06 Water works property belongs to city
14-07 Water fund
14-08 Surplus earnings
14-09 Use of water funds
14-10 Water fund, quarterly reports
14-11 Financial records
14-12 Water works under control of commissioner of public works
14-13 By-laws, rules and regulations
14-14 Water rates; collection
14-15 Water, polluting or damaging works, penalty
14-16 Ordinances to protect and enforce rules of commissioner

ASSESSMENTS

14-17 Laying water pipe; assessment
14-18 Charge for water service to property not previously assessed
14-19 Waterpipe, special assessment
14-20 Special assessment when land subdivided
14-21 Special assessment filed with comptroller, appeal
14-22 Special assessment spread on tax roll

OUTSIDE CITY LIMITS

14-23 Water, use outside of city limits
14-24 Water meters required; rates
14-26 Water service to adjoining towns
14-27 Water service contracts with other municipalities
14-28 Water mains, construction under public highways, stream and railroads
14-29 Water main, payment for services when annexation involved
14-30 Special assessments for water pipe and sewer abutting unplatted land used for agricultural purposes

14-01. Water Works, Commissioner of Public Works in Charge. From and after the first day of Jan., A.D. 1875, or whenever before that time, the board of water commissioners of said city shall, by resolution, surrender the water works and property now in their charge, to the city, and the common council shall consent to accept the same, all the powers, duties, and functions of the board of water commissioners of the city of Milwaukee, and of the engineer and assistants, the treasurer and secretary, and all other officers, agents, employes and servants appointed and employed by said board, shall cease and determine; and said board and its officers, agents, employes and servants, shall, on that day, or at the time of such surrender and acceptance, deliver the possession of the water works and of all property pertaining thereto, and of all their records, contracts, transactions, reports, accounts, surveys, maps, plats, estimates, profiles, plans and documents of whatsoever nature, to the commissioner of public works, who shall thereupon assume and have the exclusive charge and superintendence, subject to the direction of the common council, of the water works of said city: provided, that the common council may by resolution extend the time herein limited, to such later date as to them may seem best, and the powers, duties, and functions of said water commissioners, and of their appointees and employes, shall continue till the expiration of the time so extended. *(S. 1, Subch. 10, Ch. 184, L. 1874.)*

14-02. Commissioner of Public Works to Supply Water. It shall be the duty of said commissioner of public works to examine and consider all matters relative to supplying the

city of Milwaukee with a sufficient quantity of pure and wholesome water to be taken from Lake Michigan, for the use of its inhabitants. *(S. 2, Subch. 10, Ch. 184, L. 1874.)*

14-03. Commissioner of Public Works to Construct Hydrants and Lay Water Pipes. The said commissioner shall have power to construct jets and fire hydrants for public use, and fountains at such places in the said city as the said commissioner, with the approval of the common council, shall determine, and also to lay water pipes in and through all the alleys, streets and public grounds in the said city, and generally to do all such work as may be found necessary or convenient, from time to time, for the purposes of this chapter. *(S. 3, Subch. 10, Ch. 184, L. 1874.)*

14-04. Commissioner of Public Works Authority to Enter on Land, to Acquire Property for Water Works. The said commissioner shall have power, by himself, his officers, agents and servants, to enter upon any land or water in the said city for the purpose of making examinations or surveys in the performance of his duties under this chapter, without liability therefor; and said commissioner shall have power with the approval of the common council to purchase and acquire for the said city all real and personal property which may be necessary for the construction of the works hereby provided for. *(S. 4, Subch. 10, Ch. 184, L. 1874.)*

14-05. Power of Eminent Domain. Whenever any real estate, or any easement therein or use thereof, shall, in the judgement of said commissioner, be necessary for the construction of the said works, and for any cause an agreement for the purchase thereof cannot be made with the owner thereof, he shall report the same to the common council; and thereupon the said common council shall proceed to take such real estate, easement or use, as provided in chapter six of this act [Subch. 6, Ch. 184, L. 1874], in the case of taking lands for public squares, grounds, streets and alleys, except that no petition or bond shall be necessary; but all the other provisions of the said ch. VI of ch. 184 above shall apply to the taking of such real estate, easement or use, for the construction of such works, so far as the same may be applicable. *(S. 5, Subch. 10, Ch. 184, L. 1874.)*

14-06. Water Works Property Belongs to City. All property, real, personal and mixed, acquired for the construction of said water works - and all plans, specifications, diagrams, papers, books and records connected therewith, - and the said water works and all buildings, machinery and fixtures appertaining thereto, shall be the property of the said city of Milwaukee. *(S. 6, Subch. 10, Ch. 184, L. 1874.)*

14-07. Water Fund. There is hereby created for the said city a separate fund, to be called the water fund. There shall belong to such fund all bonds and proceeds thereof, authorized by law to be issued for the construction of the said water works, all proceeds of all taxes levied for the construction of the said water works, all water rates assessed and collected for water proceeding from such water works, and all other proceeds, revenue and income of said water works, - and all other moneys and property in any way derived by the said city in aid of the said water works, or appropriated by the said common council towards the same; and the said fund is hereby exclusively devoted and appropriated to the construction and maintenance of the said water works - and to the payment of said water bonds, until the said works shall be wholly completed and the said bonds wholly paid. Said water fund shall be kept in the city treasury in the custody of the city treasurer, and shall be disbursed by him on vouchers drawn for the same in the manner provided in this act; and said city treasurer and the sureties on his official bond shall be liable for the safe keeping and disbursement thereof. It shall be the duty of the treasurer of said board of water commissioners to submit his account of the water funds in his hands on the first day of January, 1875, or at such time as the water works shall be surrendered as provided in Section One of Chapter X, [s. 14.01], and to settle and adjust such accounts with the city comptroller, and to pay over any balance remaining in his hands on that day to the city treasurer, to the credit of the water fund. *(S. 7, Subch. 10, Ch. 184, L. 1874.)*

14-08. Surplus Earnings. 1. The common council may by resolution duly passed appropriate the surplus earnings of water works, plant or systems to the general fund, provided, however, that in case there is a bonded indebtedness against said water works, plant or system, then and in that case not any of such surplus earnings shall be appropriated and used unless there is on hand a sufficient sum of money to pay one year's installment on principal and interest.

2. Whenever the surplus water fund of any such city is sufficient or shall exceed the sum required to pay two years installment on principal and interest of its bonded indebtedness, then and in that case the common council in any city may by resolution or ordinance exempt the various city departments, public schools, parks and fountains of such city from paying water rates.

*(HISTORY: SS. 1 and 2, Ch. 469, L. 1905. 14-08-1 am, File #090427, Sept. 22, 2009; eff. De*c. 9, 2009.)

14-09. Use of Water Funds. Cities of the first class, whether operating under general or special charter, are hereby authorized and empowered to use any funds derived from its water plant over and above such as are necessary to meet operation, maintenance, depreciation, interest and sinking funds, new construction or equipment or other indebtedness, for purposes of sewerage construction work other than such as is chargeable against abutting property; or they may turn such funds into the general city fund to be used for general city purposes, or may place such funds in a special fund to be used for special municipal purposes. *(S. 1, Ch. 390, L. 1913.)*

14-10. Water Fund, Quarterly Reports. It shall be the duty of the said commissioner of public works to report to the common council once in three months, all his doings under this chapter, and the state of the said water fund and the general condition of the said water works; and such reports, after being submitted to the common council, shall be filed in the office of the comptroller of the said city. *(S. 8, Subch. 10, Ch. 184, L. 1874.)*

14-11. Financial Records. It shall be the duty of the comptroller of said city to keep separate accounts of all the funds, receipts, and payments on account of said water works, and a separate record of all the contracts made by the said commissioner touching said water works, and of the estimates of the cost of such contracts, and generally to keep separate books for the said water fund and water works, as he is or may be by law required to keep of other property, funds and interests of the said city. *(S. 9, Subch. 10, Ch. 184, L. 1874.)*

14-12. Water Works Under Control of Commissioner of Public Works. The said water works, and all the grounds, buildings, fixtures, machinery and other things appertaining thereto, shall be under the control of the said commissioner, who shall have the power to regulate and control and have a general supervision over the same, subject to the authority of the said common council. *(S. 10, Subch. 10, Ch. 184, L. 1874.)*

14-13. By-laws, Rules and Regulations. The said commissioner shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said water works, and, before the actual introduction of water, he shall make bylaws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said water works, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or shutting off the same for cause, and he shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations; provided, however, that no such by-law, rule or regulation, and no alteration, modification or repeal thereof, shall have any force until submitted to and approved by the said common council. *(S. 11, Subch. 10, Ch. 184, L. 1874.)*

14-14. Water Rates; Collection. 1. For the collection of water rates on and after Jan. 1, 1960, the city of Milwaukee shall be divided into 3 districts to be known as the 1st, 2nd, and 3rd districts.

2. The boundary lines of the districts shall be determined by the superintendent of water works and may be changed by him at his discretion and at such times as may be deemed expedient and to serve the best interests of the department.

3. All water rates in the 1st district shall be due and payable on the 1st days of January, April, July and October in each year for the 3 months preceding such days.

4. All water rates in the 2nd district shall be due and payable on the 1st days of February, May, August and November in each year for the 3 months preceding such days.

5. All water rates in the 3rd district shall be due and payable on the 1st days of March, June, September and December for the 3 months preceding such days.

6. Whenever the public service commission of Wisconsin shall either increase or decrease water rates or other charges, the billing period provided in this section shall be used as a basis for applying such increase or decrease as the case may be, but it shall be done in this manner:

a. The 1st regular billings following the filing of the new rate with the commission are to be computed by the use of a rate reflecting 1/3 of the new rate and 2/3 of the old rate.

b. The second regular billings following the filing of the new rate with the commission are to be computed by the use of a rate reflecting 2/3 of the new rate and 1/3 of the old rate.

c. The 3rd and all subsequent regular billings following the filing of the new rate with the commission are to be computed by the use of a rate reflecting 3/3 of the new rate. *(Ch. Ord. 266, File #60-1414, Oct. 18, 1960.)*

14-15. Water, Polluting or Damaging Works, Penalty. Any person who shall willfully pollute or otherwise injure any water supplied by the said water works, in any tunnel, aqueduct, reservoir, pipe or other thing, or shall willfully injure the said water works or any building, machinery or fixtures appertaining thereto, or shall willfully, and without authority of the said commissioner, impede or derange the flow of water in any tunnel, aqueduct, pipe or other thing belonging to the said water works, or shall willfully and without authority of the said commissioner bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the said water works for holding, conveying or distributing water, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court. *(S. 13, Subch. 10, Ch. 184, L. 1874.)*

14-16. Ordinances to Protect and Enforce Rules of Commissioner. It shall be the duty of the said common council, and they are hereby empowered, from time to time, to pass such ordinances as may be deemed necessary or expedient to protect said water works and the use thereof, and to enforce the by-laws, rules and regulations of the said commissioner of public works. *(S. 14, Subch. 10, Ch. 184, L. 1874.)*

14-17. Laying Water Pipe; Assessment. The commissioner of public works for the city of Milwaukee, when laying water pipe along a street, alley, or other location in said city, shall estimate the assessment against the several lots, parts of lots or parcels of land which may front or abut on the water pipe, or which may be contiguous to and used in connection with any lot or parcel of land so fronting and abutting, the amounts which the said several lots, parts of lots or parcels of land may, in the judgment of the said commissioner be specially benefited by reason of laying such water pipe, not to exceed, however, the amount prescribed in the next section [s. 14-18]; provided, that no lot parcel of land or part thereof, shall be subjected to the payment of more than one assessment for water pipe laid in the same street, alley, or other location. *(Ch. Ord. 190, File #51-862, Oct. 20, 1953.)*

14-18. Charge for Water Service to Property not Previously Assessed. Before any property located within the city of Milwaukee which abuts a public right-of-way or easement in which there is an existing water main, not

previously assessed against such property, shall be entitled to water service, such property shall be subject to the payment of a water main connection charge equivalent to the amount which would be assessed against such property at the city assessment rate for water mains in effect at the time of application for connection. *(Ch. Ord. 249, File #58-3709-a, Mar. 3, 1959.)*

14-19. Waterpipe, Special Assessment.

1. Every lot which fronts on the line of water pipe shall be assessed pro rata, based on its front foot measurement, according to the estimate of the commissioner of public works, predicated upon the furnishing and laying of a regular minor water pipe and the appurtenances such as hydrants, gate valves and fittings.

2. Said minor pipe shall be not less than 4 nor more than 8 inches in diameter.

3. Every irregular lot, part of lot, or other parcel of land fronting or abutting on said water pipe, and any parcel of land or lot which shall be contiguous to any parcel or lot or part thereof so fronting or abutting, and which in the judgment of the said commissioner is or may be advantageously used in connection therewith, shall be assessed for the furnishing and laying of said water pipe and appurtenances such amount as in the judgment of the said commissioner shall be as nearly as may be in just proportion to the amount assessed for regular lots and as compared with the special benefits derived by each from the said pipes and appurtenances. *(Ch. Ord. 301, File #63-2369-a, Oct. 29, 1963.)*

14-20. Special Assessment When Land Subdivided. Whenever any lot or parcel of land shall be subdivided by sale or contract, or by use or occupation in severalty, whether such subdivision shall occur before or after the assessment of special benefits as herein provided, the said commissioner of public works may, after ascertaining such fact, at any time before the sale of such lot for the non-payment of the assessment, make an equitable apportionment of the benefit tax against such lot or parcel of land among the different subdivisions thereof. *(S. 18, Subch. 10, Ch. 184, L. 1874.)*

14-21. Special Assessment Filed with Comptroller, Appeal. The said commissioner of public works shall file reports of such assessments with the comptroller, who shall record the same in a book to be kept for that purpose, and give notice thereof to the parties interested, by publishing the same for three successive days in the official papers. Any person feeling himself aggrieved by the report of said commissioner, may, within twenty days after the completion of the publication of notice by the comptroller, appeal from such report to the circuit court of Milwaukee county. Such appeal shall be entered and conducted in like manner, and like security for costs shall be required as provided by law in cases of appeals from the decision of the common council of said city to said court, on the returns of assessments of benefits for street improvements. In the making and signing of all reports or returns, under this chapter, by the said commissioner of public works to the comptroller or any other officer of said city, the official signature of the said commissioner shall be sufficient. *(S. 19, Subch. 10, Ch. 184, L. 1874.)*

14-22. Special Assessment Spread on Tax Roll. The tax authorities of the city in making out the tax roll for the said year shall place upon the said tax roll opposite the various properties assessed, as provided for in this chapter, the amounts of the estimated cost of the 6-inch pipe as provided for in s. 14-19 unless there has in the meantime been a successful appeal under s. 14-21, and the amounts so placed upon said tax roll shall be collected in the same manner as other city taxes are collected. The commissioner of public works is required to furnish a duplicate of the report to be made under s. 14-21, to the commissioner of assessments or other assessing authority in said city, and the commissioner of assessments, the commissioner of public works, and the comptroller working together are required to see that the said assessments are placed upon the tax roll as herein provided, and the said sums when collected shall belong to the fund for the construction of water works and shall be credited to said fund on the books of the comptroller and the treasurer of said city.

(HISTORY: Ch. Ord. 24, File #36579, Nov. 7, 1927.

14-22 am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)

14-23. Water, Use Outside of City Limits. It shall be lawful for the commissioner of public works of the city of Milwaukee, subject to the approval of the common council of said city, to issue a permit to the county of Milwaukee, national home for disabled soldiers, or any other party, to obtain water from the waterworks in the said city for use outside of the limits of said city; and for that purpose to connect any pipe that shall be laid outside of the city limits with any water pipe in said city; provided, however, that no such permit shall be issued until the party making application therefor shall first file with the commissioner of public works a bond in such sum and with such surety as the said commissioner shall approve, conditioned that the said party will obey all rules and regulations that may from time to time be prescribed by the commissioner of public works for the use of such water, that he will pay all charges fixed by said commissioner for the use of such water as measured by a meter to be approved by said commissioner, which charges shall not be less than one-quarter more than that charged to the inhabitants of the city for like use of water; and further, that he will pay the city of Milwaukee all damages whatever that it may sustain, arising in any way out of the manner in which such connection is made or water supplied is used. In case of granting a permit to the county of Milwaukee or to the national home for disabled soldiers, the commissioner of public works may waive the giving of such a bond. Every such permit shall be issued upon the understanding that the city of Milwaukee shall in no event ever be liable for any damage in case of failure to supply water; and it shall be lawful for the said commissioner of public works, at any time to cancel such permit, to cut off the supply of water and break such connection when in their judgment the interests of the city shall require; and in case the party to whom such permit shall have been granted, shall refuse or neglect to obey the rules and regulations prescribed by said commissioner for the use of such water, or in case the common council of the said city shall so direct, it shall be the duty of the said commissioner to do so. *(S. 1, Ch. 54, L. 1887.)*

14-24. Water Meters Required; Rates. The commissioner of public works, with the approval of the common council, may require the attaching and connecting of water meters to all service pipes supplying water from the city water works to hydraulic elevators or to manufactories and other places of business where water is used for manufacturing or other purposes, and the commissioner, with the approval of the common council, may prescribe and regulate the kind of water meters to be used in said city and the manner of attaching and connecting the same, and may in like manner make such other rules for the use and control of water meters attached and connected as herein provided as shall be necessary to secure reliable and just measurement of the quantity of water used for any such elevator or manufactory or other business place, and may alter and amend such rules from time to time, as shall be necessary for the purpose named; provided, that all such rules and all amendments and alterations thereof, shall be approved by the common council before the same shall have effect. If the owner or occupant of any premises, where the attaching and connection of a water meter may lawfully be required, shall neglect or fail to attach and connect such water meter, as is required according to the rules of the commissioner, for thirty days after the expiration of the time in which such owner or occupant shall have been notified by said commissioner to attach and connect such meter, said commissioner may cause the water supply by the city to be cut off from the premises, and it shall not be restored except upon such terms and conditions as the commissioner, with the approval of the common council, shall prescribe. The charge for water supplied by the city in all premises where meters are or shall be attached and connected shall be at rates fixed by the commissioner with the approval of the council, and for the quantity indicated by the meter, unless in any case the commissioner shall determine that the quantity indicated by the meter is materially incorrect, and in such case the commissioner shall determine in the best way in his power the quantity used, and such determination shall be conclusive. *(S. 1, Ch. 463, L. 1887.)*

14-26. Water Service to Adjoining Towns. All cities of the first class, and operating under a special charter granted by the legislature of this state, are hereby authorized and empowered to

construct and extend the sewer and water system into the adjoining towns of such cities; provided, such extensions be made without expense to said cities, and that the rates, to be charged for water to consumers beyond the corporate limits of said city, shall be fixed by the common council of such city upon the recommendation of the commissioner of public works thereof. *(S. 1, Ch. 231, L. 1897.)*

14-27. Water Services Contract with Other Municipalities. All contracts heretofore made and entered into by any city owning, maintaining, or operating a system of water works with any other city or village in the state, for supplying and furnishing such other village or city with water, are hereby validated and legalized. *(S. 1, Ch. 473, L. 1911.)*

14-28. Water Mains, Construction Under Public Highways, Stream and Railroads. Any city of the first class in counties in the state having a population of 350,000 or more, shall have the right to extend water mains under public highways or to tunnel and extend them underneath streams, railroads, whether electric or steam, creeks, rivers, streams and culverts crossing public highways within such county, and it then shall restore the surface of such highways to their former condition of usefulness. *(S. 1, Ch. 613, L. 1913.)*

14-29. Water Main, Payment for Services when Annexation Involved. Whenever the city shall have prepared plans for or authorized the construction of a water main in territory outside of the city limits, having previously authorized the annexation or consolidation of that territory, and such plans of annexation having failed, and said water main subsequently was laid by another incorporated city or village for the purpose of obtaining water from the water works of the city, it is provided that when such territory previously authorized annexed, is later annexed or become part of the city, the said city shall then compensate said incorporated village or city for said mains, less payments, if any made, to said city or village located outside the city of Milwaukee by way of special assessments. *(Ch. Ord. 67, File #53348, May 14, 1934.)*

14-30. Special Assessment for Water Pipe and Sewer Abutting Unplatted Land Used for Agricultural Purposes. The payments of certain special assessments for water pipes, storm and sanitary sewers are deferred in circumstances set forth in s. 66.605, Wis. Stats., on the following terms and in the following manner:

1. WHEN NOT CONNECTED. Whenever an assessment has been made for water pipe, storm or sanitary sewer, the due date thereof is extended during such time that no use of the water pipe, storm or sanitary sewer is made in connection with the property abutting or fronting thereon and while the property remains unplatted and is used by the owner for farming or agricultural purposes, on the following terms and in the following manner, but in any event shall be due within 10 years of the levy.

2. FARM AREA. For purposes of this section it is deemed that property is "used by the owner for farming or agricultural purposes" only when the owner himself or a member of his family is physically using the land for farming or agricultural purposes. If the land is leased or rented out to a tenant who is farming the property, it shall not qualify for deferment.

3. FINANCING OF DEFERRED PAYMENTS. Expenditures of deferred special assessments for water pipes and sewers shall be financed by internal borrowing from the tax stabilization fund. The budget source for such expenditures shall be the improvements authorized account. The tax stabilization fund shall be reimbursed when the deferred special assessments are paid or extended on the tax roll for collection.

4. AUTHORIZATION. No water pipe, storm or sanitary sewer shall be laid in any area where the provisions of this deferred payment of an assessment shall apply unless in the first instance a special resolution is adopted by the common council authorizing such laying of water pipe, storm or sanitary sewer pursuant to this section.

5. SPECIAL ASSESSMENTS. The special assessment levy shall be indicated on each tax roll and each tax bill of the city without reference to the amount, and the amount shall be shown when due.

6. ACREAGE. Irrespective of other provisions herein the deferral of payments of assessments shall not apply to any singularly owned parcel of land unless the same is either 2-1/2 acres or larger in area or said parcel has 330 or more feet of frontage on such water pipe, storm or sanitary sewer. Whenever any parcel on which a special assessment has been deferred is divided by sale or otherwise into parcels of separate ownership, or platted, or whenever any connection is made to the water pipe, storm or sanitary sewer and such facility used in connection with the property, the assessment shall become due and be placed on the first tax roll following the division or connection.

7. DELINQUENT PAYMENTS. The commissioner of city development shall investigate and advise the commissioner of public works in the first instance and thereafter that the conditions of this section for the deferral of the payment of the assessment do in fact exist. Nothing herein shall preclude or shall prevent the payment in full of the assessment before it is due and no interest shall be added to the assessment from the levy to the date of payment if payment is duly made. Other provisions applicable to delinquent payments of assessment shall apply in like manner to delinquent payments under this section. The assessment shall be considered delinquent if not paid during the current collection period of the tax roll upon which the amount of the assessment was placed.

8. WHEN WORK COMPLETED. In the event any one of the conditions under which the deferral was granted shall cease to exist, the commissioner of city development shall forthwith notify the commissioner of public works and the commissioner of assessments. In the event there is a water connection made, such notification shall be given by the superintendent of water works. In the event connection is made with the storm or sanitary sewers, such notification shall be made by the commissioner of public works to the commissioner of assessments. Thereupon the full amount of assessment will be spread by the commissioner of assessments on the first available tax roll and the assessment will be due and payable with the general taxes during the current collection period of such tax roll.

9. PLATTING OF LAND. In the event land is platted, the plat shall be approved by the city in the manner provided by law, and the city treasurer shall not certify the plat until payment has been made of these special assessments.

(HISTORY: Section 14-30 am. Ch. Ord. 297, File #58-2028-b, June 11, 1963.

14-30-3 am. Ch. Ord. 470, File #78-1492, Dec. 21, 1978.

14-30-8 am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)

CHAPTER 15
PUBLIC DEBT

TABLE

15-01	Commissioners of public debt
15-02	Meetings
15-03	Duties
15-04	Bonds: form
15-05	Bonds: requirements
15-06	Debt limit
15-07	Bond interest and sinking fund
15-08	Tax levy
15-09	Purchase of property for delinquent taxes
15-11	Surrender of bonds
15-12	Partial retirement of bonds
15-13	Money held in trust
15-14	Coupons cancelled on payment
15-15	Financial Agreements and Ancillary Arrangements

15-01. Commissioners of Public Debt. There shall be in the city of Milwaukee a board composed of 3 persons who shall be residents of said city, shall be styled commissioners of the public debt, shall be appointed by the mayor, with the approval of the common council, and shall respectively hold the office for the term of 3 years, and till their successors are appointed and qualified. The mayor shall, within one month after the expiration of the term of any commissioner, appoint his successor, and within one month after any vacancy shall occur by death, resignation, or otherwise, shall appoint some person to fill the vacant office for the unexpired term, all such appointments being subject to the approval of the common council. *(S. 15, Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)*

15-02. Meetings. The commissioners of the public debt shall fix their own times of meeting, and the mode of calling their meetings. The action of a majority of them shall be deemed the action of the commissioners. They shall transact all their business at the city hall. The comptroller shall be ex officio the secretary of the commissioners and shall preserve a full record of all their proceedings. The city treasurer shall be ex officio treasurer of the commissioners and shall have the sole responsibility for the physical custody of the securities of the public debt amortization fund, subject to such direction as the commissioners of the public debt may from time to time prescribe. Both the comptroller and the treasurer shall attend meetings of the public debt commission and shall be available for consultation. *(Ch. Ord. 236, File #57-1460, Sept. 17, 1957.)*

15-03. Duties. It shall be the duty of the commissioners of the public debt to superintend the execution, issue, and use of all bonds issued or to be issued by the city, and the levy, collection and disbursement of the taxes provided for by law for the interest upon such bonds and for the sinking fund for the payment of the principal thereof, and to perform such other services and duties in respect to the same as are or may be prescribed by law. *(S. 3, Subch. 11, Ch. 184, L. 1874.)*

15-04. Bonds: Form. All bonds hereafter issued by cities of the first class, whether organized under general or special charter, shall be numbered consecutively, shall be signed by the city clerk and the mayor and countersigned by the comptroller. The signatures of the mayor, comptroller and city clerk may be manual or imprinted facsimile signatures except that at least one of these signatures shall be a manual signature unless the city has contracted with a fiscal agent to authenticate the bonds. Each bond issued shall show on its face for what purpose and by what authority it was issued. The common council may by ordinance or resolution determine the type or form of bond blank which is used and the method by which it shall be procured.

(S. 15-04 am., Ch. Ord. 545, File #84 1519, Jan. 22, 1985; eff. April 9, 1985.

S. 15-04 am., File #150131, Nov. 2, 2015; eff. Jan. 18, 2016.)

15-05. Bonds: Requirements. An accurate account shall be kept by the comptroller, or by such other officer as may be appointed by law for that purpose, of the issue of all the bonds by the said city, of their numbers, dates and amounts, of the dates of payment of interest and principal thereon, and of the particular purpose for which each bond is issued. All bonds issued by the said city shall be negotiated and disposed of by the said commissioners of the public debt, and such bonds and the proceeds thereof shall be used solely and only for the purposes defined in the law authorizing their issue, and in amount shall not exceed the limits fixed by law for the respective purposes so defined. The commissioners of the public debt shall from time to time, or when requested by the common council, report to the common council of the said city the sale or other disposition of any city bonds issued by said city. *(S. 5, Subch. 11, Ch. 184, L. 1874.)*

15-06. Debt Limit. The principal of the aggregate funded debt of cities of the first class, shall never exceed a sum equal to 8% of the value of the taxable property therein as equalized for state purposes, which shall be ascertained and determined in the manner and method of determining such equalization for state purposes provided by state law, and all bonds hereafter issued by any such cities shall contain a covenant to that effect, and all bonds, notes or other evidences of debt, payable at a future day, which shall be issued by any such city contrary to this section, and in excess of the limitation herein prescribed, either with or without statutory authority, shall be void; provided, that the foregoing limitation shall not apply to or include orders drawn upon the city treasurer, payable out of the revenues of the current year; and provided, further, that the common council may borrow from time to time upon the notes of the city, signed by the mayor and city comptroller, such sums of money in anticipation of the incoming tax of the year as they shall deem necessary to pay accruing interest on the funded debt, and to meet the current expenses of the city, and all such notes shall be paid out of the taxes of the current year at such time as may be agreed on -- not later than the 1st day of February next following their date; and provided, further, that nothing herein shall be held to abrogate or impair, modify or repeal the provisions of s. 1, ch. 252, laws of 1899, or of s. 1, ch. 256, laws of 1899, or of s. 941 Wis. Stats., 1898. If in any case, any such city or any officer of such city shall hereafter threaten or attempt to issue any such bonds, notes, or other evidences of debt, in contravention of the provisions of this section, they shall be restrained by injunction from so doing, upon the application of any holder of bonds of the city, or any citizen who shall have paid city taxes in said city for 2 years then next preceding. *(Ch. Ord. 219, File #55-3567-a, Mar. 7, 1956.)*

15-07. Bond Interest and Sinking Fund. A tax upon all of the taxable property, real and personal, in the said city, shall be annually levied and collected, at the same time, and in the same manner as other taxes are levied and collected in said city, sufficient in amount for the following purposes, to-wit: to pay the interest and provide for the sinking fund upon the bonds and scrip authorized by and issued under sections 1 and 3 of the act entitled "An act to enable the city of Milwaukee to readjust its corporate debts," approved March 19, 1861, as stipulated and provided in and by section 4 of the same act. Also to pay the annual interest, and to provide the sinking fund upon all bonds of the said city, issued or to be issued to provide means for the construction of water works for said city, or for other purposes, under and in accordance with the provisions of chapter 406 of the private and local laws of 1871, entitled "An act authorizing the city of Milwaukee to issue bonds," approved March 23, 1871, and the several acts amendatory thereof, as specially stipulated and provided in and by section 11 of said chapter 406. Also to pay the interest on all other bonds of said city issued, or that may be issued under legal authority, and outstanding according to the terms thereof, and to provide a sinking fund equal to not less than five per centrum each year of the principal of such bonds actually issued for

the payment of such principal; provided, that this section shall not include or apply to any bonds heretofore issued by said city to any railroad company or companies. The common council shall, on or before the first day of October in each year, determine by resolution the amount of the net revenue or income of the said water works, over and above the expenses, thereof, which shall be appropriated and applied to the payment of interest on the said water bonds or to the sinking fund for the payment of the principal thereof, and the amount of such net revenue or income, so appropriated in and for any year to the fund for the payment of such interest, or to such sinking fund, may be deducted from the amount of tax to be levied in that year for the payment of the principal or interest of such water bonds. *(S. 34, Ch. 324, L. 1882.)*

15-08. Tax Levy. The commissioners of the public debt of the city of Milwaukee shall, at least 10 days before the levy of general city taxes in each year, certify to the common council the amounts necessary to be levied that year for the interest and sinking funds, on bonds, and scrip of the said city. It shall be the duty of the common council to levy the tax for interest and sinking funds by law provided for, to the amount so certified by the said commissioners, at the same time in each year that the common council levy the tax for general city purposes; and if they refuse or neglect so to levy in any case for 5 days after the levy of the tax for general city purposes, the commissioners of the public debt shall levy the same, and certify the amount thereof forthwith to the commissioner of assessments; and if the commissioners of the public debt should likewise fail to levy such tax for interest and sinking funds within 10 days after the levy of the general city taxes in any year, than the judge of any court of record in Milwaukee county, either in term time or vacation, either in open court or at chambers, may, upon summary application of any holder or holders of bonds of the said city, other than bonds heretofore issued to any railroad company, to the amount of $10,000 or more, by order, levy such tax to such amount as he or she shall deem necessary, and certify the amount thereof to the commissioner of assessments, who shall in all cases cause such tax, however levied, to be extended upon the tax roll in like manner as other taxes levied by the common council. And it shall be the duty of the city treasurer, or other collector of taxes, to proceed to collect and enforce such tax in the same manner as other general city taxes are collected and enforced by law. In fixing the amount of the treasurer's bond, at the beginning of his or her term of office, the fact that he or she has to collect this tax for interest and sinking funds, shall be taken into consideration.

(HISTORY: Ch. Ord. 1, File #30015, July 6, 1925.

15-08 am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)

15-09. Purchase of Property for Delinquent Taxes. If upon the sale of any property for delinquent taxes the city shall become the purchaser, it shall appropriate and add to the fund raised for interest and sinking funds, a sum equal to the amount of such delinquent tax which was levied for interest and sinking funds, out of the first moneys which shall be in or come into the treasury from any source whatever. *(S. 10, Subch. 11, Ch. 184, L. 1874.)*

15-11. Surrender of Bonds. Once in each year, immediately after the coming in of the report mentioned in the last section [s.15.10], the commissioners of the public debt shall cause notice to be given by the comptroller or otherwise by publication in one daily newspaper printed in the city of New York, and one daily newspaper printed in the city of Milwaukee, each of general circulation, for twenty days at least, of the time and place of receiving bids or proposals from bondholders or scripholders to surrender their bonds or scrip for cancellation on payment out of the sinking fund applicable thereto, the manner of directing such proposals, and such other things as the commissioners shall direct to be inserted in such notice. The proposals received shall be opened by the commissioners of the public debt, in the presence of the mayor and such other persons as shall choose to attend; and the lowest rates offered, provided the same be at or below par, shall be accepted to the extent of the fund on hand to pay the same at those rates; and the bonds or scrip so

offered at the lowest rates shall be paid at those rates on being surrendered for cancellation. When the funds shall not be sufficient to pay all the bonds and scrip which are offered at equal rates and lower than all others, the commissioners shall select at once, and publicly as aforesaid, among such bonds and scrip, by lot, so many as they shall have the means to pay. In case any parties whose proposals shall be accepted shall not, within such reasonable time as the commissioners, with the approval of the mayor, shall fix, surrender their bonds or scrip, the commissioners may with the approval in writing of the mayor, accept the next best proposals, provided they are below par, or they may advertise and proceed throughout anew, in the manner provided in this section, and so in like manner again and again, as often as the last named contingency shall arise. All bids or proposals by bondholders or scripholders under this section shall particularly specify the numbers of the bonds or scrip so proposed to be retired, and shall be accompanied by a certificate in each case of the president or cashier of some reputable bank, or of some person, in either case to be approved by the commissioners of the public debt, to the effect that the bonds or scrip specified in such bid are all deposited in such bank or with such person, and will be delivered up for cancellation if such bid shall be accepted by the commissioners. *(S. 12, Subch. 11, Ch. 184, L. 1874.)*

15-12. Partial Retirement of Bonds. In any case when no proposals, or not sufficient in amount to consume the moneys on hand belonging to the sinking funds, shall be received to retire bonds or scrip at or below par, the commissioners may advertise and proceed throughout again as provided in the last section above [s. 15.11], or, with the approval of the mayor, shall in their discretion determine by lot publicly as aforesaid, which bond or bonds, or scrip shall be paid out of the moneys then in the sinking fund provided therefor, at par, including interest, and shall notify the holders of their readiness to pay the same, by advertisement for twenty days in one daily newspaper printed in the city of New York, and one daily newspaper printed in the city of Milwaukee, each of general circulation, and from the time of the completion of such notice in both papers, such bonds or scrip so determined by lot, shall cease to bear interest, unless the city shall neglect to pay the same for ten days after payment thereof shall afterwards be demanded; and the money shall be kept constantly on hand by the treasurer to pay the same on presentment, unless the commissioners of the public debt, with the approval of the mayor, shall otherwise order. *(S. 13, Subch. 11, Ch. 184, L. 1874.)*

15-13. Money Held in Trust. The moneys levied and collected for or belonging to, the interest and sinking funds, shall be held in trust for those purposes only, or for the benefit of the holders of the bonds of the different issues or classes for which such funds are specially provided, and shall in no way be diverted from the specific purposes for which they are provided; nor shall the same or any part thereof be subject to attachment or execution, or be liable by any process or proceeding, to be subject to the payment of any other debt than that to meet which they were specially raised or appropriated under this act. *(S. 14, Subch. 11, Ch. 184, L. 1874.)*

15-14. Coupons Cancelled on Payment. All bonds and interest coupons, paid or otherwise retired, shall be forthwith marked cancelled by the commissioners of the public debt, and by them returned to the common council of the said city, who shall forthwith publicly cancel the same. *(S. 15, Subch. 11, Ch. 184, L. 1874.)*

15-15. Financial Agreements and Ancillary Arrangements. At the time of, or in anticipation of, the issuance of a municipal obligation under this chapter, under ch. 66 Wis. Stats., under ch. 67 Wis. Stats., or in connection with an obligation of the Milwaukee board of school directors or at any time thereafter so long as the obligation is outstanding, the city may enter into financial agreements and ancillary arrangements relating to such obligation, including without limitation any revolving credit agreement, agreement establishing a line of credit or letter of credit, liquidity facility, reimbursement agreement, remarketing or dealer agreement, interest rate swap or exchange agreement, currency exchange agreement, indexing agreement, interest rate floor or ceiling agreement, option, put or call to hedge payment, currency, rate, spread or similar exposure, float agreement, forward agreement, insurance contract, guaranty agreement, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or other, similar contracts, commitments or agreements. Obligations under such agreements and arrangements shall be payable from such sources as the common council shall determine or, with respect to obligations of the Milwaukee board of school directors, as the Milwaukee board of school directors shall determine, including, with respect to obligations issued under ch. 67, Wis. Stats., direct, annual irrepealable taxes levied pursuant to s. 67.05(10), Wis. Stats. Any such agreements or arrangements shall not constitute an indebtedness for the purpose of determining the city=s constitutional or other debt limitation.

(HISTORY: Sub. 15-15 cr. File #030773, Oct. 14, 2003; eff. Dec. 16, 2003.)

[This page blank]

CHAPTER 16
PURCHASING

TABLE

16-01	Definitions
16-02	Purchasing Appeals Board: Members, Meetings
16-05	Purchasing by Purchasing Director
16-07	Other Purchasing Authority

16-01. Definitions. In this chapter:

1. FORMAL COMPETITIVE BIDDING means a process whereby purchases are made from the lowest responsible bidder after due notice inviting bids, subject to bidding requirement exceptions under s. 16-05-3, in accordance with any applicable code provisions for participation of small business or local business enterprises, ethical purchasing, purchase of American-made vehicles, purchase of Milwaukee-, Milwaukee county- or American-made goods, which are in force. Notice shall be published in at least one official paper for at least 2 days preceding the last day set for the receipt of bids.

2. GOVERNMENT PURCHASER means the federal government, the state, another political subdivision of the state, a cooperative purchasing association or group formed by these entities, or a private entity that has established relationships with these entities.

3. REVERSE AUCTION means a public auction in which vendors bid the lowest price at which they are willing to sell specified materials, supplies, equipment or services. Vendors may be physically present or participate electronically, but in either case, the auction shall provide vendors with sufficient knowledge of bid rankings so that the vendors may competitively bid against others. The auction may be conducted as the sole means of selecting a vendor or in conjunction with formal competitive bidding.

4. SINGLE SOURCE means the selection of a particular vendor when there are other vendors who could potentially provide the good or service, but the particular vendor is specially suited to comply with the specifications.

5. SOLE SOURCE means the selection of a particular vendor when work, services, materials, supplies, equipment, items or commodities can be furnished from only one source.

6. USER AGENCY means a city department, board or commission.

16-02. Purchasing Appeals Board: Members, Meetings. 1. MEMBERS. a. The purchasing appeals board shall be composed of the mayor, the commissioner of public works, the chair of the common council committee on finance and personnel, the director of administration, the city comptroller, the president of the common council; and 2 city employes, one each appointed by the mayor and the president of the common council. The mayor and common council president shall make their respective city employe member appointments within 60 days after assuming office or within 60 days after a vacancy occurs in such board position, whichever is later.

b. Members, with the exception of the 2 city employe members, may designate alternates in writing by filing with the city clerk's office. Such alternates may represent their respective principal members and exercise all powers of principal members when such members are unable to attend board or committee meetings.

2. VOTING PROCEDURES. Each board member shall have one vote. The mayor shall be chair of the board and shall call all meetings except such as may be provided for by the action or rules of the board. In the absence of the mayor, the vice chair of the board shall preside. Five members shall constitute a quorum.

3. DUTIES AND RESPONSIBILITIES. The board: a. Shall hear bidder, common council member and city department specification appeals as provided herein.

b. Shall hear bidder award appeals of recommendations made by the city purchasing director as to the apparent low responsive bidder as provided herein.

c. Shall adopt bylaws for conduct of board business.

16-05. Purchasing by Purchasing Director.

1. DUTIES, POWERS.

a. Authority to purchase. There is created a purchasing division in the department of administration. The division shall be under the direction and control of the city purchasing director, except as provided in s. 16-07, who shall be subject to the direction and control of the director of administration. The city purchasing director shall have full power, subject to s. 16-02, to purchase or to provide for the purchase of all

materials, supplies, equipment and services for the use of all user agencies, including those funded through such special purpose accounts as the common council may indicate, except when otherwise specifically provided by local or state law. Purchases shall be made upon requisition by the proper officials of user agencies from funds provided by the common council, provided that nothing in this section shall be construed to prevent the city purchasing director from making purchases or contracts in anticipation of the needs of user agencies or from maintaining store of commodities in anticipation of needs.

b. Purchase of specialized materials and services. Any user agency may with the authorization of the city purchasing director purchase independently such materials, supplies, equipment or services of a special character as are used only by it, or which may be determined by the city purchasing director may be more efficiently purchased by any such user agency than by the city purchasing director if a user agency acts pursuant to the authority set forth herein, any written contract resulting therefrom shall be executed by the head of the department or the chair of the board of commission as the case may be and be countersigned by the city purchasing director and the city comptroller. The city purchasing director may promulgate such standards and rules as he or she deems necessary to effectuate the provisions set forth herein.

2. CONTRACTS; FORMAL COMPETITIVE BIDDING AND APPEALS. a. All work, items, materials, supplies, equipment and services, except as otherwise provided herein, when the estimated cost exceeds $50,000, shall be purchased through formal competitive bidding.

b. All contracts whose actual cost exceeds $50,000 shall be purchased by formal written contract.

c. The purchasing director may negotiate amendments to any existing contracts subject to sub. 4.

d. Appeals as to specifications established by the purchasing director involving purchases subject to formal competitive bidding shall be heard and determined by the purchasing appeals board.

e. Appeals from recommendations made by the city purchasing director for awards involving purchases subject to formal competitive bidding for which bids were advertised, or for which bids were solicited for a reverse auction, shall be heard and determined by the purchasing appeals board.

3. EXCEPTIONS TO FORMAL COMPETITIVE BIDDING REQUIREMENTS. Formal competitive bidding shall not be required for the following:

a. Purchases from federal, state or municipal governments.

b. Purchases where bid specifications are impossible or impracticable to draft.

c. Purchases which constitute a special adaptation for a special purpose.

d. Purchases where the performance of the work or service requires creative, individual or artistic talents.

e. Purchases where the performance of the work or service requires scientific knowledge or is of a technical or experimental nature.

f. Purchases where the performance of the work or service requires professional skills or other special skills or training.

g. Purchases made using a single or sole source as defined in s. 16-01-4 and 5.

h. Marketing partnerships with private businesses and nonprofit organizations relating to city buildings, facilities or other assets identified by the Milwaukee civic partnership initiative, established under s. 310-21.

4. SINGLE AND SOLE SOURCE CONTRACTS, SPECIAL REQUIREMENTS.

a. When a single or sole source service contract of $50,000 or more is executed or an existing single or sole source service contract of less than $50,000 is amended and the original amount of the contract added to the amended amount of the contract is $50,000 or greater, the contract or amendment shall not be effective unless approved by the committee on finance and personnel. This requirement shall not apply to one-time contract amendments of less than $10,000 or to the extension of a single or sole source service contract as specifically contemplated at the time the contract was originally executed, provided that the original contract has already been approved by the committee pursuant to this section. Further, this requirement shall not apply to contracts or contract amendments, upon a written waiver by the city purchasing director, that are necessary to respond

to emergency situations that threaten life, health or safety, services provided by the actuary designated under s. 36-15-13, services related to proprietary products or services or procurements authorized under separate common council action.

b. The purchasing director shall report the circumstances surrounding any waiver granted under par. a to the committee on finance and personnel within the following 2 regularly-scheduled common council cycles following the issuance of the waiver. No waiver granted for an emergency situation under par. a may be for a contract of longer than one year in duration or may extend the contract for longer than one year in duration unless otherwise approved by the committee on finance and personnel.

5. COOPERATIVE PURCHASING.

a. The purchasing director may agree with another government purchaser to jointly purchase an item or service. If that purchase is subject to formal competitive bidding under this chapter, then the purchase shall be accomplished by a process equivalent to formal competitive bidding. Other city code provisions relating to the purchase shall apply to the extent practicable.

b. The purchasing director may dispense with formal competitive bidding and purchase an item or service on the same terms as another government purchaser. If the purchase is subject to formal competitive bidding under this chapter, then the terms shall be established by the government purchaser after a process equivalent to formal competitive bidding. Other city code provisions relating to the purchase shall apply to the extent practicable.

c. The purchasing director may allow a government purchaser to purchase items on the same terms as have been established under an existing city contract.

6. REVERSE AUCTION.

a. The purchasing director shall establish and maintain a reverse auction bidding process, either in-house or through a hosting vendor.

b. The purchasing director shall, unless contrary to federal, state or local law or regulation, conduct a reverse auction to purchase materials, supplies, equipment or services, whether otherwise required to be purchased by formal competitive bidding under this chapter, whenever the purchasing director determines a reverse auction is likely to yield a significantly lower contract cost.

7. SUPPLIES PURCHASED WITH FEDERAL AND STATE GRANTS. Whenever materials, supplies, equipment or services are to be acquired in connection with federal or state assistance or a grant funded program, the provisions of the city charter, or code of ordinances, rules, regulations or guidelines for procurement shall apply, provided, that such provisions meet the minimum requirements of federal or state laws, rules, regulations and guidelines applicable to such assistance or grant-funded program. If any provisions of the city charter, or code of ordinances, rules, regulations or guidelines contravene such federal or state provisions relating to such assistance or grant-funded program so that the result does not meet the minimum requirements of the federal or state laws, rules, regulations and guidelines, then, to that extent, the provisions of the charter, local ordinances, rules, regulations and guidelines shall be deemed to be superceded by the federal or state laws, rules, regulations or guidelines applicable to such assistance or grant-funded programs.

8. ESCALATOR PROVISIONS. The purchasing director may allow bid invitations and contracts to include an escalator provision for additional charges for goods, supplies, materials or equipment if, as a result of limited supplies or general inflation, the rates and prices of the same to the contractor increase during the performance of the contract. An escalator provision, if utilized, shall be applicable to all bidders and shall not exceed 15% of the bid per year during the period of the performance of a contract; however, in no event shall any escalation amount exceed the amount of increase actually incurred during the year by the contractor, and only if sufficient funds have been appropriated or are available. The increase shall be substantiated to the satisfaction of the purchasing director and shall not be effective until approved by the director. Each bid on a contract which is to contain multiple items and which is to include an escalator provision only as to some items shall be accompanied by a schedule enumerating the estimated rates or prices of items or goods, materials, supplies or equipment used in arriving at the bid, and only as to such items so enumerated shall an increased charge be allowed to the contractor.

9. DE-ESCALATOR PROVISIONS. The purchasing director may allow bid invitations and contracts to include a de-escalator provision which would provide that any goods, supplies, materials or equipment being purchased by the city shall be subject to any price reductions which are announced by the bidder following execution of the purchase contract, and such price reductions are then to be passed on to the city as reductions in the total costs of the goods, supplies, materials or equipment being purchased.

10. ARBITRATION OF DISPUTES. The purchasing director may include provisions of ch. 788, Wis. Stats., into a contract when he or she deems appropriate.

16-07. Other Purchasing Authority.

1. COMMISSIONER OF PUBLIC WORKS. The commissioner of public works shall have full power and authority over contracts for public works as provided in ch. 7, including those contracts where materials, supplies or equipment are furnished by the contractor as part of the contract.

2. COMMISSIONER OF NEIGHBORHOOD SERVICES. The commissioner of neighborhood services shall have full power and authority to provided and contract for the demolition of any building or structure or part thereof being razed pursuant to the Wisconsin statutes, or for the abatement of nuisances in accordance with applicable city code provisions as provided in chs. 7 and 8.

LEGISLATIVE HISTORY
CHAPTER 16

Abbreviations:
am = amended ra = renumbered and amended rn = renumbered
cr = created rc = repealed and recreated rp = repealed

Section	Action	File	Passed	Effective
16 (title)	am	120628	9/25/2012	12/11/2012
16-0	am	881142	10/11/88	12/25/88
16-01	rc	881142	10/11/88	12/25/88
16-01	rc	882559	4/25/89	7/2/89
16-01	rp	921112	10/30/92	1/27/93
16-01	cr	130088	7/23/2013	10/9/2013
16-02	rp	881142	10/11/88	12/25/88
16-02	cr	900673	10/13/92	1/27/93
16-02	rc	921112	10/30/92	1/27/93
16-02	rc	020885	11/8/2002	1/27/2003
16-02-1	am	84-1860	3/22/85	6/8/85
16-02-1-a	am	960230	6/4/96	8/20/96
16-02-3-a	am	980099	5/27/98	8/13/98
16-03	rp	881142	10/11/88	12/25/88
16-04	rp	881142	10/11/88	12/25/88
16-05	rc	020885	11/8/2002	1/27/2003
16-05	rc	130088	7/23/2013	10/9/2013
16-05-0	rc	881142	10/11/88	12/25/88
16-05-1	am	881142	10/11/88	12/25/88
16-05-1	am	900673	10/13/92	1/27/93
16-05-1-a	am	882559	4/25/89	7/12/89
16-05-1-a	am	151594	3/1/2016	5/17/2016
16-05-1-b	am	930452	7/27/93	10/12/93
16-05-2	Note	890756	9/1/89	11/18/89
16-05-2	am	900673	10/13/92	1/27/93
16-05-2-a	am	86-1898	2/24/87	5/12/87
16-05-2-a	am	921112	10/30/92	1/27/93
16-05-2-a	am	971616	2/10/98	4/28/98
16-05-2-b	rp	921112	10/30/92	1/27/93
16-05-2-b	am	080685	3/25/2009	6/9/2009
16-05-2-b	am	090430	10/13/2009	12/29/2009
16-05-2-b	am	110087	10/11/2011	12/27/2011
16-05-2-b	am	101573	11/27/2012	2/12/2013
16-05-2-c	cr	901996	4/23/91	7/9/91
16-05-2-c	rn to 16-05-2-b	921112	10/30/92	1/27/93
16-05-2.5	cr	900673	10/13/92	1/27/93
16-05-2.5	rc	921112	10/30/92	1/27/93
16-05-2.5-b	am	101210	3/23/2011	6/8/2011
16-05-3-a	am	881142	10/11/88	12/25/88
16-05-3-a	am	900673	10/13/92	1/27/93
16-05-3-a	rc	921112	10/30/92	1/27/93
16-05-3-b	am	881142	10/11/88	12/25/88
16-05-3-b	am	900673	10/13/92	1/27/93
16-05-3-b	rn to 16-05-3-c	921112	10/30/92	1/27/93
16-05-3-b	cr	921112	10/30/92	1/27/93
16-05-3-b	am	090352	11/3/2009	1/19/2009
16-05-3-b	am	111422	4/11/2012	6/28/2012

16-05-3-c	rn to 16-05-3-d	921112	10/30/92	1/27/93
16-05-3-c	rc	940062	5/17/94	8/3/94
16-05-3-d	cr	101210	3/23/2011	6/8/2011
16-05-3-e	cr	111422	4/11/2012	6/28/2012
16-05-3-e	am	111737	5/22/2012	8/11/2012
16-05-3-h	cr	140609	11/5/2014	1/19/2015
16-05-4	am	881142	10/11/88	12/25/88
16-05-4	rn to 16-05-4-a	901345	1/22/91	4/9/91
16-05-4	am	900673	10/13/92	1/27/93
16-05-4-b	cr	901345	1/22/91	4/9/91
16-05-4-b	am	131061	4/2/2014	6/21/2014
16-05-5	rp	881142	10/11/88	12/25/88
16-05-5	cr	900673	10/30/92	1/27/93
16-05-5	rp	921112	10/30/92	1/27/93
16-05	rc	020885	11/8/2002	1/27/2003
16-05-6	am	881142	10/11/88	12/25/88
16-05-6	am	900673	10/13/92	1/27/93
16-05-7	am	881142	10/11/88	12/25/88
16-05-7	am	900673	10/13/92	1/27/93
16-05-9	am	900673	10/13/92	1/27/93
16-05-10	cr	901250	3/26/91	6/11/91
16-05-10	am	900673	10/13/92	1/27/93
16-06	rp	880330	2/14/89	5/6/89
16-07	rp	120628	9/25/2012	12/11/2012
16-07	cr	130088	7/23/2013	10/9/2013
16-08	rp	120628	9/25/2012	12/11/2012
16-09	rp	891264	11/17/89	2/12/90
16-11	rp	881142	10/11/88	12/25/88
16-12	rc	971422	2/10/98	4/28/98
16-12	rp	020885	11/8/2002	1/27/2003
16-12-4	rc	001662	9/25/2001	12/10/2001
16-12-12	cr	85-4	5/14/85	7/30/85

CHAPTER 17
COMMISSIONER OF HEALTH

TABLE

17-01	Definitions
17-02	Transfer of Duties
17-03	Commissioner: salary
17-04	Commissioner: to appoint employes
17-05	Commissioner: funds
17-06	Commissioner: duties and authority to preserve public health
17-07	Commissioner: duties defined
17-08	Commissioner: authority to enter and examine
17-09	Commissioner: police and others to aid
17-10	Measures to preserve public health
17-11	Penalty for refusal to obey orders
17-12	Abatement of nuisances
17-13	Discontinuance of business detrimental to public health; penalty
17-14	Authority to protect public health; exclusion from school or work
17-15	Contaminated articles
17-16	Power to isolate and quarantine
17-17	Temporary control of facilities
17-18	Power to provide place for those with contagious diseases
17-19	Reports of health hazards
17-20	Noxious matters in streams

17-01. Definitions. In this chapter:

1. COMMISSIONER means the commissioner of health or health commissioner of the city of Milwaukee or his or her representative.

2. PERSON means any individual, firm, partnership, trustee, agent, association, corporation, company, governmental agency, club or organization of any kind.

17-02. Transfer of Duties. All powers vested by the state of Wisconsin in the board of health and the health officer of the city, are conferred upon the commissioner, and all the duties of the board and of the health officer shall devolve upon and be vested in the commissioner.

17-03. Commissioner: Salary. The common council shall fix the salary of the commissioner. The commissioner is authorized to collect fees for services for the city.

17-04. Commissioner: to Appoint Employes. The commissioner may appoint, subject to confirmation by the common council, assistants, clerks, officers, agents and workers as may be deemed necessary for the proper discharge of the commissioner's duties, and they shall receive such salary or compensation for their services as the common council may fix. The commissioner may appoint temporary special assistants for the purpose of maintaining quarantine and isolation and other duties as required.

17-05. Commissioner: Funds. The common council shall, in making their estimate and levy for the expenses of the city government, estimate and provide such sums as may be necessary for the compensation of all officers and other employes which the commissioner is authorized to appoint by this chapter, and for all other expenses incurred by the commissioner in performance of the duties prescribed in this chapter, and in any ordinances or regulations promulgated thereto. Such expenses shall be audited and allowed and paid as other expenses of the city.

17-06. Commissioner: Duties and Authority to Preserve Public Health. It shall be the duty of the commissioner to examine into and consider all measures necessary to the preservation of the public health in the city of Milwaukee and to see that all ordinances and regulations in relation thereto be promulgated, observed and enforced.

17-07. Commissioner: Duties Defined. The common council may further define the duties of the commissioner, and pass such ordinances in aid of the powers of the commissioner as may tend to promote and secure the general health of the inhabitants of the city.

17-08. Commissioner: Authority to Enter and Examine. It shall be the duty of the commissioner to determine when conditions dangerous to the public health exist in the city of Milwaukee and, in the furtherance of that duty, the commissioner shall have the following powers and adopt procedures for the implementation thereof:

1. Authority to enter into all buildings, lots, conveyances and vehicles within the city for the purpose of ascertaining the condition thereof so far as the public health may be affected thereby.

2. Authority to examine all persons, buildings, lots, conveyances and vehicles within the city for the purpose of ascertaining the conditions thereof so far as the public health may be affected thereby.

17-09. Commissioner: Police and Others to Aid. It shall be the special duty of the members of the police force of the city, and of all magistrates and civil officers and all citizens of the state, to aid to the utmost of their power, the commissioner and the officers mentioned in this chapter in the performance of their respective duties. On requisition of the commissioner, it shall be the duty of the chief of police to detail one or more police officers to serve the notices of the commissioner and to perform such other duties as the commissioner may require.

17-10. Measures to Preserve Public Health. The commissioner shall give such directions and adopt all such measures for cleaning and purifying all buildings, vehicles, lots and other places and for causing the removal therefrom of any equipment, receptacle, thing, condition, defective plumbing or any sewer condition and of all nauseous, dangerous or toxic substances that may threaten or tend to cause sickness, discomfort or disease or injury as in the commissioner's opinion may be necessary, and shall cause the discontinuance of procedures or practices that may endanger or threaten the health of the people. The commissioner may do or cause to be done whatever shall be needed for the preservation of the public health of the community and its citizens.

17-11. Penalty for Refusal to Obey Orders. Any person failing or refusing to comply with any order of the commissioner which requires action to prevent, abate or remove conditions, practices or nuisances which may adversely affect or threaten the health or welfare of the community or its citizens, shall be subject to the same penalties as provided in ss. 61-1 to 61-16.

17-12. Abatement of Nuisances. 1. ABATEMENT. The commissioner may, in all cases where it is necessary for the speedy execution of the commissioner's orders, cause any conditions or practices of nuisances referred to in this chapter to be abated or removed at the expense of the city. The commissioner shall also cause any conditions or practices or nuisances which may exist upon the property of nonresident owners, or upon property, the owners of which cannot be found or are unknown and cannot be ascertained, to be abated or removed in like manner, at the expense of the city. The sums expended in the abatement or removal of such conditions or practices or nuisances shall be a lien, in the same manner as any tax upon real estate, upon the lots or premises from or upon which conditions or practices or nuisances are abated or removed.

2. SPECIAL ASSESSMENT. The commissioner shall certify to the comptroller the description of such property and the cost of abating and removing such conditions or practices or nuisances thereon. The comptroller shall include the same in the annual schedule of lots subject to special taxation, and payment thereof may be enforced in like manner as other special taxes upon real estate are levied and collected. The common council shall on application of the commissioner appropriate and set apart out of the general fund such sums it deems necessary for the purposes of this chapter.

17-13. Discontinuance of Business Detrimental to Public Health; Penalty. On complaint being made, or whenever the commissioner shall deem any business, trade or profession carried on by any person in the city of Milwaukee, detrimental to the public health, the commissioner shall notify the person to show cause before the commissioner at a time and

place specified in the notice, why the business, trade or profession should not be discontinued or removed. The notice shall not be less than 3 days, except that in cases of outbreak, epidemic or pestilence or other imminent health hazards, the commissioner may by general order direct a shorter time. This notice may be served on the parties to be affected thereby by the commissioner or by any police officer in the city in the same manner as provided by law for the service of a summons in civil actions. Cause may be shown by affidavit, and if in the opinion of the commissioner no good and sufficient cause be shown why the business, trade or profession should not be discontinued or removed, the commissioner shall order the parties to discontinue or remove the same within such time as the commissioner may deem reasonable and necessary. The order of the commissioner shall be final and conclusive.

17-14. Authority to Protect Public Health; Exclusion from School or Work. The commissioner may exclude from school, work or any other place any individual who has a reportable communicable disease or other condition deemed injurious to the health of the community. In the case of a communicable disease outbreak the commissioner may exclude from nursery school, day-care centers and public, private and parochial schools, children and students who are not properly immunized.

17-15. Contaminated Articles. The commissioner may direct that any bedding, clothing, putrid or unsound meat, hides or skins of any kind, or food of any kind, or any other article or substances found within the city, which in the commissioner's opinion will be dangerous to the health of the inhabitants thereof, be held, impounded, destroyed, buried, disinfected or made nonhazardous, and the commissioner may employ such persons as deemed proper to remove, disinfect or destroy such articles.

17-16. Power to Isolate and Quarantine. The commissioner may restrict to a suitable place persons sick of or exposed to any condition of communicable disease necessitating isolation or quarantine. The commissioner may secure suitable places for the reception of persons sick of or exposed to any pestilential or infectious communicable disease or condition and forbid and prevent all direct contact with isolated and quarantined persons and their immediate environment except persons with permission from the commissioner. If an isolation site is designated which is not a licensed hospital, such isolation place shall be under the jurisdiction of the commissioner.

17-17. Temporary Control of Facilities. When the commissioner declares an outbreak of epidemic, the commissioner may take possession of, and occupy as temporary hospitals or isolation sites, any building in the city. The city shall, when requested, pay a just compensation for the use of the property.

17-18. Power to Provide Place for Those with Contagious Diseases. When the commissioner shall deem it necessary to isolate or quarantine a person having or suspected of having a contagious or infectious disease or condition, hereinafter termed a patient, or persons who are contacts to such a patient, the commissioner may procure or see that suitable places or sites for their reception and care are provided. If it is deemed necessary, the commissioner may prohibit anyone from having direct contact with the patient if the person does not have written permission from the commissioner, except attending physicians and nurses, members of the clergy and members of the immediate family. When it is deemed necessary, the commissioner may require that a patient be moved to an isolation or quarantine site if it can be done without danger to the patient's health. If the patient is an infant or child who is to be moved to such an isolation site, a parent or other responsible adult may accompany and remain with the child with the commissioner's permission.

17-19. Reports of Health Hazards. The commissioner may require persons to report within the time specified to the commissioner in such way and on such forms as the commissioner may prescribe, the identity of persons, animals and birds with any reportable communicable disease or condition, or suspected of having such reportable disease or condition or having died of such reportable disease or condition or the existence of any condition or possession of any material that may adversely affect the public health.

17-20. Noxious Matters in Streams. No person may deposit or knowingly cause or allow to be deposited in any open stream or river or tributary thereto in the city of Milwaukee, any offal, garbage or filth or any refuse, obnoxious, odious or unhealthful matter of any kind or nature whatever, from any building, establishment or place or conveyance or thing of whatever kind. The commissioner shall enforce this section.

LEGISLATIVE HISTORY
CHAPTER 17

Abbreviations:

am = amended	ra = renumbered and amended	rn = renumbered
cr = created	rc = repealed and recreated	rp = repealed

Section	Action	File	Passed	Effective
Ch. 17	rc	84-1714	3/5/85	5/21/85
17-02	rc	880330	2/14/89	5/5/89
17-11	rc	910470	8/2/91	10/21/91

[Pages 106 to 108 are blank]

CHAPTER 18
BUDGET AND TAX LEVY

TABLE

18-01	Control of City Funds
18-02	Definitions
18-03	Budget Estimates
18-04	Budget Development
18-05	Adoption of Budget
18-06	Expenditures
18-08	Selection of Depository
18-10	Division of Budget and Management Analysis

18-01. Control of City Funds. 1. HOW FUNDS DRAWN. All city funds in the city treasury, except the fund created and set apart for the debt of said city, shall be under the control of the common council, and shall be disbursed by checks by the proper city officers, namely, the city comptroller and the city treasurer, or shall be drawn out upon the order of the mayor and the clerk, duly authorized by the vote of the common council and countersigned by the city comptroller. The common council may provide by ordinance for the payment of the salaries and wages to officers and employes of the city as provided in s. 5-06 and shall prescribe that such payrolls shall in all cases be certified by the board of city service commission, by the director of employe relations or by the fire and police commission by its executive director, as the case may be, and certified by the department heads and by the comptroller. All checks drawn on funds in the city treasury or orders drawn upon the treasurer shall specify the purposes for which they were drawn and shall be payable generally out of funds in the treasury belonging to the city and not otherwise appropriated.

2. PAYMENT OF TAXES OR ASSESSMENTS. All such checks or orders shall be received in payment of any tax or assessment levied by the authority of the city, except the tax for interest and the sinking fund. All checks or orders shall be payable to the order of the person to whom the amount is due and shall be transferable by endorsement.

3. ELECTRONIC AND AUTOMATED FUNDS TRANSFERS.

a. Money Transfer Techniques Authorized. In lieu of disbursing city funds by check, and notwithstanding s. 3-27, the city treasurer may make transfers and disbursements of city funds through the use of money transfer techniques, including direct deposit, electronic fund transfer, and automated clearing house methods to the full extent allowed by the Wisconsin Statutes subject, however, to pars. b to d.

b. Disbursements. The treasurer may make a disbursement by money transfer technique only if the comptroller has first approved the disbursement. The comptroller's approval shall be limited, in accordance with s. 3-18-1, to determining whether appropriate funds exist in the respective budget for the disbursement, and whether the disbursement has been properly documented.

c. Transfers. The treasurer may make a transfer by money transfer technique for the purpose of investing city funds in accordance with the Wisconsin Statutes, concentrating city funds in public depositories approved by the common council, or reallocating city funds among or between approved public depositories and investments permitted under the Wisconsin Statutes, without prior comptroller approval, providing, however, that such transfers are carried out pursuant to controls developed by the treasurer, which controls are subject to comptroller review and shall be periodically reported by the comptroller to the common council.

d. Records. The treasurer shall keep a record of the purpose, date, payee and amount of each transfer and disbursement made by a money transfer technique, and provide copies of those records to the comptroller for the comptroller's use in preparing the city's official accounting records.

(HISTORY: Section 18-01 am., Ch. Ord. 323, File #62-2554-d, Oct. 18, 1966.

18-01-1 am. File #881394, Dec. 20, 1988; eff. March 13, 1989.

18-01-3 cr. File #950042, June 6, 1995; eff. Aug. 22, 1995.)

18-02. Definitions. 1. DEPARTMENT. In this chapter "department" or "departments" means any department, board, commission or other body under the control of the common council which expends city funds or incurs obligations for the city, and unless otherwise expressed refers to the head of such department.

2. ESTIMATE. The term "estimate" as used in this section shall include any written report of or the request of any department setting forth in detail the various sums and purposes it deems reasonably necessary to perform its functions.

3. EXECUTIVE BUDGET. The budget prepared and presented to the common council by the mayor shall be known as the "executive budget." Its contents shall comply with ss. 18-02 to 18-04 in all respects.

4. BUDGET DIVISION. In this chapter “budget division” means the division of budget and management analysis which is created in the department of administration and shall operate under the supervision and control of the budget and management director who shall be subject to the direction and control of the director of administration.

5. BUDGET. The budget shall provide a complete financial plan for the ensuing fiscal year. It shall contain in tabular form:

a. A general summary.

b. Detailed estimates of all anticipated revenues applicable to proposed expenditures.

c. All proposed expenditures.

d. A compensation schedule to provide uniform rates of pay for offices and positions in the city service. The total of such proposed expenditures shall not exceed the total of such anticipated revenues.

6. BUDGET SUMMARY. The budget summary shall itemize the principal sources of anticipated revenues and shall state separately the amount to be raised by property tax, and the proposed expenditures of each department, bureau, board and commission in such manner as to present to the public a simple and clear summary of the detailed estimates of the budget.

7. ANTICIPATED REVENUES. Anticipated revenues shall be classified as "surplus," "miscellaneous revenues" and "amount to be raised by property tax"; miscellaneous revenues shall be listed by the sources from which such revenues are to be derived.

8. PROPOSED EXPENDITURES. Separate provision shall be included in the proposed budget for at least:

a. The administration, operation and maintenance of each department, bureau, board, commission and division thereof, itemized by kind and nature of expenditures as required by the mayor.

b. The number, title and compensation range of each officer and of each position and the proposed appropriation for the same shall be itemized according to the divisions in each department, bureau, board and commission and shall be incorporated in and published with the rest of the proposed budget.

c. Expenditures proposed for improvements.

9. UNIFORM COMPENSATION SCHEDULE. The compensation schedule shall provide for and establish uniform rates of pay for offices and positions in the city service to be in effect for the ensuing fiscal year.

10. PROPOSED EXPENDITURES: COMPARISON WITH OTHER YEARS. The mayor shall direct that there be placed opposite the several items of proposed expenditures for the ensuing year, adequate comparisons with the budgets and expenditures of other years.

11. ANTICIPATED REVENUES; COMPARISON WITH OTHER YEARS. The mayor shall direct that there be placed opposite the several items of anticipated revenues for the ensuing year, adequate comparisons with the anticipated revenues and receipts of other years.

(HISTORY: Section 18-02 rc., Ch. Ord. 456, F#76-1428-a, Feb. 7, 1978.

18-02-4 am. File #881142, Oct. 11, 1988; eff. Dec. 25, 1988.

18-02-4 rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004

18-02-4 rc. File #040519, Sept. 21, 2004; eff. Dec. 1, 2004.)

18-03. Budget Estimates. 1. DEPARTMENT. Each department shall submit to the mayor not later than the 2nd Tuesday in May of each year on forms approved by budget division an estimate in detail of the department’s:

a. Operating needs for the ensuing fiscal year.

b. Major equipment, technology, economic development and other non-infrastructure and facilities capital improvement requests for the ensuing fiscal year.

2. CAPITAL IMPROVEMENTS COMMITTEE. The capital improvements committee shall submit to the mayor not later than the 2nd Tuesday in May of each year on forms approved by the budget division an estimate in detail of the city’s capital improvement needs regarding construction and maintenance of infrastructure and facilities for the ensuing fiscal year.

3. Any department whose funds are not subject to the control of the common council may include in its estimate such sum as it deems reasonably necessary for a contingent fund for emergency purposes or other purposes which

may arise during the year requiring the expenditure of money in addition to the sums provided for the several purposes or for purposes for which no express provision is made in the budget.

4. a. The comptroller shall submit to the mayor not later than the 2nd Tuesday in May of each year a statement of anticipated revenues for the ensuing year and adequate comparisons for other years as provided in s. 18-02-5 to 11, and thereafter shall submit to the mayor during his or her review and to the common council during its review, such changes in anticipated revenues as the comptroller deems appropriate.

b. In conjunction with the submittal of the executive budget under s. 18-02, the comptroller shall include as anticipated revenues modifications that the mayor has proposed to the following: modifications to the solid waste charge pursuant to s. 79-6-2; modifications to the extra garbage cart charge pursuant to ss. 79-4-1.3 and 81-51.5, and modifications to the snow and ice removal charge pursuant to s. 309-83-2-b. The mayor shall submit the proposed revenue changes to the comptroller by the first Tuesday in September. The comptroller shall be responsible for estimating the amounts pertinent to the proposed revenue changes the mayor indicates shall be included in the executive budget. As used in this paragraph, "proposed revenue changes" and estimates thereof shall be considered drafts and preliminary computations pursuant to s. 19.32(2), Wis. Stats., and shall not constitute a public record subject to disclosure, until the submittal of the executive budget.

(HISTORY: Section 18-03 rc., Ch. Ord. 456, F#76-1428-a, Feb. 7, 1978.

18-03-1 am. File #872468, May 17, 1988; eff. Aug. 2, 1988.

18-03-3 am. File #872468, May 17, 1988; eff. Aug. 2, 1988.

18-03-0 am. File #081451, Mar. 3, 2009; eff. May 19, 2009.

18-03-1 rc. File #081451, Mar. 3, 2009; eff. May 19, 2009.

18-03-2 rn. File #081451, Mar. 3, 2009; eff. May 19, 2009.

18-03-2 cr. File #081451, Mar. 3, 2009; eff. May 19, 2009.

18-03-3 rn. File #081451, Mar. 3, 2009; eff. May 19, 2009.

18-03-4 rn File #130784, June 3, 2014; eff. Aug. 19, 2014.

18-03-4-b cr. File #130784, June 3, 2014; eff. Aug. 19, 2014.)

18-04. Budget Development. 1. OPEN TO PUBLIC. The mayor shall hold hearings with respect to departmental requests at the times and places the mayor or the common council, by ordinance, directs. All hearings shall be open to the public. The mayor shall conduct the hearings in the manner in which the mayor determines best suited to fulfilling the purpose of the hearings. The mayor shall prepare a requested budget summary which shall be published at least once prior to the commencement of the hearings in the newspaper having the largest circulation in the city. A complete copy of the entire requested budget shall be made available for public inspection in the office of the city clerk.

2. PROPOSED BUDGET. a. From the estimates before him or her, the mayor shall make and submit to the common council, on or before September 28 each year, a proposed budget setting forth in detail the amounts proposed to be spent by each department and the various purposes therefor and the amounts of money for each purpose it is proposed shall be appropriated by the council. The proposed budget shall comply with s. 18-02. The proposed summary shall be published forthwith in at least one and not more than 2 daily newspapers having the largest circulation in the city as a class 1 notice, under ch. 985, Wis. Stats., and the proposed budget summary shall be printed forthwith in the proceedings of the common council. A complete copy of the entire proposed budget shall be made available for inspection in the office of the city clerk. If any department fails to file its estimates as provided in this section, the mayor shall make a proposed budget for the department specifying the purposes for which and the amount of funds the department may expend.

b. The mayor, at the time of submission of the proposed budget to the common council pursuant to par.a, shall also submit all files (resolutions, ordinances, charter ordinances) fully drafted necessary to implement changes in the city code, city charter and existing policy resolutions relating to proposed budget provisions.

3. CHANGES BY RESOLUTION. The mayor shall not change any sum or purpose of any department which by law is authorized to determine the purposes of its expenditures and the tax to be levied therefor, unless the department by formal resolution shall so determine by an affirmative vote of a majority of its members. The mayor shall then make the change and include a certified copy of the

resolution with its estimates to be filed with the common council.

4. CONTINGENT FUND. In addition to the purposes required to be set forth in detail, the mayor may provide a contingent fund for such sum as the mayor deems reasonably necessary for emergency and other purposes that may arise during the year requiring the expenditure of money in addition to the sums provided for the several purposes, and for purposes for which no express provision is made in the budget.

5. BONDS. The mayor shall also include in the proposed budget the amount of bonds, the purposes therefor, and the required mortgage certificates to be issued during the fiscal year, except such bonds as are authorized to be omitted by express provision of law.

6. JOINT MEETING. At the meeting of the common council at which the proposed budget is submitted by the mayor, the common council shall determine the place and time of a public hearing on the budget which shall be held jointly by the common council and by the mayor not less than 10 days after the publication, under sub. 2, nor later than October 20. The common council shall cause a notice of the place and time of the hearing to be published as a class 1 notice, under ch. 985, Wis. Stats., which hearing shall be not less than 7 days after the date of the last publication of the notice in at least one and not more than 2 daily newspapers having the largest circulation in the city.

7. FINANCE COMMITTEE REPORT. The finance committee of the common council shall submit to the common council as soon after October 5 as may be practicable, but not later than November 1, a report or reports showing the number, title, compensation range of each officer and each position in the city service:

a. The number, title and compensation range of each officer and each position in the city service and the proposed appropriation for the same recommended for the ensuing year; and

b. A recommended compensation schedule of uniform rates of pay for offices and positions in the city service.

(HISTORY: Section 18-04 rc., Ch. Ord. 456, File #76-1428-a, Feb. 7, 1978; eff. April 8, 1978.

18-04-2 am. File #872468, May 17, 1988; eff. Aug. 2, 1988.

18-04-2 am. File #900139, June 20, 1990; eff. September 8, 1990.

18-04-6 am. File #872468, May 17, 1988; eff. Aug. 2, 1988.

18-04-7-0 am. File #872468, May 17, 1988; eff. Aug. 2, 1988.

18-04-2 rn. File #021324, Jan. 22, 2003; eff. April 9, 2003.

18-04-2-b cr. File #021324, Jan. 22, 2003; eff. April 9, 2003.)

18-05. Adoption of Budget. 1. CHANGES BY MAJORITY VOTE. The common council, by vote of the majority of all the aldermen, may make such changes in the proposed budget submitted by the mayor, and by the finance committee, either as to purposes or amounts for which money may be expended and as to purposes or amounts for which bonds or mortgage certificates may be issued as it may deem best.

2. CHANGES BY COUNCIL RESOLUTION. The common council shall not change the purposes or amounts provided in the proposed budget as submitted to it, for the departments which by law are authorized to determine their expenditures and the taxes to be levied therefor, unless such department by formal resolution adopted by the majority of all its members shall authorize such change, nor shall the common council change the purposes or amounts of the bond or mortgage certificate issues which are required to be issued by law.

3. CHANGES, PRIOR TO FIXED BUDGET. When any department, authorized to determine its expenditures and the taxes to be levied therefor, shall authorize a change in its budget by the common council, it shall file its resolution authorizing the change with both the city clerk and the city comptroller at least 2 days prior to the time fixed by law for the adoption of such budget, and the council shall then make the change in accordance therewith.

4. ADOPTION OF BUDGET. The common council, on or before November 14, shall adopt the proposed budget by a majority vote of all the members of the common council either as submitted or as changed by the council. It shall not be necessary to refer the budget to a committee of the common council.

5. ADOPTION CERTIFIED. The budget submitted by the mayor to the council as changed by the council within the time provided shall constitute the budget of the city for the following year whether or not any formal resolution or motion adopting it has been passed by the common council. Within 5 days, either after its formal adoption by the council or by operation of law, it shall be certified by the city clerk to the mayor for his approval.

6. MAYOR'S SIGNATURE. If the mayor approves the budget, he shall sign it. The mayor shall have power only to disapprove of any item or items therein under the control of the common council, and upon disapproving any such item or items, he shall return the budget to the clerk with his objections to such items in writing and his reasons therefor.

7. ITEMS DISAPPROVED, SEPARATE VOTE. The common council shall vote on each item disapproved by the mayor separately, and if the mayor's disapproval is sustained, it shall affect only the items disapproved and sustained. The council may then proceed, by an affirmative vote of a majority of the council members, to adopt a substitute for the item rejected which shall be separately submitted to the mayor subject to his or her approval. All items not disapproved by the mayor and sustained by the council shall constitute the budget and be in full force. The city clerk shall have the budget printed. The printed budget shall be filed in the office of the comptroller and made available for general distribution. In case of an obvious error in authorizing any salary or position as provided in s. 18-02-8-b, the common council may be a 3/4 vote of all its members correct such error in the period between the adoption of the budget and December 31 inclusive of each year.

8. TAX LEVY AND TAX RATE. The adoption of the budget shall determine the amount of money to be levied upon all taxable property in the city for the ensuing year. The tax levy shall be computed by deducting the surplus and miscellaneous revenues available therefor from the appropriations for expenditures for the ensuing year. The city comptroller shall then certify the necessary taxes to be levied to the commissioner of assessments who shall calculate the tax rate. Such tax rate shall be the rate of the ensuing tax levy.

9. ADDITIONAL POSITIONS, 3/4 VOTE. The compensation rates of pay and the number of positions established in the budget shall determine the compensation to be paid and the number of positions for the ensuing fiscal year except that additional positions may be established where necessary during the year by resolution adopted by a 3/4 vote of all the aldermen.

(HISTORY: Section 18-05 rc. Ch. Ord. 456, File #76-1428-a, Feb. 7, 1978.

18-05-4 am. File #872468, May 17, 1988; eff. Aug., 2, 1988.

18-05-4 am. File #900139, June 20, 1990; eff. September 8, 1990.

18-05-7 am. File #940182, June 7, 1994; eff. Aug. 24, 1994.

18-05-3 am. File #070334, June 19, 2007; eff. September 6, 2007.)

18-06. Expenditures. 1. NO LIABILITIES INCURRED. No money shall be expended and no liabilities incurred by the city or any department unless otherwise specially authorized by law during the fiscal year, in excess of the amounts specified or except as hereinafter provided for any other purpose than as designated therein, provided, however, that whenever a waterworks department of the city desires to make a contract extending over a period of more than one year for additions to the plant in excess of the estimated revenue for the year, if in the opinion of the finance committee there will be money available to meet the payments on the contract as they may come due, then, by a majority vote of the finance committee, the finance committee may authorize the comptroller to countersign such contract.

2. PURPOSE OF FUNDS. Whenever a department is reimbursed for materials or services furnished, and the funds so received are not by law credited to some particular fund, the department may spend money so received for the same purpose for which the money was originally appropriated in the budget.

3. TRANSFER OF FUNDS. Whenever a department whose funds are subject to the control of the common council shall find it necessary to expend a greater sum than authorized by the budget for such specific purpose, and the department shall find it unnecessary to spend a sum as authorized for some other purpose, the department may request the budget department to authorize the funds unnecessary for one purpose to be transferred to the purpose for which the greater sum is needed, stating the reasons in writing. The budget department shall immediately submit such request to the finance committee who may by a majority vote authorize the change, if the change shall be deemed advisable. Thereupon the budget department shall immediately certify the action of the finance committee to the comptroller and the change shall be made in accordance with the action of the finance committee.

4. NECESSARY PURPOSE. Any department authorized by law to fix its own tax levy may change at a regular meeting or one called for that purpose any appropriation specified in the budget for one purpose which is found unnecessary for that purpose to another purpose which the department shall find necessary to spend a greater sum than specified in the budget for that purpose. The department shall certify its action to the comptroller and the change shall be made accordingly.

5. APPROPRIATION ONLY. No department shall spend a greater sum than is appropriated by the budget for that department except:

a. Unexpended balances from the proceeds of bonds or mortgage certificates carried over from the preceding year may be expended for the purposes for which the bonds or certificates were issued; and

b. Any department whose funds are subject to the control of the common council may expend funds for the purpose appropriated by the common council from the contingent fund.

6. BY COUNCIL RESOLUTION. a. The common council by resolution adopted by a 3/4 vote of all the aldermen, may appropriate money from its contingent fund for any lawful purpose.

b. Funds may be appropriated from the contingent fund for obligations incurred during a budget year no later than the closing of the city's financial accounts for that year.

c. The common council at any time after the adoption of the budget may, by resolution adopted by a majority vote of the members, direct the proper officers of any department to expend such sum or sums of money as are specially appropriated out of any specific fund under its control for any of the several purposes enumerated therein. The adoption of such resolution shall be the authority for such department to proceed and expend such specified sum for the purpose as directed therein.

7. FUNDS NOT SUBJECT TO COUNCIL CONTROL. Any department whose funds are not subject to the common council may by vote of 3/4 of all its members appropriate money out of its contingent fund for any purpose for which it is authorized to spend money. Before the department shall spend any such funds it shall certify to the comptroller its action and the purpose for which such sum was appropriated.

8. UTILITY FUNDS. Any department charged by law with the construction, extension, operation and maintenance of a waterworks or lighting system or any public utility may spend money from the surplus revenue of such waterworks or lighting system or utility in addition to the sum specified in the budget when deemed necessary to maintain the service, upon being authorized so to do by a 3/4 vote of all the aldermen of the common council, specifying by resolution the purpose for which and the sum appropriated. Before any money shall be so expended a copy of the resolution authorizing it shall be certified to the comptroller.

9. ISSUANCE OF BONDS. Unless otherwise specifically provided by law, no municipal bonds other than those provided for in the budget shall be issued during the ensuing fiscal year, except in case of great emergency when necessary to protect the public health or safety, and then only when authorized by the common council by a 3/4 vote of all the aldermen.

10. ASSESSED BENEFITS. The city may expend any money or incur liabilities for any purposes which by law are assessable as benefits against parcels of land or are a legal charge against such parcels of land.

11. VIOLATIONS. Every officer or employe who shall violate or participate in the violation of the provisions of this chapter shall be personally liable to the city for all loss or damage to the city occasioned thereby.

12. AUTHORITY. The adoption of the budget shall be authority for the expenditure by a department for the purposes therein provided and of the amounts assigned to the department, and no further action by the common council shall be necessary to authorize any department to make such expenditures, except that as provided herein it shall not authorize the expenditure of any money from the contingent fund of the common council.

13. COUNCIL MAY SUSPEND EXPENDITURE. The common council may at any time suspend the expenditure of any fund assigned to any department by the budget which has not been expended or reserved for the payment of indebtedness incurred by the department. Such action by the council shall be by a majority vote of all the aldermen but shall not apply to the funds of a department which determines its own tax levy and whose funds are not subject to the control of the common council.

14. FUNDS FOR SUCCEEDING YEAR. The adoption of the budget for any year shall not authorize the expenditure of any funds for the succeeding year except for indebtedness incurred during the budget year.

15. FUNDS TO REVERT TO CITY. All funds subject to the control of the common council assigned by the budget to a department not expended during the budget year and not reserved for indebtedness incurred during the year shall revert to the general revenues of the city.

16. GENERAL REVENUE. All funds of a department not subject to the control of the common council and not expended or reserved for indebtedness shall become a part of the general revenues of such department.

17. UTILITY FUNDS. Subsections 13 to 16 shall not apply to the expenditure of funds, the proceeds of bonds or mortgage certificates, nor the surplus revenues of any waterworks or lighting system or municipally owned utility. In establishing the budget format with respect to funds and accounts related to proprietary operations, the common council may authorize accounting procedures which follow the uniform system of accounts authorized by the public service commission in the case of municipal utilities or accepted commercial accounting practices in other instances.

18. OTHER ITEMS. The omission from the budget of any of the following items shall not prevent the placing of the same on the tax roll for the levy and collection of the tax and the payment of the money therefor:

a. The payment of interest on or the principal of any bonded debt of the city when due.

b. The payment of principal and interest on mortgages or mortgage certificates when due.

c. Funds required to be raised by any mandatory provision of law.

(HISTORY: Section 18-06 rc., Ch. Ord. 456, File #76-1428-a, Feb. 7, 1978.

18-06-06-b rn. File #091642, May 4, 2010; eff. July 20, 2010.

18-06-06-b cr. File #091642, May 4, 2010; eff. July 20, 2010.)

18-08. Selection of Depository. 1. As often as the common council shall think best for the safety or interest of the city, they shall select some bank or banks, or banking associations, with which all funds in the treasury of the city, or which shall be thereafter collected or received by the treasurer, shall be deposited; provided, however, that such bank, banks, or banking associations so selected, shall, before receiving such funds, give security in the same manner as is now required of the treasurer of such city, for the safe keeping and proper distribution of such funds, which security shall be approved by the common council.

2. The common council may, before or after so selecting a depository or depositories, contract with such bank or banks, or banking associations that it or they shall pay to the city such interest upon said funds so to be deposited, as they may mutually agree upon.

(HISTORY: Section 18-08-1 cr. S. 6, Subch. 17, Ch. 184, L. 1874.

18-08-2 cr. S. 9, Subch. 17, Ch. 184, L. 1874.)

18-10. Division of Budget and Management Analysis. 1. DEFINITIONS. a. "Common council" shall mean the common council of the city of Milwaukee.

b. “Director” shall mean the director of the division of budget and management analysis as provided under this section.

c. “Division” shall mean the division of budget and management analysis as created by s. 18-02-4 and this section.

d. "Executive budget" shall mean the executive budget as defined by s. 18-02-3.

e. "Finance committee" shall mean the finance committee of the common council of the city of Milwaukee.

f. "Mayor" shall mean the mayor of the city of Milwaukee.

2. ESTABLISHMENT. There is created a division to be known as the division of budget and management analysis. Such division shall be under the direction of the director of the division of budget and management analysis.

6. DUTIES. The division shall have the following duties and responsibilities:

18-10-6-a Budget and Tax Levy

a. Preparation of the Executive Budget. The division shall perform such duties as the mayor shall direct in connection with the preparation of the executive budget. The executive budget shall be prepared in a format prescribed by the common council from time to time through the adoption of a resolution and shall be in a technical form prescribed by the division. As soon as departmental estimates are submitted in accordance with s. 18-03-1, the division shall submit copies of such estimates to the common council.

b. Review of the Executive Budget. During the period of review of the executive budget by the common council following submission of the executive budget to the common council in accordance with s. 18-04-2, the division shall make available to any individual common council member upon request of the finance committee, such information and analyses as the division shall have employed in connection with the preparation of the executive budget. Upon request of the finance committee, the division shall also prepare new information and analysis, which bear upon the common council's review of the executive budget. The director of the division shall attend hearings of the finance committee held for the purpose of reviewing the executive budget and shall answer questions regarding the proposed executive budget. At the request of the individual council members, the division shall prepare amendments to the budget.

c. Administration. c-1. Except as provided in subd. 2, the finance committee shall have authority to approve requests for intradepartmental fund transfers, equipment price variances, replacement of equipment not authorized in the budget, acquisition of federal surplus property and changes in equipment quantity and nomenclature when the amount involved exceeds $20,000. The division shall make recommendations to the finance committee relative to the approval of such requests. The division shall approve requests for intradepartmental fund transfers, equipment price variances, replacement of equipment not authorized in the budget, acquisitions of federal surplus property and changes in equipment quantity and nomenclature when the amount involved is $20,000 or less.

c-2. The division shall have authority to approve intradepartmental fund transfers within the department of public works only when the amount is $20,000 or less and the fund transfer is within the same division of the department of public works. The division shall report all such intradepartmental fund transfers it has approved to the finance committee on a quarterly basis. The finance committee shall have authority to approve all intradepartmental fund transfers within the department of public works that are proposed between divisions of the department of public works, regardless of the amount involved. The division shall make recommendations to the finance committee relative to approval of such requests.

c-3. All heads of departments and bureaus before filling any position vacancy, shall submit a request to fill such vacancy to the director of the division, except that the finance committee may exempt positions of an emergency nature or for other cogent reasons from this requirement. The division shall authorize the filling of position vacancies in accordance with the directives of the finance committee. If a vacant position for which a request is on file remains vacant for more than 120 days or if a request to fill a vacant position is denied, the finance committee shall consider filling the vacancy upon a formal written request from the mayor at its next regular meeting.

c-4. On the basis of such regular and special reports as may be prepared by the city service commission, the finance committee shall regularly review overtime work by each department. The finance committee shall make such rules as it deems necessary to control overtime work. The division shall review such regular and special reports as are submitted to the finance committee and shall make recommendations thereon to the finance committee.

c-5. The division may authorize such temporary positions as may be necessary to alleviate the effects of emergency situations determined by the division to be detrimental to efficient city operations. The temporary positions authority granted to the department shall not exceed 45 consecutive days for any one emergency situation. The finance committee shall have the authority to continue such temporary positions beyond the 45 day period authorized by the division. The division shall make quarterly reports relative to temporary positions to the finance committee and the mayor.

c-6. The division shall authorize expenditures to an individual project subaccount for in kind city contribution under any federal or state grant which exceeds the original appropriation by 10% or $500, whichever is greater. The division shall have authority to grant such variances provided such funds are available. The division shall submit quarterly reports relative to variances to the finance committee and the mayor.

d. Analysis. At the request of the mayor, the common council, or the finance committee, or whenever the director deems advisable, the division shall conduct studies or analyses of organizational units within city government and the methods and systems used therein. The division shall also conduct studies for department heads when such studies have been approved by the mayor.

e. Fiscal Notes. The division shall receive fiscal notes attached to all resolutions or ordinances prepared for introduction into the common council. The division shall review all fiscal notes for accuracy and may make recommendations for their modification.

7. COOPERATION WITH DIVISION. All officials and employes of the city shall assist the division and shall make available all records, documents and other materials necessary to the performance of the division=s functions as provided herein.

(HISTORY: Section 18-10 rc., Ch. Ord. 461, File #76-1428-c, June 29, 1978.

18-10-0 rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-1-b rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-1-c rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-2 rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-3 to 5 rp. File #881394, Dec. 20, 1988; eff. March 13, 1989.

18-10-6 rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-6-c-1 am. File #891666, January 16, 1990; eff. April 4, 1990.

18-10-6-c-1 am. File #892367, Apr. 9, 1990; eff. June 26, 1990.

18-10-6-c-1 am. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-1 am. File #970687, Sept. 23, 1997; eff. Dec. 9, 1997.

18-10-6-c-2 am., Ch. Ord. 510, File #81-158, June 16, 1981.

18-10-6-c-2 rn. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-2 cr. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-2 am. File #970687, Sept. 23, 1997; eff. Dec. 9, 1997.

18-10-6-c-3 rn. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-4 rn. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-5 rn. File #940963, Jan. 24, 1995; eff. Apr. 11, 1995.

18-10-6-c-6 am., Ch. Ord. 507, File #80-2293, April 14, 1981.

18-10-6-c-6 rp. File #930452, July 27, 1993; eff. Oct. 12, 1993.

18-10-7 rc. File #030829, Nov. 14, 2003; eff. Feb. 3, 2004.

18-10-8 rp. File #881394, Dec. 20, 1988; eff. March 13, 1989.

18-10-0 rc. File #040519, Sept. 21, 2004; eff. Dec. 12, 2004.

18-10-1-b rc. File #040519, Sept. 21, 2004; eff. Dec. 1, 2004.

18-10-1-c rc. File #040519, Sept. 21, 2004; eff. Dec. 1, 2004.

18-10-2 rc. File #040519, Sept. 21, 2004; eff. Dec. 1, 2004.)

[This page blank]

CHAPTER 19
TAXATION AND ASSESSMENT

TABLE

19-01	Assessment of property
19-03	Assessment records
19-04	Records of plats and complaints
19-06	Assessment procedures
19-07	Tax roll
19-08	Common council to apportion tax levy
19-09	Comparison of tax and assessment rolls
19-10	Remittance of taxes
19-11	Taxes a lien on property
19-12	Special assessments
19-13	Notice of taxes due
19-14	Prepayment of taxes
19-15	Installment payments
19-16	Personal property taxes payable in installments
19-17	Real estate sale by treasurer
19-18	Certificates of sale
19-19	Sale to city
19-20	Redemption of part of parcel sold for taxes
19-21	Sale after injunction
19-23	Redemption period
19-24	Tax deeds
19-25	Sale to city
19-26	Tax deeds to city
19-27	Sale of tax certificates
19-28	Assessment of omitted real estate
19-29	Duties of treasurer
19-30	Redemption from subsequent purchaser
19-31	Taxes or deeds not to be set aside until taxes are paid
19-32	Validity of tax and assessment
19-33	Fees
19-34	State, county and school taxes
19-35	Collection of state, county and school taxes
19-36	Collection by districts
19-37	Bound tax rolls

19-01. Assessment of Property. All property in the said city, real, personal or mixed, shall be subject to taxation for all purposes authorized by law, excepting only such property as is or shall be exempted from taxation by general laws exempting from taxation throughout the state particular classes of property or property of particular classes of corporations or persons; and the same shall be assessed in the manner hereinafter provided; and the assessors appointed under this act shall have and possess the same powers that are, or may be, conferred upon township assessors, except so far as they may be altered by this act [Ch. 184, L. 1874]; and the common council may prescribe the form of assessment roll, or more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls, as they may from time to time deem advisable; provided, that the same shall not be inconsistent with the provisions of this act [Ch. 184, L. 1874]. *(S. 1, Subch. 18, Ch. 184, L. 1874.)*

19-03. Assessment Records. The commissioner of assessments shall have an office, which shall be kept open during the usual business hours of each business day and shall keep a record of all lots, blocks, fractional lots, or parcels of land contained in said city, with the assessed value of each in separate columns, together with the assessed value of the improvements thereon, and the name of the owner of each, and the street and number of each residence as far as possible, and shall also keep a record of the names of all persons liable to assessment for personal property each year, with the amount assessed to each person; and as far as possible shall cause to be entered upon said record in a suitable column, opposite the name of such person so assessed, an accurate description of the class of such personal property, taxable under the laws of Wisconsin.

(HISTORY: Section 19-03 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-04. Records of Plats and Complaints. The commissioner of assessments shall also procure and keep on file in the office all published plats of all lots, blocks, additions, divisions and subdivisions of lots or lands which have been duly authorized by the common council, and all

other matters or information which may be valuable in making an assessment of the real and personal property in the said city of Milwaukee. The commissioner shall also cause a record to be kept in the office of complaints made in writing relating to assessments, either of real or personal property.

(HISTORY: Section 19-04 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-06. Assessment Procedures. Assessors, in the listing, assessment and valuation of real and personal property liable to taxation, and in the review, equalization and correction of their assessments, shall proceed in the manner prescribed by the general laws of the state, except as otherwise provided in this act, [Ch. 401, L. 1907]. Where there are buildings upon any lot or parcel of land the value of the same shall be set forth in a separate column. The assessors may, if they deem it advisable, assess any lot or tract of land in such parcels or such subdivisions as they may deem proper, but it shall not be necessary to enter the name of the owner opposite to any tract or parcel of land. *(S. 4, Ch. 401, L. 1907.)*

19-07. Tax Roll. The commissioner of assessments upon receiving such assessment rolls, shall examine and perfect the same, and make out therefrom a complete tax roll, in manner and form as provided by law. Such tax roll may be bound in one or more volumes, but shall be consecutively paged, and such volumes, if more than one, shall be consecutively numbered, and shall be referred to by their numbers in the warrant attached to such tax roll as provided in s. 15, subch. 18, ch. 184, laws of 1874, as amended by s. 1 of Ch. Ord. 171, passed Feb. 13, 1952. The common council shall thereupon by resolution levy such sum or sums of money or taxes as may be sufficient for the several purposes for which taxes are by law authorized to be levied in said city, not exceeding, however, the amounts authorized by law, specifying the purposes for which the same are levied, and if not for general city purposes, the district of the city in or upon which the same are levied.

(HISTORY: Section 19-07 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-08. Common Council to Apportion Tax Levy. As soon as the sums or taxes shall be levied, the common council shall cause the same to be apportioned and extended upon the tax roll, upon a uniform percentage, of no more than 2% of the appraised value, by setting opposite to the description of each lot, tract or parcel of land, and to the name of each person named in the roll, in proper columns, such proportionate share of the sums or taxes, so levied, as may be chargeable upon such lot, tract or parcel of land or against such person. The form of the tax roll shall be prescribed by the Wisconsin department of revenue and shall direct the city treasurer to collect the taxes, charges and assessments in the tax roll specified, in the manner prescribed by this act, and in case the taxes and assessments shall not be paid within the time required by law, the city treasurer shall proceed to sell the several lots or parcels of land, or those parts thereof upon which the taxes, charges or assessments shall remain unpaid. The tax roll and warrant shall be delivered to the city treasurer on or before the 3rd Monday of December in each year.

(HISTORY: Section 19-08 rc. File #910706, Aug. 2, 1991; eff. Oct. 21, 1991.)

19-09. Comparison of Tax Rolls and Assessment. Such tax roll, before being delivered to the treasurer, shall be compared by the commissioner of assessments with the assessment rolls on file in his or her office, as corrected; and the commissioner shall cause the valuations of real property, and of taxes and assessments thereon, in said roll, to be footed up and a summary of the totals for the several districts and for the whole city to be set down showing separately the totals of valuations and of taxes and assessments upon real estate for the whole city and for each district thereof, and the commissioner may direct that the assessments of personal property or of one or more of the classes of real property referred to in s. 70.32(2), Wis. Stats., may be made and administered without regard to the boundaries of the districts, and to said tax roll shall append a certificate that the same has been so compared and that the said assessment rolls and the whole thereof have been copied into such tax roll; and the said tax roll, when so certified, shall be prima facie evidence in any court that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

(HISTORY: Section 19-09 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-10. Remittance of Taxes. After the assessment roll is completed, the rate of taxation is fixed, the taxes are extended and the tax roll has been delivered to the city treasurer for collection, it shall not be lawful for the common council to remit, annul or cancel any tax specified therein, except in the following cases:

1. When a clerical error has been made in the description of the property or in the extension of the tax.

2. When a clerical error has been made whereby any property in the city becomes wrongly charged or assessed with certificates of board [commissioner] of public works, or with special taxes for water pipe, sewers, street work and all other work or improvements.

3. When improvements on lots were considered in making the assessment roll, where the improvements did not exist at the time fixed by law for making the assessment.

4. When the property is exempt by law from taxation.

5. When a person has been assessed the same year for the same property in more than one ward or place.

6. When a double assessment has been made.

7. When the tax is levied for, upon or on account of specific tangible personal property, or buildings, not in fact in existence, at the close of the 1st day of May in the year of such levy.

8. When a palpable error has been made in the assessment, in which case the error may be corrected.

(HISTORY: Section 19-10 am. Ch. Ord. 180, File # 52-2718-a, Jan. 13, 1953.)

19-11. Taxes a Lien on Property. All taxes and assessments, general or special, levied under this act, [Ch. 184, L. 1874], shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the filing of such assessment rolls, and on all personal property of any person or body politic assessed for personal taxes, from the delivery of the warrant for the collection thereof, until such tax shall be paid; and no sale or transfer of such real or personal estate shall affect such lien: provided, that as between the grantor and grantee of any land or lot, when there is no express agreement as to which shall pay the taxes or assessments that may be assessed or become chargeable thereon before the conveyance, if such land is conveyed even with or prior to the date of the warrant authorizing the collection of such taxes or assessments, then the grantee shall pay the same; but if conveyed after that date, the grantor shall pay them. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

(HISTORY: S. 23 (following S. 17), Subch. 18, Ch. 184, L. 1874; ren. S. 18, Subch. 18, Ch. 184, L. 1874; S. 42, Ch. 144, L. 1875.

Section 19-11 am. File #071230, Jan. 15, 2008; eff. April 1, 2008.)

19-12. Special Assessments. In all cases where, by the provisions of this act, [Ch. 184, L. 1874], any special charge or assessment is made a lien upon land, the amount of such charge or assessment shall be carried out on the tax roll in a separate column or columns, opposite the lot or tract upon which the same may be a lien; and the treasurer may collect and sell, and do all other acts in relation thereto, in the same manner as if the amount of such lien was a general tax. At the option of the taxpayer, and if not prohibited by the laws of the state of Wisconsin, any special charge or assessment may be paid as provided in s. 19-15-1. *(S. 19, Subch. 18, Ch. 184, L. 1874. 19-12 am. File #121802, July 23, 2013; eff. Oct. 9, 2013.)*

19-13. Notice of Taxes Due. On receipt of such tax roll the treasurer shall give one week's notice thereof in the official paper. Such notice shall specify that the taxes on personal property and the taxes and assessments on real estate must be paid between the 1st day of January and the last day of January following, unless the taxes and other charges shall be paid in installments, as hereinafter provided, and that all tracts and parcels of land described in said tax roll, upon which the taxes and assessments shall not be paid by said day or paid under the installment plan, will be sold on the 1st day of February

following, at a certain place to be therein specified; and the publication of such notice shall be deemed a demand; and neglect to pay the taxes within the time specified, will be deemed a refusal to pay the same.

(HISTORY: Section 19-13 am. Ch. Ord. 164, File #51-1399-a, Sept. 25, 1951.)

19-14. Prepayment of Taxes. The city treasurer is hereby authorized to receive from any taxpayer advance payment of taxes prior to the determination of the tax roll. Such payment may be accepted between the last date for the payment of taxes and the succeeding 3rd Monday in December. Deposits upon taxes on any property made under this section, upon completion of the tax roll, shall be credited to the tax assessed against such property. Funds so deposited by taxpayers are declared to be trust funds and no part of such funds shall be available for expenditures by the city until such taxes become due.

(HISTORY: Section 19-14 cr. Ch. Ord. 326, File #62-2554-e, Nov. 29, 1966.)

19-15. Installment Payments. 1. MONTHLY INSTALLMENTS. a. At the option of the taxpayer, city real estate taxes and other charges, except those special assessments as to which no extension is allowed, may be paid in 10 equal monthly installments, each of which installments shall be paid on or before the last day of each month during the months of January to October, inclusive.

b. To qualify for the installment plan, total real property taxes shall be or exceed $100 and the taxpayer must exercise his or her option by making the first installment payment on or before January 31 of the year in which the taxes become due.

c. The taxpayer shall not be deemed to have elected the installment plan unless the taxpayer shall have paid at least 90% of the first installment payment on or before January 31 of the year in which the taxes become due.

c-1. If one installment only is not paid on the due date, it shall not be deemed delinquent or to render the unpaid balance delinquent, but the installment shall be collected together with interest at the rate of 1% per month, or fraction thereof, from the day following the due date.

c-2. If a second installment shall not be paid on the due date, then the city treasurer shall declare the unpaid balance to be delinquent; and the taxes and special assessments shall be collected together with interest thereon at 1% per month, or fraction thereof, from February 1 preceding.

c-3. If the final payment is not made in the month following the due date, the delinquent unpaid balance shall be collected together with interest thereon at the rate of 1% per month, or fraction thereof, from February 1 preceding.

d. The provisions of this subsection shall be construed in a manner consistent with the provisions in ss. 74.47 and 74.87, Wis. Stats., as amended.

(HISTORY: Section 19-15 am. Ch. Ord. 463, File #78-435, June 29, 1978.

19-15-1 am. File #891304, Oct. 31, 1989; eff. Jan. 20, 1990.

19-15-1 am. File #902105, Oct. 15, 1991; eff. Dec. 31, 1991.

19-15-1 rc. File #121802, July 23, 2013; eff. Oct. 9, 2013.)

19-16. Personal Property Taxes Payable in Installments. At the option of the taxpayer, personal property taxes may be paid in 10 equal installments, each of which shall be paid on or before the last day of each month during the months of January through October, provided that on or before January 31 of the year during which the tax becomes due, the full amount of all personal property taxes for all purposes except city purposes shall have been paid to the city treasurer in full. If one installment only is not paid on the due date it shall not be deemed delinquent or to render the unpaid balance delinquent, but such installment shall be collected together with the interest thereon at the rate of one percent per month, or fraction thereof, from the day following the due date. If a 2nd installment is not paid on the due date the city treasurer shall declare the unpaid balance delinquent and such personal property taxes shall be collected together with interest at the rate of one percent per month, or fraction thereof, from February 1 preceding. To qualify for the installment plan, total city personal property taxes must be or exceed $100 and the taxpayer must exercise his or her option by making the first installment payment on or before

January 31 of the year in which the taxes became due. The taxpayer shall not be deemed to have elected the installment plan unless the taxpayer shall have paid at least 90% of the first installment on or before January 31 of the year in which the taxes become due. *(HISTORY: Section 19-16 am. File #891304, Oct. 31, 1989; eff. Jan. 20, 1990.*

19-16 am. File #911483, Nov. 20, 1991; eff. Feb. 8, 1992.)

19-17. Real Estate Sale by Treasurer. 1. PUBLIC AUCTION. On the day and at the place designated in the treasurer's notice, he shall commence by public auction the sale of all tracts and lots, or parts thereof, upon which the taxes or assessments shall remain unpaid, and shall continue such sale from day to day until the whole are disposed of. The sale shall be the smallest undivided portion of the lot or tract, which any person will take and pay the taxes and charges on the whole lot or tract. On receiving the amount of such taxes and charges, the treasurer shall issue to the purchaser his heirs or assigns, a certificate of such sale, containing the name of the purchaser, a description of the premises sold, the amount paid therefor, the rate of interest said certificate may bear, and the time when the right to redeem the same will expire. The treasurer shall keep a record of the lots or tracts sold, the names of the purchasers, the dates and amounts of sales, the time, by whom, and for what sum any lot or tract sold, or any part thereof, was redeemed, and the time, and to whom, the same was conveyed if not redeemed. *(S. 24, Subch. 18, Ch. 184, L. 1874.)*

2. FORFEITURE. In case any purchaser at such sale shall neglect or refuse to pay the amount for which any lot or tract was sold, at such time as the treasurer shall designate, he shall on the day following offer said lot or tract again for sale, and any person bidding off at any such sale any lot or tract of land, and refusing to pay for the same within the time designated shall forfeit and pay to the city the sum of five dollars for each lot so purchased and not paid for, to be sued for and collected as other penalties are under this act. *(S. 25, Subch. 18, Ch. 184, L. 1874.)*

19-18. Certificates of Sale. Certificates of the sale of lands for nonpayment of taxes or assessments, and charges, hereafter to be issued by the treasurer of the city of Milwaukee, under the act to which this is amendatory, shall be in the following or equivalent form:

STATE OF WISCONSIN)
Milwaukee City and) ss.
County)

I, _____, treasurer of the city of Milwaukee, in said state, do hereby certify that on this ____ day of _____, A.D. 19__, I sold at public auction, pursuant to law (here describe the land sold), unto _____ for the sum of dollars and _____ cents, being the amount due for city taxes, assessments and charges, on said _____. This certificate bears interest at the rate of 1% per month or fraction thereof from January 1 after the tax levy year, and if the land so sold is not redeemed according to law, the owner of this certificate will be entitled to a conveyance of so much of said land as shall remain unredeemed. This certificate is transferable by endorsement. ....(city treasurer)

(HISTORY: Section 19-18 am. Ch. Ord. 435 File #76-756, Oct. 5, 1976.)

19-19. Sale to City. When at any sale of real or personal estate for taxes any parcel shall be struck off in the name of the city for want of other bidders, as provided in s. 19-25, the city treasurer, instead of issuing a tax certificate immediately after such sale in the name of the city, shall record the date and amount of such sale of each parcel struck off in the name of the city, and the fact that such parcel was struck off in the name of the city, in the volumes or other records kept by the city treasurer evidencing outstanding and unredeemed tax sales; and such entry so made shall have the same force and effect for the purpose of evidencing the sale of such land to the city as a certificate issued immediately after the said sale of said parcel. Whenever any parcel shall be redeemed from such sale, an entry stating the fact of such redemption shall be plainly marked in the record opposite the description.

(HISTORY: Section 19-19 cr. Ch. Ord. 75, File #54953, Jan. 21, 1935.)

19-20. Redemption of Part of Parcel Sold for Taxes. 1. AFFIDAVIT. Whenever the city shall be the owner of any city tax sale certificate for city taxes, assessments, or charges and penalties affecting any parcel of land, which parcel is owned in severalty, or part of which parcel is encumbered by a mortgage and another part is either unencumbered or encumbered by another mortgage, or there is a valid contract of sale of a part or parts of said land, but which parcel first above mentioned was sold at the tax sale; or whenever such a certificate shall not be owned by the city, then upon the owner's written consent as to any certificate sold at tax sale prior to July 31, 1938, but without his consent if sold thereafter, when an application is made to the city treasurer to redeem from any tax sale any part or portion of such parcel of land so sold,

said treasurer may require the commissioner of assessments to ascertain by affidavits or actual view and certify the true proportion of all city taxes, assessments, or charges and penalties chargeable to the part or portion of land sought to be redeemed.

2. DIVISION OF LOT. No division shall be made if the treasurer and commissioner of assessments find that the interest of the city would be impaired thereby; or that such application was not made in good faith; or that if, after a division would be made, there would remain a part or portion of the land sold at tax sale as aforesaid of such size, shape or location as to render the same inadequate security for the unredeemed portion of the certificate affected by the division; or inadequate security for the collection of taxes, assessments, or charges and penalties due and payable thereafter.

3. REDEMPTION. The amount so found and a like proportion of all charges authorized by law subsequent to the sale, and all other city taxes, assessments, or charges and penalties paid by the purchaser or his assigns, or payable pursuant to any certificate or certificates owned by the city together with interest thereon computed at the rate in force at the time of any sale involved and for the time provided by law in cases of redemption of land sold for city taxes, shall be deemed the amount required for the redemption of such part. Redemption of such part shall be made by paying such sum required for the redemption thereof to the city treasurer before the expiration of any period of redemption involved; and whenever such part shall be so redeemed, the treasurer shall at the time of receipt of such redemption money upon city owned tax sale certificates, and at the time of payment over of such redemption moneys when the tax sale certificates are not so owned, plainly record on the tax sale certificate affected the division of taxes so made as to each separate part included therein; the amount paid in redemption of the part of land redeemed, and the part of the land remaining unredeemed with the unpaid amount of the tax sale to be paid to redeem such part, and such treasurer shall thereupon make the necessary entries upon his records. The holder of such tax sale certificate shall be vested with the same rights in the unredeemed part as if no division had taken place.

4. ASSESSMENTS. Whenever there remain unpaid installments of assessments made for public improvements assessed against the parcel of land so sold as a whole, such installments shall be divided in like proportions against the part of the land so redeemed and the part remaining unredeemed.

(HISTORY: Section 19-20 rc. Ch. Ord. 100, File #63977, May 23, 1938.

Section 19-20-1 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.

Section 19-20-2 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-21. Sale After Injunction. Whenever any officer shall have been enjoined from selling any lands subject to sale for unpaid taxes or assessments of any kind or nature and such injunction shall have been dissolved, if such taxes or assessments, with interest and charges thereon, shall remain unpaid for 30 days after dissolution of such injunction such officer or his successor shall, immediately after the expiration of said 30 days, give notice of the time and place of the sale of such lands, and thereupon sell the same for such unpaid taxes or assessments, interest and charges; and interest shall be charged thereon to the time of sale at the rate provided in city tax sale certificates at the time the tax sale would have been made except for such injunction, the same to be computed from the date of delinquency of the tax. The notice to be given, shall contain a description of the lands to be sold and shall be published in the official newspaper of the city once in each week for 4 successive weeks. In making such sale the officer shall be governed in all respects by the provisions of the charter and other laws which may be then in force concerning sales of lands for nonpayment of taxes so far as the same may be applicable. The effect of such sale shall be the same as of other sales of lands for taxes by said officer; and the land sold may be redeemed from such sale, and if not redeemed, deeded in like manner and with like effect as is provided in other cases of lands sold for nonpayment of taxes.

(HISTORY: Section 19-21 cr. Ch. Ord. 66, File #52289-a, Oct. 9, 1933.)

19-23. Redemption Period. The owner or occupant of any land sold subsequent to January 1, 1938, for city taxes by the city treasurer, or any other person, may within 5 years from the date of the certificate of sale, redeem the same, or any undivided interest therein, by paying to the city treasurer, for the use of the purchases, his heirs or assigns, the amount of the taxes for which such land was sold, and all subsequent charges thereon authorized by law, or such portion thereof as the interest redeemed shall amount to, with interest on the amount of the taxes at 1% per month or fraction thereof from January 1 after the tax year, and all other taxes and charges thereon imposed subsequent to such sale and paid by such purchaser, or his assigns, prior to such redemption, with interest thereon at said rate; and in all cases any such person may in like manner redeem any such lands, or undivided interest therein, at any time before the tax deed executed upon such sale is recorded; but when so redeemed, such deed shall be void.

(HISTORY: Section 19-23 am. Ch. Ord. 435, File # 76-576, Oct. 5, 1976.)

19-24. Tax Deeds. All deeds executed by the city treasurer on account of sales for taxes or assessments under this act, [Ch. 184, L. 1874], shall be made in substantially the same form prescribed by law for deeds by the county clerk on account of sales for unpaid taxes; and such deeds shall have the same force and effect as evidence that is or may be given by law to such deeds executed by the county clerk. *(S. 28, Subch. 18, Ch. 184, L. 1874.)*

19-25. Sale to City. If, at any sale of real or personal estate for taxes or assessments, no bids shall be made for any parcel of land, or for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive in its corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers are. If the city shall be purchaser of any personal property by virtue of this chapter, the treasurer shall have the power to sell the same at a public sale, and in case the city shall become the purchaser of any real estate at any tax sale, the treasurer is authorized to sell the certificates issued therefor for the amount of such sale and interest at twenty-five per cent, per annum, and to indorse and transfer such certificates to the purchasers. *(S. 29, Subch. 18, Ch. 184, L. 1874.)*

19-26. Tax Deeds to City. Subject to such regulations as the common council by resolution may from time to time adopt, it shall be the duty of the city treasurer whenever a tax deed can be issued upon any tax sale certificate owned by the city of Milwaukee to cause to be prepared as to city tax sale certificates, notice of application therefor for execution by the city clerk and to perform such acts as may be required so that a tax deed will be issued to the city of Milwaukee as grantee in accordance with and in the manner prescribed by the city charter, and as to county tax sale certificates to cause to be done such things as may be required for the issuance by the county clerk of a tax deed to the city of Milwaukee as grantee.

(HISTORY: Section 19-26 am. Ch. Ord. 117, File #73174, Dec. 15, 1941.)

19-27. Sale of Tax Certificates. 1. PAYMENT OF UNPAID TAXES. Whenever any person shall bid off any lot offered for sale for taxes, which lot shall have been bid off in the name of the city for the taxes of any previous year or years, and the certificate or certificates of such previous sale or sales thereof shall at the time of such subsequent sale remain the property of the city, such person shall, before being entitled to his certificate of such sale, purchase of the city its certificate or certificates by paying the amount of principal, interest and charges thereon, and receive from the treasurer an assignment thereof; provided, that any certificate of sale for the amount of any certificate or other special tax or assessment, held by the city of Milwaukee in trust for the owner of such certificate or of such special tax or assessment, or any certificate of sale for general city taxes held by said city, may be assigned, sold and transferred by the city treasurer, although said city may hold in trust, in whole or in part, certificates for the sale of lots for the amount of certificates or special taxes or assessments, issued in any prior year, and no liability shall attach to the city or said treasurer by reason thereof; but any such sale, assignment and transfer shall only be made upon payment of all previous general city taxes.

2. REPORT BY CITY TREASURER. The city treasurer shall report to the comptroller on the 1st day of each month a detailed statement of all his sales and transfers of tax certificates and of all moneys received by him upon redemption from tax sales during the preceding month, in cases where the certificates of sale were held by him as such treasurer, giving in all cases the dates of such sales and transfers, and of such redemptions respectively, and the amounts received by him therefor in every case.

(HISTORY: Section 19-27 am. Ch. Ord. 323, File #62-2554-d, Oct. 21, 1966.)

19-28. Assessment of Omitted Real Estate. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll in any of the 5 last previous years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess the lot or tract so omitted, for such year or years in which it shall have been so omitted, at the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made in the year when the same was omitted. And the common council shall, in addition to the taxes for the current year, levy such taxes upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such taxes shall be collected as other taxes or assessments are for the current year. All lands shall be subject to taxes that may have been omitted, in whosesoever hands they may have come. Should the tax or the assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying the same but not affecting the equity or justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void to be relevied in such manner as they shall by ordinance direct: provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council may direct, and the said tax or assessment so reassessed or relevied shall be and continue a lien upon said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

(HISTORY: Section 19-28 am. Ch. Ord. 323, File #62-2554-d, Oct. 2, 1966.)

19-29. Duties of Treasurer. The treasurer shall receive all moneys that may be legally tendered him for the redemption of lands sold for taxes, and he shall keep an account thereof, and pay

the same over on demand to the persons entitled to receive the same. He shall cancel all certificates so redeemed, and preserve the same in his office; and at the expiration of his term of office, he shall deliver over to his successor all redemption moneys in his hands, with a statement of the amounts so received. *(S. 32, Subch. 18, Ch. 184, L. 1874.)*

19-30. Redemption from Subsequent Purchaser. When there shall be a sale by the county treasurer and the city treasurer of any piece or parcel of land for taxes, in the same year, the purchaser of such piece or parcel who may be first in point of time may redeem the same from the subsequent purchaser; and in case he shall not redeem, the right of the last purchaser shall be held paramount in case of the execution of any tax deed therefor. If the first purchaser in point of time shall redeem, it shall be the duty of the proper officer to make an entry in the sales book of the character in which such person may have redeemed; and thereupon the person so redeeming shall be substituted to all the rights of the holder of the certificate so redeemed as aforesaid. *(S. 33, Subch. 18, Ch. 184, L. 1874.)*

19-31. Taxes or Deeds not to be Set Aside Until Taxes are Paid. No person shall be permitted to institute any action or proceeding to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside any deed executed in consequence of the nonpayment of such taxes and of the sale of the premises therefor, unless such person shall first pay to render to the proper party, or deposit for his use with the treasurer, the amount of all state, county and city taxes that may remain unpaid on such lot or tract, together with the interest and charges thereon. *(S. 34, Subch. 18, Ch. 184, L. 1874.)*

19-32. Validity of Tax and Assessment. All the directions hereby given for the assessing of land and the levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any way affect the validity of the tax or assessment. *(S. 35, Subch. 18, L. 1874.)*

19-33. Fees. The city treasurer shall collect the following fees, which he shall account for and pay into the city treasury for the use of the city, to wit: for each certificate by him issued on sale of lands or nonpayment of taxes or assessments, twenty-five cents, to be added to the amount of such tax or assessment, and included in such certificate; for each lot redeemed, for which he shall issue a certificate, twenty-five cents, and five cents for each additional lot embraced in such certificate, to be paid by the person redeeming; for each tax deed executed by him, one dollar, and five cents for each additional lot or tract embraced in the same deed, to be paid by the person receiving the same. It shall also be his duty to pay into the city treasury for the use of said city, the full amount of the percentage or collection fees received by him upon all state, county and school taxes levied upon personal property and real estate in the city of Milwaukee, and collected by said treasurer as required by law to that effect. In case of a distress and sale by him of goods and chattels for the payment of any tax, said treasurer shall be entitled to such fees as are allowed to sheriffs on sales of goods under execution. *(S. 36, Subch. 18, Ch. 184, L. 1874.)*

19-34. State, County and School Taxes. The commissioner of assessments shall annually make a duplicate tax roll, embracing a list of all real property in the city subject to taxation, and also a list of all persons in the city having personal property subject to taxation, and being a copy of the tax roll as provided by s. 19-07, as amended, and upon receiving the certificate of the county clerk of the amount of state, county and school taxes respectively to be collected in said city for the current year, shall calculate, carry out and extend the same upon such duplicate roll in the manner provided by law, and shall deliver such tax roll with a warrant thereto attached in due form so provided by law, to the city treasurer the collection of the state, county and school taxes therein entered and contained.

(HISTORY: Section 19-34 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

19-35. Collection of State, County and School Taxes. The treasurer of the city, in giving bonds, collecting such state, county and school taxes, and making his return to the county treasurer, and in all other things relating to such taxes, shall conform to and be governed by the general laws of the state except that the return to the county treasurer shall be for the city and not for the wards. *(S. 38, Subch. 18, Ch. 184, L. 1874.)*

19-36. Collection by Districts. It shall be lawful for said common council, whenever it shall be for the convenience of the public to do so, to divide the city in two or more districts for the purpose of collecting taxes and to direct that the taxes upon real estate in each district, and upon personal property of owners residing in each district may be paid to and received by the treasurer or by a deputy at a particular place, either within said district or without said district, to be specified by the council and mentioned in the notice required to be published by the treasurer upon the receipt of the tax roll. All sales of real estate in case of nonpayment of taxes thereon, shall be made at the treasurer's office as heretofore. *(S. 2, Ch. 161, L. 1889.)*

19-37. Bound Tax Rolls. 1. It shall be lawful for the common council of said city to cause the tax roll of said city to be made out so that it may be bound in 2 or more volumes, so that the different volumes shall contain the descriptions of the real estate situated in said city and the taxes thereon, and the names of the owners of personal property in said city and the taxes thereon. Each of said volumes shall be so numbered or paged that it may be designated and referred to by number or pages, or by both, in the warrant and in the commissioner of assessments' certificate, which are attached or appended to the tax roll as required by law, or the warrant and certificate may be attached to each such volume.

2. Whenever the common council of said city shall direct the tax roll for any year to be made out so as to be bound in 2 or more volumes, as provided in sub. 1, it shall be lawful and the duty of the commissioner of assessments to make out in the same manner the duplicate tax roll containing the state, county and school taxes as required by law.

(HISTORY: Section 19-37 am. File #921113, Oct. 30, 1992; eff. Jan. 18, 1993.)

CHAPTER 20
MISCELLANEOUS PROVISIONS

TABLE

20-01	Nuisances
20-02	Superlighting districts
20-04	State submerged lands, strip ceded
20-045	State lands ceded for filling and utilizing for harbor purposes
20-05	Bonds for breakwaters
20-06	Lands ceded to United States
20-065	State lands ceded for purpose of utilizing in aid of navigation
20-07	Title to certain submerged lands
20-08	Power to cede submerged lands to county
20-09	Submerged state lands ceded
20-10	Public parks or grounds exempt from taxation
20-11	Ordinances continued in effect; actions not abated
20-12	Ordinances, violation of; judgment and procedure
20-13	Charter not affected by general law except when so expressed
20-15	General charter law provisions
20-16	Proceedings in which the city is a party
20-17	City not liable for certain defects in public street
20-18	Fire department relief association
20-19	Police relief association

20-01. Nuisances. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license, within the limits of said city, are declared and shall be deemed public or common nuisances.

(HISTORY: S. 16, Ch. 144, L. 1875.

20-01 am. File #090157, June 16, 2009, eff. Sept 1, 2009.)

20-02. Superlighting Districts. 1. PETITION.

a. Upon petition of 2/3 or more of the frontage on both sides of any continuous length of street or of contiguous lengths of several streets, the common council may designate said length of street or contiguous lengths of several streets a superlighting district for the purpose of affording, in fully developed districts, brighter street lighting facilities than are provided under the standard street lighting system, or of affording, in undeveloped districts, street lighting service in advance of that to which the development of the district entitles it; provided, however, that the portion of each street included as the whole or a part of any superlighting district shall be not less than 800 feet in length; and provided further, that no superlighting district shall be so created as to leave a portion of street less than 1,200 feet in length differing in intensity of lighting or in character of lighting installation from both contiguous portions of the same street, or, at a street end, from the contiguous portion of the same street.

b. After the creation of a superlighting district, said district may be enlarged, reduced, or divided into 2 districts upon petition of 2/3 or more of the property on both sides of any continuous length of street desiring to be added to, taken from, or divided from the said superlighting district; provided, however, that the said enlargement, reduction or division will leave the resultant district or districts in full conformity with the requirements of par. a.

2. TYPE OF LIGHTING. The lighting service provided for superlighting districts shall employ the lamp locations, character of post or other support, mounting height and type of fixture standard for the character of street in question under the standard street lighting system as established by common council resolution file No. 11112 adopted June 14, 1916, or acts amendatory thereto; except that, should the intensity desired be greater than can, in the judgment of the commissioner of public works, be obtained by good engineering practice at the standard mounting height applicable to the portion of the street in question, then the next higher standard mounting height shall be employed.

3. PETITION SIGNERS. The parties competent to sign a petition on behalf of the respective frontage shall be as follows:

a. For vacant or underdeveloped property, the leaseholder, if any; otherwise the owner.

b. For property occupied by a residence structure housing 6 or more families, the leaseholder of the entire property, if any; otherwise the owner.

c. For residence property other than included in pars. a or b, the head of each family there residing, each in proportion to the floor area occupied by the respective family.

d. For nonresidence property not included in par. a, the occupants of the ground floor of such property, each in proportion to the respective floor area occupied.

4. DEFINITIONS. a. For the purposes of this section, "residence property" shall be defined as premises including a structure the ground floor of which is devoted wholly or primarily to residence purposes.

b. For the purposes of this section, an "occupant" of nonresidence property shall be understood to be any corporation, partnership or other business entity. Any member of such business entity entitled by virtue of his office or of special authorization to bind the business entity may sign on behalf of such occupant.

5. VERIFICATION; ESTIMATES. No petition shall be acted on by the common council until it bears the notation of the city clerk as to whether or not the signatories thereto are competent to sign for at least 2/3 of the frontage of the district specified in the petition; nor until it bears the notation of the commissioner of public works as to whether or not the service petitioned for is in accordance with the requirements of subs. 1 and 2 nor until the commissioner of public works has furnished to the common council an estimate of the cost of such additions or changes in the existing streetlighting service as may be involved in affording the superlighting facilities petitioned for; together with an estimate by the said commissioner of the amount that will be required to remove the said superlighting facilities at any time when funds for their operation may cease to be provided and reinstall the standard streetlighting service for said district; together with an estimate by the said commissioner of the cost of the additional energy and maintenance involved in providing said superlighting service for a period terminating on that 31st day of December which follows not less than one year nor more than 2 years subsequent to the date estimated by the commissioner of public works to be the date on which the said superlighting facilities can be placed in service.

6. FUNDS. a. If the petition be found in all respects to conform to the requirements of this section, the common council may by resolution create the superlighting district petitioned for, exactly designating in said resolution the boundaries of such superlighting district; but the creation of such superlighting district shall be null and void unless, within 30 days after the passage of the resolution creating such district, there shall be paid to the city treasurer on behalf of the petitioners a sum equal to the estimated costs of installation, of removal, and of maintenance and operation up to the December 31 named in the estimate of the commissioner of public works; and unless, with such payment to the city treasurer, there is filed a list of the names, addresses and amounts contributed by each of those financing the cost of the said superlighting facilities. The city treasurer shall promptly communicate to the common council the fact that the proper sum has been duly paid, and shall also transmit the above list of those financing this cost; which communication and list shall be entered in the journal of proceedings of the common council.

b. If the actual cost of installation of the superlighting facilities be found to be less than the amount estimated by the commissioner of public works, or if the date on which the said superlighting facilities are actually placed in operation is subsequent to the date estimated by the commissioner of public works, the excess in payment made to the city treasurer shall, upon written advice by the commissioner of public works to the city treasurer stating the amount of such excess payment, be credited as a partial payment on maintenance and operation costs for the period immediately following that December 31 up to which maintenance and operation costs have been prepaid.

7. COST ESTIMATE. Between September 15 and October 1 of each year, the commissioner of public works shall transmit to the common council a separate estimate for each superlighting district of the cost of providing for said district the superlighting facilities during the next calendar year. Unless the common council shall by resolution establish, for any superlighting district, the cost at a different figure than that estimated by the commissioner of public works, the estimate of the commissioner shall fix the cost to be charged for the superlighting facilities during the ensuing calendar year.

8. NOTICE BY CITY CLERK. a. On or before October 31 of each year the city clerk shall send written notice to each of the parties of record as contributing to the initial installation cost of each superlighting district a statement advising the sum total of money which must be paid on or before November 30 to ensure continuance of the superlighting facilities of said district during the ensuing calendar year.

b. In the event that the costs of maintenance and operation of the superlighting facilities for any given superlighting district are not paid to the city treasurer in advance for the ensuing calendar year on or before the last day of November, the city treasurer shall so notify the common council and the commissioner of public works. Such notification to the common council shall serve automatically to terminate the existence of the superlighting district as such at the expiration of the period for which operation and maintenance costs have been prepaid; and the commissioner of public works is authorized and instructed, without necessity for specific action of the common council therein, to remove the superlighting facilities and restore the facilities required to afford the standard lighting service, charging the cost thereof to the amount held on deposit as the estimated cost for such removal and restoration.

c. The initial payment and each subsequent annual payment for each district shall be paid as a lump sum. No feature of this section shall be construed as implying any obligation for any city official to collect or receive payment from individual subscribers.

9. PARTIAL REIMBURSEMENT. Should advances be made in the standard of street lighting service afforded at public expense, or should the more intensive development of a superlighting district or any portion thereof entitle said district or portion to a higher quality of standard street lighting service that the said district or portion was entitled to at the time the district was created, then the annual charge for superlighting service shall be correspondingly reduced, so as to represent only the difference in maintenance and operation cost between the standard street lighting service and the superlighting service. As such advances are made in the character of streetlighting service to which a superlighting district or portion thereof is entitled as its share of the standard service, the common council is authorized to provide, through the proper city officers, for the partial reimbursement to the contributors of record of the original cost of installing the facilities. Such reimbursement shall apply only to the superlighting facilities which would now be required to provide the standard street lighting service, and shall be figured at the original cost of these facilities less 6% depreciation for each 12 month period or portion thereof that the facilities have been in service. The reimbursement shall be made to all contributors of record in proportion to their original contribution. *(Ch. Ord. 19, File #34465, Apr. 25, 1927.)*

20-04. State Submerged Lands, Strip Ceded.

1. FOR PUBLIC PURPOSES. The right, title and interest of the state of Wisconsin in and to a strip of submerged land fifteen hundred feet in width, along and adjacent to the shore of Lake Michigan, constituting the bed of said lake, being on the eastern frontage of the city of Milwaukee, having for its westerly boundary the easterly face of the breakwater, constructed by the Chicago and Northwestern Railway Company; for its south boundary, the south line of Wisconsin Street in said city extended easterly into Lake Michigan and for its north boundary the extension of the east and west quarter section line running through section twenty-one, in town seven north, range twenty-two east, in the first ward of said city of Milwaukee, are hereby granted and ceded to the said city of Milwaukee, to be held and used by said city forever as a part of its system of

public parks and boulevards, and to be managed, controlled and improved by the board of park commissioners as provided in chapter 488, of the laws of 1889, and chapter 179 of the laws of 1891, of Wisconsin; provided, that said land hereby ceded and granted shall not be leased or sold by said city of Milwaukee, nor used by it for any other purpose than a public park and boulevard; and provided further, that said city shall construct over any railroad track or tracks, intersected by any bridge or driveway, to said park on above described strip of land, good and sufficient viaducts or bridges at least twenty-two feet high in the clear above said track or tracks, and suffer or permit no grade crossings thereover; and also the right, title and interest of the state of Wisconsin in and to a strip of submerged land six hundred feet in width along and adjacent to the shore of Lake Michigan, constituting the bed of said lake, being on the eastern frontage of the city of Milwaukee, having for its westerly boundary the easterly face of the breakwater, constructed by the Chicago and Northwestern Railway Company, and the shore line of said lake; for its north boundary, the south line of Wisconsin Street of said city extended easterly into Lake Michigan; for its south boundary, the extended harbor entrance of said city of Milwaukee in the third ward of said city of Milwaukee, are hereby granted and ceded to said city of Milwaukee, to be held and used by said city forever for public purposes; provided, that said second strip of land, hereby ceded and granted, shall not be sold by said city of Milwaukee to any private party, nor used by it for any other than a public purpose or purposes, but such city may convey any portion of said second strip of land to the United States government for governmental use. *(S. 1, Ch. 284, L. 1923.)*

2. RIPARIAN RIGHTS. Nothing in this act contained shall be construed to divest or otherwise affect the riparian rights and privileges of the several owners of the lots abutting on Lake Michigan, but all such riparian rights and privileges shall remain vested in such abutting or upland owners, subject only to the use of the land hereby granted to said city of Milwaukee for the purpose of its system of public parks and boulevards, and if any part of said land shall be diverted from use by said city for the sole purpose of a public park or boulevard, as hereinbefore provided in Section 1 [Ch. 200, L. 1897], and the right of said city therein so cease and determine, the title to said land shall be thereupon vested in and apportioned among such abutting or upland owners or their assigns, to the same extent as if such land were a natural accretion outward from the shore of said lake, and any land which may be between the right of way of the Chicago and Northwestern Railway Company as described in the several conveyances thereof to said company, and said easterly face of said railroad breakwater, shall not be used by said railway company for any purpose whatsoever, except that of a slope or embankment to protect the roadbed or tracks on said right of way. *(S. 2, Ch. 200, L. 1897.)*

3. SUBMERGED LANDS, FILLING AND IMPROVING. a. The board of park commissioners shall annually expend and use in the filling in and improving and maintaining of said strip of land hereby granted, extending from the north line of section fifteen (15), town seven (7) north, range twenty-two (22) east, in the eighteenth ward of said city of Milwaukee, to the south line of Wisconsin Street extended in the third ward of said city, so as to make the same into a public park or boulevard, a sum not less than one-third of the amount authorized by law to be levied upon the taxable property of said city, set apart to be used for filling in and improving and maintaining submerged lands placed under the management and control of park commissioners; and the balance of said tax said board shall annually expend and use in filling in and improving and maintaining any other strip or strips of submerged or partly submerged land granted or which may hereafter be granted to such city, so as to make the same into a public park or boulevard.

b. The Chicago and Northwestern Railway Company, its successors and assigns, shall, as fast as the aforesaid strip of land shall be made into a public park or boulevard, remove or cover the breakwater erected or maintained by it along said park or boulevard, sod and keep sodded the land and embankment lying between its easterly right-of-way as described in the several conveyances thereof, and said easterly face of said railway breakwater along said strip, and shall otherwise embellish and improve the same in accordance with plans therefor to be prepared and submitted by said board of park commissioners. *(S. 1, Ch. 309, L. 1921.)*

20-045. State Lands Ceded for Filling and Utilizing for Harbor Purposes. 1. TO CITY OF MILWAUKEE. All the right, title and interest of the state of Wisconsin in and to the lands on the easterly side of the city of Milwaukee in Milwaukee county, Wisconsin, and extending into Lake Michigan and bounded on the west by the original shore line of Lake Michigan as the same existed at the time the state of Wisconsin acquired title to the submerged lands of Lake Michigan, on the north by the south pier of the harbor entrance, on the south by the north line of Russell Avenue extended easterly, and on the east by a line beginning at a point in the north line of Russell Avenue extended and distant two thousand fifty-two and fifty-five hundredths feet easterly from the east line of Beulah Avenue, thence running northerly to a point in the easterly face of the south pier of the harbor entrance and distant fifteen and four tenths feet easterly of United States monument number three hundred eight, whether any part or parcel thereof may be, at the time of the passage and publication of this act, dry or submerged under the waters of Lake Michigan, are hereby ceded, granted and confirmed to the city of Milwaukee, a municipal corporation, for the purpose of improving, filling and utilizing the same for harbor purposes and in aid of navigation, in any manner the said city may deem expedient, and particularly, but without by such specific enumeration limiting the aforesaid purposes, for the purpose of establishing and maintaining thereon breakwaters, bulkheads, piers, wharves, docks, slips, basins, warehouses, transfer sheds, structures, roads, highways, railroads, railway terminals, lake and rail facilities and spurs for shipping, airports and other harbor facilities, including the right to lease, either for exclusive or common use, such particular parcel or parcels of said lands as said city may deem expedient to any party or parties for any purpose or use requiring, involving or connected with the construction, maintenance, operation or use of any of the aforesaid harbor or navigation facilities. *(S. 1, Ch. 381, L. 1931.)*

2. FOR PUBLIC USE. That portion of said lands above described lying between Wilcox street extended and Russell avenue extended, being unnecessary for purposes of navigation or other public uses or to preserve to the people the enjoyment of the waters upon or adjacent thereto, and the use hereinafter authorized neither injuriously affecting nor resulting in any impairment of the interest of the public in said waters but being in the interest of the public and in aid and improvement of the public use of the waters and lands for purposes of navigation and other public uses, and for the protection of the public docks, wharves, and harbor facilities which may be constructed adjacent thereto, the said city of Milwaukee is hereby authorized and empowered to fill in and reclaim, or agree to fill in and reclaim or cause to be filled in and reclaimed, any or all of said lands, and to convey to the owner or owners of the shore land adjacent thereto any or all of said lands in fee simple, either before or after filling in and reclaiming the same, in exchange for and in settlement of damages, in whole or in part, for the taking of lands of said owner or owners on the main land between said harbor entrance and Wilcox Street extended which said city may deem necessary and more advantageous for use by it for the purposes set forth in subsection [sub.] 1 hereof, and such owner or owners are authorized and empowered to fill in and reclaim any unfilled portions of said land and, in aid of commerce and navigation, to construct dock and wharf facilities on any of said land and to use any or all of said land for any proper purpose. *(S. 1, Ch. 285, L. 1923.)*

20-05. Bonds for Breakwaters. Whenever the electors of any city have heretofore voted in favor of the issuance of city bonds for the purpose of obtaining money with which to pay the entire cost of constructing breakwaters to protect the property and streets adjoining the waters where such proposed breakwaters is to be constructed, or for the purpose of making lands for public parks by the construction of such breakwater, or for both such purposes, and bonds heretofore issued by the city council for such purpose, have been sufficient to only partially construct such breakwaters, the city council is authorized to issue bonds to complete the construction of such breakwaters and to let the contract for such purpose without creating a special assessment district and without causing to be made an assessment of benefits and damages. All bonds issued, or which may hereafter be issued, in accordance

with this section, are hereby declared valid and legal notwithstanding any irregularities in the procedure preceding or subsequent to said vote. *(S. 1, Ch. 569, L. 1921.)*

20-06. Lands Ceded to United States. 1. BY COUNCIL RESOLUTION. All the right, title and interest of the state of Wisconsin in the lands hereinafter described is hereby granted and ceded to the United States of America; provided that this grant and cession shall not become operative until the consent of the city of Milwaukee, a municipal corporation, shall have been duly given by a resolution of its common council, and a copy of such resolution, duly certified by the city clerk of said city, shall have been filed with the secretary of state in his office at the city of Madison, state of Wisconsin.

2. LANDS DESCRIBED. The lands to which this act refers are described as follows: Beginning at a point distant south eighty-nine degrees, thirty-two minutes, seventeen seconds east two thousand eight hundred sixty-eight and fifty-six hundredths feet; north zero degrees, twenty-seven minutes, forty-three seconds; east six hundred fifty-one and nine hundredths feet, north eighty-seven degrees, sixteen minutes, thirty-nine seconds, east four hundred sixty-five and two hundredths feet, from the northwest corner of the south one-half fractional section thirty-three township seven north, range twenty-two east; being a point on the north pier of the harbor entrance in the extension of a line passing through United States government monuments numbers 305 and 307 on said north pier and distant four hundred sixty-five and two hundredths feet easterly from United States government monument number 307; running thence north zero degrees, forty-five minutes, one second west one thousand one hundred sixty-five and twenty-four hundredths feet to a point; thence south eighty-seven degrees, sixteen minutes, thirty-nine seconds west seven hundred fourteen and thirteen hundredths feet along a line parallel to the north pier of the harbor entrance, as determined by a line passing through United States government monuments numbers 305 and 307, to a point on the rubble-mound breakwater; thence south zero degrees, forty-five minutes one second east one thousand one hundred sixty-five and twenty-four hundredths feet to a point on the north pier of the harbor entrance, being a point in the line passing through the United States government monuments numbers 305 and 307 and distance two hundred forty-nine and eleven hundredths feet westerly from United States government monument number 307; thence north eighty-seven degrees; sixteen minutes, thirty-nine seconds east seven hundred fourteen and thirteen hundredths feet along the line passing through United States government monuments numbers 305 and 307 to the point of beginning, excepting that portion of the north pier of the harbor entrance lying within the area herein described, being a parcel of land mainly submerged, in the north one-half fractional Section Thirty-Three, township seven north, range twenty-two east in the third ward of the city of Milwaukee and containing nineteen acres. *(S. 1, Ch. 150, L. 1929; S. 15, Ch. 516, L. 1929.)*

20-065. State Lands Ceded for Purpose of Utilizing in Aid of Navigation. (See appendix VII for the text of Ch. 76, L. 1973, and 1985 Wisconsin Act 327 which supersedes the provisions of s. 20.065.)

20-07. Title to Certain Submerged Lands.

1. WATER PURIFICATION PLANT. All the right, title and interest of the state of Wisconsin in and to the following land along and adjacent to the shore of Lake Michigan, and partly submerged, constituting the bed of Lake Michigan, being on the southern and eastern frontage, in the first and eighteenth wards of the city of Milwaukee, described as follows, to wit: A strip of land fifteen hundred feet in width, having for its westerly boundary the extended center line of lot fifteen, in block nine, of Gladden and Lockwood's addition, in the first ward of the city of Milwaukee, and lying southerly, southeasterly and easterly of a line commencing at a point in the said center line of said lot fifteen, four hundred feet south of the north line of said lot, running thence northeasterly parallel to the southerly line of LaFayette place, until the same intersects the low water mark; thence along the present low water mark of the shore of Lake Michigan to the north line of Section Fifteen, extended to the shore of Lake Michigan in the first and

eighteenth wards of the city of Milwaukee, are hereby granted in fee to the said city of Milwaukee to be held and used by said city as part of its system of public parks and boulevards; provided, that said land hereby granted shall not be leased or sold by said city of Milwaukee nor used for any other purposes than as a public park and boulevard. Provided further, that the city of Milwaukee is hereby authorized to build, operate and maintain a water purification plant on that portion only of the aforesaid grant of land lying adjacent to Lake Park, and that if, when and after said city shall build, operate and maintain a water purification plant over and on the portion of said land hereinbefore provided for, such building, operation and maintenance shall not be deemed or construed a violation of the aforementioned public park and boulevard provision of this section. *(S. 1, Ch. 261, L. 1933.)*

2. RIPARIAN RIGHTS. Nothing in this act contained shall be construed to divest or otherwise affect the riparian rights and privileges of the several owners of the lots abutting on Lake Michigan, but all such riparian rights and privileges, shall remain vested in such abutting or upland owners, subject only to the use of the land hereby granted to said city of Milwaukee for the purpose of its system of public parks and boulevards, and if any part of said land shall be diverted from use by said city for the sole purpose of a public park or boulevard, as hereinbefore provided in section one [sub. (1)] above and the right of said city therein so cease and determine, the title to said land shall be thereupon vested in and apportioned among such abutting or upland owners or their assigns, to the same extent as if such land were a natural accretion outward from the shore of said lake. *(S. 2, Ch. 191, L. 1897.)*

20-08. Power to Cede Submerged Lands to County. The city of Milwaukee is hereby authorized and empowered to cede, grant, or lease to the county of Milwaukee for purposes of public parks or parkways, all or any part of such submerged lands extending into Lake Michigan at any time heretofore ceded to said city by the state of Wisconsin for said purposes, with the exception of such submerged lands as may have been previously ceded to the city of Milwaukee by said state for harbor and terminal purposes, waterworks, water purification purposes, and purposes other than parks and parkways. *(S. 1, Ch. 297, L. 1937.)*

20-09. Submerged State Lands Ceded. 1. All the right, title and interest of the state of Wisconsin, in and to a certain portion of submerged land seventeen hundred feet in width lying along and adjacent to the shore of Lake Michigan in Milwaukee county, Wisconsin, and bounded on the north by the north line of Russell Avenue in the city of Milwaukee extended easterly, and on the south by the center line of section 14, town 6 north, range 22 east, in said Milwaukee county extended easterly, is hereby granted and ceded to the city of Milwaukee by the state of Wisconsin to be held and used by said city for public park, boulevard or highway purposes, provided, that the city of Milwaukee may grant and cede all of its right, title and interest in and to any portion of said land to the county of Milwaukee for the same purposes.

2. The land so ceded to said city of Milwaukee as in the aforesaid section [sub. (1)] provided shall be held and used in such manner as the laws of the state of Wisconsin having reference to like purposes and uses heretofore enacted may provide. *(S. 1, Ch. 265, L. 1931; S. 2, Ch. 560, L. 1921.)*

20-10. Public Parks or Grounds Exempt from Taxation. Any and all lands owned or possessed exclusively for the public use as public parks or grounds by any city or village in this state shall hereafter be exempt from taxation. Any certificate or certificates of sale of such lands for unpaid taxes now or hereafter held by any county board may be canceled by vote of a major part of the supervisors of such board, in the discretion of such board, and upon application therefor by a city or village having possession of such lands. *(S. 1, Ch. 71, L. 1903.)*

20-11. Ordinances Continued in Effect; Actions not Abated. 1. All ordinances, regulations or resolutions now in force in the city of Milwaukee, and not inconsistent with this act [Ch. 184, L. 1874], shall remain in force under this act until altered, modified or repealed by the common council after this act shall take effect.

2. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created. *(S. 5, 6, Subch. 20, Ch. 184, L. 1874.)*

20-12. Ordinances, Violation of; Judgment and Procedure. In all cases of convictions in actions brought to recover a penalty imposed under the provisions of any ordinance passed by any city in the state of Wisconsin of the first class, whether organized under the provisions of the general law or operating under a special charter granted by the legislature of this state, to recover a penalty or forfeiture for the violation of any of the ordinances, rules, regulations or by-laws of any such city, the court or magistrate having jurisdiction of such action, shall enter judgment for such penalty or forfeiture, together with the costs of prosecution, against the defendant, and shall also enter a judgment that such defendant be imprisoned in the county jail or the house of correction of the county in which such city shall be situated, until such judgment be paid, but in such cases the court shall limit the time of imprisonment, which in no case, however, shall exceed the term of six months, and shall forthwith commit the defendant accordingly. *(S. 1, Ch. 199, L. 1897.)*

20-13. Charter Not Affected by General Law Except When So Expressed. No general law of this state, contravening the provisions of this act [Ch. 184, L. 1874], shall be considered as repealing, amending or modifying the same, except such purpose be expressly set forth in such law. *(S. 14, Subch. 20, Ch. 184, L. 1874.)*

20-15. General Charter Law Provisions. In any case, whether occurring heretofore or hereafter, where the common council of any city incorporated by special act shall have undertaken and assumed to adopt in whole or in part the provisions of the general city charter law of this state, and such city and its officers shall have assumed thereafter in good faith to act under, and to exercise the powers conferred by, the provisions of law so assumed to be adopted, any question of the validity of such assumed adoption and of the ordinance and proceedings therefor may be tested by certiorari or by any other proper action or proceedings brought directly for the purpose of vacating or setting aside the same at any time within three months after such assumed adoption, but not thereafter. No such assumed adoption nor any ordinance or proceeding for such adoption of the whole or any part of such general city charter law shall be in any manner called in question or held to be invalid in any action or proceeding except one brought directly for that purpose within the time hereinbefore limited therefor, unless the same shall have been duly vacated or set aside by a court of competent jurisdiction. *(S. 926a Stats. 1911.)*

20-16. Proceedings in Which the City is a Party. No person shall be an incompetent judge, justice, witness, or juror, by reason of his being an inhabitant or freeholder in the city of Milwaukee, in any proceeding or action in which the city shall be a party in interest. *(S. 4, Subch. 20, Ch. 184, L. 1874.)*

20-17. City not Liable for Certain Defects in Public Street. 1. WHEN CAUSED BY ANOTHER. Whenever any injury shall happen to persons or property in the said city of Milwaukee, by reason of any defect or incumbrance of any street, sidewalk, alley or public ground, or from any other cause, for which the said city would be liable; and such defect, incumbrance or other cause of such injury shall arise from or be produced by the wrong, default or negligence of any person or corporation, such person or corporation so guilty of such wrong, default or negligence, shall be primarily liable for all damages for such injury; and the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such person or corporation. *(S. 1, Subch. 20, Ch. 184, L. 1874.)*

2. SECONDARY LIABILITY. Whenever any injury shall happen to person or property in said city of Milwaukee, at any place in said city where work of any kind or nature is being done in or on any street or sidewalk by any person or party under contract with said city, or with the commissioner of public works, in the name of the city, in consequence of any neglect or default of such person or party in

doing such work or improperly fencing or otherwise guarding such street or sidewalk to prevent accident while such work is going on, such person or party doing such work and guilty of such neglect or default shall be primarily liable for all damages for such injury, and the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such person or party so primarily liable. *(S. 56, Ch. 324, L. 1882.)*

20-18. Fire Department Relief Association.

1. ORGANIZATION. The members of the paid fire department of the city of Milwaukee, shall, on or before the first day of June, A.D. 1885, form an association, and shall organize, under the provisions of Sections 1987 and 1988 of the revised statutes, and shall adopt by-laws and regulations for the government thereof, and when so organized and the officers thereof shall have been duly elected and shall have qualified according to the by-laws of such corporation or association, the city treasurer of the city of Milwaukee, shall, upon receiving written notice of such organization, and of the election and qualification of the officers of such association, pay over to the treasurer thereof, the whole amount of the fund in his or her hands as city treasurer, known as the "Firefighters Relief Association," created and held by virtue of Chapter 37, of the Laws of 1878; and thereafter such fund shall be the property of such corporation or association, and shall be held, enjoyed and disposed of, by it, subject to its by-laws and regulations.

2. PAYMENT OF FUNDS. The city treasurer of the city of Milwaukee shall pay to the treasurer of such corporation for the benefit of the persons entitled to relief from such corporation, on or before the first day of March in each year, one-eighth of the amount of all fire insurance rate, now annually paid into the treasury of the city of Milwaukee, under Section 6, of Chapter 14, of the Charter of the city of Milwaukee, being Chapter 184, of the Laws of 1874, and the various laws amendatory thereof.

3. OFFICERS. No person shall be elected to or hold any office in the fire department relief association unless the person is a member of the fire department relief association. If a person's membership in the association is terminated while the person holds any office of the association, the person's term of office shall thereupon be terminated, and the members of the association who are entitled to vote, as provided in the association's bylaws, shall immediately elect a successor.

(HISTORY: Ch. 176, L. 1885.

20-18-1 am. File #950107, May 16, 1995; eff. Aug. 2, 1995.

20-18-3 am. File #950107, May 16, 1995; eff. Aug. 2, 1995.

20-18-3 rc. File #071616, April 9, 2008; eff. June 30, 2008.)

20-19. Police Relief Association. The city attorney shall serve as legal advisor to the police relief association at no cost to the association.

(HISTORY: S. 6 thru 8, Ch. 137, L. 1889.

S. 3, Ch. Ord. 51, File #48549, Jan. 25, 1932.

S. 1, Ch. 311, L. 1965.

Ch. Ord. 313, File #64-4440-b, June 15, 1965.

20-19 rc. File #981390, Jan. 19, 1999; eff. April 6, 1999.

20-20 rp File #000877, Nov. 8, 2000; eff. Jan. 29, 2001.)

(This page blank)

CHAPTER 22
POLICE AND FIRE DEPARTMENTS

TABLE

22-03	Police force
22-04	Witness fees
22-05	Police detail
22-06	Rewards
22-07	Police powers of city officers
22-08	Police; powers and duties
22-09	Authority within the county
22-10	Charges against subordinates
22-13	Fire chief; deputies
22-14	Fire department organization
22-15	Fire department personnel

22-03. Police Force. 1. The police force of every city of the first class, however incorporated, shall consist of one chief of police, one inspector, one captain of detectives, and such number of captains of police, lieutenants, detectives, sergeants, roundsmen, patrolmen and other members as the common council shall from time to time by ordinance determine and prescribe.

2. In addition to the positions enumerated in sub. 1, the police force of the city of Milwaukee shall consist of and include the following positions, the number of which shall be determined by the salaries and positions ordinance:

a. Administrative assistants.

b. Deputy inspectors of police

c. Garage supervisor, assistant.

d. Garage supervisor, police.

e. Handwriting technician.

f. Jail matron.

g. Police alarm, assistant chief operator.

h. Police alarm, chief operator of.

i. Police communications, assistant superintendent of.

j. Police communications, superintendent of.

k. Police identification, superintendent.

l. Police identification, supervisor.

m. Police identification, technicians.

n. Police property and stores, custodian of.

o. Police property and stores, assistant custodian of.

p. Policewomen.

q. Radio mechanics.

r. Secretary of police department.

s. Traffic accident investigator.

3. All other positions in the police department shall constitute and be considered as civilian employe division of the police department without police powers.

4. All members or employes of the police department who are not members or employes of the police force shall be known as civilian employes or members of the police department.

5. All members or employes of the police force of the police department shall be known as police officers. *(S. 1, Ch. Ord. 150, Apr. 25, 1949.)*

22-04. Witness Fees. Any and all witness fees paid to any member or employe of the police department of the city of Milwaukee for attendance or testifying in any court where the information or knowledge testified to or sought to be elicited has been acquired by said member or employe of the police department in the performance of his official duty or employment, shall be immediately paid over by said member or employe to the chief of police who in turn shall pay over such witness fees to the city treasurer. All such witness fees received by the city treasurer shall be credited to the general city fund. *(S. 3, Ch. Ord. 49, Nov. 16, 1931.)*

22-05. Police Detail. The mayor or common council may direct the chief of police to detail any of the policemen to perform such official duties as he or they deem proper, and no extra compensation shall be allowed therefor. *(S. 3, Subch. 15, Ch. 184, L. 1874.)*

22-06. Rewards. Any and all property, money, gifts or things of value, other than salaries, received by the police department of the city of Milwaukee, or by any member or employe thereof, as reward or compensation in the performance of official duties or special

services in said department, shall become the property of the city of Milwaukee. All money so received or realized from any property so received shall be paid over by the chief of police to the city treasurer and all money so received by the city treasurer shall be credited to the general city fund. *(S. 3, Ch. Ord. 52, Jan. 25, 1932.)*

22-07. Police Powers of City Officers. The mayor, the harbor master and bridge tenders of the city, and the commissioner of health and his assistants, the meat inspector, and the special assistants appointed by said commissioner of health for quarantine service while engaged in such service, shall severally and respectively have and exercise, within said city, all the powers of policemen of said city, and the powers granted to the above mentioned shall be without any compensation or claim to compensation therefor. *(Am. Ch. Ord. 543, File #84-948, Nov. 13, 1984.)*

22-08. Police; Powers and Duties. The members of the police force shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and the good order and health of the city; they shall possess the powers of constables at common law; and all powers given to constables by the law of this state. The chief and each policeman shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon constables; shall arrest with or without process and with reasonable diligence take before a magistrate or other proper court every person found in a state of intoxication or engaged in any disturbance of the peace or violating any law of the state or ordinance of such city, and may within the county of Milwaukee execute all process issued by the courts of said county in criminal cases, but shall not serve civil process except when the city is a party. *(S. 26, Ch. Ord. 323, Oct. 21, 1966.)*

22-09. Authority Within the County. 1. EXTENDED. The authority of the police department of the city of Milwaukee, is hereby extended so as to embrace the county of Milwaukee, and policemen of said city shall have the like authority to make arrests and serve process within the county of Milwaukee as are now possessed by them within the city of Milwaukee.

2. BY MILWAUKEE COUNTY. In order to facilitate the transactions of business and performance of duty by policemen in the county of Milwaukee, beyond the limits of the city of Milwaukee, the county board of supervisors of the county of Milwaukee may supply the police department of the city of Milwaukee with sufficient authority and conveyance to travel through the county of Milwaukee. *(S. 1, 2, Ch. 204, L. 1875.)*

3. SERVICE AND RETURN OF PROCESS. The officers and members of the police force shall have authority to serve and return process returnable in any court in the county of Milwaukee, in cases in which the city of Milwaukee or the state of Wisconsin is plaintiff or prosecutor, with the same force and effect as the same may be done by the sheriff of said county or his deputies. *(S. 5, Ch. 308, L. 1882.)*

4. OFFICERS OF THE PEACE; PENALTY FOR DISOBEYING. The mayor or acting mayor, the sheriff of Milwaukee county, and each justice of the peace, policeman, constable and watchman, shall be officers of the peace and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purposes they may command the assistance of all bystanders, and, if need be, of all citizens and military companies; and if any person, bystander, military officer, or private, shall refuse to aid in maintaining the peace when so required each such person shall forfeit and pay a fine of fifty dollars and in cases where the civil power may be required to suppress riotous and disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings. *(S. 6, Subch. 15, Ch. 184, L. 1874, as affected by 1983 Wisconsin Act 210.)*

22-10. Charges Against Subordinates. 1. Charges may be filed against a subordinate by the chief, by a member of the fire and police commission, by the board as a body, or by an elector of the city. Such charges shall be in writing and shall be filed by the president of the board. Pending disposition of such charges, the board or chief may suspend such subordinate.

2. It is the intention of the common council that the procedures, processes, and trial under this section shall be conducted in the same manner as provided in s. 62.50, Wis. Stats. (1983). *(Ch. Ord. 341, File #68-453-b, June 25, 1968; formerly s. 21-14-2.)*

22-13. Fire Chief; Deputies. 1. Effective May 1, 1928, the position of first assistant engineer of the fire department of the city of Milwaukee be and hereby is abolished.

2. Effective May 1, 1928, there are hereby created two positions in the fire department of said city, each to be known as deputy chief engineer.

3. All appointments of deputy chief engineers, whether original or to fill a vacancy, shall be made by the chief engineer of the fire department, with the approval of the board of fire and police commissioners.

4. They shall be subject to suspension or removal in accordance with the laws and ordinances which may be applicable to the case of other members of the fire department at the time of such suspension or removal.

5. During the absence or disability of the chief engineer, or during a vacancy in that office, the deputy chief engineers shall in the order of their rank, have full power and authority and it shall be their duty to do all the acts required by law to be done by the chief engineer or imposed upon him by law or the ordinances of the city, and shall be subject to the same liabilities and penalties. This provision shall have reference to those duties which are required by law to be done by the chief engineer including ministerial acts only and the chief engineer shall have authority to assign any of the other duties of the department as he sees fit.

6. The rank of said deputy chief engineers shall be determined by the order in which their names are submitted by the chief engineer to the board of fire and police commissioners for approval. *(S. 1 thru 6, Ch. Ord. 26, Jan. 30, 1928.)*

22-14. Fire Department Organization. The common council shall have power to purchase fire engines and other fire apparatus, and to organize a fire department, composed of a chief engineer and such other officers and men as shall be required and employed in the management and conduct of such fire engines and apparatus, and to establish rules and regulations for such department. *(S. 23, Ch. Ord. 326, Nov. 29, 1966.)*

22-15. Fire Department Personnel. In addition to the officers and men now authorized to be employed in the fire department of the city of Milwaukee, including the assistant superintendent of fire-alarm telegraph, the superintendent of machinery and apparatus and the secretary now appointed and employed under ordinances of said city; and which several officers last named are hereby constituted and confirmed as officers of the department; there may also be appointed hereafter by the chief, with the approval of the board of fire and police commissioners, as provided by law, a third assistant engineer, a chief operator of fire-alarm telegraph and two assistant operators of fire-alarm telegraph. *(S. 1, Ch. 336, L. 1887.)*

[Pages 138 to 140 are blank]

CHAPTER 34
FIREMEN'S ANNUITY AND BENEFIT FUND

TABLE

34-01 Firemen's Annuity and Benefit Fund

ADMINISTRATION:
1. Council approval
2. Fund established
3. Board of trustees
4. Board salaries
5. Meetings
6. Officers
7. Board powers
8. Bonding of board members
9. Legal advisors
10. No financial interest
11. Departmental cooperation
12. Tax levy
13. Definitions
14. Administration costs

CONTRIBUTIONS:
15. Annual salary
16. Annuity, future and present employes
17. Future entrant contributions
18. Deductions, present employes
19. Prior service annuity, present employes
20. Prior service, accounts credited

WIDOW'S ANNUITY:
21. Future and present employes
22. Future entrants
23. Present employes
24. Prior service employes
25. Prior service provisions
26. Prior service contributions

OTHER PROVISIONS:
27. Future entrant, after age 57
28. Prior service, 15 years
29. Future entrants or present employes
    a. After age 50
    b. Service credits
30. Future entrant
31. Widow of future entrant
32. Present employe, prior service
    a. Service credits
    b. After age 57
    c. Before fixed annuity
    d. After age 50
    e. Before age 50
33. Widow of present employe
34. Death while on duty
35. Re-entrance into service
36. When pension suspended
37. Prior service and re-entry
38. Maximum annuity granted
39. When wife not eligible
40. All firemen eligible
41. When widow's annuity suspended
42. Future or present employe provisions
    a. Withdrawal of funds
    b. When fireman not married
    c. When widow's annuity refunded
    d. Funds transferred
    e. Heirs
43. Overtime not included
44. Other fire service
45. Annexed areas
46. Other annuity funds
47. Transfer of funds
48. Child's annuity
49. Child's annuity provisions

DISABILITY:
50. Duty disability benefits
51. Ordinary disability benefits
52. Disability benefit provisions
53. Ordinary disability

FUNDS:
54. Periods of service
55. Annuity and benefit fund
56. Transference of funds
57. Funds on hand
58. Effective date of ordinance
59. Retirement board

SERVICE CREDIT:
60. Service credit
60.1. Widow's annuity
60.2. Other service credit provisions

OTHER REGULATIONS:
61. Insufficient funds
62. Funds exempt from garnishments, etc.
63. Incorrect age
64. Compliance
65. Commissioner of insurance to report

66. City contributions
67. Annuity, deferred compensation
68. Members only
69. Cities of first class
70. Rights preserved
71. Annuity increases
72. Employed after age 57; widow's fund
73. Applicability
74. Service credits
34-02 Member of Fund Becoming County Employe; Procedure
34-04 Certain Payments by City into Fund
34-05 Retirement Board, Composition and Election of Members
34-06 Annuity Contracts

34-01. Firemen's Annuity and Benefit Fund. 1. COUNCIL APPROVAL. In all cities of the first class in this state whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered for firemen employed by such cities and for the widows and children of such firemen and for all contributors to, participants in, and beneficiaries of any firemen's pension fund in operation, by authority of law, in any such city at the time this section shall come into effect; provided that before this act shall be in effect in any city to which it applies, it must have been approved by a majority vote of the members elect of the common council of such city. *(S. 1, Sub. 1, Ch. 423, L. 1923.)*

2. FUND ESTABLISHED. In each such city one such annuity and benefit fund shall be created, established, maintained and administered as hereinafter stated. *(S. 1, Sub. 2, Ch. 423, L. 1923.)*

3. BOARD OF TRUSTEES. a. Administration. In each such city a board composed of 7 members shall constitute a board of trustees authorized to carry out the provisions of this section and charged with the duty of administering the annuity and benefit fund herein provided for. Said board of trustees shall be known as the "Retirement Board of the Firemen's Annuity and Benefit Fund of ....." which board is hereinafter referred to as the "Retirement Board." *(S. 1, Sub. 3-a, Ch. 440, L. 1947.)*

b. Members. The said retirement board shall consist of the following: One member who shall be a person appointed by the mayor of such city; 3 members who shall be firemen employed in such city; 2 members who shall be annuitants or pensioners of the said fund and elected at least 30 days prior to December 1 of each election year by the vote of the annuitants and pensioners of said fund who shall be over the age of 21; and the city treasurer of such city whose alternate shall be his deputy. *(S. 1, Sub. 3-b, Ch. 440, L. 1947.)*

c. Appointments. Within 30 days from and after the date upon which this section shall come into effect in such city, and also at a time not less than 30 days prior to the end of each succeeding 4-year term thereafter, the mayor of such city shall appoint a person to serve as a member of said retirement board for a period of 4 years and until his successor shall have been appointed and shall have qualified. *(S. 1, Sub. 3-c, Ch. 440, L. 1947.)*

d. Election. Within 30 days from and after the date upon which this section shall come into effect in such city, the mayor of such city shall arrange for and hold an election, at which all firemen employed by such city at the time such election shall be held (including those on vacation and those on leave of absence) and all annuitants of any firemen's pension fund in operation, by authority of law, in such city at the time this section shall come into effect in such city, shall have a right to vote, and at which the ballot shall be of secret character, for the election of 3 members of said retirement board who shall be firemen employed by such city. At such election one such fireman shall be elected for a term which shall end on December 1 of the 3rd year after the year in which this section shall come into effect in such city; one for a term which shall end on December 1 of the second year after the year in which this section shall come into effect in such city; and one for a term which shall end on December 1 of the first year after the year in which this section shall come into effect in such city. Thereafter, the retirement board shall conduct regular elections annually, under rules to be adopted by it, at least 30 days prior to the date of expiration of the terms of the elective member whose term shall next expire, for the election of a successor member, which successor shall be a fireman employed by such city or a person in receipt of duty disability benefits or ordinary disability benefits from the annuity and benefit fund herein provided for. Each such successor shall be

chosen for a term of 3 years. Each member elected as aforesaid shall continue in office until his successor shall have been elected and shall have qualified. At all such elections all firemen employed by such city at the time any such election shall be held (including those on vacation and those on leave of absence) and all persons in receipt of duty disability or ordinary disability benefits from the annuity and benefit fund herein provided for, by authority of law, in such city at the time such election shall be held, shall have a right to vote, and the ballot shall be of secret character. *(S. 1, Sub. 3-d, Ch. 440, L. 1947.)*

e. Successors. The annuitant or pensioner members elected by authority of law prior to January 1, 1948, whose terms of office shall not have expired on said day, shall be members of the retirement board for the terms for which they were elected. At least 30 days prior to December 1, 1948, and at least 30 days prior to December 1 of each year thereafter, the retirement board shall arrange for and hold an election for the election of a successor to the member whose terms shall next expire, which successor shall be an annuitant or pensioner of the annuity and benefit fund herein provided for, to be elected by annuitants and pensioners of said fund who are over the age of 21 years. Any person so elected shall hold office for a term of 2 years and until his successor shall be elected and shall have qualified. *(S. 1, Sub. 3-e, Ch. 440, L. 1947.)*

f. Oath of office. Any person appointed or elected as aforesaid shall qualify for the office of member of said retirement board by taking an oath of office. Said oath shall be administered by the city clerk of such city and a copy thereof shall be kept in the office of said city clerk. The said appointive member may be removed from office by the mayor of such city. Any member of said retirement board, elected as aforesaid from among the firemen employed by such city or persons in receipt of duty disability or ordinary disability benefits, who shall leave the fire service of such city, shall automatically cease to be a member of said retirement board. *(S. 1, Sub. 3-f, Ch. 440, L. 1947.)*

g. Vacancies. If a vacancy shall occur in the membership of said retirement board owing to the death, resignation or any other cause, said vacancy shall be filled as follows: In case the vacant membership be that of the appointee of the mayor of such city, the said mayor shall appoint a person to serve during the remainder of the unexpired term. In case the vacant membership be of elective character, a successor of the member whose position shall have become vacant shall be elected to serve during the remainder of the term for which such former member was elected, at a special election which shall be held by the retirement board within 60 days from the date when such vacancy shall occur, and shall be conducted in the same manner with the same classes of voters and the same eligibility for membership on the retirement board as apply in cases of regular annual elections. Any person so appointed and any person so elected shall qualify for office by taking an oath of office, as aforesaid. *(S. 1, Sub. 3-g, Ch. 440, L. 1947.)*

h. Board members, etc., after January 1, 1981. (See s. 34-05)

4. BOARD SALARIES. No member of said retirement board shall receive or have any right to receive any money or moneys from the annuity and benefit fund herein provided for as salary for service performed as a member of said board, but any fireman member shall have a right to and shall be reimbursed for any amount of salary which shall be withheld from such member by the city comptroller of such city, or by any officer or employe of such city, because of attendance at any meeting of said retirement board or the performance of any other duty in connection with the annuity and benefit fund herein provided for. *(S. 1, Sub. 4, Ch. 423, L. 1923.)*

5. MEETINGS. The said retirement board shall hold regular meetings in the months of March, June, September and December of each year and shall hold such other meetings as may be deemed necessary by such board. A majority of the members of said retirement board shall constitute a quorum for the transaction of business at any such meeting, provided, that no annuity, or benefit shall be allowed or granted and no money shall be paid out of the annuity and benefit fund herein provided for unless the same shall be ordered by a vote of the majority of the members of said retirement board. *(S. 1, Sub. 5, Ch. 423, L. 1923.)*

6. OFFICERS. At the regular meeting in December of the year in which this section shall come into effect in such city, and at the regular meeting in December of each year thereafter, the said retirement board shall elect, by a majority vote of the members who vote upon the question, a president, and a recording secretary from among its own members. Such recording secretary shall make a complete record of the proceedings of all meetings of said retirement board. *(S. 1, Sub. 6, Ch. 423, L. 1923.)*

7. BOARD POWERS. The retirement board shall have the power and it shall be the duty of said retirement board to:

a. Funding. See that all amounts specified in this section to be applied to the annuity and benefit fund herein provided for, from any source, are collected and applied to such fund. It shall see that the various sums to be deducted from the salaries of the various firemen concerned are deducted and that such sums are paid into said fund, and that the various sums to be contributed by the city are so contributed and are received into said fund, and that any revenue in the form of interest upon moneys invested or upon moneys due to said fund is received and placed in said fund, and that all other moneys which should accrue to said fund are collected and paid into it. *(S. 1, Sub. 7, intro. par. and a, Ch. 423, L. 1923.)*

b. Deductions. Notify on or before the first day in the month of December of the year in which this section shall come into effect in such city, the city comptroller of such city of the amounts or percentages of salary which shall be deducted from the salaries of all firemen employed by such city and paid into the annuity and benefit fund herein provided for, from and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city. *(S. 1, Sub. 7-b, Ch. 423, L. 1923.)*

c. Comptroller. Notify such city comptroller concerning any such amount or percentage of salary to be deducted whenever said retirement board shall deem notice concerning such matter necessary. *(S. 1, Sub. 7-c, Ch. 423, L. 1923.)*

d. Gifts. Accept by gift, grant, bequest or otherwise any money or property of any kind and to use the same for the purposes of the annuity and benefit fund herein provided for. *(S. 1, Sub. 7-d, Ch. 423, L. 1923.)*

e. Investments. Invest the moneys of said annuity and benefit fund in interest bearing bonds or notes of the United States, or of the state of Wisconsin, or of any county of the state of Wisconsin, or of any city, village, town or municipal corporation in said state and in tax sale certificates of any city of the first class, in which case the board shall be vested with the same rights as other purchasers. Any bond purchased by said retirement board shall be registered in the name of the annuity and benefit fund herein provided for. Whenever investment shall be made in tax sale certificates of the city of Milwaukee, the city treasurer shall repurchase all certificates which the board may desire to sell upon proper assignment being made. The board may also invest its funds in any short term notes issued by any city of the first class and further has the authority to organize as a redevelopment corporation under ss. 66.1301 and 66.1303, Wis. Stats., and invest therein not more than 10% of its admitted assets. The retirement board shall also have the power to make any investment permitted under the provisions of s. 62.63(3), Wis. Stats., so that in addition to all other authority for the investment of funds granted to such retirement board such retirement board may invest its funds in accordance with ss. 620.22 and 620.23, Wis. Stats. The board may also invest up to 15% of its admitted assets in common and preferred stock of United States corporations. The authority herein provided shall be dependent upon the retaining of an investment counsel by the board, who shall be approved by the finance and personnel committee of the common council, such investment counsel shall be compensated for by the board and shall recommend investments to the board. No investment shall be made which has not received approval of the investment counsel in writing prior to the time that such investment is made. *(Ch. Ord. 406, Nov. 13, 1973.)*

f. Audit. Have an audit of the accounts of the annuity and benefit fund herein provided for made at least once each year, by a person or persons competent to perform such work. *(S. 1, Sub. 7-f, Ch. 423, L. 1923.)*

g. Payments. Consider and pass upon all applications for annuities and benefits, authorize the payment of any annuity or benefit, and suspend any such payment or payments in accord with the provisions of this section. *(S. 1, Sub. 7-g, Ch. 423, L. 1923.)*

h. Service. Require each fireman employed by such city, including those on vacation and those on leave of absence, to file a statement or statements in such form as the said retirement board shall direct, concerning all service (as defined in this section) rendered by such fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city; examine such statements and determine the various periods of such service rendered by such fireman, which determination shall be conclusive as to any period of such service unless said retirement board shall reconsider any case within one year from the date of such determination and shall change the determination in such case. *(S. 1, Sub. 7-h, Ch. 423, L. 1923.)*

i. Verification. Determine from such information as shall be available to said retirement board, the period of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by any such fireman who shall fail to file such a statement, or whose statement such retirement board shall be unable to verify. Any such determination shall be conclusive as to any such period of service unless said retirement board shall reconsider any such case within one year from the date of such determination and shall change the determination in such case. *(S. 1, Sub. 7-i, Ch. 423, L. 1923.)*

j. Statements. Issue to each present employe (as hereinafter defined) as soon as possible and practicable after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, a certificate which shall show the entire period of service rendered by such present employe prior to such date and the amounts to the credit of such employe as of such date, for prior service annuity and widow's prior service annuity purposes. *(S. 1, Sub. 7-j, Ch. 423, L. 1923.)*

k. Report to council. Submit a report in the month of March of each year to the common council of such city. Said report shall be made as of the close of business on the thirty-first day of December of the preceding year and shall contain a detailed statement of the affairs of the annuity and benefit fund under the control of said retirement board. Such report shall show the income and disbursements of, and the assets and liabilities of each fund established and maintained, as hereinafter provided, within the annuity and benefit fund herein provided for, during the preceding year. *(S. 1, Sub. 7-k, Ch. 423, L. 1923.)*

l. Witnesses. Compel witnesses to attend and testify before it upon any matter concerning such annuity and benefit fund and allow fees not in excess of three dollars to any such witness for such attendance upon any one day. The president and other members of the said retirement board are empowered to administer oaths to such witnesses. *(S. 1, Sub. 7-l, Ch. 423, L. 1923.)*

m. Staff. All clerical employes shall be appointed under civil service laws and rules of procedure related to and promulgated by the city service commission. All employes in this department at the time of the effective date of this charter ordinance shall be provided civil service status in the manner determined by the city service commission. The appointment of any physician or surgeon shall not be subject to or affected by civil service laws or rules. The board shall annually prepare and submit to the board of estimates a detailed statement of all of the sums and for the several purposes it deems reasonably necessary to perform its functions for the ensuing calendar year. Such report shall be submitted not later than August 1 of each year and shall contain an itemized statement of the principal sources of anticipated revenues and shall in detail allocate the proposed expenditures among such several purposes. The board of estimates shall as it does with respect to other appropriations under ch. 65 of the Wis. Stats., report to the common council its recommendations with respect to proposed expenditures set forth in the board's report. The common council may make changes in the proposed budget submitted by the board as to purposes or amounts for which money may be expended. The board shall have no power to make any expenditure which has not been approved by the common council in the budget. Transfers of funds within the budget approved for such board may be made upon application to the board of estimates as is provided for in the case of other city departments. The board shall be governed by the same rules and procedures

with respect to employment as are other city departments. Any provision of this act in conflict with the provisions of this charter ordinance is hereby repealed. *(Par. m am. Ch. Ord. 305, File #64-23-5-a, June 16, 1964.)*

n. To make rules. Make rules and regulations necessary for the proper conduct of the affairs of such annuity and benefit fund. *(S. 1, Sub. 7-n, Ch. 423, L. 1923.)*

o. Investment Manager. o-1. Notwithstanding the provisions of this or any other subsection of this section, the retirement board may contract for investment management services. No one shall be selected as an investment manager who does not have 10 years of continuous experience acting as an investment manager or investment advisor in recognized fields of investments for retirement systems of comparable stature. The retirement board shall exercise prudence in selecting the investment manager, but the exercise of prudence by the retirement board shall not relieve the board from all liability and responsibility with respect to investment of the funds of the system. The board shall reserve the right to terminate any contract for investment management services upon reasonable notice.

o-2. The retirement board shall establish written objectives and guidelines which shall govern the investment manager selected by the board. The investment manager shall have authority to purchase legal investments and to sell or exchange legal investments in accordance with the written objectives and guidelines established by the retirement board for this purpose. The retirement board shall evaluate the performance of the investment manager on a systematic and regular basis. The retirement board shall have full power at its sole discretion to contract for an independent evaluation of the investment manager.

o-3. Nothing contained herein shall prohibit the board from retaining 2 or more investment managers to perform the duties and responsibilities herein provided for, and the retirement board may determine the amount of the whole fund to be allocated for investment purposes among such investment managers where more than one investment manager has been selected. However, any investment manager selected shall be required as a condition of his selection, to satisfy all the requirements and qualifications specified herein and provided for the investment manager. *(Par. o cr. Ch. Ord. 515, File #82-967, Sept. 28, 1982.)*

p. Board has power to invest. Notwithstanding the provisions of this or any other subsection of this section, the retirement board shall have the power to make any investments permitted under s. 62.63(3), Wis. Stats. *(Par p. cr. Ch. Ord. 515, File #82-967, Sept. 28, 1982.)*

8. BONDING OF BOARD MEMBERS. The city treasurer of such city shall be the custodian of the annuity and benefit fund herein provided for and shall furnish to the said retirement board a bond of such amount as the said board may designate, which bond shall indemnify the said board against any loss which may result from any action or failure to act on the part of such custodian or any of his agents. All fees and charges incidental to the procuring and giving of such bond shall be paid by said retirement board. *(S. 1, Sub. 8, Ch. 423, L. 1923.)*

9. LEGAL ADVISORS. The city attorney of such city, shall be the legal advisor of and attorney for the said retirement board. *(S. 1, Sub. 9, Ch. 423, L. 1923.)*

10. NO FINANCIAL INTEREST. No member of the retirement board, nor any person officially connected with said board, either as an employe of said board, or as legal advisor thereof, or as custodian of the annuity and benefit fund herein provided for, shall have any financial interest in the gains or profits of any investment made by said board, nor shall any such person act as the agent of any other person or persons who may have such interest concerning any such investment. *(S. 1, Sub. 10, Ch. 423, L. 1923.)*

11. DEPARTMENTAL COOPERATION. It shall be the duty of the proper officers of such city to:

a. Deduct all sums which this section provides shall be deducted from the salaries of firemen and pay such sums to the retirement board of the annuity and benefit fund herein provided for in such manner as said retirement board shall specify. *(S.1, Sub. 11, intro. par. and a, Ch. 423, L. 1923.)*

b. On the first day of each month, notify the retirement board of the employment of any new firemen and of all discharges, resignations, and suspensions, from the service, deaths, and changes in salary of firemen which shall have occurred during the preceding month, and state the dates upon which any such events shall have occurred. *(S. 1, Sub. 11-b, Ch. 423, L. 1923.)*

c. Procure for and transmit to the retirement board, in such form and at such time or times as shall be specified by said retirement board, all information requested by said retirement board concerning the service, age, salary, residence, marital condition, wife or widow, children, physical condition, mental condition, and death of any firemen employed by such city in particular, information concerning service rendered by any such fireman of such city prior to the first day in the month of January of the first year after the year in which this section shall have come into effect in such city. *(S. 1, Sub. 11-c, Ch. 423, L.1923.)*

d. Convey to the retirement board all information required by said retirement board concerning each newly appointed fireman immediately after the appointment of such fireman. *(S. 1, Sub. 11-d, Ch. 423, L. 1923.)*

e. Certify to the retirement board, as of some day in each year to be fixed by said retirement board, the name of each fireman to whom this section applies. *(S. 1, Sub. 11-e, Ch. 423, L. 1923.)*

f. Keep such records concerning firemen as the retirement board may reasonably require and shall specify. *(S. 1, Sub. 11-f, Ch. 423, L. 1923.)*

g. All such duties shall be performed by said officers of such city, without any cost to the annuity and benefit fund herein provided for. *(S. 1, Sub. 11-g, Ch. 423, L. 1923.)*

12. TAX LEVY. The common council of any city of the 1st class in which there exists a firemen's annuity and benefit fund, or an annuity and benefit fund which covers persons who contribute to such fund or whose fund is contributed to by such city of the first class, shall be required to levy an annual tax for the purpose of making contributions to such benefit and annuity fund not to exceed 3/4 of a mill on the dollar of the assessed valuation of all taxable property in such city. The said annual tax shall be levied and collected at the same time and in the same manner as the other city taxes of such city are levied and collected according to law. The amount which shall be levied for such purpose shall be determined within the limitations herein set forth by the common council on the basis of actuarial information. If actuarial information received by such common council requires a levy in excess of 3/4 of a mill on the dollar in order to liquidate prior obligations, the common council may direct that there may be an additional levy but not to exceed one mill in the aggregate. The payment by such city into the annuity and benefit fund as herein provided for shall be in lieu of any other payments by such city into such fund, and shall also be in lieu of any past payments into such fund, required of such city by any other provision of state law. All laws hereinbefore enacted which are in conflict with this section are as to such conflict hereby specifically repealed. *(Ch. Ord. 300, File # 63-1409, Sept. 17, 1963, incorporated the provisions of Ch. 309, L. 1963, as cr. sub. 12.)*

a. The amount of the tax to be levied in one year shall be certified to the common council of such city on or before the first day in the month of August of such year, in accordance with chapter 327 of the laws of 1915, by the retirement board of the annuity and benefit fund herein provided for. *(S. 1, Sub. 12-a, Ch. 423, L. 1923.)*

b. As soon as any revenue derived from the same tax shall be collected, the same shall be paid into the annuity and benefit fund herein provided for. *(S. 1, Sub. 12-b, Ch. 423, L. 1923.)*

c. The various sums, hereinafter stated, to be contributed by such city for the purposes of this section, shall be taken from the revenue derived from said tax. *(S. 1, Sub. 12-c, Ch. 423, L. 1923.)*

13. DEFINITIONS. The following words and terms as used in ch. 423 of the laws of Wisconsin for 1923 shall mean as follows, respectively:

a. "Accumulated sum" or sum accumulated shall mean the total amount credited to a fireman from deductions made from his salary or from sums contributed or to be contributed by the city together with regular interest and held for his benefit to produce annuities in accordance with this act. *(S. 5, Ch. 440, L. 1947.)*

b. "Age": shall mean age at latest birthday. (*Par. b am. Ch. Ord. 12, File #31170, Feb. 1, 1926.)*

c. "Annuity": shall mean annual payments for life. All annuities shall be paid in equal monthly installments. When the annuity begins after the first day of the month or ends before the last day of the month the pro rata amount shall be paid for that month. *(S. 5, Ch. 440, L. 1947.)*

d. "Assets": The total value of cash and other property held. Bonds shall be held at their book values. (*Par. d am. Ch. Ord. 12, File #31170, Feb. 1, 1926.)*

e. "Disability": A condition of physical or mental incapacity on the part of a fireman to perform the duties of his position in the service. *(Par. e am. File #31170, Feb.1, 1926.)*

f. "Discharge": Complete separation from the service. *(Par. f am. File #31170, Feb.1, 1926.)*

g. "Fireman": Any person who is or shall be employed by the fire department of such city, even though such person does not perform the duties of a fireman and even though the duties of such person are not hazardous. The term "fireman" shall include the terms "member" and "employe" of the fire department. Emergency employes shall not be included. Any person who has been a contributor, participant, member, annuitant or beneficiary in said fund no matter what such person's duties in the fire department heretofore have been, shall be considered a fireman within this definition. *(S. 4, Ch. 440, L. 1947.)*

h. "Future entrant": Any fireman who shall be employed for the first time on or after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as a fireman of such city, or as an employe in any other branch of the service of such city whose service is recognized as service for the purposes of this section as provided in sub. 44. *(Par. h am. File #31170, Feb. 1, 1926.)*

i. "Pensioner": Any person receiving monthly payments in accordance with the provisions of sub. 55 of this chapter. *(S. 5, Ch. 440, L. 1947.)*

j. "Present employe": Any fireman who shall be employed on the 31st day in the month of December of the year in which this section shall come into effect in such city, as a fireman in the service of such city, or as an employe, in any other branch of the service of such city, whose service is recognized as service for the purposes of this section, as provided in sub. including all such persons who may be absent from duty, for any cause, on said date. *(Par. j Ch. Ord. 12, File #31170, Feb. 1, 1926.)*

14. ADMINISTRATION COSTS. To provide the money necessary to defray the cost of administration of the annuity and benefit fund herein provided for, contributions to said annuity and benefit fund shall be made by the firemen employed in such city and by the city as follows:

a. The city shall contribute each year, beginning in the first year after the year in which this section shall come into effect in such city, an amount equal to one-eighth of one per cent of the aggregate amount of the annual salaries of the firemen employed by such city on the first day in the month of January of such year from whose salaries, deductions are made for age and service annuity purposes, as stated hereinafter, and any additional amount required to defray the cost of such administration shall be contributed by such firemen during each such year as follows:

b. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, equal percentages of each payment of the salaries of all such firemen shall be deducted for such purpose. The percentages of such salaries to be deducted shall be such as to provide an amount each year, which when added to the amount contributed by the city each such year will be sufficient to defray the cost of administration of the annuity and benefit fund herein provided for during such year. *(S. 1, Intro. Par, & a and b of Sub. 14, Ch. 423, L. 1923.)*

c. At the end of each year the board may, upon advice of the actuary, transfer amounts accumulated in the various funds provided by this act to the annuity payment fund described in subsection 59-e to be used for the purposes described in said subsection. *(S. 6, Ch. 440, L. 1947.)*

d. From and after the first day of the month of January, of the first year after the year in which this section shall come into effect in such city, the city shall pay the full amount required to defray the costs of administration.

Any amounts accumulated in the expense fund described in sub. 59-b from and after the first day in the month of January of the 1st year after the year in which this section shall come into effect in such city shall be transferred to the annuity payment fund described in sub. 59-e. *(Par. d cr. Ch. Ord. 469,File #78-1127, Nov. 14, 1978.)*

15. ANNUAL SALARY. For all purposes of this section it shall be assumed that the annual salary of any present employe has been of the same amount throughout the entire period of service rendered by such employe prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, that such salary shall be at five o'clock P.M. on the first day in the month of January of the year following the year in which this section shall come into effect in such city. *(S. 1, Sub. 15, Ch. 423, L. 1923.)*

16. ANNUITY, FUTURE AND PRESENT EMPLOYES. Annuity to be known as "Age and Service Annuity," shall be provided for future entrants and for present employes. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 7, Ch. 440, L. 1947.)*

17. FUTURE ENTRANT CONTRIBUTIONS. To provide age and service annuities for future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three per cent of each payment of the salary of each future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deduction shall be made at the times such payments of salary are payable and shall be continued while such future entrant shall be in the service until he shall attain an age of fifty-seven years unless such future entrant shall not then have completed fifteen years of service, in which case the said deductions shall be continued until the end of the fifteenth year of his service.

b. Concurrently with each such deduction from the salary of any future entrant, the city shall contribute a sum equal to nine per cent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time that any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution shall equal exactly three times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made for age and service annuity purposes. Each amount so credited to a future entrant shall be improved to the credit of such future entrant by interest at the rate of four per cent per annum during all time thereafter that such future entrant shall be in the service, until such future entrant shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service. If such future entrant shall not have completed fifteen years of service at the time he shall attain an age of fifty-seven years, the amount to his credit shall be improved by interest at the said rate while such future entrant shall be in the service until the end of the fifteenth year of his service. Any interest or other accretion upon the accumulated sum to the credit of any such future entrant at the time such future entrant shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when such future entrant shall have completed fifteen years of service, as aforesaid, which may accrue thereafter, shall not be credited to any such future entrant for the purpose of increasing the amount of annuity to which such future entrant shall have a right. The sum accumulated to either such time as stated, shall be the amount that shall be used as the sum to the credit of any such future entrant for age and service annuity for such future entrant. *(S. 1, Sub. 17, Ch. 423, L. 1923.)*

18. DEDUCTIONS, PRESENT EMPLOYES. To provide age and service annuities for present employes, contributions to the annuity and benefit fund herein provided for shall be made by each present employe and the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three per cent of each payment of the salary of each present employe shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued while such present employe shall be in the service until the amount so deducted from the salary of such present employe together with the amount deducted from his salary or otherwise paid by him according to law and applied to any firemen's pension fund or policemen's pension fund, or public school teachers' annuity and retirement fund, in operation, by authority of law, in such city at the time this section shall come into effect in such city, with interest on both such amounts at the rate of four per cent per annum, shall be equal to the sum which would have accumulated to the credit of such present employe for age and service annuity purposes from sums deducted from his salary if deductions from his salary for such purposes at the rate herein stated had been made during the entire period of his service until his attainment of an age of fifty-seven years if he shall then have completed fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, together with interest upon such sum at the rate of four per cent per annum for the period of time subsequent to his attainment of an age of fifty-seven years, or the completion of the fifteenth year of his service, as aforesaid, as the case may be.

b. Concurrently with each such deduction from the salary of any present employe, the city shall contribute a sum equal to nine per cent of each payment of the salary of such present employe until such present employe shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. In case it shall not be possible or practicable for the city to make any such contribution at the time any such deduction shall be made the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution shall equal exactly three times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each deduction from the salary of any present employe for age and service annuity purposes, made prior to the date when the amount of age and service annuity to which such present employe shall have a right shall be fixed as stated in subsection 28 of this section and each corresponding contribution by the city for such annuity purposes shall be allocated to the account of and credited to the present employe for whose benefit it is made, and shall be improved to the credit of such present employe by interest at the rate of four per cent per annum during the time such present employe shall be in the service until the amount of such age and service annuity shall be fixed. The sum thus accumulated shall be the amount which shall be used to provide age and service annuity for such present employe. Any accretion, by way of interest or otherwise, upon such sum or any deduction from the salary of such present employe made after the amount of such annuity shall be fixed shall not be credited to such present employe for the purpose of increasing the amount of annuity to which such present employe shall have a right. *(S. 1, Sub. 18, Ch. 423, L. 1923.)*

19. PRIOR SERVICE ANNUITY, PRESENT EMPLOYES. Annuity to be known as "Prior Service Annuity" shall be provided for present employes in addition to age and service annuity. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 8, Ch. 440, L. 1947.)*

20. PRIOR SERVICE, ACCOUNTS CREDITED. Prior service annuity shall be provided for present employes from amounts to be ascertained by the retirement board and credited to such present employes as follows:

a. As soon as possible, the retirement board shall ascertain the amounts which have been deducted from the salary of each present employe and applied to any firemen's pension fund, or any policemen's pension fund, or any public-school teacher's annuity and retirement fund, each and all of them in operation, by authority of law, in such city at the time when this section shall have come into effect in such city, and also all other amounts paid into such fund according to law by any such present employe before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Each such present employe shall be credited in his account in the annuity and benefit fund herein provided for with an amount equal to the aggregate of all such amounts deducted from his salary and otherwise paid by him, with interest on such amounts at the rate of four per cent per annum from the dates when such amounts shall have been deducted or paid, to the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. As soon as possible, the retirement board shall ascertain the term of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by each present employe, and each such present employe shall be credited in his account with an amount equal to nine per cent of his annual salary as it shall be on the first day in the month of January of the first year in which this section shall come into effect in such city, for a period of time equal to that of such service rendered before the first day in the month of January in the first year after the year in which this section shall come into effect in such city, with interest thereon at the rate of four per cent per annum to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, upon the assumption that one-twelfth of such nine per cent of such annual salary was due at the end of each month of such service.

c. Each amount to the credit of any present employe for prior service annuity purposes under the foregoing provisions of this subsection shall be improved to the credit of such present employe by interest at the rate of four per cent per annum during the time thereafter that such present employe shall be in the service until the age and service annuity and the prior service annuity of such employe shall be fixed as stated in subsection 28 of this section. *(S. 1, Sub. 20, Ch. 423, L. 1923.)*

21. WIDOW'S ANNUITY, FUTURE AND PRESENT EMPLOYES. Annuity to be known as "Widow's Annuity" shall be provided for widows of future entrants and of present employes. Subject to the provisions of subsections 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 9, Ch. 440, L. 1947.)*

22. WIDOW'S ANNUITY, FUTURE ENTRANTS. To provide widow's annuities for widows of future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one per cent of each payment of the salary of each future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the same time such payments of salary are payable and shall be continued during the service of such future entrant until he shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years; provided, that no such deduction shall be made from the salary of any future entrant after he shall have attained an age of fifty-seven years, if such future entrant shall not be married when he shall attain such age.

b. Concurrently with each such deduction from the salary of any future entrant, the city shall contribute a sum equal to two and one-half per cent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such future entrant by interest at the rate of four per cent per annum during all time thereafter that such future entrant shall be in the service, until he shall attain an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any future entrant at the time he shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have completed fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such future entrant for the purpose of increasing the amount of annuity for the widow of such future entrant. *(S. 1, Sub. 22, Ch. 423, L. 1923.)*

23. WIDOW'S ANNUITY, PRESENT EMPLOYES. To provide widow's annuities for widows of present employes, contributions to the annuity and benefit fund herein provided for shall be made by each present employe and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one per cent of each payment of the salary of each present employe shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued during the service of each such present employe until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years provided, that no such deduction shall be made from the salary of any present employe after he shall have attained an age of fifty-seven years, if such present employe shall not be married when he shall attain such age.

b. Concurrently with each such deduction from the salary of a present employe the city shall contribute a sum equal to two and one-half per cent of each such payment of the salary of such present employe. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the present employe for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such present employe by interest at the rate of four per cent per annum during all time thereafter, that such present employe shall be in the service until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any present employe at the time he shall have attained an

age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have completed fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such present employe for the purpose of increasing the amount of annuity for the widow of such present employe. *(S. 1, Sub. 23, Ch. 423, L. 1923.)*

24. WIDOW'S ANNUITY, PRIOR SERVICE EMPLOYES. Annuity, to be known as "Widow's Prior Service Annuity" shall be provided for the widow of each present employe in addition to widow's annuity. Subject to the provisions of subsections 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 10, Ch. 440, L. 1947.)*

25. WIDOW'S ANNUITY, PRIOR SERVICE PROVISIONS. Widow's prior service annuity shall be provided for the widow of each present employe from amounts to be ascertained by the retirement board and credited to such present employe as follows:

a. Each married present employe who shall have attained an age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half per cent of his annual salary, as such salary shall be on the first day in the month of January of such year, for a period of time equal to the term of service rendered by such present employe before such present employe attained an age of fifty-seven years if he shall have completed fifteen or more years of service before attainment of such age, or before the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, with interest thereon at the rate of four per cent per annum to the time he shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, upon the assumption that one-twelfth of such three and one-half per cent of annual salary was due at the end of each month of such term of service.

b. Each present employe who shall not have attained an age of fifty-seven years before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and each married present employe who shall have attained an age of fifty-seven years but who shall not have completed fifteen years of service before such first day in the month of January of such year, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half per cent of his annual salary, as such salary shall be on the first day in the month of January of such year for a period of time equal to the term of service rendered by such present employe before such first day in the month of January of such year with interest thereon at the rate of four per cent per annum to such first day in the month of January of such year, upon the assumption that one-twelfth of such three and one-half per cent of annual salary was due at the end of each month of such service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Such amount, so credited shall be improved by interest at the rate of four per cent per annum during the subsequent service of each such present employe until he shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. *(S. 1, Sub. 25, Ch. 423, L. 1923.)*

26. WIDOW'S ANNUITY, PRIOR SERVICE CONTRIBUTIONS. For the purpose of providing prior service annuities, widow's prior service annuities and the annuities pension and benefits described in subsection 56 of this section, the city shall make contributions as provided in subsection 56 of this section. *(S. 1, Sub. 26, Ch. 423, L. 1923.)*

27. FUTURE ENTRANT, AFTER AGE 57. a. When any future entrant who shall have served fifteen or more years shall attain an age of fifty-seven years while in the service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of their respective ages at the time; provided, in case the wife of any such future entrant shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

b. When any future entrant who shall have attained an age of fifty-seven years while in service and who shall not then have served fifteen years shall have completed fifteen years of service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed at that time upon the assumption that the age of such future entrant is fifty-seven years, and that of his wife, if she shall be of the same age or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

c. When any future entrant who shall have entered the service before he became fifty-seven years of age shall resign or be discharged from the service after he shall have attained such age and before he shall have completed fifteen years of service the amount of age and service annuity to which such future entrant shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity to which the wife of such future entrant shall have a right from and after the date of his death, shall be fixed at the time of such resignation or discharge from the service on the assumption that the age of such future entrant is exactly fifty-seven years, and that of his wife, if she shall be of the same age as or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

d. No deduction from salary or contribution by the city, for any annuity purposes for or on account of any future entrant described in pars. a to c shall be made after the time when the amounts of the annuities to which such future entrant and the wife of such future entrant shall have a right shall have been fixed, and no amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any such future entrant or the widow of such future entrant, and no service of such future entrant rendered after such time shall be considered for annuity purposes.

e. When any future entrant who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity to which he shall have a right from and after the date of such resignation or discharge and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed, as of their respective ages at that time; provided, that if such wife shall be older than such future entrant, her age for annuity purposes shall be assumed to be the same as his.

f. When any future entrant who shall have resigned or been discharged from the service after such future entrant shall have been in the service for a period of ten or more years and before he shall have attained an age of fifty years shall attain an age of fifty years while not in the service, the amount of age and service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed as of their respective ages at that time; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be fifty years.

g. No amount of annuity other than that fixed in accordance with the provisions of this subsection shall be granted to any such future entrant described in pars. e and f, or to the widow of such future entrant, unless such future entrant shall reenter the service before he shall attain an age of fifty-seven years in which case the amounts of annuities to which

any future entrant and his wife shall have a right shall again be fixed when such future entrant shall attain an age of fifty-seven years, if he shall have completed fifteen years of service at such time, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service; or at any time before either such time when he shall again resign or be discharged from the service. *(S. 1, Sub. 27, Ch. 423, L. 1923.)*

28. PRIOR SERVICE, 15 YEARS. a. If any present employe shall have to his credit on the first day in the month of January of the year after the year in which this section shall come into effect in such city, for prior service annuity purposes, an amount at least sufficient to provide annuity for such present employe as of his age on such first day in the month of January of such year, equal in amount to that to which such present employe would have a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection 18 of this section during the entire period of the service of such present employe until his attainment of an age of fifty-seven years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of prior service annuity to which such present employe shall have a right from and after the date when he shall resign or be discharged from the service shall be fixed on the first day in the month of January of the year after the year in which this section shall come into effect in such city as of his age at such time, and any such present employe shall not have any right to receive any age and service annuity.

b. When any present employe who shall have attained an age of fifty-seven or more years while in the service shall have to his credit for age and service annuity and prior service annuity purposes an amount sufficient to provide annuity for such present employe as of his age at such time equal in amount to that to which such present employe would have had a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection 18 of this section during the entire period of the service of such present employe until his attainment of an age of fifty-seven years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of age and service annuity and the amount of prior service annuity to which any such employe shall have a right at any time thereafter when he shall resign or be discharged from the service shall be fixed as of his age at such time.

c. When any present employe who shall have attained an age of fifty-seven or more years while in the service and who shall not have to his credit for age and service annuity and prior service annuity purposes the amount described in par. b shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which such present employe shall have a right from and after the date of such resignation or discharge shall be fixed as of his age at the time of such resignation or discharge.

d. The amount of annuity to which the wife of any present employe who shall have attained the age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the date of the death of such present employe, shall be fixed on the first day in the month of January of the first year after the year in which the section shall come into effect in such city, as of the age of such wife at the time such present employe became fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

e. When any present employe who shall have attained an age of fifty-seven years on or before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and who shall not have completed fifteen years of service on the first day in the month of

January of the first year after the year in which this section shall come into effect in such city, shall complete such a term of service, the amount of annuity to which the wife of such present employe shall have a right from and after the date of his death shall be fixed as of the age of such wife on the date when such present employe became fifty-seven years of age. If any such present employe shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have completed fifteen years of service, the amount of annuity to which his wife shall have a right shall be fixed at the time of such resignation or discharge as of her age on the date when such present employe became fifty-seven years of age. Provided, that if any wife described in this paragraph shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

f. The amount of annuity to which the wife of any present employe who shall attain and age of fifty-seven years while in the service subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the date of the death of such present employe, shall be fixed when such present employe shall attain such age of fifty-seven years if he shall then have completed fifteen or more years of service; or at the end of the fifteenth year of his service if he shall not have completed such a term of service at the time he shall attain an age of fifty-seven years; or at any time prior to the completion of fifteen years of service when such present employe shall resign or be discharged from the service. Any such annuity shall be computed as of the age of such wife on the date when such present employe shall become fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

g. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employe described in pars. a to f, or to the widow of any such present employe.

h. When any present employe who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which any such present employe shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity and of widow's prior service annuity to which the wife of such present employe shall have a right from and after the date of his death shall be fixed as of their respective ages at the time of such resignation or discharge; provided, that if the wife of any such present employe shall be older than her husband her age for annuity purposes shall be assumed the same as his.

i. When any present employe who shall resign or be discharged from the service after such present employe shall have served for a period of ten or more years but before he shall have attained an age of fifty years shall attain such age while out of the service, the amount of age and service annuity and the amount of prior service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity and widow's prior service annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of the respective ages of such present employe and his wife at the time such present employe shall become fifty years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

j. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employe described in pars. h and i or to the widow of any such present employe, unless such present employe shall reenter the service before he shall have attained an age of fifty-seven years, in which case the amount of annuity to which such present employe shall have a right shall be fixed when he shall again resign or be discharged from the service, whichever event shall first occur, as of his age at the time the amount of such annuity shall be

fixed, and the amount of annuity to which the wife of any such present employe shall have a right shall be fixed when he shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed such a term of service at the time he shall have attained such age or when he shall again resign or be discharged from the service, whichever event shall first occur, as of her age at the time such present employe shall become fifty-seven years of age, provided that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 28, Ch. 423, L. 1923.)*

29. FUTURE ENTRANTS OR PRESENT EMPLOYES. a. After age 50. Any annuity fixed for or granted to any future entrant or present employe who shall resign or be discharged from the service after he shall have attained an age of fifty years, or the widow of any such future entrant or present employe or the widow of any future entrant or present employe who shall die while in the service, shall be computed according to the American experience table of mortality and interest at the rate of four per cent per annum.

b. Service credits. b-1. All sums to the credit of any future entrant or present employe for annuity purposes at the time he shall resign or be discharged from the service before he shall have attained an age of fifty years shall be improved to the credit of such future entrant or present employe by interest at the rate of three and one-half per cent per annum thereafter while such future entrant or present employe shall be out of the service and shall not have entered upon annuity until he shall attain an age of fifty-seven years.

b-2. Any annuity fixed for or granted to any such future entrant or present employe who shall not have reentered the service prior to the time such annuity shall be fixed or granted, or any annuity fixed for or granted to the widow of any such future entrant or present employe who shall die, shall be computed according to the American experience table of mortality and interest at the rate of three and one-half per cent per annum.

b-3. The amount of widow's annuity or of widow's prior service annuity which shall be fixed for the wife of any employe while such employe shall be alive, shall be that which can be provided by dividing the sum to the credit of such employe for such annuity purposes on the date when the amount of such annuity shall be fixed by the number representing the difference between the following amounts: The amount required to provide an annuity of one dollar a year for life for such wife beginning on the date when the annuity is fixed, and the amount required to provide an annuity of one dollar a year for such wife beginning on such date and payable throughout the life of her husband. *(S. 1, Sub. 29, Ch. 423, L. 1923.)*

30. FUTURE ENTRANT. a. After age 57. Any future entrant who shall resign or be discharged from the service after he shall attain an age of fifty-seven or more years while in the service shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the entire sum accumulated to his credit for age and service annuity purposes on the date when he shall have become fifty-seven years of age if he shall then have completed fifty or more years of service; or on the date subsequent to his attainment of such age when he shall have completed fifteen years of service; or on the date of his resignation or discharge from the service if he shall not have completed fifteen years of service. Regardless of the age of any such future entrant concerned, any such annuity shall be computed as though such future entrant were fifty-seven years of age at the time of his resignation or discharge from the service.

b. After age 50. b-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of such resignation or discharge.

b-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes from deductions from his salary and contributions by the city.

b-3. In the case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service.

b-4. Any such annuity shall be computed as of the age of the future entrant concerned on the date of his resignation or discharge from the service.

c. Before age 50. c-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of the service and shall apply for such annuity; provided, such future entrant shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity purposes and widow's annuity purposes prior to his attainment of such age. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to credit of the future entrant concerned, on the date when he shall have become fifty years of age.

c-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes.

c-3. In the case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city, for each year of service rendered by him after the first ten years of his service.

c-4. Any such annuity shall be computed as though such future entrant were exactly fifty years of age at the time such annuity shall be granted regardless of his real age at the time application for such annuity shall be made, and no such future entrant shall have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for annuity. *(S. 1, Sub. 30, Ch. 423, L. 1923.)*

31. WIDOW OF FUTURE ENTRANT. a. Resign or discharge after age 57. The widow of any future entrant who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years and who shall enter upon annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 of this section, concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes at the time the amount of such annuity shall have been fixed as provided in subsection 27 of this section.

b. Death after age 57. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years and after the amounts of age and service annuity for him and of widow's annuity for his wife shall have been fixed as provided in subsection 27 of this section shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes on the date the amounts of such annuity shall have been fixed.

c. Death while in service. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years but before he shall have completed fifteen years of service shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the entire sum accumulated to his credit on the date of his death for age and service annuity and widow's annuity purposes, provided, that no part of any such accumulated sum resulting from contributions by the city shall be used to provide an annuity which shall exceed in amount that which such widow would have had a right to receive if such future

entrant had lived and continued in service upon salary at the rate of his final salary until the time when the amounts of age and service annuity and widow's annuity for him and his wife respectively would have been fixed as stated in subsection 27 of this section. Regardless of the age of any such widow concerned, any such annuity shall be computed as though the age of the future entrant concerned were exactly fifty-seven years on the date of his death, and that of his widow if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years; and if she shall be of the same age or older than he, her age shall be assumed to be fifty-seven years.

d. Death before age 57. The widow of any future entrant who shall die while in the service before he shall have attained an age of fifty-seven years shall have a right to receive annuity, from and after the date of the death of such future entrant of such amount as can be provided from the total amount of the sums accumulated to the credit of such future entrant on the date of his death for age and service annuity and widow's annuity purposes from deductions from his salary and from contributions by the city; provided, that no part of the sum accumulated from contributions by the city shall be used to provide annuity for such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived and continued in service upon salary at the rate of his final salary until he would have become fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be at such time, in accord with the provisions of subsection 27 of this section concerning the age of a wife. Any such annuity shall be computed as of the age of such widow on the date of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

e. Resign or discharge after age 50. e-1. The widow of any future entrant who shall resign or be discharged from the service after he shall have attained an age of fifty or more but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amounts of such annuity shall have been fixed as provided in said subsection 27.

e-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

e-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

f. Resign or discharge before age 50. f-1. The widow of any future entrant who shall resign or be discharged from service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity and widow's annuity purposes and who shall die while out of the service after he shall have attained an age of fifty or more years shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amount of such annuity shall have been fixed as provided in said subsection 27.

f-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

f-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g. After 10 years' service. g-1. The widow of any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity fund and widow's annuity purposes and who shall die, while not in service, before he shall have attained an age of fifty years shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of his death; provided, that no part of any such sum accumulated from contributions by the city shall be used to provide an annuity for any such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived until he attained an age of fifty years and had not reentered the service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, when her husband would have attained such age.

g-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service and widow's annuity purposes.

g-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for both age and service annuity and widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sums accumulated for both such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 31, Ch. 423, Laws of 1923.)*

32. PRESENT EMPLOYE, PRIOR SERVICE. a. Service credits. Any present employe who shall resign or be discharged from the service, whose annuity shall have been fixed, in accordance with the provisions of par. a of subsection 28 on the first day in the month of January of the first year after the year in which this section shall come into effect shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the sum to his credit for prior service annuity purposes on the date when the amount of such annuity was fixed.

b. After age 57. Any present employe who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and after the amounts of age and service annuity and of prior service annuity for such present employe shall have been fixed in accordance with the provisions of subsection 28 of this section shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to his credit on the date when the amount of such annuity was fixed; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

c. Before fixed annuity. Any present employe who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and before the amount of age and service annuity and of prior service annuity for such present employe shall have been fixed shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to his credit on the date of such resignation or discharge; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

d. After age 50. d-1. Any present employe who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date of such resignation or discharge.

d-2. In the case of any such present employe who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes and the entire sum credited for prior service annuity purposes.

d-3. In the case of any such present employe who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service, and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any firemen's pension fund, or any policemen's pension fund, or any public school teachers' annuity and retirement fund in operation, by authority of law, in such city at the time this section shall have come into effect in such city, and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes, in accordance with the provisions of sub. 20-b, for each year of service rendered by him after the first ten years of his service.

e. Before age 50. e-1. Any present employe who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of service and shall apply for such annuity; provided, such present employe shall not have withdrawn nor applied for refund of that part of the sum to his credit from deductions from his salary for age and service annuity, a widow's annuity and prior service annuity purposes to which he shall have a right of refund prior to his attainment of an age of fifty years. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to the credit of such present employe concerned, on the date when he shall have become fifty years of age.

e-2. In the case of any such present employe who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

e-3. In the case of any such present employe who shall have served ten or more but less than twenty years the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any firemen's pension fund, or any public school teachers' annuity and retirement fund, or any policemen's pension fund in operation, by authority of law, in such city at the time this section shall come into effect and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes in accordance with the provisions of sub. 20-b, for each year of service rendered by him after the first ten years of his service.

e-4. Any such annuity shall be computed as though such present employe were exactly fifty years of age at the time such annuity shall be granted, regardless of his real age at the time application for such annuity shall be made, and no such present employe shall have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for such annuity. *(S. 1, Sub. 32, Ch. 423, L. 1923.)*

33. WIDOW OF PRESENT EMPLOYE. a. The widow of any present employe (the amount of whose annuity shall be fixed as provided in subsection 28 of this section, on the first day in the month of January of the

first year after the year in which this section shall come into effect in such city) shall have a right to receive annuity, from and after the date of the death of such present employe, according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the sum to the credit of such present employe for widow's prior service annuity purposes on the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. The widow of any present employe who shall resign or be discharged from the service after he shall have become fifty-seven or more years of age and who shall enter upon annuity shall have a right to receive annuity from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the sums to the credit of such present employe for widow's annuity and widow's prior service annuity purposes at the time the amount of such annuity for such widow shall have been fixed according to the provisions of subsection 28 of this section.

c. The widow of any present employe who shall die while in the service after he shall have attained an age of fifty-seven years and after the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed as provided in subsection 28 of this section shall have a right to receive annuity, from and after the date of death of such present employe, according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the total amount of the sums to the credit of such present employe for widow's annuity and widow's prior service annuity purposes at the time that the amount of such annuity for such widow shall have been fixed.

d. The widow of any present employe who shall die while in the service, after he shall have become fifty-seven or more years of age and before the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed, as provided in subsection 28 of this section, shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the several sums to the credit of such present employe on the date of his death for age and service annuity, widow's annuity, prior service annuity and widow's service annuity purposes; provided, that no part of such sums credited to such present employe which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived and remained in the service upon salary at the rate of his final salary until he would have completed fifteen years of service and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date when such present employe shall have become fifty-seven years of age; provided, that if she shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

e. The widow of any present employe who shall die while in the service before he shall have become fifty-seven years of age shall have a right to receive annuity, from and after the date of the death of such present employe of such amount as can be provided from the total amount of the several sums to the credit of such present employe on the date of his death for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes; but no part of such sums credited to such present employe which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived and remained in the service upon salary at the rate of his final salary until he become fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to attainment of such age when he would have completed fifteen years of service, and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date of the death of such present employe; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

f. Resign or discharged after age 50. f-1. The widow of any present employe who shall resign or be discharged from the service, after he shall have attained an age of fifty years or more but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such present employe, in accordance with the provisions of subsection 28 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

f-2. In the case of a widow of any such present employe who shall have served twenty or more years, the entire sum credited for widow's annuity and widow's prior service annuity purposes.

f-3. In the case of a widow of any such present employe who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

g. Resigned, etc., before age 50. g-1. The widow of any present employe who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit from deductions from his salary for annuity purposes to which he shall have had a right of refund and who shall die while out of the service after he shall have become fifty or more years of age shall have a right to receive annuity, from and after the date of the death of such present employe, in accordance with the provisions of subsection 28 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

g-2. In the case of a widow of any such present employe who shall have served twenty or more years, the entire sum credited for widow's annuity and widow's prior service annuity purposes.

g-3. In the case of a widow of any such present employe who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from the salary of such present employe and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

h. Death before age 50. h-1. The widow of any present employe who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit for annuity purposes from deductions from his salary to which he shall have had a right of refund and who shall die while out of the service before he shall become fifty years of age shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date of his death; provided, that no part of any such sum which represents money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived until he attained an age of fifty years and had not reentered the service and an amount of annuity were then fixed for such widow in accordance with the provisions of subsection 28 of this section concerning the age of a wife, as of her age as it would be when her husband would have attained an age of fifty years.

h-2. In the case of a widow of any such present employe who shall have served twenty or more years, the entire sum credited for age and service annuity, widow's annuity, prior service annuity and widow's prior service annuity purposes.

h-3. In the case of a widow of any such present employe who shall have served ten or more years but less than twenty years, the entire sum credited for age and service annuity, widow's annuity and prior service annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

h-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such present employe, provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 33, Ch. 423, L. 1923.)*

34. DEATH WHILE ON DUTY. a. In any case in which annuity provided in accordance with the foregoing subsections of this section for the widow of a fireman whose death shall occur while on duty or shall result from injury incurred in the direct performance of one or more specific acts of duty shall not be equal in amount to the annuity to which such widow would have had a right if such fireman had lived and continued in the service upon salary at the rate of his final salary until he would have attained an age of fifty-seven years if he would then have completed at least fifteen years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service if he would not have completed such a term of service upon attainment of an age of fifty-seven years, as of her age as it would be on the date when such fireman would have attained an age of fifty-seven years in accordance with the provisions of subsection 27 or subsection 28 of this section, whichever shall apply to the case of the widow concerned, additional annuity to be known as "compensation annuity" equal in amount to the difference between the amounts of such annuities shall be provided for and paid to such widow until the time when such fireman, if alive, would have attained an age of fifty-seven years, if he would then have completed fifteen years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service if he would not then have completed such a term of service upon attainment of an age of fifty-seven years. As used in this paragraph "while on duty" means and includes:

a-1. The entire period of time commencing when a member of the department reports at his assigned place of duty for regularly scheduled duty and ending when he is dismissed from such duty.

a-2. Any other period of time while in the actual performance of department business pursuant to any lawful order of a superior officer; and

a-3. The period of time commencing when a member then off duty receives an order to respond to an emergency and ending when he is dismissed from such emergency duty; all upon the condition that during such periods of duty as hereinabove set forth said member shall be conducting himself according to all the rules of the department and all lawful orders of his superior officers. This amendment shall apply to and govern any pending application or compensation and supplemental annuity, by a widow of a deceased fireman, whose death comes within the purview of this subsection, as amended, provided said application shall not have been finally heard and determined by the supreme court of the state of Wisconsin, at the time that this amendment becomes effective. This amendment, 1949, shall supersede any provision of this chapter, as amended, in conflict therewith. *(Ch. 371, L. 1949.)*

b. "Supplemental Annuity," equal in amount to such compensation annuity, shall be provided for and paid to such widow from and after the time payment of such compensation annuity shall cease as aforesaid. To provide such supplemental annuity the city shall contribute to the annuity and benefit fund herein provided for such equal sums annually, from and after the date of the death of such fireman, that when improved by interest at the rate of four per cent per annum the accumulated amount resulting from such sums will be sufficient at the time payment of compensation annuity to such widow shall cease to provide supplemental annuity as stated for such widow throughout her life thereafter.

c. If any widow described in this subsection shall marry before the time when payment of compensation annuity to such widow shall have ceased, as hereinbefore stated, such widow shall not have any right to receive any compensation annuity or any supplemental annuity thereafter, and no such compensation annuity or supplemental annuity shall be paid to such widow from and after the date of her marriage. *(S. 1, Sub. 34 b and c, Ch. 423, L. 1923.)*

35. REENTRANCE INTO SERVICE. a. When any fireman who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall reenter the service before he shall have attained an age of fifty-seven years, any annuity previously granted to such fireman and any annuity fixed for the wife of such fireman shall be canceled. Such fireman shall be credited in his account for annuity purposes with sums sufficient to provide annuities equal in amounts to those canceled for such fireman and the wife, for whom such annuity shall have been fixed, of such fireman as of their respective ages on the date of such fireman's reentrance into the service; provided, that the age of any such wife who shall be older than her husband shall be assumed to be the same as his. Such sums shall be credited to such fireman to provide for annuities to be fixed and granted in the future. Deductions from the salary of any such fireman and contributions by the city for all purposes of this section shall be made, as hereinbefore provided, from the time of such reentrance into the service, and when the proper time, as provided in foregoing subsections of this section, shall have arrived, new annuities based upon the amount then to the credit of such fireman for annuity purposes and the entire term of such fireman's service shall be fixed for such fireman and for such wife of such fireman.

b. When any such fireman shall reenter the service after he shall have attained an age of fifty-seven or more years, payments on account of any annuity previously granted to such fireman shall be suspended during the time thereafter that he shall be in the service, and when he shall again resign or be discharged therefrom, payments upon the annuity previously granted shall be resumed. If any such fireman shall die while in the service, his widow shall receive the amount of any annuity previously fixed for her.

c. In the case of any fireman described in par. a of this subsection, whose wife, for whom annuity shall have been fixed prior to his re-entrance into the service, shall have died before he shall have reentered the service, no part of any sum or sums to the credit of such fireman for widow's prior service annuity purposes at the time annuity for such wife shall have been fixed shall be credited to such fireman at the time when he shall reenter the service, and no part of any such sum or sums shall be used to provide annuity for any wife of such fireman who shall be such wife during all or any part of the period of time during which such fireman shall be in the service after he shall have reentered same. *(S. 1, Sub. 35, Ch. 423, L. 1923.)*

36. WHEN PENSION SUSPENDED. If any fireman who shall be a pensioner or an annuitant of any firemen's pension fund, or any policemen's pension fund, or any public school teachers' annuity and retirement fund in operation, by authority of law, in such city at the time this section shall come into effect shall reenter the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, payment of the annuity or pension granted to such fireman from such annuity and retirement fund, or such pension fund shall be suspended while such fireman shall be in the service and shall be resumed when such fireman shall resign or be discharged from the service. *(S. 1, Sub. 36, Ch. 423, L. 1923.)*

37. PRIOR SERVICE AND RE-ENTRY. a. Any fireman who shall not be in any branch of the service on the first day in the month of January of the first year after the year in which this section shall come into effect in such city employment in which is recognized as service for the purposes of this section, and who was in the service prior to that date and who shall reenter the service after that date and before attainment of an age of fifty-seven years shall not have any right to be credited with any sum or sums for prior service annuity and widow's prior service annuity purposes on account of any service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and such fireman shall not have any right to prior service annuity and the wife or widow of such fireman shall not have any right to widow's prior service annuity.

However, the period of service rendered by any such fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in every such city, shall be included in computing the term of service of such fireman for age and service annuity and widow's annuity purpose.

b. Deductions from the salary of any fireman to whom this subsection shall apply and contributions by the city for the purpose of providing age and service annuity for such fireman and widow's annuity for the wife of such fireman and accumulation of the sums deducted from the salary of such fireman and contributed by the city for such annuity purposes shall be as hereinbefore provided concerning future entrants and present employes until such fireman shall attain an age of fifty-seven years; provided, that in the case of any such fireman who shall reenter the service after he shall have become forty-two or more years of age deductions from the salary of such fireman for age and service annuity and widow's annuity purposes and contributions by the city and accumulation to the credit of such fireman of the sums so deducted and contributed for such annuity purposes shall be made while such fireman shall be in the service for a period of fifteen years from and after the date of such fireman's re-entrance into the service, notwithstanding any other provisions of this section which provide that deductions, contributions and accumulations for annuity purposes shall cease when a fireman shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed fifteen years of service when he shall have attained an age of fifty-seven years.

c. Any fireman to whom this subsection shall apply shall have a right to receive age and service annuity, from and after the date of his resignation or discharge from the service, as of his age on such date, of such amount as can be provided from the total sum to his credit for such annuity purposes on such date; provided, however, that in case of any such fireman who shall be an annuitant or pensioner of any fireman's pension fund, or any policemen's pension fund or any public school teachers' annuity and retirement fund, in operation, by authority of law, in such city at the time this section shall have come into effect in such city, no part of the sum to the credit of such fireman for age and service annuity purposes which shall have resulted from contributions by the city shall be used to provide any amount of such annuity in excess of the difference between the amount of annuity to which such fireman would have had a right if deductions from his salary (which shall be assumed to have been the same throughout the entire period of service rendered by him prior to his re-entrance into the service as it shall be at the time he shall reenter the service) and contributions by the city for such annuity purposes at the rate stated in subsection 18 of this section, concerning present employes, had been made during the entire term of service rendered by such fireman prior to his attainment of an age of fifty-seven years if he would then have completed fifteen or more years of service, or prior to the end of the fifteenth year of his service if he would not have completed fifteen years of service upon attainment of an age of fifty-seven years and the amount of the pension or annuity granted to such fireman from any such pension fund or annuity and retirement fund.

d. The amount of annuity to which the widow of any fireman to whom this subsection shall apply who shall die, while in the service, before he shall have attained an age of fifty-seven years shall have a right, from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

e. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall resign or be discharged from the service before he shall have attained an age of fifty-seven years shall have a right from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

f. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service, and who shall then have completed fifteen or more years of service from and after the date of his re-entrance into the service shall have a right,

from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

g. The amount of annuity to which the wife of any fireman, to whom this subsection shall apply, who shall attain an age of fifty-seven years, while in the service, and who shall not then have completed fifteen years of service from and after the date of his re-entrance into the service shall have a right from and after the date of the death of such fireman, shall be fixed on the date when such fireman shall complete the fifteenth year of such service, as of the age of such wife on the date when such fireman shall have attained an age of fifty-seven years; provided, that the age of any such wife who shall be older than her husband, shall be assumed to be the same as his. Any such annuity shall be of such amount as can be provided from the amount to the credit of the fireman concerned for widow's annuity purposes on the date when the amount of such annuity shall be fixed.

h. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service and who shall die before he shall have completed fifteen years of service from and after the date of his reentrance into the service shall have a right from and after the date of the death of such fireman as of the age of such wife on the date when such fireman attained an age of fifty-seven years; provided that the age of any such wife who shall be older than her husband shall be assumed to be the same as that of such husband. Any such annuity shall be of such amount as can be provided from the amount to the credit of such fireman on the date of his death, for age and service annuity and widow's annuity purposes; provided, that no part of the said amount to the credit of such fireman shall be used to provide any amount of annuity for such widow in excess of the amount to which such widow would have had a right if such fireman had lived and continued in the service upon salary at the rate of his final salary until he had completed fifteen years of service from and after the date of his reentrance into the service and the amount of the widow's annuity for such widow were then fixed as stated in this subsection. *(S. 1, Sub. 37, Ch. 423, L. 1923.)*

38. MAXIMUM ANNUITY GRANTED. a. Notwithstanding any other provision of this section concerning the amount of annuity which any fireman or widow of any fireman shall have a right to receive no amount of annuity in excess of any amount equal to seventy-five per cent of the highest salary which shall have been received by any future entrant during his term of service shall be granted or paid to such future entrant, nor to the widow of such future entrant; and no amount of annuity in excess of an amount equal to seventy-five per cent of the highest salary considered for annuity purposes in accordance with the provisions of this section which shall have been received by a present employe shall be granted or paid to any present employe or the widow of such present employe.

b. If at the time the amount of annuity for any fireman shall be fixed, there shall be to the credit of such fireman, for the purpose of providing such annuity, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such excess amount shall be refunded and paid at that time to any such fireman who shall be a future entrant, and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such present employe, for such annuity purposes, which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such fireman who shall be a present employe.

c. If at the time the amount of annuity for the wife of any fireman shall be fixed there shall be to the credit of such fireman for the purpose of providing annuity for such wife when she shall become a widow, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such

excess amount shall be refunded and paid at that time to such fireman who shall be a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such fireman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such fireman who shall be a present employe.

d. If at the time of the death of a fireman there shall be to the credit of such fireman, for the purpose of providing annuity for the widow of such fireman, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such excess amount shall be refunded and paid at that time to the widow of such fireman who shall have been a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such fireman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to the widow of such fireman who shall have been a present employe. *(S. 1, Sub. 38, Ch. 423, L. 1923.)*

39. WHEN WIFE NOT ELIGIBLE. Except as stated in subsection 60 of this section, the following described wives or widows of firemen shall not have any right to annuity from the annuity and benefit fund herein provided for:

a. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any fireman who shall die while in the service if such widow shall not have been married to such fireman before he shall have attained an age of fifty-seven years.

b. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any fireman who shall have resigned or been discharged from the service and who shall or shall not have entered upon annuity and who shall die while out of the service, if such widow shall not have been the wife of such fireman while he was in the service and before he attained an age of fifty-seven years.

c. The wife or widow of any fireman who shall have served ten or more years and who shall die while out of the service after he shall have resigned or been discharged from the service, who shall have withdrawn or applied for refund of the sums to his credit for annuity purposes to which he shall have had a right of refund as provided in subsection 42 of this section.

d. The wife or widow of any fireman who shall die while out of the service after he shall have resigned or been discharged from the service before he shall have attained an age of fifty-seven years and who shall not have served at least ten years. *(S. 1, Ch. 423, L. 1923.)*

40. ALL FIREMEN ELIGIBLE. Annuity shall be granted or paid to any fireman from the annuity and benefit fund herein provided for while such fireman shall be employed upon salary or wages in any branch of the service of such city except as provided in subs. 35-a and b and 36. *(S. 1, Sub. 40, Ch. 423, L. 1923.)*

41. WHEN WIDOW'S ANNUITY SUSPENDED. If any widow who shall be in receipt of any annuity or pension from the annuity and benefit fund herein provided for shall marry a fireman or other person employed in any branch of the service of such city, and if such person shall die, and an annuity or pension -- payable in whole or in part from moneys contributed or to be contributed by such city -- shall be provided for the widow of such person under any laws hereafter enacted, and such widow shall receive such annuity or pension, payment of the annuity herein provided for; such widow shall be suspended during the time she shall be in receipt of such annuity or pension, if it be other than a life annuity or pension; and if it be a life annuity, the annuity herein provided for, such widow shall be cancelled at the time she shall accept any payment of such annuity. *(S. 1, Sub. 41, Ch. 423, L. 1923.)*

42. FUTURE OF PRESENT EMPLOYE PROVISIONS. a. Withdrawal of funds. a-1. Less than ten years' service. Any future entrant or present employe, without regard to the period of time he shall have served, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall become fifty years of age, and any future

entrant or present employe, who shall have served less than ten years, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have become fifty-seven years of age, shall have a right to have refunded to him the entire amount which shall have accumulated to his credit for age and service annuity and widow's annuity purposes on the date of such resignation or discharge from the service from amounts deducted from his salary in accordance with the provisions of this section.

a-2. Fixed annuity. Any such future entrant or present employe shall retain such right to refund of such amounts when he shall apply for same, until the amount of annuity to which he shall have a right shall have been fixed as provided in subsection 27 or subsection 28 of this section as the case may be. Thereafter, no such right shall exist in the case of any such future entrant, or present employe. *(S. 1, Sub. 42-a-1 and 2, Ch. 423, L. 1923.)*

a-3. Reentry into service. a-3-a. Any such future entrant or present employe who shall avail himself of such right and withdraw such amount so credited to him shall ipso facto surrender and forfeit all rights to any annuity or other benefit from the annuity and benefit fund herein provided for, and to any annuity or benefit from any firemen's pension fund in operation by authority of law, in such city, at the time this section shall have come into effect in such city, for himself and for any other person or persons who might benefit through him because of service rendered by him prior to that time he shall make application for refund of the amounts hereinbefore stated. However, such future entrant or present employe shall retain the right to have any such period of service counted as service for the purpose of computing the term of his service in the event that such future entrant or present employe shall subsequently reenter the service before he shall attain an age of fifty-seven years and become a beneficiary of the annuity and benefit fund provided for in this section, subject to the following provisions:

a-3-b. Upon such reentry to active service in the fire department the total amount of the refund previously granted and received from the firemen's annuity and benefit fund, plus accumulated interest due to the date of return to service, shall be paid immediately upon re-entry as an active member of the fire department.

a-3-c. No annuity or benefit shall be paid by the annuity and benefit fund provided for in this section while there remains an unpaid balance due the fund from the refund previously granted and received from the fund, plus accumulated interest to date of eligibility for such annuity or benefit. *(Par. a-3 am. Ch. Ord. 198, File #54-212, June 1, 1954.)*

a-4. More than ten years . Any such future entrant or present employe who shall have served ten or more years and who shall not withdraw the amounts aforesaid to which he shall have a right of refund shall have a right to annuity as hereinbefore stated in this section.

a-5. Less than ten years. Any such future entrant or present employe who shall have served less than ten years and who shall not withdraw the amounts to which he shall have a right to refund, shall have a right to have all such amounts and all other amounts to his credit for annuity purposes on the date of his resignation or discharge from the service retained to his credit and improved by interest while he shall be out of the service at the rate of three and one-half per cent per annum and used for annuity purposes for his benefit and the benefit of any person who may have any right to annuity through him because of his service, according to the provisions of this section, in the event that he shall subsequently reenter the service and complete the number of years of service necessary to attain a right to annuity; but such sums shall be improved by interest to his credit while he shall be out of the service only until he shall have become fifty-seven years of age.

b. When fireman not married. When any fireman shall become fifty-seven years of age while in the service and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him. Thereafter, in his case, no sums shall be deducted from his salary or contributed by the city for widow's annuity purposes.

c. When widow's annuity refunded. When any fireman shall resign or be discharged from the service before he shall have become fifty-seven years of age and shall enter upon annuity and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him.

d. Funds transferred. Whenever any amounts shall be refunded, as stated in pars. a to c, to any fireman or other person or persons described therein, the amounts to the credit of the fireman concerned in each such transaction for annuity purposes at the time any such refund shall be made, which shall have been accumulated from contributions by the city, shall be transferred to the prior service annuity fund described in sub. 59-f, for the purposes stated in sub. 56-a, until such time as the assets of such fund become equal to the liabilities thereof as stated in par. b of said subsection 56. Thereafter, any such amounts shall become a credit to the city and, with interest thereon at the rate of four per cent per annum, shall be used to reduce the amount which the city would otherwise pay during a succeeding year to the annuity and benefit fund herein provided for.

e. Heirs. In any case in which an amount equal to the total amount accumulated and credited to the amount of a deceased fireman from sums deducted after the first day in the month of January of the first year after the year in which this section shall come into effect from the salary of such fireman for annuity purposes, shall not have been paid to such fireman and, in the case of a married fireman, to such fireman and the widow of such fireman both together, in form of annuity before the death of the last of such persons who shall die, an amount equal to the difference between such total amount resulting from sums deducted from his salary and the entire amount paid in form of annuity or annuities, without interest upon either such amount, shall be refunded and paid to the children of such fireman, in equal parts to each; unless such fireman shall direct in writing, sworn to before an officer authorized to administer oaths in this state, and filed with the retirement board before the death of such fireman, that any such amount shall be refunded and paid to any one or more such children; and if there be no such children, such amount shall be refunded and paid to the heirs of such fireman according to the law pertaining to estates of deceased persons. *(S.1, Sub. 44-a-4 and 5, Ch. 423, L. 1923.)*

43. OVERTIME NOT INCLUDED. No overtime or extra service shall be included in computing the term of service of any fireman, and not more than one year or part thereof of service shall be allowed for service rendered during any calendar year, or part thereof, such as a day, a week, a month, etc. *(S. 1, Sub. 43, Ch. 423, L. 1923.)*

44. OTHER FIRE SERVICE. Any service rendered by any fireman while not in the fire department, as a police officer employed by the board of park commissioners of such city, or as a regular member of the police department of such city, or as a regular teacher in the public schools of such city, or as an employe, other than one described in section 16.54 of the statutes [now s. 63.27, Wis. Stats.] as one who shall not be affected as to their election, selection, or appointment by rules made by the board of city civil service commissioners of such city -- of any other department of such city, or branch of the service of such city, shall be counted, for annuity and benefit purposes under the provisions of this section, as if such service were rendered in the fire service of such city. And any salary received by any fireman for such service shall be treated, for the purposes of this section, in the same manner as though such salary were received for the performance of regular duty as a fireman. *(S. 1, Sub. 44, Ch. 423, L. 1923.)*

45. ANNEXED AREAS. a. Whenever any territory shall be annexed to such city, any fireman then employed as a fireman in such annexed territory who shall be employed by such city as a fireman of such city shall automatically come under the provisions of this section, and any term of service rendered in such territory by such fireman shall be considered for the purposes of this section as such a term of service rendered in such city.

b. Any such fireman shall be treated in every respect, as of the date such annexation shall come into effect, in the manner specified in this section concerning present employes of such city on the first day in the month of January of the first year after the year in which this section shall come into effect in such city. *(S. 1, Sub. 45, Ch. 423, L. 1923.)*

46. OTHER ANNUITY FUNDS. a. When any fireman shall resign or be discharged from the fire service and become employed in any other department or branch of the service of such city in a position, the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "policemen's annuity and benefit fund," or any "public-school teachers' annuity and benefit fund," or any "municipal employes' annuity and benefit fund," in such city (which fund shall be designated to provide annuities and benefits in substantially the same manner that annuities and benefits are provided for in this section) all sums to the credit of such fireman for annuity purposes in the annuity and benefit fund herein provided for, and any moneys accumulated in said fund for such purposes for the benefit of such fireman shall be transferred from said fund to the annuity and benefit fund in which such fireman shall be included by reason of his employment in such other service of such city and used in such fund, according to the law or laws under which such fund shall be maintained, for annuity purposes for the benefit of such fireman, and of his wife if he shall have a wife.

b. No other disposition shall be made of any sum to the credit of any such fireman for annuity purposes and such fireman shall not have any right to refund of any such sum under any provisions of this section but shall have such right to refund of such sum as shall be provided by the law or laws under which the annuity and benefit fund to which such sum shall be transferred shall be maintained. *(S. 1, Sub. 46, Ch. 423, L. 1923.)*

47. TRANSFER OF FUNDS. When any person who shall be employed in any other department or branch of the service of such city in a position the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "policemen's annuity and benefit fund," or any "public school teachers' annuity and benefit fund," or any "municipal employes' annuity and benefit fund," in such city (which fund shall be designed to provide annuities and benefits in substantially the same manner that annuities and benefits are provided for in this section) and shall resign or be discharged from such position and shall enter the fire service of such city, and any sums of money to the credit of such person or any such fund for annuity purposes shall be transferred, in accordance with law, from such fund to the annuity and benefit fund herein provided for, such sums shall be placed in said annuity and benefit fund, and used therein for annuity purposes for the benefit of such person and of his wife if such person shall have a wife, as provided in this section. *(S. 1, Sub. 47, Ch. 423, L. 1923.)*

48. CHILD'S ANNUITY. Annuity to be known as "child's annuity" shall be provided for children of firemen. Any such annuity shall be payable from and after the date of the death of the fireman parent of any such child until the annuitant shall attain an age of 18 years. Any such annuity shall be computed and paid in accordance with the provisions relating to "annuity" in subsection 13. *(S. 11, Ch. 440, L. 1947.)*

49. CHILD'S ANNUITY PROVISIONS. a. Child's annuity, as hereinafter provided, shall be granted and paid for the benefit of any child less than eighteen years of age, the issue of any fireman whose death shall result from injury incurred in the performance of one or more specific acts of duty; provided, such child shall have been born before such fireman attained an age of fifty-seven years if such fireman shall then have completed fifteen or more years of service, or before the end of the fifteenth year of such fireman's service if such fireman shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years.

b. Child's annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under 18 years of age, the issue of any fireman who shall die while in the service; provided that no annuity shall be granted or paid to any child of any such fireman who shall have resigned or been discharged from the service before he shall have attained an age of fifty years and who shall have reentered the service unless such fireman shall have served at least two years from and after the date of his latest reentrance into the service of such city; and provided further, that no annuity shall be granted or paid for the benefit of any child of any fireman who

shall have entered or reentered the service of such city after the attainment of an age of forty-two years unless such child shall be the issue of a wife who married such fireman before such fireman attained an age of forty-two years; nor to any child of any fireman born after such fireman shall have attained an age of fifty-seven years.

c. Annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under eighteen years of age of any fireman who shall die after such fireman shall have resigned or been discharged from the service subsequent to this attainment of an age of fifty years who shall have entered upon annuity or who shall be eligible for annuity; provided, that only such child of such fireman as shall have been born before such fireman shall have attained an age of fifty-seven years and prior to the date of such fireman's latest resignation or discharge from the service shall be eligible for annuity; and provided further, that any such child of any such fireman who shall have entered or reentered the service after attainment of an age of forty-two years shall be the issue of a wife who married such fireman before such fireman attained an age of forty-two years. *(S. 1, Sub. 49-a to c, Ch. 423, L. 1923.)*

d. Any such annuity shall consist of amounts of $40 per month for each such child while a widow or widower of the deceased fireman parent of such child shall survive and of $50 per month for each such child while no such widow or widower shall exist; provided, if annuities for the widow and children of any fireman whose death shall have been the result of injury incurred in the performance of one or more specific acts of duty or for the children of such fireman in any such case wherein a widow shall not exist, computed as hereinbefore stated, would exceed an amount equal to 75% of the final salary of such fireman the annuity for each child of such fireman shall be reduced pro rata so that the combined annuities for the family of such fireman shall not exceed an amount equal to 75% of such salary; and in case of the family of any fireman whose death shall have been the result of any cause or causes other than injury incurred in the performance of one or more specific acts of duty in which annuities for such family computed as hereinbefore stated, would exceed an amount equal to 50% of the final salary of such fireman, the annuity of each child of such fireman shall be reduced pro rata so that the combined annuities for such family shall not exceed an amount equal to 50% of such salary; but if in any such latter case the annuity provided as hereinbefore stated in this section for the widow of any such fireman shall exceed an amount equal to 50% of such salary, such annuity for such widow shall not be reduced. *(Par. d am. Ch. Ord. 227, File #55-4100-a, Oct. 16, 1956.)*

e. Any annuity which shall be granted for the benefit of any child shall be paid to the parent of such child who shall be providing for such child, unless another person shall have been or shall be appointed by a court of law as the guardian of such child.

f. On or before the first day in the month of August of each year, the retirement board shall submit an estimate to the common council of such city, of the amount which will be required to pay annuities to children during the succeeding year, and the said common council shall include such amount in the tax which shall be levied for such year for the purposes of the annuity and benefit fund herein provided for. *(S. 1, Sub. 49-e and f, Ch. 423, L. 1923.)*

50. DUTY DISABILITY BENEFITS. a. Benefit to be known as "duty disability benefit" shall be provided for firemen who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty.

b. Benefit to be known as "child's disability benefit" shall be provided for firemen disabled as stated in the preceding paragraph who shall be the parents of any child or children less than eighteen years of age. *(S. 1, Sub. 50-a and b, Ch. 423, L. 1923.)*

c. Incurred in performance of duty. c-1. Any fireman less than 65 years of age, and any fireman 65 or more years who shall not have completed 25 years of service, who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty, shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 75% of the current annual salary for such position which he held at the time of such injury. *(Par. c-1 am. Ch. Ord. 383, File #70-2147-a, Apr. 11, 1972.)*

c-2. The widow of such member after his death shall receive during her widowhood, until her remarriage, 70% of the amount of duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b to d and 34. In the event however that a fireman who is eligible to receive duty disability has a disability involving the loss of use of both eyes or the full loss of use of one eye and one limb or the full loss of the use of 2 limbs or an equivalent disability that would impair the member's (retiree's) ability to earn a livelihood, and such disability is determined by majority action of a panel consisting of 3 physicians, one physician to be designated by the Milwaukee professional firefighters association, one physician to be designated by the city labor negotiator, and the third physician to be selected by agreement of the other 2 physicians; then in such event such fireman shall receive a duty disability pension of 90% of his current salary. If such panel reaches a determination unfavorable to the fireman on duty disability he may after 6 months but not later than one year request the convening of a second 3-physician panel to be constituted in the same manner and for the same purpose of the initial panel but such request shall be in writing. If an unfavorable result is reached, the fireman may seek further review but not sooner than 12 months from the last determination. Recomputation of the amount of disability benefit shall occur whenever there is a salary adjustment for such position. Such adjustment shall thereupon become effective at once. If the position from which the member retired under a duty disability is eliminated, then the city service commission shall determine in what manner the current annual salary shall be established for such position for purposes of determining disability payment under this section. The widow of such member after his death shall receive but only during her widowhood 75% of the amount of duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b, c, d and 34 of this section. The period of time during which duty disability benefits shall be paid shall in no event be less than the time provided for under similar circumstances in this act prior to this amendment. Any such fireman shall also have a right to receive child's disability benefits of amounts of $40 a month on account of each child, the issue of such fireman, less than 18 years of age; provided, the total amount of child's disability benefit which shall be granted or paid to any such fireman shall not exceed 20% of the salary, as aforesaid to such fireman. Such benefit or benefits shall be paid to such disabled fireman periodically according to rules concerning such benefits to be adopted by the retirement board. *(Par. c-2 am. Ch. Ord. 516, File #80-1511-a, Oct. 19, 1982.)*

d. The first payment of any duty disability benefit or child's disability benefit which any fireman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board of such city, and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made. *(S. 1, Sub. 50-d, Ch. 423, L. 1923.)*

e-1. Proof of disability shall be furnished to the retirement board, by at least one licensed and practicing physician, and said retirement board may require other evidence of disability. The retirement board shall be the sole and final judge in determining whether a person covered under this subsection shall be entitled to a duty disability benefit. A person feeling himself aggrieved by the board's determination shall have the right to appeal to the circuit court for review on the law and the facts with respect to the determination of the retirement board pertaining to a duty disability benefit. Such review may be in the form of certiorari or otherwise, and the parties shall have the right to present additional testimony concerning the matters in issue, and the court may rule upon the facts and the law. Each disabled fireman who shall receive any duty disability benefit under the provisions of this subsection shall be examined at least once a year by one or more

licensed and practicing physician or physicians selected by said retirement board. Such physician or physicians shall advise said retirement board whether the disability of such fireman shall be continued or not. When the disability of any such fireman shall cease, the said board shall discontinue payment of duty disability benefit and of child's disability benefit to such fireman and such fireman shall be returned to active service as a fireman at the same salary he received before disability occurred. *(Par. e-1 am. Ch. Ord. 237, File # 57-2012, Dec. 23, 1957.)*

(Note: Common Council File #001564, passed March 20, 2001, effective June 5, 2001, provides: "notwithstanding the provisions of this subdivision, no fireman who became disabled between April 6, 1975 and October 1, 1997 who is eligible to receive a lifetime duty disability retirement benefit shall be required after June 5, 2001 to submit to an examination at least once a year by one or more licensed and practicing physician or physicians.")

e-2. A claim for duty disability benefit heretofore filed with the retirement board by a person covered under this chapter and on which the retirement board has made a determination granting a duty disability benefit shall be governed by this subsection and the duty disability which has been approved shall be deemed in effect as of the time of the retirement board's determination. *(Par. e-2 am. Ch. Ord. 237, File #57-2012, Dec. 23, 1957.)*

f. Duty disability benefit shall be paid to any fireman, disabled as aforesaid, during any period of such disability until such disabled fireman shall have become 65 years of age if such fireman shall have completed 25 years of service at that time, or until the end of the 25th year of such fireman's service if such fireman shall not have completed 25 years of service at the time he shall have attained an age of 65 years, and child's disability benefit shall be paid to any such fireman, who shall be the parent of any child or children, the issue of such fireman, less than 18 years of age, during all or any part of any such period of time until such child or children of such fireman shall attain an age of 18 years. *(Par. f am. Ch. Ord. 227, File #55-4100-a, Oct. 16, 1956.)*

g. When any fireman so disabled and found eligible to receive a duty disability benefit on or after October 1, 1977, shall become 65 years of age, or shall complete 25 years of service subsequent to attainment of such age, as aforesaid, such disability benefit or benefits shall cease on the first of the month next following and such disabled fireman shall thereafter receive such annuity or annuities as are provided for him in accordance with other provisions of this section. When any fireman so disabled and found eligible to receive a duty disability benefit on or after March 1, 1984 shall attain the age of 57 years, such disability benefits shall cease from the first of the month next following and such disabled fireman shall thereafter receive such annuity or annuities as provided for him in accordance with other provisions of this section. *(Par. g am. Ch. Ord. 529, File #82-2109-a, Jan. 24, 1984.)*

h. No fireman who shall have become 65 or more years of age who shall have been in the service 25 or more years shall have right to receive child's disability benefit. *(Par. h am. Ch. Ord. 442, File # 76-987-d, Feb. 8, 1977.)*

i. In lieu of all amounts ordinarily deducted, for annuity purposes from the salary of any fireman, disabled as aforesaid, the city shall contribute sums equal to such amounts for any period of disability to such fireman during which he shall receive duty disability benefit. Such sums so contributed shall be credited to such disabled fireman as though they were deducted from his salary and shall be regarded for annuity and refund purposes as sums deducted from such salary.

j. The city shall also contribute all amounts ordinarily contributed by it for annuity purposes for such fireman as though he were in active discharge of his duties during any such period of disability.

k. The retirement board shall submit an estimate on or before the first day in the month of August of such year to the common council of such city, of the amount necessary to provide duty disability benefits during the succeeding calendar year and such amount shall be paid into the annuity and benefit fund herein provided for from taxes levied and collected as hereinbefore stated in subsection 12 of this section. *(S. 1, Sub. 50-i to k, Ch. 423, L. 1923.)*

51. ORDINARY DISABILITY BENEFITS. a. Benefit to be known as "ordinary disability benefit" shall be provided for firemen who shall become disabled as the result of any cause other than injury incurred in the performance of one or more specific acts of duty. *(S. 1, Sub. 51-a, Ch. 423, L. 1923.)*

b. Any fireman less than 57 years of age, and any fireman 57 years or more of age who shall not have completed 25 years of service, who shall become disabled, subsequent to the 1st day in the month of January of the 1st year after the year in which this section shall come into effect in such city, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, shall have a right to receive ordinary disability benefit during any period or periods of any such disability which shall not extend beyond the date when such fireman shall have completed at least 25 years of service upon attainment of such age or beyond the 25th year of service of such fireman if such fireman shall have completed 25 years of service after attainment of the age of 57 years and which shall not exceed, in the aggregate, throughout the entire period of such fireman's service a period of time equal to one-fourth of the entire period of service rendered by such fireman in the service of such city prior to the time he shall have become so disabled, and which shall not exceed 5 years in any case. In computing any such entire period of service, any period of time during which such fireman shall have received ordinary disability benefit under the provisions of this section shall not be included for the purposes of this section. *(S. 12, Ch. 440, L. 1947.)*

c. The first payment of any ordinary disability benefit which any fireman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made.

d. Proof of disability shall be furnished to the retirement board by at least one licensed and practicing physician and said retirement board may require other evidence of disability. Each disabled fireman who shall receive any ordinary disability benefit under the provisions of this section shall be examined at least once a year by one or more licensed and practicing physician or physicians selected by said retirement board. Such physician or physicians shall advise said retirement board whether the disability of such fireman continues or not. When the disability of any such fireman shall cease the said retirement board shall discontinue payment of ordinary disability benefit to such fireman and such fireman shall be returned to active service as a fireman at the same salary he received before disability occurred.

e. Ordinary disability benefit shall consist of an amount equal to fifty per cent of the salary of such disabled fireman as such salary shall be at the time such disability shall occur for a period of time equal to any period of time for which any payment of such disability payment shall become due and payable. Before any payment thereof shall be made to any fireman an amount equal to the sum or sums ordinarily deducted from the salary of such fireman for all annuity purposes during a period of time equal to that for which such payment of ordinary disability benefit is to be made shall be deducted from such payment and credited to such fireman as a deduction from his salary for such period. Such sums so deducted and credited shall be regarded, for annuity and refund purposes, as sums deducted from the salary of such fireman.

f. The city shall contribute all amounts ordinarily contributed by it for annuity purposes for such disabled fireman as though he were in active discharge of his duties during any such period of disability.

g. The retirement board shall submit an estimate, on or before the first day in the month of August of each year, to the common council of such city, of the sum necessary to provide ordinary disability benefits during the succeeding calendar year. Such estimates shall show the amounts to be provided during such calendar year by the firemen included under the provisions of this section, and by the city. *(S. 1, Sub. 51-c to g, Ch. 423, L. 1923.)*

h. Disability contributions. To provide ordinary disability benefit, contributions shall be made by all firemen less than 57 years of age and all firemen 57 or more years of age who shall not have completed 25 years of service, and by the city as follows: *(Intro., S. 12, Ch. 440, L. 1947.)*

h-1. During the first year after the year in which this section shall come into effect in such city, one-half of one per cent of each payment of the salary of each such fireman, except those firemen who are in receipt of duty disability benefits or ordinary disability benefits, shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deduction shall be made at the times such payments of salary are payable.

h-2. Concurrently with each such deduction from the salary of any such fireman, the city shall contribute a sum equal to one-half

of one per cent of each such payment of the salary of such fireman. If it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

h-3. Beginning on the first day in the month of January of the second year after the year in which this section shall come into effect in such city and during each year thereafter, one-half of the total sum which shall be estimated annually by the retirement board as necessary to provide ordinary disability benefits during such year shall be contributed by the firemen included under the provisions of this section as follows:

h-4. Such amount (1/2 of said total sum) shall be prorated among all such firemen in proportion to the salary of each such fireman, the percentage of each such salary which the sum related thereto shall constitute shall be ascertained, and a sum equal to a like percentage of each such payment of such salary shall be deducted from each such payment of such salary.

h-5. Concurrently with each such deduction from the salary of each such fireman the city shall contribute a sum equal to the amount of such deduction. If it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made. *(S. 1, Sub. 51-h, Ch. 423, L. 1923.)*

52. DISABILITY BENEFIT PROVISIONS. a. Notwithstanding the provisions of subsections 50 and 51 of this section if any fireman who shall apply for or who shall have been granted any disability benefit under the provisions of said subsections 50 and 51 shall refuse to submit to examination by any physician or surgeon selected as aforesaid, such fireman shall not have any right to receive such disability benefit and any such benefit which shall have been granted shall be cancelled immediately upon such refusal.

b. No disability benefit shall be paid on account of any form of disability for any period of time for which a disabled fireman shall receive any part of his salary, and no such benefit shall be paid for any period of disability for which a disabled fireman shall have any right to receive any part of his salary under any law or ordinance in effect in such city.

c. If any fireman who shall be disabled shall receive any compensation or allowance from such city on account of such disability under and by virtue of sections 2394--1 to 2394--32, both inclusive, of the statutes [1921] and acts amendatory thereof and supplemental thereto, except that provided for in subsection 1 of section 2394--9 [Wis. Stats., 1921] the disability benefit herein provided for such fireman shall be reduced by any amount so received if such amount shall be less than the amount of such benefit; and if the amount or amounts received as compensation or allowance exceed the amount of the disability benefit herein provided for such fireman, such fireman shall not receive any such disability benefit until a period of time during which such benefit payable at the rate herein stated would equal the amount of such compensation shall have expired. In calculating any such period of time, interest upon the amounts of money involved shall not be considered. *(S. 1, Sub. 52, Ch. 423, L. 1923.)*

53. ORDINARY DISABILITY. a. Notwithstanding any other provisions of this section, whenever any fireman who shall have served less than 20 years, exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section shall be disabled, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, for a period or periods of time aggregating in excess of one-fourth of the entire term of such service rendered by such fireman and whenever any fireman who shall have served 20 or more

exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section, shall be so disabled for a period or periods of time aggregating in excess of 5 years and such fireman shall resign or be discharged from the service while still so disabled and before he shall have served for a period or periods of time aggregating 20 years exclusive of any period of disability, such fireman shall have the right to receive annuity from and after the date of such resignation or discharge from the service of such amount as can be provided from the sum to the credit of such fireman on the date of such resignation or discharge, for age and service annuity purposes if such fireman shall be a future entrant, or for age and service annuity and prior service annuity purposes if he shall be a present employe. Any such annuity shall be computed as of the age of the fireman concerned on the date of his resignation or discharge from the service. *(S. 13, Ch. 440, L. 1947.)*

b. The amount of annuity to which the wife of any such fireman shall have a right from and after the date of the death of such fireman shall be fixed on the date of the resignation or discharge of such fireman. It shall be of such amount as can be provided from the amount to the credit of such fireman on the date of his resignation or discharge from the service, for widow's annuity purposes if such fireman shall be a future entrant, or for widow's annuity and widow's prior service annuity purposes if such fireman shall be a present employe. Any such annuity shall be computed as of the age of such wife on the date of such resignation or discharge; provided that if such wife shall be older than her husband her age shall be assumed to be the same as his.

c. In the case of the death of any such fireman after he shall have entered upon annuity, any child, under the age of eighteen years, who shall be the issue of such fireman shall have a right to receive annuity of the same amount as is specified in subsection 49 of this section for a child of a fireman who shall retire after he shall have attained an age of fifty years, and the limitation stated in said subsection 49 concerning the amount of annuity to be paid to the family of a fireman shall apply in any case provided for in this subsection. *(S. 1, Sub. 53-b and c, Ch. 423, L. 1923.)*

54. PERIODS OF SERVICE. a. In computing the term of service rendered by any fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such fireman shall have performed the duties of his position; all periods of vacation; all periods of leave of absence with whole or part pay; all periods of leave of absence without pay which were necessary on account of disability.

b. In computing the term of service rendered by any fireman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such fireman shall have performed the duties of his position; all periods of vacation; all periods of leave of absence with whole or part pay; all periods of disability for which such fireman shall receive any disability benefit; and all periods of disability not the result of injury incurred in the performance of one or more specified acts of duty for which the fireman shall not receive any disability benefit any one of which periods shall not exceed fifteen consecutive days.

c. In computing the term of service rendered by any fireman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, for ordinary disability benefit purposes, all periods of time described in the preceding paragraph, except any such period of time for which such fireman shall receive or shall have received ordinary disability benefit, shall be counted as periods of service. *(S. 1, Sub. 54, Ch. 423, L. 1923.)*

55. ANNUITY AND BENEFIT FUND. a. It is the intention of this section that the annuity and benefit fund herein provided for shall on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and thereafter supersede and take the place of any firemen's pension fund which shall be in operation, under and by virtue of chapter 165, laws of 1903, as amended, in such city at the

time this section shall come into effect in such city. Therefore, if any firemen's pension fund, created and maintained under and by virtue of said chapter 165, laws of 1903, as amended, shall be in operation in any such city at the time this section shall come into effect in such city all moneys, securities and other assets of such fund shall be transferred, on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such fund to the retirement board of the annuity and benefit fund, herein provided for, which retirement board is hereby empowered to receive them, and shall be placed in the annuity and benefit fund herein provided for and such firemen's pension fund shall then cease to exist. If it shall not be possible or practicable for the board of trustees of any such firemen's pension fund to transfer all moneys, securities and other assets of such fund to the said retirement board on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, all such moneys, securities and other assets shall be transferred to said retirement board as soon as possible and practicable after such day, and any such transfer shall be made as of such day.

b. All annuities, pensions and other benefits allowed prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such firemen's pension fund shall thereafter be paid by the said retirement board from the annuity and benefit fund herein provided for, according to the law or laws under which such annuities, pensions or other benefits were allowed.

c. All claims for any annuity, pension or other benefits from such firemen's pension fund which are pending or ungranted on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be allowed or disallowed by said retirement board, according to the provisions of said chapter 165, laws of 1903, as amended, and those which shall be allowed shall be paid from the annuity and benefit fund herein provided for.

d. Widows, children less than eighteen years of age, dependent daughters, fathers or mothers of firemen who are or who shall become pensioners under and by virtue of chapter 165, laws of 1903, as amended, and who shall die shall have a right to receive pensions in accord with the provisions of said chapter 165, laws of 1903, as amended, and the retirement board shall allow all such pensions in accordance with the provisions of said chapter 165, laws of 1903, as amended, and shall pay all such pensions from the annuity and benefit fund herein provided for. *(S. 1, Sub. 55, Ch. 423, L. 1923.)*

56. TRANSFERENCE OF FUNDS. a. For the purpose of paying prior service annuities and widow's prior service annuities provided for in this section, and all annuities, pensions and benefits which have been or which shall be allowed or granted under and by virtue of chapter 165, laws of 1903, as amended, or under and by virtue of subsections 55 and 60 of this section, also for the purpose of providing a sufficient amount of money in the investment and interest fund, described in sub. 59-b to make possible the transfer of moneys from said fund to other funds of the annuity and benefit fund herein provided for as stated in sub. 59-b, the city shall contribute the sum of one hundred and twenty thousand dollars each year to the annuity and benefit fund herein provided for, beginning in the first year after the year in which this section shall come into effect in such city.

b. All such amounts contributed by the city shall be placed in the prior service annuity fund described in sub. 59-f. When the assets of the said prior service annuity fund shall equal the liabilities thereof (including in addition to all other liabilities of such fund, the present values, according to the American experience table of mortality and interest at the rate of four per cent per annum of all annuities present or prospective, to be paid from said fund) the city shall cease to contribute the sum stated in par. a or any part thereof; provided, however, if at any time the assets of the said investment and interest fund shall not be sufficient to permit of a transfer of moneys from said fund to any other fund of the annuity and benefit fund herein provided for in accordance with the provisions of sub. 59-e, the city shall, as soon as possible and practicable thereafter, contribute a sum or

sums sufficient to make possible such transfer of the amount or amounts of money required, and provided further, if by reason of annexation of territory and the employment by such city of any fireman employed in any such territory at the time of such annexation, after the city shall have ceased to contribute as provided in par. a contributions of moneys to provide prior service annuity and widow's prior service annuity (either or both) for or on account of such fireman shall become necessary for such annuity purposes, the city shall as soon as possible and practicable thereafter, contribute sum or sums sufficient to provide such annuities. However, the city shall not, in any event contribute any amount in excess of one hundred and fifty thousand dollars in any one year for any and all purposes stated in this subsection. *(S. 1, Sub. 56, Ch. 423. L. 1923.)*

57. FUNDS ON HAND. For the purpose of paying annuities, the retirement board may at all times keep and hold uninvested a sum not in excess of the amount required to make all annuity payments which shall become due and payable within the following ninety days. Such sum or any part thereof shall be kept on deposit in any bank in the state of Wisconsin, organized under the laws of said state as a state bank, or organized under the laws of the United States as a national bank, provided, such bank shall furnish to said retirement board adequate security for any sum deposited therein by said retirement board; and provided further, that the amount which said retirement board may deposit in any such bank shall not in any case exceed twenty-five per cent of the paid up capital and surplus of such bank. *(S. 1, Sub. 57, Ch. 423, L. 1923.)*

58. EFFECTIVE DATE OF ORDINANCE. No annuity shall be fixed, granted or paid, and no disability benefit shall be granted or paid under or by virtue of this section before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. *(S. 1, Sub. 58, Ch. 423, L. 1923.)*

59. RETIREMENT BOARD. a. Established. All money and property which shall be received by the retirement board for the annuity and benefit fund herein provided for shall be placed in some one or more of the following described funds which shall be established and maintained by said retirement board within the said annuity and benefit fund.

b. Expense fund. All amounts of money which shall be contributed by the city and all amounts of money which shall be deducted from the salaries of firemen to defray the cost of administration of the annuity and benefit fund herein provided for, as stated in subsection 14 of this section, shall be paid into a fund to be known as the expense fund. All expenses of administration shall be paid from this fund.

c. City contribution fund. c-1. All amounts of money which the city shall contribute for age and service annuity, widow's annuity and supplemental annuity purposes, except those contributed as provided in subsection 51 of this section, in lieu of deductions from the salary of any fireman who shall receive duty disability benefit, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

c-2. An individual account shall be kept in this fund concerning each fireman for whose benefit the city shall contribute for age and service annuity or for widow's annuity purposes (the former or both) and with each widow for whose benefit the city shall contribute for supplemental annuity purposes. As such contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

c-3. At least once each year, and always before any money shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

c-4. When the amount of annuity to be paid to any fireman, or the widow of any fireman shall be fixed, and when supplemental annuity for the widow of any fireman shall first become payable, the total amount in this fund for the purpose of providing such annuity, and required for such purposes shall be taken therefrom and placed in the annuity payment fund.

c-5. In any case in which there shall be in this fund to the credit of any fireman who shall resign or be discharged from the service before such fireman shall have attained an age of fifty-seven years an amount in excess of that required to provide age and service annuity for such fireman, or an amount in excess of that required to provide widow's annuity for the wife of such fireman (either or both) such amount shall be retained in this fund and improved by interest at the rate of four percent

per annum until such fireman shall become fifty-seven years of age or shall die, whichever event shall occur first. Such accumulated amount shall then be used in accordance with the provisions of sub. 42-d.

d. Salary deduction fund. d-1. All amounts of money which shall be deducted from the salaries of firemen for age and service annuity and widow's annuity purposes, also all amounts of money which shall be contributed by the city for any such annuity purposes for the benefit of any fireman who shall receive duty disability benefit under the provisions of subsection 50 of this section, in lieu of any such amount which would have been deducted from the salary of such fireman if such fireman were performing active duty, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

d-2. An individual account shall be kept concerning such fireman from whose salary any such amount shall be deducted or for whose benefit the city shall make any such contribution. As such deductions or contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

d-3. At least once each year, and always before any moneys shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

d-4. When the amount of annuity to be paid to any fireman or to the widow of any fireman shall be fixed or granted, the total amount in this fund for the purpose of providing such annuity and required for such purpose shall be taken therefrom and placed in the annuity payment fund.

d-5. All amounts which shall have resulted from deductions from the salary of any fireman, and all amounts which shall have resulted from contributions made by the city for the benefit of any fireman who shall receive duty disability benefit, in lieu of deduction from the salary of such fireman, in accord with the provisions of subsection 50 of this section, that are to be refunded in accordance with the provisions of this section, except those referred to in par. e, shall be paid from this fund. *(S. 1, Sub. 59-a to d, Ch. 423, L. 1923.)*

e. Annuity payment fund. e-1. All amounts of money which shall be taken from the city contribution fund and from the salary deduction fund for the purpose of paying annuities which shall have been fixed, also all amounts which shall be deducted from the salary of any fireman after the amount of age and service annuity for such fireman shall have been fixed, also all amounts which shall be transferred to this fund from the expense fund, the ordinary disability fund, the investment and interest fund, and under the provisions of subsection 66, shall be placed in this fund.

e-2. All age and service annuities and all widow's annuities shall be paid from this fund. *(S. 14, Ch. 440, L. 1947.)*

e-3. If any fireman who shall have resigned or been discharged from the service and whose annuity shall have been fixed or granted shall reenter the service before he shall have attained an age of fifty-seven years, an amount which shall be determined in accordance with the provisions of sub. 35-a shall be transferred from this fund and placed to the credit of such fireman for age and service annuity purposes in the city contribution fund and the salary deduction funds, respectively. Such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for age and service annuity purposes for such fireman bore to each other at the time the annuity for such fireman shall have been fixed. If the woman who shall be the wife of such fireman when he shall reenter the service shall be the one who was the wife of such fireman where annuity for the wife of such fireman shall have been fixed, an amount to be determined in accordance with sub. 35-a shall be transferred from this fund and placed to the credit of such fireman for widow's annuity purposes in the city contribution fund and the salary deduction fund, respectively, such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for widow's annuity purposes for the wife of such fireman bore to each other at the time the annuity for the wife of such fireman shall have been fixed. *(S. 1, Sub. 59-e-3, Ch. 423, L. 1923.)*

e-4. If at the end of any calendar year the assets of the annuity payment fund shall be in excess of the amount of liabilities of said fund by 15 per cent of such amount of liabilities, the amount of such excess shall be transferred to the investment and interest fund described in par. L to be used for the purposes prescribed in par. L. (S. *15, Ch. 44, L. 1947.)*

f. Prior service annuity fund. f-1. All amounts of money which shall be contributed by the city for prior service annuity and for widow's prior service annuity purposes and all money which shall be contributed by the city in accordance with the provisions of subsection 60 of this section shall be placed in this fund. All assets of any firemen's pension fund which shall exist under and by virtue of chapter 165, laws of 1903, as amended, in such city at the time this section shall come into effect, in such city, which shall be turned over to the retirement board as provided in subsection 55 shall also be placed in this fund.

f-2. All prior service annuities and widow's prior service annuities payable under the provisions of this section and all annuities, benefits and pensions which shall have been granted or shall be granted to any person or persons under, or in accordance with the provisions of chapter 165, laws of 1903, as amended, and of subsection 55 shall be paid from this fund.

f-3. If at any time the assets of the investment and interest fund described in subsection 59-L shall not be sufficient to permit the transfer from said fund to the annuity payment fund of the amount specified in subsection 59-L-2, the amount necessary for such purpose shall be taken from this fund and placed in the said investment and interest fund.

g. Child's annuity fund. All amounts of money which the city shall contribute to provide child's annuity according to the provisions of this section shall be placed in this fund and all such annuities shall be paid from this fund.

h. Duty disability fund. All amounts of money which shall be contributed by the city to provide duty disability benefits and child's disability benefits, and all amounts which shall be contributed by the city to provide compensation annuity (as defined in subsection 34 of this section) for a widow of any fireman who shall die as a result of injury received in the performance of one or more specific acts of duty shall be placed in this fund and all such benefits and annuities shall be paid from this fund.

i. Ordinary disability fund. All amounts of money which shall be contributed by the city, and all amounts which shall be deducted from the salaries of firemen for the purpose of providing ordinary disability benefits shall be placed in this fund and all such benefits shall be paid from this fund.

j. Transfer of funds. If at any time there shall not be enough money in the expense fund, the prior service annuity fund, the child's annuity fund, the duty disability fund, or the ordinary disability fund, either one of these -- to pay any expenses, annuities, or benefits which shall be due and payable from any such fund, the sums necessary to pay any such expenses, annuities, or benefits shall be taken from either one or all of the following named funds in the order stated, and transferred to the said fund or funds from which such expenses, annuities, or benefits shall be payable: city contribution fund, prior service annuity fund, salary deduction fund. When any amount in excess of that required to pay any expenses, annuities or benefits due, and payable from any of the said funds, to which any sums shall have been transferred, shall be received into such fund, such amount shall be transferred, from such fund to the fund or funds from which any such sums shall have been taken and transferred, until the full sums so taken and transferred shall be returned to any fund from which it was taken and transferred. Interest at the rate of four per cent per annum upon any sum so taken and returned shall be paid into the investment and interest fund.

k. Gift fund. All money or property of any kind which shall be received by the retirement board for any purpose or purposes of the annuity and benefit fund herein provided for, under and by virtue of any law or laws other than this section, or as gifts, grants, or bequests, or in any manner, other than as provided in any preceding subsection shall be placed in this fund, and the same shall be used for the purposes of the annuity and benefit fund herein provided for as shall be decided by said retirement board. All money in this fund shall be improved by interest at the rate of four per cent per annum.

L. Investment and interest fund. L-1. All gains from investments and all interest earnings shall be paid into a fund to be known as the investment and interest fund. Also, all moneys which shall be transferred from the annuity payment fund, described in this subsection, and the moneys which shall be transferred under the provisions of subsection 56 shall be placed in this fund. All losses from investments shall be charged to this fund. From this fund shall be transferred all amounts due in interest upon balances existing in the city contribution fund, the salary deduction fund, the prior service annuity fund, and the gift fund. *(S. 16, Ch. 440, L. 1947.)*

L-2. Such amounts as shall be necessary according to the American experience table of mortality and interest at the rate of four per cent per annum, to make the assets of the annuity payment fund equal to the liabilities thereof (including among such liabilities and in addition to all other liabilities of such fund the present values of all annuities entered upon or fixed, and not entered upon to be paid from such fund) shall be taken from this fund and transferred to the annuity payment fund at least once each year. *(S. 1, Sub. 59, Ch. 423, L. 1923.)*

60. SERVICE CREDIT. a. On or before December 1, 1923, etc. Notwithstanding the provisions of any other subsection of this section, any present employe who shall have been a member of the fire department of such city on December 1, 1923, or any fireman who was not a member of the fire department of such city on December 31, 1923, but was a member of such department of such city prior to said date, and resigned or was discharged from the service prior to said date, being ineligible for annuity, who reentered such service in such city subsequent to such date and remained in such service continuously for a period of at least 15 years from his date of re-entrance into said service, who shall resign or be discharged from the service, either before or after he shall become 50 years of age, after he shall have completed 22 or more years of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge from the service, shall receive annuity from and after the date of such retirement, resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge. *(Par. a am. Ch. Ord. 369, File #69-2596-a, May 24, 1971.)*

b. On or after January 1, 1924. Any employe who shall have become a member of the fire department of such city on or after January 1, 1924, who shall retire, resign or be discharged from the service after he shall have completed 25 or more years of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge from the service, shall receive annuity from and after the date of such resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation, or discharge provided that nothing in this subsection shall act to reduce the amount of annuity of any member who was eligible to retire on annuity on the day before May 17, 1945, at 1/2 or more of his average annual earnable salary during his highest 3 years of creditable service as it was in effect on such day, to an amount less than his annuity would have been if he had retired as of that day; however, any increase in compensation received after the effective date of this section shall be considered for annuity purposes under the highest 3 years salary provision of this section. *(Par. b am. Ch. Ord. 369, File #69-2596a, May 24, 1971.)*

c. On or after July 28, 1974. Notwithstanding the provisions of this subsection of this section, the average annual earnable salary for firemen presently employed on or after July 28, 1974, shall be:

c-1. For employes hired on or after May 17, 1945, the average annual regular base salary computed on the year of service in which the member's regular base salary was the highest.

c-2. For employes hired prior to May 17, 1945, the highest regular base salary annualized, for the first 25 years of creditable service, and the average annual regular base

salary computed on the year of service in which the employe's regular base salary computed on the year of service in which the employe's regular base salary was the highest for each additional year of creditable service thereafter. *(Par. c cr. Ch. Ord. 415, File #73-1841, Oct. 8, 1974.)*

d. Between March 1, 1983 and February 28, 1989. Notwithstanding the provisions of this subsection, members entitled to service credit during the time period between March 1, 1983, and February 28, 1989, shall receive such service credit at the rate of 2.5% per annum of final average salary for creditable service during such period. *(Par. d am. File #872401, May 17, 1988; eff. Aug. 2, 1988.)*

[Note:** The provisions of par. d apply to sworn firemen occupying position classifications of firefighter, motor pump operator, heavy equipment operator, fire paramedic officer, fire lieutenant, fire captain, paramedic lieutenant, chief engineer, fire, first assistant chief engineer, deputy chief, fire, battalion chief, fire, assistant superintendent of construction and maintenance, chief dispatcher of fire alarm and telegraph, assistant chief dispatcher of fire alarm and telegraph and motor vehicle operator instructor. **(File #872396, Sept. 20, 1988; eff. Dec. 5, 1988.)]

60.1. WIDOW'S ANNUITY. a. Widow's Annuity. Notwithstanding the provisions of any other subsections of this section in any case in which the amount of annuity for a widow of any present employe described in this paragraph, provided in accordance with the foregoing provisions of this section, shall be less than the amount of annuity specified in this subsection for such widow, the widow of any present employe who shall have been a member of the fire department of such city on the thirty-first day in the month of December of the year before the year in which this section shall come into effect in such city and who shall resign or be discharged from the service, and who shall enter upon annuity (provided such widow married such present employe before such resignation or discharge) and the widow of any such present employe who shall die at any time after he shall have entered such fire department of injury or exposure incurred in the line of his duty, or as the result of any disease contracted by reason of performance of duty; and the widow of any such present employe who shall have been a member of such fire department ten or more years who shall die from any cause, shall receive annuity from and after the date of the death of such employe, of an amount equal to the following sum relating to such widow, per month:

b. Other fire department employes. To the widow of the chief engineer of the department, sixty dollars; to the widows of the assistant chief engineers and assistant superintendent of fire alarm telegraph, fifty-five dollars; to the widow of the superintendent of machinery and apparatus, fifty dollars; to the widow of any captain, engineer, pilot or secretary, forty-five dollars; to the widow of any lieutenant, assistant engineer or fireman, forty dollars; to the widows of all other contributing members thirty-five dollars.

c. When widow marries. When any widow described in this subsection shall marry, any amount of annuity stated in this subsection as the amount to be paid to such widow which shall be in excess of that provided for such widow under foregoing provisions of this section shall cease.

d. When the widow dies. In case a widow shall not survive any present employe, described in this subsection, or in case the widow of any such present employe shall die or marry, any child or children less than eighteen years of age, the issue of such present employe, shall receive annuity equal in amount to that prescribed in this subsection for the widow of such pensioner or present employe, but any sum in excess of such amount shall not be paid to the children in any one family unless such sum is provided in accordance with the provisions of subsection 49 of this section.

e. Other dependents. In case no widow or children, as aforesaid, shall survive any such present employe, annuity equal in amount to that prescribed in this subsection for the widow of such present employe shall be paid to any dependent daughter, father or mother of any such present employe, in the order named but in any case to but one of them, and when any such daughter, father or mother to whom such annuity shall have been paid shall cease to be dependent, or when any such daughter shall marry, the retirement board shall cease payment of annuity to such annuitant.

f. Existing rights. Provided, that all existing rights or benefits that have accrued or shall accrue in the future to any person or persons whomsoever under or by virtue of chapter 165, laws of 1903, and acts amendatory thereto or supplementary thereof, shall be preserved to such person or persons notwithstanding the provisions of this section. *(S. 1, Sub. 60.1, Ch. 423, L. 1923.)*

60.2. OTHER SERVICE CREDIT PROVISIONS. a. Entering service after age 32. Notwithstanding the provisions of any other subsection of this section, no fireman who enters the service after age 32 shall receive an annuity amounting to more than 50 per cent of his final 5 year average earnable salary. *(S. 17, Ch. 440, L. 1947.)*

b. Service credit for duty disability. Notwithstanding any other provisions of this section, the retirement board shall allow as creditable membership or prior service, as the case may be, all time during which any fireman was absent due to duty disability as determined under the provisions of this sub. 50 of this section provided such fireman was presently employed from and after July 28, 1974, or due to service in the military, air or naval forces or in any defense or compulsory military training programs of the United States of America, and absence during federal hospitalization because of injuries or sickness resulting from such service, provided that such fireman was duly excused or granted leave of absence from his service as a fireman, and provided further that the period allowed for such service shall begin with the date of such duty disability benefit was granted or the date the fireman was excused or granted leave of absence, and shall extend until a date is determined under the provisions of sub. 50 of this section that the disability has ceased or the duty disability benefit has terminated or until a date not more than 90 days after his discharge from military, air or naval service or federal hospitalization. Upon the retirement of such member under the provisions of this act, he shall be credited with the periods of his military service by city contribution with the same result as though the fireman and the city during such military service made the normal contributions. *(Par. b cr. Ch. Ord. 415, File #73-1841, Oct. 8, 1974.)*

c. Employe transfer. Notwithstanding that a member is transferred to a new city department or is assigned new duties which he did not have at the time he became a member of this system, he may nevertheless continue as a member of this system with all the rights, benefits and allowances provided for in this act if he is able to demonstrate that he has had 25 years of continuous city service and his membership in this system has extended for at least a like period of time. *(Par. c cr. Ch. Ord. 384, File #71-2208-a, April 11, 1972.)*

61. INSUFFICIENT FUNDS. a. Notwithstanding the provisions of any other subsections of this section to the effect that certain annuities shall be life annuities; in any case in which the sum to the credit of a fireman for the purpose of providing annuity for such fireman shall be insufficient -- at the time the amount of such annuity shall be fixed, as hereinbefore provided -- to provide life annuity, payable at the rate of ten dollars a month, for such fireman, a term annuity payable at the rate of ten dollars a month shall be fixed for such fireman and such annuity shall be paid to him for such a period of time as such payments can be made from the aforesaid sum to the credit of such fireman; and, in any case in which the sum to the credit of a fireman for the purpose of providing annuity for the widow of such fireman shall be insufficient at the time the amount of such annuity shall be fixed, as hereinbefore provided -- to provide a life annuity, payable at the rate of ten dollars a month, for such widow, a term annuity payable at the rate of ten dollars a month shall be fixed for such widow, and such annuity shall be paid to such widow for such a period of time as such payments can be made from the aforesaid sum to the credit of such fireman.

b. Any annuity described in this subsection shall be computed according to the American experience table of mortality and interest at the rate of three and one-half per cent or four per cent per annum, whichever such rate of interest shall apply in any particular case, in accordance with foregoing provisions of this section. *(S. 1, Sub. 61, Ch. 423, L. 1923.)*

62. FUNDS EXEMPT FROM GARNISH-MENTS, ETC. All moneys and other assets in and of the annuity and benefit fund herein provided for and all annuities and disability benefits granted under the provisions of this section and every portion of such annuities and benefits both before and after payment to any annuitant or other beneficiary, shall be exempt from attachment or garnishment process and shall not be seized, taken, detained or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court in this state, for the payment and satisfaction in whole or in part of any debt, claim, damage, demand or judgment against any annuitant or other beneficiary hereunder, and no such annuitant or other beneficiary shall have any right to transfer or assign his or her annuity or disability benefit or any part thereof either by way of mortgage or otherwise. *(S. 1, Sub. 62, Ch. 423, L. 1923.)*

63. INCORRECT AGE. In the case of any fireman who shall have filed an application for appointment as a member of the fire department of such city, the age stated in such application shall be conclusive evidence of the age of such fireman for the purposes of this section. Whenever it shall appear to the board that the age of any member or beneficiary has been incorrectly stated and satisfactory evidence has been submitted to the board that a correction in the age of such member or beneficiary is required the board may correct such age. *(Sub. 63 am. Ch. Ord. 335, F#66-1005-b, Nov. 14, 1967.)*

64. COMPLIANCE. It shall be the duty of all officers, officials and employes of such city to perform any and all acts, required to carry out the intent and purposes of this section, which it shall be necessary that any such officer, official or employe shall perform so that the provisions of this section may be complied with and the intent and purposes thereof fulfilled. *(S. 1, Sub. 64, Ch. 423, L. 1923.)*

65. COMMISSIONER OF INSURANCE TO REPORT. Notwithstanding any other provisions of this section, it shall be the duty of the commissioner of insurance of this state to examine into the affairs of the annuity and benefit fund hereby created at least once in every three years and to submit a report concerning the results of his examination to the mayor of such city who shall submit such report to the common council of such city. The expense of such examination shall be paid by the annuity and benefit fund hereby created. *(S. 1, Sub. 65, Ch. 423, L. 1923.)*

66. CITY CONTRIBUTIONS. a. Notwithstanding the provisions of any other subsections of this section, the city shall contribute to the annuity and benefit fund hereby created during the first year following the year in which this section shall take effect in such city the sum of one hundred thousand dollars and during each year of the eight years succeeding the first year following the year in which this section shall take effect in such city, the city shall contribute the sum of twenty-five thousand dollars more than it shall have contributed during the year immediately preceding such year. Thereafter the city shall contribute as provided in the other subsections of this section.

b. During the period beginning with the first day of January of the year following the year in which this section shall take effect and ending with the thirty-first day of December of the ninth year following the year in which this section shall take effect, out of the sums contributed by the city as hereinbefore stated in this subsection, sums equal to the amounts that would be contributed by the city each year if this subsection did not exist shall be paid each year into the expense fund, salary deduction fund, annuity payment fund, child's annuity fund, duty disability fund and ordinary disability fund in the order named, and the remaining part of such contributions shall be paid into the prior service annuity fund, and from the prior service annuity fund there shall be transferred to the annuity payment fund such sums as would be transferred from the city contribution fund to such fund if this subsection did not exist.

c. Beginning with the first day of January of the tenth year following the year in which this section shall take effect, sums equal to the amounts that would be contributed by the city each year, if this subsection did not exist, shall be paid each year into the expense fund, salary deduction fund, annuity payment fund, child's annuity fund, duty disability fund and ordinary disability fund, in the order named. After such sums are paid into the funds as aforesaid, sums equal to the amounts required

in contributions from the city for age and service annuity purposes and widow's annuity purposes shall be paid into the city contribution fund and the remaining part shall be paid into the prior service annuity fund. From the prior service annuity fund there shall be transferred to the annuity payment fund amounts equal to the differences between the amounts which would have been transferred from the city contribution fund to the annuity payment fund if this subsection did not exist and the actual amounts thus transferred.

d. Such distribution of the funds so contributed shall be continued until the amount in the city contribution fund shall be equal to the amount that would have been in such fund if contributions by the city and distribution of the amounts thus contributed had been made according to the provisions of the other subsections of this section from the date when this section shall take effect. When such time shall have come this subsection shall cease to be in force. *(S. 1, Sub. 66-a to d, Ch. 423, L. 1923.)*

e. From and after January 1, 1948, there shall be deducted and contributed to the annuity and benefit fund herein provided for 3% of each payment of salary of each fireman from whose salary no further age and service annuity deductions are required under the remaining subsections of this section, and 1/8th of 1% from each payment of the salary of each fireman from whose salary no further deductions for expense of administration purposes are required under the remaining subsections of this section. Such deductions shall be made at the time such payments of salary shall be made and shall be continued while such fireman shall be in the service.
(Par. e am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1956.)

f. Of the amounts deducted from salaries as prescribed in sub. 66-e the 3% deductions required from and after the dates when no further deductions shall be required for age and service annuity purposes shall be placed in the annuity payment fund described in sub. 59-e to be used for the purposes described in said sub. 59-e, and 1/8th of 1% deductions required from and after the dates when no further deductions for expense of administration purposes are required shall be placed in the expense fund described in sub. 59-b to be used for the purposes described in said sub. 59-b. *(Par. f am. Ch. Ord. 228, F#55-4100-b, Oct. 16, 1956.)*

67. ANNUITY, DEFERRED COMPENSATION. Firemen and other fire department employes have been attracted to and have remained in service despite ability to receive higher wages and salaries in other employment because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in retirement systems of which they have been contributing members. The purpose of creation of this subsection is to strengthen the fire service in cities of the first class by establishing the security of annuities and all other benefits provided by the firemen's annuity and benefit funds in such cities.

a. All benefits of firemen, whether in service or retired, and of beneficiaries, including widows and children of deceased firemen, by or for whom contributions shall have been made to the firemen's annuity and benefit fund of a city of the first class, shall be assured by benefit contracts.

b. Every fireman and beneficiary shall be deemed to have accepted the provisions hereof and shall by such acceptance have a benefit contract as of the effective date of the creation of this subsection unless, within 30 days thereafter, he files with the retirement board a written notice electing to have no such contract. The annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in ch. 423, laws of 1923, as amended and then in effect in such city shall be obligations of such benefit contract on the part of the city and the retirement board and each fireman and beneficiary having such a benefit contract shall have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation nor by any other means without his consent.

c. The retirement board may issue to each fireman and beneficiary who shall have such a benefit contract a written or printed contract, or may supplement any certificate, or other evidence of participation issued to him by indorsement stating that the fireman or beneficiary has a benefit contract according to the terms of this subsection, but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued. *(Sub. 67 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.)*

68. MEMBERS ONLY. No person who had not contributed to and become a member of a fireman's annuity and benefit fund in a city of the first class established pursuant to ch. 423, laws of 1923 shall be permitted to contribute to such fund or become a member thereof on or after the passage of this act nor shall he or his widow or his child be, or become, entitled to receive any benefit from such fund. Only persons who are members of such fund created by ch. 423, laws of 1923, on the day before this act becomes effective may contribute to such fund or be members thereof after said date. *(Sub. 68 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.)*

69. CITIES OF THE FIRST CLASS. For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension annuity and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this section are matters of local affair and government and shall not be construed as an enactment of state-wide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this section in the manner prescribed by s. 66.01 of the Wis. Stats; provided that no such amendments or alteration shall modify the annuities, benefits or other rights of any person who is a member of the system prior to the effective date of such amendment or alteration. For the further purpose of safeguarding the stability of pension systems in cities of the first class the provisions of chapter 396, laws of 1937, section 15(2), as created by chapter 441, laws of 1947, shall apply to this chapter. *(S. 3, Ch. 279, L. 1953.)*

70. RIGHTS PRESERVED. Notwithstanding any other provisions of this section, all rights and benefits under or by virtue of ch. 165, laws of 1903, and acts amendatory thereto, or supplementary thereof, that have accrued or shall accrue in the future to any person or persons whomsoever, including those retired on annuity shall be preserved to such person or persons. *(Sub. 70 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1956.)*

71. ANNUITY INCREASES. a. Based on contracts. Notwithstanding any other provision contained in this chapter [514, L. 1961] and not withstanding any other statute, and commencing on the effective date (1961) of this subsection, every city of the first class may increase the annuities and other benefits provided in chapter 423, laws of 1923, as amended, for all firemen who have retired from active service and who shall have attained the age of 65 years, and for all widows who shall have attained the age of 62 years, and for children under 18 years of age who are entitled to benefits from the fund, provided that such increase of annuities and other benefits shall be based upon amended contract between such city and such retired firemen and by or for such other beneficiaries. *(S. 1, Ch. 514, L. 1961.)*

b. Hospital premiums. Notwithstanding any other provisions to the contrary, deductions to cover premiums for hospitalization and surgical care may be made from the annuity payroll or payments of the firemen's annuity and benefit fund with respect to payments to pensioners when authorized by them in writing, and such premiums when paid on behalf of such pensioners shall constitute a charge against amounts otherwise due them. *(Sub. 71 cr. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.)*

72. EMPLOYED AFTER AGE 57; WIDOW'S FUND. a. Widow's Annuity. Notwithstanding any other provisions of law to the contrary an employe covered by this annuity and benefit fund who has attained the age of 57 years and continues his employment may elect in writing to continue his widow's annuity contributions to this fund, after having attained the age of 57 years. Such election to so contribute also may be exercised by an employe who is in the service on the effective date of the creation of this subsection who continues in his employment and who has attained the age of 57 years prior to the enactment of this section by notifying the trustees of this fund of his election to continue making the widow's annuity contributions. Such election in the case of employes who have attained the age of 57 years prior to the enactment of this section must be made within 6 months from the effective date of this section. When such election has been made, as herein provided for, such employe shall contribute to such fund at the rate of 4-5/8% of his earnable compensation until his completion of 25 years of service, thereafter such contribution shall be at the rate of 4-1/8% of

his earnable compensation. An employe who has already attained the age of 57 years prior to the enactment of this subsection and who having elected to continue to contribute his widow's annuity contributions to such fund, as hereinbefore provided, shall be permitted to obtain and receive the benefits granted herein by paying to said fund the amount which he would have contributed after reaching the age of 57 had he been eligible to make such contributions as herein provided and he shall pay in addition to accumulated contributions the interest accrued computed upon an actuarial basis and equal to the amount that his contributions would have earned had he continued to contribute the widow's contributions to such fund upon attaining the age of 57 years. Such employe who has already attained the age of 57 years prior to the enactment of this subsection shall be required to make up all of the contributions which he would have been required to pay together with the interest hereinbefore referred to within one year from the effective date of this section, and if he fails so to do, he shall be ineligible for the benefits provided herein.

b. Account credited. Any such employe as referred to in par. a having elected to come under the provisions hereof shall be credited for widow's annuity in his account in the salary deduction fund for all of his contributions for widow's annuity purposes both before and after attainment of age 57, and shall also be credited for widow's annuity in his account in the city contribution fund for contributions by the city at the rate of 2-1/2% of each payment of salary for service rendered both before and after attainment of age 57. These amounts so credited shall be improved to his credit by interest at the rate of 4% per annum during all the time that such employe shall be in the service from the date of his contribution and corresponding city credit until the date of his separation from the service. In the event of the resignation or discharge of the employe after his attainment of age 57 the total of the foregoing amounts to his credit for widow's annuity purposes on such date shall be used to compute and fix in accordance with the provisions of subs. 29-a and b-3, 38-c, and 39, a reversionary life annuity for an eligible wife based on their attained ages on such date provided that the age of the wife cannot be taken as greater than the attained age of the employe on the date of his resignation or discharge. An eligible widow of any such employe as referred to in par. a who shall die in the service after his attainment of age 57 and before his resignation or discharge from the service, shall be entitled to a life annuity in accordance with the provisions of subs. 29-a, 38-d, and 39 based on the amount to the employes' credit on the date of his death for widow's annuity purposes in the salary deduction fund and city contribution fund plus the sum to his credit for employes' annuity purposes in the annuity payment fund and prior service annuity fund for age and service and prior service annuity purposes and based on the widow's attained age on the date of death provided that her age cannot be taken greater than the attained age of the employe on the date of his death. In the event of the death of the wife of an employe whose death shall occur while the employe is still in the service who has elected to come under the provisions of this subsection, and in the case of an employe who attains the age of 57 in the service whose wife subsequently dies or who becomes divorced from him while he is still in the service who has not elected to come under the provisions of this section, any such employe shall be entitled to the return of his accumulated contributions for widow's annuity purposes upon proper application to the retirement board. *(Sub. 72 am. Ch. Ord. 260, File #59-1947-a, Mar. 29, 1960.)*

73. APPLICABILITY. This act [ch. 423, L. 1923] shall be amendatory of the charters of all cities of the first class in this state, and any provisions in any such charter which is in conflict with or inconsistent with this act is hereby repealed. All laws and parts of laws which are in conflict with or inconsistent with this act, or any provisions thereof, are hereby repealed. *(S. 2, Ch. 423, L. 1923.)*

74. SERVICE CREDIT. Any member of this system who has had in excess of 25 years of continuous service as a member of the fire department and as defined herein, shall receive for each full year of service after such initial 25 year period, 2% per year for each year of service or part thereof upon the basis of the average of his 3 highest years of his compensation, which 3 year period precedes

the retirement of such member; however, in no event shall such additional service credit be granted for any period of more than 10 years of service beyond the said 25 years of service. All service of a member prior to January 1, 1971, but not exceeding a period of 10 years in excess of said 25 years of service shall be computed for purpose of retirement on the basis of the average of the 3 highest years of compensation which precedes such member's retirement. *(Sub. 74 cr. Ch. Ord. 369, File #69-2396-a, May 24, 1971.)*

34-02. Member of Fund Becoming County Employe; Procedure. Notwithstanding any other provision of law, whenever any member of the firemen's annuity and benefit fund created by ch. 423, laws of 1923, as amended, or of the policemen's annuity and benefit fund created by ch. 589, laws of 1921, as amended, or of the sheriffs' annuity and benefit fund created by ch. 155, laws of 1937, as amended, whose membership in said respective funds exceeds one year, who shall hereafter become an employe of the county of Milwaukee or who is presently employed by such county and became such employe subsequent to the date of the establishment of the employes' retirement system of the county of Milwaukee and became or becomes a member of such retirement system, the governing board of said firemen's annuity and benefit fund, policemen's annuity and benefit fund or sheriffs' annuity and benefit fund, as the case may be, shall upon request of such employe cause the treasurer or custodian of such respective fund to pay to the custodian of the employes' retirement system of Milwaukee county all contributions made by such employe to said fund, together with any interest credited on the amount of said contribution at the time of transfer herein provided for, and shall further cause the secretary of said respective firemen's, policemen's or sheriffs' annuity and benefit fund to furnish to the secretary of the employes' retirement system of the county of Milwaukee a certificate showing the total period of membership in such fund credited to such member which certificate shall be acknowledged in writing as accepted by such member, and which shall become final and conclusive and not subject to correction after one year from its date. The amount of money thus received, representing the member's contribution from his compensation to the respective fund, shall be credited by the secretary of the employes' retirement system of the county of Milwaukee to the annuity savings account set up for such member. The annuity and pension board of the employes' retirement system of the county of Milwaukee shall give such employe credit for membership and prior service in the employes' retirement system of the county of Milwaukee in conformity with the statement of service furnished by the secretary of the fund from which such employe transferred. Such transferred employe member of the employes' retirement system of the county of Milwaukee shall thereafter enjoy all the rights and benefits which would have accrued to him had he been an employe of such county for the total period of his service as a fireman, policeman, or sheriff, plus his employment with such county. All words used in this chapter shall have the meaning ascribed to them by the definition section in chapter 201, laws of 1937, as amended. Any person who shall transfer his employment and membership in the aforesaid firemen's, policemen's or sheriffs' annuity and pension funds to the employes' retirement system of the county of Milwaukee shall be deemed to have released all claims whatsoever against said firemen's, policemen's or sheriffs' annuity and benefit fund. *(S. 2, Ch. 574, L. 1949.)*

34-04. Certain Payments by City Into Fund. 1. In lieu of the contributions made by active participating members of the firemen's annuity and benefit fund, pursuant to the provisions of ch. 423, laws of 1923, as amended, the city will pay commencing with the first pay period of 1969 for eligible members of such fund a sum not to exceed 6% of the compensation paid to such participating members subject to such contribution, but in no event more than such members would have contributed except for the enactment of this section; such contributions to be made by the city on an annual basis and shall constitute a part of the city's pension contribution.

2. In the event any court shall determine that the home rule powers under and pursuant to which the common council of the city of Milwaukee has the authority to amend

any provision of said firemen's annuity and benefit act and under which this section is enacted, are either invalid or illegal or impaired in any respect whatsoever, then this section shall be deemed without force and effect and cease to have any operating effect from the date of its enactment, and all moneys contributed by the city under the terms of this section shall be deemed a credit against other contributions which the city is required to make for pension purposes to said fund, and the members for whom the city has contributed such amount as above set forth shall be required to make up any deficiency occurring by virtue of the fact that this ordinance will under such circumstance become inoperative and ineffective because of the terms herein.

3. Any provisions in said firemen's annuity and benefit fund act relating to contributions to be made by the members thereof who are members of the fire department and eligible to participate in such fund, shall be superceded by the provisions hereof, but if a court shall determine that the home rule powers exercised by the common council are either illegal or invalid or impaired in any respect whatsoever, then they shall be in full operating effect. *(Section 34-04 cr. Ch. Ord. 345, File #68-2098, Dec. 6, 1968.)*

34-05. Retirement Board, Composition and Election of Members. Notwithstanding any other provisions of ch. 423 of the laws of 1923, as amended, whenever a term shall expire or a vacancy shall occur on or after January 1, 1981, among the 3 members of the retirement board who shall be firemen employed by the city and 2 members of the retirement board who shall be annuitants or pensioners of the annuity and benefit fund, any person who shall be a fireman employed by such city including those on vacation and those on leave of absence, any person in receipt of a duty disability or ordinary disability benefit from the firemen's annuity and benefit fund, and any person who shall be an annuitant or pensioner of the annuity and benefit fund at the time an election is held for a successor or to fill a vacancy shall be eligible to be a candidate for election and shall be eligible to vote in such election. *(Section 34-05 cr. Ch. Ord. 497, File #80-1349, Dec. 19, 1980.)*

34-06. Annuity Contracts. 1. CITY MAY CONTRACT. Notwithstanding any other provisions of law, the retirement board with the concurrence of the city may contract with a legal reserve life insurance company licensed to do business in the state of Wisconsin with a financial rate of "A" or "A+" as measured by Best's Insurance Reports standard for the investment of some or all of the assets at a specified rate of return, for the administration of payment of annuities and benefits authorized by the board and set forth in the law, for the purchase of annuity contracts with some or all of the assets to provide guaranteed payments anticipated to cover all or part of the annuities guaranteeing the payments of annuities and other benefits authorized by the retirement board and set forth in the law, and the expenses of administration in connection therewith. If the retirement board shall contract for investment of assets at a specified rate of return and for administration of payments, the board shall cease to be responsible for investment and administrative functions as they relate to such assets and payments, but the city shall continue to pay annually the amount of tax levy certified to the common council. If the board shall contract with all of the assets for guaranteed payments anticipated to cover all of the annuities and other payments authorized by the retirement board and set forth in the law after such time as all such annuities and benefits shall become fixed, the retirement board shall cease to exist and the city shall levy annually a tax to pay any deficiency between the guaranteed payments and the annual cost of annuities and other benefits authorized by the retirement board and set forth in the law and administration expenses in connection therewith. If at the time the retirement board shall cease to exist, pensioners shall continue to receive duty disability benefits authorized by the retirement board under s. 34-01-50, widows' annuities for such pensioners shall be fixed by the annuity and pension board of the employes' retirement system in accordance with this chapter. If the retirement board shall cease to exist, the city in its sole discretion may contract with all or part of the assets for the purchase of annuities guaranteeing benefit payments to cover all or part of the annuities and other benefits authorized by the retirement board and set forth in the law, and administrative therewith.

If the city shall purchase contracts to guarantee all such benefit payments and administration in connection therewith, the fund shall cease to exist. Any premium to be paid by the city as part of any such purchase to guaranty benefit payments shall be included annually in the amount of the tax levy. Any surplus in the fund at the time it shall cease to exist shall revert to the city.

2. ADDITIONAL CONDITIONS. As part of any such contract, a reserve life insurance company may authorize supplemental payments in addition to the annuities and other benefits authorized by the retirement board, but no supplemental payments shall be contractually guaranteed by the annuity and benefit fund of the city. As part of any such contract, a reserve life insurance company may also agree to give the retirement board and the city an option to thereafter enter into additional contracts under such terms and conditions as may be mutually agreed upon. The benefits and other annuities authorized by the retirement board and set forth in the law shall at all times remain the contractual obligation of the city.

3. ACCOUNTING. The accounting for the firemen's annuity and benefit fund shall only reflect assets and liabilities which are not covered by the purchase of annuities guaranteeing benefit payments authorized by the retirement board and set forth in the law and administrative expenses in connection therewith.

4. DUTY DISABILITY PROVISIONS. The duty disability benefits authorized by the retirement board under s. 34-01-50 shall upon the effective date of this section become the administrative responsibility of the annuity and pension board of the employes' retirement system. The city shall annually levy a sum sufficient to pay such duty disability benefits.

(HISTORY: 34-06 cr. Ch. Ord. 524, File #83-332, July 12, 1983.

34-06 rc. Ch. Ord. 540, File #84-512, July 27, 1984.

34-06-1 am. File #871526, Jan. 26, 1988; eff. April 12, 1988.)

(This page blank)

CHAPTER 35
POLICEMEN'S ANNUITY AND BENEFIT FUND

TABLE

35-01 Policemen's Annuity And Benefit Fund

ADMINISTRATION:
1. Council Approval
2. Fund Established
3. Board of Trustees
4. Board Salaries
5. Meetings
6. Officers
7. Board Powers
8. Bonding
9. Legal Advisors
10. No Financial Interest
11. Departmental Cooperation
12. Tax Levy
13. Definitions
14. Administration Costs

CONTRIBUTIONS:
15. Annual Salary
16. Annuity, Future and Present Employes
17. Future Entrant, Contributions
18. Deductions
19. Prior Service Annuity, Present Employes
20. Prior Service, Accounts Credited

WIDOW'S ANNUITY:
21. Future and Present Employes
22. Future Entrants
23. Present Employes
24. Prior Service Employes
25. Prior Service Provisions
26. Prior Service Contributions

OTHER PROVISIONS:
27. Future Entrant, After Age Fifty-seven
28. Prior Service, Fifteen Years
29. Future Entrants or Present Employes
    a. After Age Fifty
    b. Service Credits
30. Future Entrant
31. Widow of Future Entrant
32. Present Employe, Prior Service
    a. Service Credit
    b. After Age Fifty-seven
    c. Before Fixed Annuity
    d. After Age Fifty
    e. Before Age Fifty
33. Widow of Present Employe
34. Death While on Duty
35. Re-entrance Into Service
36. When Pension Suspended
37. Prior Service and Re-entry
38. Maximum Annuity Granted
39. When Wife not Eligible
40. Other City Employment
41. When Widow's Annuity Suspended
42. Future or Present Employe Provisions
    a. Withdrawal of Funds
    b. When Policeman not Married
    c. When Widow's Annuity Refunded
    d. Funds Transferred
    e. Heirs
43. Overtime not Included
44. Other Police Service
45. Annexed Areas
46. Other Annuity Funds
47. Transfer of Funds
48. Child's Annuity
49. Child's Annuity Provisions

DISABILITY:
50. Duty Disability Benefits
51. Ordinary Disability Benefits
52. Disability Benefit Provisions
53. Ordinary Disability

FUNDS:
54. Periods of Service
55. Annuity and Benefit Fund
56. Transference of Funds
57. Funds on Hand
58. Effective Date of Ordinance
59. Retirement Board

YEARS OF SERVICE:
60. Service Credit
60.1. Widow's Annuity
60.2. Other Service Credit Provisions

OTHER REGULATIONS:
61. Insufficient Funds
62. Funds Exempt from Garnishments, etc.
63. Incorrect Age

64. Compliance
65. Commissioner of Insurance to Report
66. Contributions
67. Annuity, Deferred Compensation
68. Members Only
69. Cities of the First Class
70. Rights Reserved
71. Annuity Increases
72. Employed after Age Fifty-seven, Widow's Contribution
73. Applicability
FUNDING:
35-04 Certain Payments Made By City To Fund

35-01. Policemen's Annuity and Benefit Fund.

1. COUNCIL APPROVAL. In all cities of the first class in this state whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered for policemen employed by such cities and for the widows and children of such policemen and for all contributors to, participants in, and beneficiaries of any policemen's pension fund in operation, by authority of law, in any such city at the time this section shall come into effect; provided that before this act shall be in effect in any city to which it applies, it must first have been approved by a majority vote of the members elect of the common council of such city.

2. FUND ESTABLISHED. In each such city one such annuity and benefit fund shall be created, established, maintained and administered, as hereinafter stated. *(S. 1, Subs. 1 and 2, Ch. 589, L. 1921.)*

3. BOARD OF TRUSTEES. a. In each such city a board composed of 7 members shall constitute a board of trustees authorized to carry out the provisions of this section and charged with the duty of administering the annuity and benefit fund herein provided for. Said board of trustees shall be known as the Retirement Board of the Policemen's Annuity and Benefit Fund of Milwaukee, Wis., which board is hereinafter referred to as the "Retirement Board."

b. The retirement board shall consist of the following: One member who shall be a person appointed by the mayor of such city; 5 members who shall be policemen employed in such city, or annuitants or pensioners of such fund elected as hereinafter provided; and the city treasurer of such city whose alternate shall be his deputy. The common council of such city shall not change such general organization of the board as set forth herein without written consent of a 2/3 majority of the board members. The members of the board shall not be authorized to give such consent unless and until at least 2/3 of the adult members and beneficiaries of the fund present (in person or by proxy or by legal representative) at a meeting at which no less than 2/3 of the total number of adult members and beneficiaries are so present have voted affirmatively to approve any such reorganization. The term "adult" shall mean a person not less than 21 years of age. Any such vote shall not be valid unless the board has given written notice not less than 10 and not more than 30 days before the meeting to all adult members and beneficiaries of the fund. Such notice shall be mailed to the last known addresses of such adult members and beneficiaries as shown in the board's records, shall specify, the time and a place within the city of Milwaukee at which the meeting will be held, shall include a form of proxy with instructions for its use and shall describe with reasonable accuracy the proposed plan of reorganization to be considered at such meeting. Such restriction upon changing the organization of the board shall not apply to the periodic election and appointment of individual board members in accordance with the plan or organization and the provisions of the law prescribing the procedures and prerogatives for such elections and appointments. *(Ch. Ord. 433, File #75-1942-a, July 13, 1976.)*

Note: Section 35-01-3-b of the charter permits a change in the organization of the policemen's annuity and benefit fund board of trustees pursuant to the provisions of 35-01-3-b. On October 18, 2005, the common council passed file number 050744, effective January 3, 2006, abolishing the board of trustees and transferring the powers and duties of the board to the annuity and pension board; see section 36-15-1-e of the charter. File number 050744 further specified that "the city of Milwaukee shall indemnify and hold harmless the board of trustees of the policemen's annuity and benefit fund, its officers, directors and employes from any and all liability, damages, or injury arising out of the transfer of the administration and management of the policemen's annuity and benefit fund to the annuity and pension board."

c. Within 30 days from and after the date upon which this section shall come into effect in such city, and also at a time not less than 30 days prior to the end of each succeeding 4 year term thereafter, the mayor of such city shall appoint a person to serve as a member of the retirement board for a period of 4 years and until his successor shall have been appointed and shall have qualified. *(S. 1, Sub. 3-c, Ch. 589, L. 1921.)*

d. Within 30 days from and after the date upon which this section shall come into effect in such city, the mayor of such city shall arrange for and hold an election, at which all policemen employed by such city at the time such election shall be held (including those on vacation and those on leave of absence) and all annuitants of any "policemen's pension fund" in operation, by authority of law, in such city at the time this section shall come into effect in such city, shall have a right to vote, and at which the ballot shall be of secret character, for the election of 3 members of the retirement board who shall be policemen employed by such city. At such election one such policeman shall be elected for a term which shall end on December 1 of the third year after the year in which this section shall come into effect in such city, one for a term which shall end on December 1 of the second year after the year in which this section shall come into effect in such city, and one for a term which shall end on December 1 of the first year after the year in which this section shall come into effect in such city. Thereafter, the retirement board shall conduct regular elections annually, under rules to be adopted by it, at least 30 days prior to the date of expiration of the term of the elective member (who was elected by policemen employed by the city and persons in receipt of ordinary or duty disability, or thereafter by the persons as herein provided) whose term shall next expire, for the election of a successor to such member, which successor shall be a policeman employed by such city or a person in receipt of duty disability benefits or ordinary disability benefits from the annuity and benefit fund herein provided for, or a person who is an annuitant or pensioner of the annuity and benefit fund as herein provided. Each such successor to those particular offices on the board shall be elected for a term of 3 years. Each member elected as aforesaid shall continue in office until his successor shall have been elected and shall have qualified. At all such elections all policemen employed by such city at the time any such election shall be held (including those on vacation and those on leave of absence) and all persons in receipt of duty disability or ordinary disability benefits from the annuity and benefit fund herein provided for by authority of law, in such city at the time such election shall be held, and annuitants and pensioners of such fund who are over the age of 21 years shall have a right to vote, and the ballot shall be of secret character. *(Ch. Ord. 433, File #75-1942-a, July 13, 1976.)*

e. The annuitant or pensioner members elected by authority of law prior to January 1, 1948, whose terms of office shall not have expired on said day, shall be members of the retirement board for the terms for which they were elected. Thereafter the retirement board shall arrange for and hold elections for the election of a successor to the member (who was elected by annuitants or pensioners, or thereafter by the persons as herein provided) whose term shall next expire, and such election shall be held at least 30 days prior to the expiration of such term, which successor shall be an annuitant or pensioner of the annuity and benefit fund herein provided for, or a policeman employed by such city or a person in receipt of duty disability benefits or a person in receipt of ordinary disability benefits from the annuity and benefit fund herein provided for, to be elected by annuitants and pensioners of such fund who are over the age of 21 years, and by policemen employed by such city at the time such election shall be held (including those on vacation and those on leave of absence), and all persons in receipt of duty disability or ordinary disability benefits from the annuity and benefit fund herein provided for, by authority herein provided for, by authority of law, in such city at the time such election shall be held. Each such successor so elected to these particular offices on the board shall be elected for a term of 2 years and shall continue in office until his successor shall be elected and shall have qualified. *(Ch. Ord. 433, File #75-1942-a, July 13, 1976.)*

f. Any person appointed or elected as aforesaid shall qualify for the office of member of such retirement board by taking an oath of office. Such oath shall be administered by the city clerk of such city and a copy

thereof shall be kept in the office of such city clerk. Such appointive member may be removed from office by the mayor of such city. Whenever a policeman employed by such city or a person in receipt of duty disability or ordinary disability benefits, who is a member of the retirement board, leaves the police service of such city, he shall automatically cease to be a member of the retirement board. *(Ch. Ord. 433, July 13, 1976.)*

g. If a body, created and maintained under and by virtue of any law or laws heretofore or hereafter enacted, officially known as the retirement commission of such city, and charged with the duty of supervising the conduct of the affairs of the annuity and benefit fund herein provided for, and of passing upon the validity and sufficiency of securities in which it shall be proposed that any moneys of the fund shall be invested, and of performing other duties concerning the fund shall exist in such city, the chairman of such retirement commission shall, ex-officio, be a member of the retirement board of the annuity and benefit fund herein provided for.

h. If a vacancy shall occur in the membership of said retirement board owing to the death, resignation or any other cause, the vacancy shall be filled as follows: In case the vacant membership be that of the appointee of the mayor of such city, the mayor shall appoint a person to serve during the remainder of the unexpired term. In case the vacant membership be of elective character, a successor of the member whose position shall have become vacant shall be elected to serve during the remainder of the term for which such former member was elected, at a special election which shall be held by the retirement board within 30 days from the date when such vacancy shall occur, and shall be conducted in the same manner with the same classes of voters and the same eligibility for membership on the retirement board as apply in cases of regular annual elections. Any person so appointed and any person so elected shall qualify for office by taking an oath of office, as aforesaid. *(S. 1, Ch. 439, L. 1947.)*

4. BOARD SALARIES. No member of said retirement board shall receive or have any right to receive any money or moneys from the annuity and benefit fund herein provided for as salary for service performed as a member of said board but any policemen member shall have a right to and shall be reimbursed for any amount of salary which shall be withheld from such member by the city comptroller of such city, or by any officer or employe of such city, because of attendance at any meeting of said retirement board or the performance of any other duty in connection with the annuity and benefit fund herein provided for.

5. MEETINGS. The said retirement board shall hold regular meetings in the months of March, June, September and December of each year and shall hold such other meetings as may be deemed necessary by such board or by the retirement commission, as hereinbefore described of such city. A majority of the members of said retirement board shall constitute a quorum for the transaction of business at any such meeting, provided, that no annuity or benefit shall be allowed or granted, and no money shall be paid out of the annuity and benefit fund herein provided for, unless the same shall be ordered by a vote of the majority of the members of said retirement board.

6. OFFICERS. At the regular meeting in September of the year in which this section shall come into effect in such city, and at the regular meeting in September of each year thereafter, the said retirement board shall elect, by a majority vote of the members who vote upon the question, a president, and a recording secretary from among its own members. Such recording secretary shall make a complete record of the proceedings of all meetings of said retirement board. *(S. 1, Subs. 4 thru 6, Ch. 589, L. 1921.)*

7. BOARD POWERS. The retirement board shall have the power and it shall be the duty of said retirement board to:

a. See that all amounts specified in this section to be applied to the annuity and benefit fund herein provided for, from any source, are collected and applied to such fund. It shall see that the various sums to be deducted from the salaries of the various policemen concerned are deducted and that such sums are paid into said fund, and that the various sums to be contributed by the city are so contributed and are received into said fund, and that any revenue in the form of interest upon moneys invested or upon moneys due to said fund is received and placed in said fund, and that all other moneys which should accrue to said fund are collected and paid into it.

b. Notify on or before the first day in the month of December of the year in which

this section shall come into effect in such city, the city comptroller of such city of the amounts or percentages of salary which shall be deducted from the salaries of all policemen employed by such city and paid into the annuity and benefit fund herein provided for, from and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

c. Notify such city comptroller concerning any such amount or percentage of salary to be deducted whenever said retirement board shall deem notice concerning such matter necessary.

d. Accept by gift, grant, bequest or otherwise any money or property of any kind and to use the same for the purposes of the annuity and benefit fund herein provided for.

(S. 1, Sub. 7, intro., a through d, Ch. 589, L. 1921.)

e-1. Invest the moneys of said annuity and benefit fund in interest bearing bonds of the United States, or of the state of Wisconsin, or of any county of the state of Wisconsin, or of any city, village, town or municipal corporation in said state; provided, that if a retirement commission, as hereinbefore described, shall exist in such city, said retirement board shall not have power to make any such investment until such retirement commission shall have approved, as to validity and sufficiency of security, any bond or bonds in which said retirement board proposes investing any such money. Any bond purchases by the said retirement board shall be registered in the name of the annuity and benefit fund herein provided for. The retirement board shall also have the power to make any investment permitted under the provisions of s. 66.82, Wis. Stats., so that in addition to all other authority for the investment of funds granted to such retirement board, such retirement board may invest its funds in accordance with s. 206.34, Wis. Stats; provided that such authority shall be dependent upon the retaining of an investment counsel by the board. **(Note: Section 206.34, Wis. Stats., was repealed by Ch. 260, L. 1971.)**

e-2. Investment counsel for the purposes of advising the board of trustees of the fund with respect to investments to be made and continued shall be selected by the board from available investment counsel who meet the following standards and qualifications:

e-2-a. Being regularly engaged in providing investment counselling services to a substantial number of clients whose funds for investment are, in the aggregate, not less than $100,000,000 in amount.

e-2-b. Having not less than five full years' experience, within the ten years next preceding the appointment, in providing investment counseling or fund administration services to one or more funds, either public or private, which have assets aggregating not less than $10,000,000 in amount and which are maintained and administered for the purpose of providing retirement benefits to the participants and beneficiaries thereof. *(Ch. Ord. 355, File #69-224-b, May 23, 1969.)*

e-2-c. Maintaining as a regular part of their business organization a research staff headed by a certified financial analyst (as designated by the Institute of Chartered Financial Analysts) the product of whose financial research and analyses shall be readily available to the person or persons directly providing such investment counselling services.

e-3. The investment counsel retained by the board at the time of the enactment of this section shall continue until a successor investment counsel is selected. If the board shall determine to renew its contract with the investment counsel serving such board at the time of the enactment of this section it may do so; thereafter successors shall be selected under the provisions of this section. At least 90 days before appointing any subsequent investment counsel, the board shall notify the common council of the city of Milwaukee of the need for such appointment, specifying the date upon which such appointment is to be made. If the common council, not less than 10 days before such date, submits to the board a list of not less than 6 recommended investment counsel who meet such standards and qualifications, and who are ready, willing and able to act as such investment counsel, the board shall appoint one of the investment counsel on such list. If the common council fails to submit such list, the board shall be at liberty to appoint such investment counsel, who meets such standards and qualifications, as the board may see fit to appoint.

e-4. No investment shall be made which has not received approval of the investment counsel in writing prior to the time that such investment is made. *(Ch. Ord. 357, File #69-224-e, June 17, 1969.)*

e-5. As an alternative to any other procedures specified in this par., and with the written consent of the city treasurer, the

retirement board may designate the city treasurer as investment counsel. *(35-01-7-e-5 cr. File #960371, July 12, 1996; eff. Sept. 30, 1996.)*

e-6. As an alternative to any other procedures specified in this paragraph the retirement board may contract for investment management services. No one shall be selected as investment manager who does not have 5 years continuous experience acting as an investment manager or investment advisor in recognized fields of investments for retirement systems of comparable stature. The board shall exercise prudence in selecting the investment manager, but the exercise of prudence by the board shall not relieve the board from all liability and responsibility with respect to the investment of the funds of the system. The board shall reserve the right to terminate any contract for investment management services upon reasonable notice. The board and any investment manager under contract with the board shall be governed by the provisions set forth in s. 36-09-1-b, c and d in carrying out their responsibilities under the authority of this paragraph.

(HISTORY: 35-01-7-e-6 cr. File #980247, June 16, 1998; eff. Sept. 1, 1998.)

f. Have an audit of the accounts of the annuity and benefit fund herein provided for made at least once each year, by a person or persons competent to perform such work.

g. Consider and pass upon all applications for annuities and benefits, authorize the payment of any annuity or benefit, and suspend any such payment or payments in accord with the provisions of this section; provided that if a retirement commission (as hereinbefore described) shall exist in such city, such retirement commission shall have full and sole power to consider and pass upon all applications for duty disability benefits, as hereinafter described, and to authorize the payment of and the suspension of payment of such benefits, and said retirement board shall pay or refuse to pay any such benefit in accord with any order or orders of such retirement commission.

h. Require each policeman employed by such city, including those on vacation and those on leave of absence, to file a statement or statements in such form as the said retirement board shall direct, concerning all service (as defined in this section) rendered by such policeman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city; examine such statements and determine the various periods of such service rendered by such policemen, which determination shall be conclusive as to any period of such service unless said retirement board shall reconsider any case within one year from the date of such determination and shall change the determination in such case.

i. Determine from such information as shall be available to said retirement board the period of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by any such policeman who shall fail to file such a statement, or whose statement such retirement board shall be unable to verify. Any such determination shall be conclusive as to any such period of service unless said retirement board shall reconsider any such case within one year from the date of such determination and shall change the determination in such case.

j. Issue to each present employe (as hereinafter defined) as soon as possible and practicable after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, a certificate which shall show the entire period of service rendered by such present employe prior to such date and the amounts to the credit of such present employe as of such date, for prior service annuity and widow's prior service annuity purposes.

k. Submit a report in the month of March of each year to the common council of such city. Said report shall be made as of the close of business on the thirty-first day of December of the preceding year and shall contain a detailed statement of the affairs of the annuity and benefit fund under the control of said retirement board. Such report shall show the income and disbursements of, and the assets and liabilities of each fund established and maintained, as hereinafter provided, within the annuity and benefit fund herein provided for, during the preceding year.

L. Compel witnesses to attend and testify before it upon any matter concerning such annuity and benefit fund and allow fees not in excess of three dollars to any such witness for such attendance upon any one day. The president and other members of the said retirement board are empowered to administer

oaths to such witnesses. *(S. 1, Sub. 7-f through L, Ch. 589, L. 1921.)*

m. All clerical employes shall be appointed under civil service laws and rules of procedure related to and promulgated by the city service commission. The appointment of any physician or surgeon shall not be subject to or affected by civil service laws or rules. The board shall annually, pursuant to s. 18-03, prepare and submit a detailed statement of all of the sums and for the several purposes it deems reasonably necessary to perform its functions for the ensuing calendar year. The board shall have no power to make any expenditures which have not been approved by the common council in the budget. Transfers of funds within the budget approved for such board may be made as is provided for in the case of other city departments. The board shall be governed by the same rules and procedures with respect to employment as are other city departments. Any provisions of this act in conflict with the provisions of this charter ordinance are hereby repealed. *(Ch. Ord. 306, File #64-235-b, June 16, 1964. 35-01-7-m am. File #951345, Jan. 23, 1996; eff. Apr. 9, 1996.)*

n. Make rules and regulations necessary for the proper conduct of the affairs of such annuity and benefit fund; provided, that if a retirement commission, as hereinbefore described, shall exist in such city, no such rule shall be in force and effect until it shall have been approved by such retirement commission. *(S. 1, Sub. 7-n, Ch. 589, L. 1921.)*

o. In addition to other powers, the retirement board shall have power to contract for custodial services using funds budgeted by the city in its sole discretion. *(Par. o cr. File #911058, Sept. 24, 1991; eff. Dec. 10, 1991.)*

8. BONDING. The city treasurer of such city shall be the custodian of the annuity and benefit fund herein provided for and shall furnish to the said retirement board a bond of such amount as the said board may designate, which bond shall indemnify the said board against any loss which may result from any action or failure to act on the part of such custodian or any of his agents. All fees and charges incidental to the procuring and giving of such bond shall be paid by said retirement board. Nothing contained herein shall preclude the retirement board from providing for custody by an appropriate entity of its funds and securities in the manner in which it deems appropriate. *(Sub. 8 am. File #911058, Sept. 24, 1991; eff. Dec. 10, 1991.)*

9. LEGAL ADVISORS. The city attorney of such city shall be the legal advisor of and attorney for the said retirement board.

10. NO FINANCIAL INTERESTS. No member of the retirement board, nor any person officially connected with said board, either as an employe of said board, or as legal advisor thereof, or as custodian of the annuity and benefit fund herein provided for, shall have any financial interest in the gains or profits of any investment made by said board, nor shall any such person act as the agent of any other person or persons who may have such interest concerning any such investment. *(S. 1, Subs. 9 and 10, Ch. 589, L. 1921.)*

11. DEPARTMENTAL COOPERATION. It shall be the duty of the proper offices of such city to:

a. Deduct all sums which this section provides shall be deducted from the salaries of policemen, and pay such sums to the retirement board of the annuity and benefit fund herein provided for in such manner as said retirement board shall specify.

b. On the first day of each month, notify the retirement board of the employment of any new policemen, and of all discharges, resignations and suspensions, from the service, deaths, and changes in salary of policemen which shall have occurred during the preceding month, and state the dates upon which any such events shall have occurred.

c. Procure for and transmit to the retirement board, in such form and at such time or times as shall be specified by said retirement board, all information requested by said retirement board concerning the service, age, salary, residence, marital condition, wife or widow, children, physical condition, mental condition, and death of any policeman employed by such city in particular, information concerning service rendered by any such policeman of such city prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

d. Convey to the retirement board all information required by said retirement board concerning each newly appointed policeman immediately after the appointment of such policeman.

e. Certify to the retirement board, as of some day in each year to be fixed by said

retirement board, the name of each policeman to whom this section applies.

f. Keep such records concerning policemen as the retirement board may reasonably require and shall specify.

g. All such duties shall be performed by said officers of such city without any cost to the annuity and benefit fund herein provided for. *(S. 1, Sub. 11, intro., a thru g, Ch. 589, L. 1921.)*

12. TAX LEVY. The common council shall be required to levy an annual tax for the purpose of making the contribution herein defined to the policemen's annuity and benefit fund not to exceed 3/4 of a mill on the dollar of the assessed valuation of all taxable property in the city. The said annual tax shall be levied and collected at the same time and in the same manner as the other city taxes of the city are levied and collected according to law. The amount which shall be levied for such purpose shall be determined within the limitations herein set forth by the common council on the basis of an actuarial certification as prescribed in par. a. If the actuarial certification requires a levy in excess of 3/4 of a mill on the dollar, the common council shall direct that there shall be an additional levy but not to exceed one mill in the aggregate. Such tax revenues when contributed to the fund shall be in lieu of and in full discharge of any past deficiencies claimed, unclaimed or otherwise and any other obligations whatsoever of the city. All laws hereinbefore enacted which are in conflict with this section are as to such conflict hereby specifically repealed. *(Ch. Ord. 356, File #69-224-c, June 17, 1969.)*

a. Board certification. The exclusive source of contributions to be made to the fund by the city upon an annual basis shall be from the tax levy. The amount of the contributions shall be determined by the certification that the board shall submit to the common council of the city prior to September 1 of each year. Such certification shall be determined and prepared by the actuary for the board, and shall be composed of the amounts referred to in subds. 1 and 2. *(Ch. Ord. 356, June 17, 1969)*

a-1. Amortization. Taking into account the actuarial review under par. c, the retirement board shall adopt for the fund such mortality, service and other tables as shall be deemed necessary. On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the funds and liabilities of the fund and shall prepare the annual certification. Effective January 1, 2006, any unfunded liability as determined by the actuary as part of the annual valuation shall be amortized over a 10-year period using assumptions determined by the actuary. (*Ch. Ord. 356, File #69-224-c, June 17, 1969; Ch. Ord. 357, File #69-224-e, June 17, 1969; Ch. Ord. 360, File #69-244-h, September 9, 1969; Subpar. a-1-b am. File # 950930, November 10, 1995, eff. January 22, 1996, Par. a rc. File #970052, October 14, 1997, eff. December 30, 1997. Subpar. a-1 am. File #050067, May 20, 2005; eff. Aug. 8, 2005.)*

a-2. Estimates. The certification shall include the estimates of the annual amounts currently required to be contributed by the city for each succeeding year for the duty disability benefits, ordinary disability benefits, and child's annuities as provided for by this act, but shall not include estimates of the annual amounts required to be contributed by the city under any ordinance which may be in effect that requires the city to make contributions for the employes in lieu of their own contributions. In addition to the certification, the actuary shall include an estimate of the amount currently required for cost of administration, and this administrative budget shall be reviewed by the mayor and the common council as are all other budget requests. *(Ch. Ord. 459, File #77-2120, May 2, 1978.)*

a-3. Exclusive Source. The amount of the certification predicated upon the foregoing as described in subds. 1 and 2 and the amount budgeted for administration shall be paid into the fund as provided under par. b. It is the intent of this section that the exclusive source of the payment in accordance with the certification and the amount budgeted for administration shall be the tax levy as aforesaid, and that this constitutes the full amount to be paid by the city and shall discharge its entire obligation. No reduction in the amount of the certification required by this subdivision shall be made by reason of any contributions required by s. 35-04-1 to 3. *(Ch. Ord. 459, File #77-2120, May 2, 1978; Subd. 3 am., File #970052, October 14, 1997, eff. December 30, l997.)*

b. To be Paid into Fund. As soon as any revenue derived from the said tax shall be collected, the same shall be paid into the annuity and benefit fund hereinafter provided for, but in no event later than February 28 next

following the certification. *(Ch. Ord. 459, File #77-2120, May 2, 1978.)*

c. Actuarial Review. In each 5-year period there shall be an actuarial review of the above stated actuarial assumptions to determine whether revision in these assumptions are required by the experience of the preceding 5 years. A copy of the actuarial review shall be filed with the retirement board and the city clerk's office. *(Ch. Ord. 356, File #69-224-c, June 17, 1969; Par. c am., File #970052, October 14, 1997, eff. December 30, 1997.)*

d. Effective Ordinance. All ordinances or parts of ordinances contravening the provisions of this charter ordinance are repealed except Milwaukee Charter ordinance 346 passed December 6, 1968, but it is not intended by this charter ordinance that any vested or contractual right shall attach to the provisions of said charter ordinance 346. *(Ch. Ord. 357, File #69-224-e, June 17, 1969.)*

e. The foregoing requirements of this subsection shall no longer be in effect from and after August 30, 2016. Beginning on or after January 1, 2017, the city shall make a monthly contribution to the annuity and benefit fund in an amount sufficient to pay the current monthly annuities payable in accordance with the provisions of this chapter. *(Par. e cr, File #151869, June 14, 2016; eff. August 30, 2016.)*

13. DEFINITIONS. The following words and terms as used in this section shall mean as follows, respectively. *(S. 1, Sub. 13, Intro., Ch. 589, L. 1921.)*

a. "Policeman." Any person who is or shall be employed by the police department of such city, even though such person does not perform the duties of a police officer and even though the duties of such person are not hazardous. The term "policeman" shall include the terms "member" and "employe" of the police department as well as police officers employed by the board of park commissioners of such city. Emergency employes shall not be included. Any person who has been a contributor, participant, member, annuitant or beneficiary in the fund no matter what such person's duties in the police department heretofore have been, shall be considered a policeman within this definition. *(S. 4, Ch. 439, L. 1947.)*

b. "Future entrant." Any policeman who shall be employed for the first time on or after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as a policeman of such city, or as an employe in any other branch of the service of such city whose service is recognized as service for the purposes of this section as provided in subsection 44 of this section.

c. "Present employe." Any policeman who shall be employed on the thirty-first day in the month of December of the year in which this section shall come into effect in such city, as a policeman in the service of such city, or as an employe, in any other branch of the service of such city, whose service is recognized as service for the purposes of this section, as provided in subsection 44 including all such persons who may be absent from duty, for any cause, on said date.

d. "Disability." A condition of physical or mental incapacity on the part of a policeman to perform the duties of his position in the service.

e. "Discharge." Complete separation from the service.

f. "Assets." The total value of cash and other property held. Bonds shall be held at their book values.

g. "Age" shall mean age at latest birthday. *(S. 1, Sub. 13 b thru g, Ch. 589, L. 1921.)*

h. "Annuity" shall mean annual payments for life. All annuities shall be paid in equal monthly installments. When the annuity begins after the first day of the month or ends before the last day of the month the pro rata amount shall be paid for that month.

i. "Accumulated sum" or "sum accumulated" shall mean the total amount credited to a policeman from deduction made from his salary or from sums contributed or to be contributed by the city together with regular interest and held for his benefit to produce annuities in accordance with this act.

j. "Pensioner." Any person receiving monthly payments in accordance with the provisions of subsection 55 of this chapter. *(S. 5, Ch. 439, L. 1947.)*

14. ADMINISTRATION COSTS. To provide the money necessary to defray the cost of administration of the annuity and benefit fund herein provided for, contributions to said annuity and benefit fund shall be made by the policemen employed in such city and by the city as follows:

a. If a retirement commission (as described in sub. 3 of this section) shall exist by authority of law in such city from and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one-eighth of one percent of each payment of the salary of each policeman

from whose salary deductions are made for age and service annuity purposes, as stated hereinafter, shall be deducted at the time that any payment of salary shall be payable to such policeman and shall be paid into such annuity and benefit fund, and the city shall contribute any additional amount required to defray the cost of such administration.

b. If a retirement commission (as described in subsection 3 of this section) shall not exist by authority of law in such city, the city shall contribute each year, beginning in the first year after the year in which this section shall come into effect in such city, an amount equal to one-eighth of one percent (1/8 of 1%) of the aggregate amount of the annual salaries of all policemen employed by such city on the first day in the month of January of such year from whose salaries, deductions are made for age and service annuity purposes, as stated hereinafter, and any additional amount required to defray the cost of such administration shall be contributed by such policemen during each such years as follows:

c. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, equal percentages of each payment of the salaries of all such policemen shall be deducted for such purpose. The percentages of such salaries to be deducted shall be such as to provide an amount each year which when added to the amount contributed by the city each such year will be sufficient to defray the cost of administration of the annuity and benefit fund herein provided for during each such year. *(S. 1, Sub. 14, Intro., a, b and c, Ch. 589, L. 1921.)*

d. At the end of each year the board may, upon advice of the actuary, transfer amounts accumulated in the various funds provided by this act to the annuity payment fund described in subsection 59-e to be used for the purposes described in said subsection 59-e. *(S. 6, Ch. 439, L. 1947.)*

e. From and after the first day of the month of January of the first year after the year in which this section shall come into effect in such city, the city shall pay the full annual amount required to defray the costs of administration. Any amounts accumulated in the expense fund described in sub. 59-b from and after the 1st day in the month of January of the 1st year after the year in which this section shall come into effect in such city shall be transferred to the annuity payment fund described in sub. 59-e. *(Cr. Ch. Ord. 459, File #77-2120, May 2, 1978.)*

15. ANNUAL SALARY. For all purposes of this section it shall be assumed that the annual salary of any present employe has been of the same amount throughout the entire period of service rendered by such employe prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, that such salary shall be at 5 o'clock p.m. on the thirty-first day in the month of December of the year in which this section shall come into effect in such city. *(S. 1, Sub. 15, Ch. 589, L. 1921.)*

16. ANNUITY, FUTURE AND PRESENT EMPLOYES. Annuity to be known as "Age and Service Annuity" shall be provided for future entrants and for present employes. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 7, Ch. 439, L. 1947.)*

17. FUTURE ENTRANT, CONTRIBUTIONS. To provide age and service annuities for future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three percent of each payment of the salary of each future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued while such future entrant shall be in the service until he shall attain an age of fifty-seven years, unless such future entrant shall not then have completed fifteen years of service, in which case the said deductions shall be continued until the end of the fifteenth year of his service.

b. Concurrently with each such deduction from the salary of any future entrant, the city shall contribute a sum equal to nine percent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time that any such deductions shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four percent per annum to the time

it shall be made, so that each such contribution shall equal exactly three times the value of each such corresponding deduction as such value shall be the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made for age and service annuity purposes. Each amount so credited to a future entrant shall be improved to the credit of such future entrant by interest at the rate of four percent per annum during all time thereafter that such future entrant shall be in the service, until such future entrant shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service. If such future entrant shall not have completed fifteen years of service at the time he shall attain an age of fifty-seven years, the amount to his credit shall be improved by interest at the said rate while such future entrant shall be in the service until the end of the fifteenth year of his service. Any interest or other accretion upon the accumulated sum to the credit of any such future entrant at the time such future entrant shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when such future entrant shall have completed fifteen years of service, as aforesaid, which may accrue thereafter, shall not be credited to any such future entrant for the purpose of increasing the amount of annuity to which such future entrant shall have a right. The sum accumulated to either such time as stated, shall be the amount that shall be used as the sum to the credit of any such future entrant for age and service annuity for such future entrant. *(S. 1, Sub. 17, Intro., a, b and c, Ch. 589, L. 1921.)*

18. DEDUCTIONS. To provide age and service annuities for present employes, contributions to the annuity and benefit fund herein provided for shall be made by each present employe and the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three percent of each payment of the salary of each present employe shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued while such present employe shall be in the service until the amount so deducted from the salary of such present employe together with the amount deducted from his salary or otherwise paid by him according to law and applied to any policemen's pension fund, or firemen's pension fund, or public school teacher's annuity and retirement fund, in operation, by authority of law, in such city at the time this section shall come into effect in such city, with interest on both such amounts at the rate of four percent per annum, shall be equal to the sum which would have accumulated to the credit of such present employe for age and service annuity purposes from sums deducted from his salary if deductions from his salary for such purposes at the rate herein stated had been made during the entire period of his service until his attainment of an age of fifty-seven years, if he shall then have completed fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, together with interest upon such sum at the rate of four percent per annum for the period of time subsequent to his attainment of an age of fifty-seven years, or the completion of the fifteenth year of his service, as aforesaid, as the case may be.

b. Concurrently with each such deduction from the salary of any present employe, the city shall contribute a sum equal to nine percent of each payment of the salary of such present employe until such present employe shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. In case it shall not be possible or practicable for the city to make any such contribution at the time any such deduction shall be made the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution shall equal exactly twice the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each deduction from the salary of any present employe for age and service annuity purposes, made prior to the date when the amount of age and service annuity to which such present employe shall have a right shall be fixed as stated in subsection 28 of this section and each corresponding contribution by the city for such annuity purposes shall be allocated to the account of and credited to the present employe for whose benefit it is made, and shall be improved to the credit of such present employe by interest at the rate of four percent per annum during the time such present employe shall be in the service until the amount of such age and service annuity shall be fixed. The sum thus accumulated shall be the amount which shall be used to provide age and service annuity for such present employe. Any accretion, by way of interest or otherwise, upon such sum or any deduction from the salary of such present employe made after the amount of such annuity shall be fixed shall not be credited to such present employe for the purpose of increasing the amount of annuity to which such present employe shall have a right. *(S. 1, Sub. 18, Intro., a to c, Ch. 589, L. 1921.)*

19. PRIOR SERVICE ANNUITY, PRESENT EMPLOYES. Annuity to be known as "Prior Service Annuity" shall be provided for present employes in addition to age and service annuity. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 8, Ch. 439, L. 1947.)*

20. PRIOR SERVICE ACCOUNTS CREDITED. Prior service annuity, shall be provided for present employes from amounts to be ascertained by the retirement board and credited to such present employes, as follows:

a. As soon as possible, the retirement board shall ascertain the amounts which have been deducted from the salary of each present employe and applied to any policemen's pension fund, or any firemen's pension fund, or any public-school teacher's annuity and retirement fund, each and all of them in operation, by authority of law, in such city at the time when this section shall have come into effect in such city, and also all other amounts paid into such fund according to law by any such present employe before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Each such present employe shall be credited in his account in the annuity and benefit fund herein provided for with an amount equal to the aggregate of all such amounts deducted from his salary and otherwise paid by him, with interest on such amounts at the rate of four percent per annum from the dates when such amounts shall have been deducted, or paid, to the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. As soon as possible, the retirement board shall ascertain the term of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by each present employe, and each such present employe shall be credited in his account with an amount equal to nine percent of his annual salary as it shall be on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, for a period of time equal to that of such service rendered before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, with interest thereon at the rate of four per cent per annum to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, upon the assumption that one-twelfth of nine percent of such annual salary was due at the end of each month of such service.

c. Each amount to the credit of any present employe for prior service annuity purposes under the foregoing provisions of this subsection shall be improved to the credit of such present employe by interest at the rate of four percent per annum during the time thereafter that such present employe shall be in the service until the age and service annuity and the prior service annuity of such employe shall be fixed as stated in subsection 28 of this section. *(S. 1, Sub. 20, Intro., a, b and c, Ch. 589. L. 1921.)*

[Pages 195 and 196 blank]

21. WIDOW'S ANNUITY, FUTURE AND PRESENT EMPLOYES. Annuity to be known as "Widow's Annuity" shall be provided for widows of future entrants and of present employes. Subject to the provisions of subsections 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. *(S. 9, Ch. 439, L. 1947.)*

22. WIDOW'S ANNUITY, FUTURE ENTRANTS. To provide widow's annuities for widows of future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each male future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one percent of each payment of the salary of each male future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the same time such payments of salary are payable and shall be continued during the service of such future entrant until he shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years; provided, that no such deduction shall be made from the salary of any future entrant after he shall have attained an age of fifty-seven years, if such future entrant shall not be married when he shall attain such age.

b. Concurrently with each such deduction from the salary of any male future entrant, the city shall contribute a sum equal to two and one-half percent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deductions shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four percent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contributions by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such future entrant by interest at the rate of four percent per annum during all time thereafter that such future entrant shall be in service, until he shall attain an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any male future entrant at the time he shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such male future entrant for the purpose of increasing the amount of annuity for the widow of such future entrant. *(S. 1, Sub. 22, Intro., a to c, Ch. 589, L. 1921.)*

23. WIDOW'S ANNUITY, PRESENT EMPLOYES. To provide widow's annuities for widows of present employes, contributions to the annuity and benefit fund herein provided for shall be made by each male present employe and by the city as follows:

a. From and after the first day in the month of January of the first after the year in provision of which this section shall come into effect in such city, one percent of each payment of the salary of each male present employe shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued during the service of each such present employe until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of service if he shall not have completed fifteen years of service at

the time he shall have attained an age of fifty-seven years; provided, that no such deduction shall be made from the salary of any present employe after he shall have attained an age of fifty-seven years, if such present employe shall not be married when he shall attain such age.

b. Concurrently with each such deduction from the salary of a male present employe the city shall contribute a sum equal to two and one-half percent of each such payment of the salary of such present employe. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four percent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the present employe for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such present employe by interest at the rate of four percent per annum during all time thereafter, that such present employe shall be in the service until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any male present employe at the time he shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have completed fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such male present employe for the purpose of increasing the amount of annuity for the widow of such present employe. *(S. 1, Sub. 23, Intro., a, b and c, Ch. 589, L. 1921.)*

24. WIDOW'S ANNUITY, PRIOR SERVICE EMPLOYES. Annuity to be known as "Widow's Prior Service Annuity" shall be provided for the widow of each male present employe in addition to widow's annuity. Subject to the provisions of subsection 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to annuity in subsection 13. *(S. 10, Ch. 439, L. 1947.)*

25. PRIOR SERVICE PROVISIONS. Widow's prior service annuity shall be provided for the widow of each male present employe from amounts to be ascertained by the retirement board and credited to such present employe as follows:

a. Each married male present employe who shall have attained an age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half percent of his annual salary, as such salary shall be on such first in the month of January of such year, for a period of time equal to the term of service rendered by such present employe before such present employe attained an age of fifty-seven years if he shall have completed fifteen or more years of service before attainment of such age, or before the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, with interest thereon at the rate of four percent per annum to the time he shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, upon the assumption that one-twelfth of such three and one-half percent of annual salary was due at the end of each month of such term of service.

b. Each male present employe who shall not have attained an age of fifty-seven years before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and each married male present employe who shall have attained an age of fifty-seven years but who shall not have completed fifteen years of service before such first day in the month of January of such year, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half percent of his annual salary, as such salary shall be on the first day in the month of January of such year, for a period of time equal to the term of service rendered by such present employe before such first day in the month of January of such year, with interest thereon at the rate of four percent per annum to such first day in the month of January of such year, upon the assumption that one-twelfth of such three and one-half percent of annual salary was due at the end of each month of such service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Such amount, so credited, shall be improved by interest at the rate of four percent per annum during the subsequent service of each such male present employe until he shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. *(S. 1, Sub. 25, Intro., a and b, Ch. 589, L. 1921.)*

26. WIDOW'S ANNUITY, PRIOR SERVICE CONTRIBUTIONS. For the purpose of providing prior service annuities, widow's prior service annuities and the annuities pensions and benefits described in subsection 56 of this section, the city shall make contributions as provided in subsection 56 of this section. *(S. 1, Sub. 26, Ch. 589, L. 1921.)*

27. FUTURE ENTRANT, AFTER AGE FIFTY-SEVEN. a. When any future entrant who shall have served fifteen or more years shall attain an age of fifty-seven years while in the service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of their respective ages at that time; provided, in case the wife of any such future entrant shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

b. When any future entrant who shall have attained an age of fifty-seven years while in the service and who shall not then have served fifteen years shall have completed fifteen years of service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed at that time upon the assumption that the age of such future entrant is fifty-seven years, and that of his wife, if she shall be of the same age as or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

c. When any future entrant who shall have entered the service before he became fifty-seven years of age shall resign or be discharged from the service after he shall have attained such age and before he shall have completed fifteen years of service, the amount of age and service annuity to which such future entrant shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity to which the wife of such future entrant shall have a right from and after the date of his death, shall be fixed at the time of such resignation or discharge from the service on the assumption that the age of such future entrant is exactly fifty-seven years and that of his wife, if she shall be of the same age as or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

d. No deduction from salary or contribution by the city for any annuity purposes for or on account of any future entrant described in pars. a, b and c shall be made after the time when the amounts of the

annuities to which such future entrant and the wife of such future entrant shall have a right shall have been fixed, and no amount of annuity in excess of that fixed in accordance with the provisions of this paragraph shall be granted to any such future entrant or the widow of such future entrant, and no service of such future entrant rendered after such time shall be considered for annuity purposes.

e. When any future entrant who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity to which he shall have a right from and after the date of such resignation or discharge and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed, as of their respective ages at that time; provided, that if such wife shall be older than such future entrant, her age for annuity purposes shall be assumed to be the same as his.

f. When any future entrant who shall have resigned or been discharged from the service after such future entrant shall have been in the service for a period of ten or more years and before he shall have attained an age of fifty years shall attain an age of fifty years while not in the service, the amount of age and service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed as of their respective ages at that time; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be fifty years.

g. No amount of annuity other than that fixed in accordance with the provisions of this subsection shall be granted to any such future entrant described in subdivisions e and f of this subsection or to the widow of such future entrant, unless such future entrant shall re-enter the service before he shall attain an age of fifty-seven years, in which case the amounts of annuities to which such future entrant and his wife shall have a right shall again be fixed when such future entrant shall attain an age of fifty-seven years if he shall have completed fifteen years of service at such time, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service; or at any time before either such time when he shall again resign or be discharged from the service. *(S. 1, Sub. 27 a to g, Ch. 589, L. 1921.)*

28. PRIOR SERVICE, FIFTEEN YEARS. a. If any present employe shall have to his credit on the first day in the month of January of the year after the year in which this section shall come into effect in such city, for prior service annuity purposes, an amount at least sufficient to provide annuity for such present employe as of his age on such first day in the month of January of such year, equal in amount to that to which such present employe would have had a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection 18 of this section during the entire period of the service of such present employe until his attainment of an age of fifty-seven years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of prior service annuity to which such present employe shall have a right from and after the date when he shall resign or be discharged from the service shall be fixed on the first day in the month of January of the year after the year in which this section shall come into effect in such city as of his age at such time, and any such present employe shall not have any right to receive any age and service annuity.

b. When any present employe who shall have attained an age of fifty-seven or more years while in the service shall have to his credit for age and service annuity and prior service annuity purposes an amount sufficient to provide annuity for such present employe as of his age at such time equal in amount to that to which such present employe would have had a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection 18 of this section during the entire period of the service of such present employe until his attainment of an age of fifty-seven

years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of age and service annuity and the amount of prior service annuity to which any such employe shall have a right at any time thereafter when he shall resign or be discharged from the service shall be fixed as of his age at such time.

c. When any present employe who shall have attained an age of fifty-seven or more years while in the service and who shall not have to his credit for age and service annuity and prior service annuity purposes the amount described in par. b shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which such present employe shall have a right from and after the date of such resignation or discharge shall be fixed as of his age at the time of such resignation or discharge.

d. The amount of annuity to which the wife of any present employe who shall have attained the age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the date of the death of such present employe, shall be fixed on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as of the age of such wife at the time such present employe became fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be of the same as his.

e. When any present employe who shall have attained an age of fifty-seven years on or before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and who shall not have completed fifteen years of service on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall complete such a term of service, the amount of annuity to which the wife of such present employe shall have a right from and after the date of his death shall be fixed as of the age of such wife on the date when such present employe became fifty-seven years of age. If any such present employe shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have completed fifteen years of service, the amount of annuity to which his wife shall have a right shall be fixed at the time of such resignation or discharge as of her age on the date when such present employe became fifty-seven years of age. Provided, that if any wife described in this par. shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

f. The amount of annuity to which the wife of any present employe who shall attain an age of fifty-seven years while in the service subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the death of such present employe, shall be fixed when such present employe shall attain an age of fifty-seven years if he shall then have completed fifteen or more years of service; or at the end of the fifteenth year of his service if he shall not have completed such a term of service at the time he shall attain an age of fifty-seven years; or at any time prior to the completion of fifteen years of service when such present employe shall resign or be discharged from the service. Any such annuity shall be computed as of the age of such wife on the date when such present employe shall become fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

g. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employe described in pars. a to f or to the widow of any such present employe.

h. When any present employe who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which any such present employe shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity and of widow's prior service annuity to which the wife of such present employe shall have a right from and after the date of his death shall be fixed as of their respective ages at the time of such resignation or discharge; provided, that if the wife of any such present employe shall be older than her husband her age for annuity purposes shall be assumed to be the same as his.

i. When any present employe who shall resign or be discharged from the service after such present employe shall have served for a period of ten or more years but before he shall have attained an age of fifty years shall attain such age while out of the service, the amount of age and service annuity and the amount of prior service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity and widow's prior service annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of the respective ages of such present employe and his wife at the time such present employe shall become fifty years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

j. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employe described in pars. h and i or to the widow of any such present employe, unless such present employe shall re-enter the service before he shall have attained an age of fifty-seven years, in which case the amount of annuity to which such present employe shall have a right shall be fixed when he shall have to his credit for age and service annuity and prior service annuity purposes the amount described in par. b or when he shall again resign or be discharged from the service, whichever event shall first occur, as of his age at the time the amount of such annuity shall be fixed, and the amount of annuity to which the wife of any such present employe shall have a right shall be fixed when he shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed such a term of service at the time he shall have attained such age or when he shall again resign or be discharged from the service, whichever event shall first occur, as of her age at the time such present employe shall become fifty-seven years of age, provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 28 a-j, Ch. 589, L. 1921.)*

29. FUTURE ENTRANTS OR PRESENT EMPLOYES. a. After Age Fifty. Any annuity fixed for or granted to any future entrant or present employe who shall resign or be discharged from the service after he shall have attained an age of fifty years, or the widow or any such future entrant or present employe or the widow of any future entrant or present employe who shall die while in the service, shall be computed according to the American experience table of mortality and interest at the rate of four percent per annum.

b. Service Credits. b-1. All sums to the credit of any future entrant or present employe for annuity purposes at the time he shall resign or be discharged from the service before he shall have attained an age of fifty years shall be improved to the credit of such future entrant or present employe by interest at the rate of three percent per annum thereafter while such future entrant or present employe shall be out of the service and shall not have entered upon annuity until he shall attain an age of fifty-seven years.

b-2. Any annuity fixed for or granted to any such future entrant or present employe who shall not have re-entered the service prior to the time such annuity shall be fixed or granted, or any annuity fixed for or granted to the widow of any such future entrant or present employe who shall die, shall be

computed according to the American experience table of mortality and interest at the rate of three and one-half percent per annum.

b-3. The amount of widow's annuity or of widow's prior service annuity which shall be fixed for the wife of any employe while such employe shall be alive, shall be that which can be provided by dividing the sum to the credit of such employe for such annuity purposes on the date when the amount of such annuity shall be fixed by the number representing the difference between the following amounts: The amount required to provide an annuity of one dollar a year for life for such wife beginning on the date when the annuity is fixed, and the amount required to provide an annuity of one dollar a year for life for such wife beginning on such date and payable throughout the life of her husband. *(S. 1, Sub. 29 a and b 1-3, Ch. 589, L. 1921.)*

30. FUTURE ENTRANT. a. After Age Fifty-seven. Any future entrant who shall resign or be discharged from the service after he shall attain an age of fifty-seven or more years while in the service shall have a right to receive annuity, from and after the date of such resignation or discharge of such amount as can be provided from the entire sum accumulated to his credit for age and service annuity purposes on the date when he shall have become fifty-seven years of age if he shall then have completed fifteen or more years of service; or on the date subsequent to his attainment of such age when he shall have completed fifteen years of service; or on the date or his resignation or discharge from the service if he shall not have completed fifteen years of service. Regardless of the age of any such future entrant concerned, any such annuity shall be computed as though such future entrant were fifty-seven years of age at the time of his resignation or discharge from the service.

b. After Age Fifty. b-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of such resignation or discharge.

b-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes from deductions from his salary and contributions by the city.

b-3. The case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service.

b-4. Any such annuity shall be computed as of the age of the future entrant concerned on the date of his resignation or discharge from the service.

c. Before Age Fifty. c-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of the service and shall apply for such annuity; provided, such future entrant shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity purposes and widow's annuity purposes prior to his attainment of such age. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to credit of the future entrant concerned, on the date when he shall have become fifty years of age.

c-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes.

c-3. In the case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city, for each year of service rendered by him after the first ten years of his service.

c-4. Any such annuity shall be computed as though such future entrant were exactly fifty years of age at the time such annuity shall be granted regardless of his real age at the time application for such annuity shall be made, and no such future entrant shall have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for annuity. *(S. 1, Sub. 30 a, b 1 thru 4, and c-1 thru 4 Ch. 589, L. 1921.)*

31. WIDOW OF FUTURE ENTRANT.

a. Resign or Discharge After Age Fifty-Seven. The widow of any future entrant who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years and who shall enter upon annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 of this section concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes at the time the amount of such annuity shall have been fixed as provided in subsection 27 of this section.

b. Death After Age Fifty-seven. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years and after the amounts of age and service annuity for him and of widow's annuity for his wife shall have been fixed as provided in subsection 27 of this section shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes on the date the amounts of such annuities shall have been fixed.

c. Death While in Service. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years but before he shall have completed fifteen years of service shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the entire sum accumulated to his credit on the date of his death for age and service annuity and widow's annuity purposes, provided, that no part of any such accumulated sum resulting from contributions by the city shall be used to provide an annuity which shall exceed in amount that which such widow would have had a right to receive if such future entrant had lived and continued in service upon salary at the rate of his final salary until the time when the amounts of age and service annuity and widow's annuity for him and his wife respectively would have been fixed as stated in subsection 27 of this section. Regardless of the age of any such widow concerned, any such annuity shall be computed as though the age of the future entrant concerned were exactly fifty-seven years on the date of his death, and that of his widow if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years; and if she shall be of the same age or older than he, her age shall be assumed to be fifty-seven years.

d. Death Before Age Fifty-seven. The widow of any future entrant who shall die while in the service before he shall have attained an age of fifty-seven years shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the total amount of the sums accumulated to the credit of such future entrant on the date of his death for age and service annuity and widow's annuity purposes from deductions from his salary and from contributions by the city; provided, that no part of the sum accumulated from contributions by the city shall be used to provide annuity for such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived and continued in service upon salary at the rate of his final salary until he would have become fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be at such time, in accord with the provisions of subsection 27 of this section concerning the age of a wife. Any such annuity

shall be computed as of the age of such widow on the date of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

e. Resign or Discharge After Age Fifty. e-1. The widow of any future entrant who shall resign or be discharged from the service after he shall have attained an age of fifty or more but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amounts of such annuity shall have been fixed as provided in said subsection 27.

e-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

e-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

f. Before Age Fifty. f-1. The widow of any future entrant who shall resign or be discharged from service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity and widow's annuity purposes and who shall die while out the of service after he shall have attained an age of fifty or more years shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amount of such annuity shall have been fixed as provided in said subsection 27.

f-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

f-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g. After Ten Years Service. g-1. The widow of any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity fund and widow's annuity purposes and who shall die, while not in service, before he shall have attained an age of fifty years shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of his death; provided, that no part of any such sum accumulated from contributions by the city shall be used to provide an annuity for any such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived until he attained an age of fifty years and had not reentered the service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, when her husband would have attained such age.

g-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service and widow's annuity purposes.

g-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for both age and service annuity and widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sums accumulated for both such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 31 a, b, c, d, e-1 to 3, f-1 to 3, g-1 to 4, Ch. 589, L. 1921.)*

32. PRESENT EMPLOYE, PRIOR SERVICE. a. Service Credit. Any present employe who shall resign or be discharged from the service whose annuity shall have been fixed, in accordance with the provisions of subdivision a. of subsection 28 of this section, on the first day in the month of January of the first year after the year in which this section shall come into effect in such city shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the sum to his credit for prior service annuity purposes on the date when the amount of such annuity was fixed.

b. After Age Fifty-Seven. Any present employe who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and after the amounts of age and service annuity and of prior service annuity for such present employe shall have been fixed in accordance with the provisions of subsection 28 of this section shall have a right to receive annuity, from and after the date of such resignation or discharge of such amount as can be provided from the total amount of the following sums to his credit on the date when the amount of such annuity was fixed; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

c. Before Fixed Annuity. Any present employe who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and before the amounts of age and service annuity and of prior service annuity for such present employe shall have been fixed shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to his credit on the date of such resignation or discharge; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

d. After Age Fifty. d-1. Any present employe who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date of such resignation or discharge.

d-2. In the case of any such present employe who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes and the entire sum credited for prior service annuity purposes.

d-3. In the case of any such present employe who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service, and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any policemen's pension fund, or any firemen's pension fund, or any public-school teacher's annuity and retirement fund in operation, by authority of law, in such city at the time this section shall have come into effect in such city, and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes, in accordance with the provisions of subdivision b of subsection 20 of this section, for each year of service rendered by him after the first ten years of his service.

e. Before Age Fifty. e-1. Any present employe who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of service and shall apply for such annuity; provided, such present employe shall not have withdrawn nor applied for refund of that part of the sum to his credit from deductions from his salary for age and service annuity, widow's annuity and prior service annuity purposes to which he shall have a right of refund prior to his attainment of an age of fifty years. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to the credit of such present employe concerned, on the date when he shall have become fifty years of age.

e-2. In the case of any such present employe who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

e-3. In the case of any such present employe who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service, and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any policemen's pension fund, or any public-school teacher's annuity and retirement fund, or any firemen's pension fund, in operation, by authority of law, in such city at the time this section shall come into effect, and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes in accordance with the provisions of subdivision b of subsection 20 for each year of service rendered by him after the first ten years of his service.

e-4. Any such annuity shall be computed as though such present employe were exactly fifty years of age at the time such annuity shall be granted, regardless of his real age at the time application for such annuity shall be made, and no such present employe shall have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for such annuity. *(S. 1, Sub. 32 a, b, c, d-1 to 3, e-1 to 4, Ch. 589, L. 1921.)*

33. WIDOW OF PRESENT EMPLOYE.

a. Effective Date. The widow of any present employe, the amount of whose annuity shall be fixed as provided in subsection 28 of this section, on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right to receive annuity from and after the date of the death of such present employe according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the sum to the credit of such present employe for widow's prior service annuity purposes on the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. Resign, etc. After Age Fifty-Seven. The widow of any present employe who shall resign or be discharged from the service after he shall have become fifty-seven or more years of age and who shall enter upon annuity shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the sums to the credit of such present employe for widow's annuity and widow's prior service annuity purposes at the time the amount of such annuity for such widow shall have been fixed according to the provisions of subsection 28 of this section.

c. Fixed Provisions. The widow of any present employe who shall die while in the service after he shall have attained an age of fifty-seven years and after the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed as provided in subsection 28 of this section shall have a right to receive annuity from and after the date of death of such present employe, according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the total amount of the sums to the credit of such present employe for widow's annuity and widow's prior service annuity purposes at the time that the amount of such annuity for such widow shall have been fixed.

d. No Fixed Provisions. The widow of any present employe who shall die while in the service, after he shall have become fifty-seven or more years of age and before the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed, as provided in subsection 28 of this section, shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the several sums to the credit of such present employe on the date of his death for age and service annuity, widow's annuity, prior service annuity and widow's service annuity purposes; provided, that no part of such sums credited to such present employe which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived and remained in the service upon salary at the rate of his final salary until he would have completed fifteen years of service and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date when such present employe shall have become fifty-seven years of age; provided, that if she shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

e. Death Before Age Fifty-Seven. The widow of any present employe who shall die while in the service before he shall have become fifty-seven years of age shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the several sums to the credit of such present employe on the date of his death for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes; but no part of such sums credited to such present employe which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived and remained in the service upon salary at the rate of his final salary until he became fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service, and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date of the death of such present employe; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

f. Resign or Discharge After Age Fifty. f-1. The widow of any present employe who shall resign or be discharged from the service, after he shall have attained an age of fifty or more, but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such present employe, in accordance with the provisions of subsection 28 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

f-2. In the case of a widow of any such present employe who shall have served twenty or more years, then entire sum credited for widow's annuity and widow's prior service annuity purposes.

f-3. In the case of a widow of any such present employe who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

g. Before Age Fifty. g-1. The widow of any present employe who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit from deductions from his salary for annuity purposes to which he shall

have had a right of refund and who shall die while out of the service after he shall have become fifty or more years of age shall have a right to receive annuity, from and after the date of the death of such present employe, in accordance with the provisions of subsection 28 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

g-2. In the case of a widow of any such present employe who shall have served twenty or more years, the entire sum credited for widow's annuity and widow's prior service annuity purposes.

g-3. In the case of a widow of any such present employe who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from the salary of such present employe and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

h. Death Before Age Fifty. h-1. The widow of any present employe who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit for annuity purposes from deductions from his salary to which he shall have had a right of refund and who shall die while out of the service before he shall become fifty years of age shall have a right to receive annuity, from and after the date of the death of such present employe, of such amount as can be provided from the total amount of the following sums to the credit of such present employe on the date of his death; provided, that no part of any such sum which represents money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employe had lived until he attained an age of fifty years and had not reentered the service and an amount of annuity were then fixed for such widow in accordance with the provisions of subsection 28 of this section concerning the age of a wife, as of her age as it would be when her husband would have attained an age of fifty years.

h-2. In the case of a widow of any such present employe who shall have served twenty or more years, the entire sum credited for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes.

h-3. In the case of a widow of any such present employe who shall have served ten or more years but less than twenty years, the entire sum credited for age and service annuity, widow's annuity and prior service annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employe after the first ten years of his service.

h-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such present employe, provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. *(S. 1, Sub. 33-a to e, f-1 to 3, g-1 to 3, and h-1 to 4, Ch. 589, L. 1921.)*

34. DEATH WHILE ON DUTY.

a. Result of an Injury. In any case in which annuity provided in accord with the foregoing subsections of this section for the widow of a policemen whose death shall result from injury incurred in the direct performance of one or more specific acts of duty shall not be equal in amount to the annuity to which such widow would have had a right if such policeman had lived and continued in the service upon salary at the rate of his final salary until he would have attained an age of fifty-seven years if he would then have completed at least fifteen years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service if he would not have completed such a term of service upon attainment of an age of fifty-seven years, as of

her age as it would be on the date when such policeman would have attained an age of fifty-seven years, in accord with the provisions of subsections 27 or 28 of this section, whichever shall apply to the case of the widow concerned, additional annuity to be known as "Compensation Annuity" equal in amount to the difference between the amounts of such annuities shall be provided for and paid to such widow until the time when such policeman, if alive, would have attained an age of fifty-seven years if he would then have completed fifteen years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service if he would not have completed such a term of service upon attainment of an age of fifty-seven years.

b. Supplemental Annuity. "Supplemental Annuity," equal in amount to such compensation annuity, shall be provided for and paid to such widow from and after the time payment of such compensation annuity shall cease as aforesaid. To provide such supplemental annuity the city shall contribute to the annuity and benefit fund herein provided for such equal sums annually, from and after the date of the death of such policeman, that when improved by interest at the rate of four per cent per annum the accumulated amount resulting from such sums will be sufficient at the time payment of compensation annuity to such widow shall cease to provide supplemental annuity as stated for such widow throughout her life thereafter.

c. If Widow Remarried. If any widow described in this subsection shall marry before the time when payment of compensation annuity to such widow shall have ceased, as hereinbefore stated, such widow shall not have any right to receive any compensation annuity or any supplemental annuity thereafter, and no such compensation annuity or supplemental annuity shall be paid to such widow from and after the date of her marriage. *(S. 1, Sub. 34 a, b and c, Ch. 589, L. 1921.)*

35. RE-ENTRANCE INTO SERVICE.

a. When any policeman who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall re-enter the service before he shall have attained an age of fifty-seven years, any annuity previously granted to such policeman and any annuity fixed for the wife of such policeman shall be cancelled. Such policeman shall be credited in his account for annuity purposes with sums sufficient to provide annuities equal in amounts to those cancelled for such policeman and the wife, for whom such annuity shall have been fixed, of such policeman as of their respective ages on the date of such policeman's re-entrance into the service; provided, that the age of any such wife who shall be older than her husband shall be assumed to be the same as his. Such sums shall be credited to such policeman to provide for annuities to be fixed and granted in the future. Deductions from the salary of any such policeman and contributions by the city for all purposes of this section shall be made, as hereinbefore provided, from the time of such re-entrance into the service, and when the proper time, as provided in foregoing subsections of this section, shall have arrived, new annuities based upon the amount then to the credit of such policeman for annuity purposes and the entire term of such policeman's service shall be fixed for such policeman and for such wife of such policeman.

b. When any such policeman shall re-enter the service after he shall have attained an age of fifty-seven or more years, payments on account of any annuity previously granted to such policeman shall be suspended during the time thereafter that he shall be in the service, and when he shall again resign or be discharged therefrom, payments upon the annuity previously granted shall be resumed. If any such policeman shall die while in the service, his widow shall receive the amount of any annuity previously fixed for her.

c. In the case of any policeman described in subdivision a. of this subsection, whose wife, for whom annuity shall have been fixed prior to his re-entrance into the service, shall have died before he shall have re-entered the service, no part of any sum or sums to the credit of such policeman for widow's prior service annuity purposes at the time annuity for such wife shall have been fixed shall be credited to such policeman at the time when he shall re-enter the service, and no part of any such sum or sums shall be used to provide annuity for any wife of such policeman who shall be such wife during all or any part of the period of time during which such policeman

shall be in the service after he shall have re-entered same. *(S. 1, Sub. 35 a, b and c, Ch. 589, L. 1921.)*

36. WHEN PENSION SUSPENDED. If any policeman who shall be a pensioner or an annuitant of any policeman's pension fund, or any fireman's pension fund, or any public-school teachers' annuity and retirement fund in operation, by authority of law, in such city at the time this section shall come into effect shall re-enter the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, payment of the annuity or pension granted to such policeman from such annuity and retirement fund, or such pension fund shall be suspended while such policeman shall be in the service and shall be resumed when such policeman shall resign or be discharged from the service. *(S. 1, Sub. 36, Ch. 589, L. 1921.)*

37. PRIOR SERVICE AND RE-ENTRY.

a. Any policeman who shall not be in any branch of the service on the first day in the month of January of the first year after the year in which this section shall come into effect in such city employment in which is recognized as service for the purposes of this section, and who was in the service prior to that date and who shall re-enter the service after that date and before attainment of an age of fifty-seven years shall not have any right to be credited with any sum or sums for prior service annuity and widow's prior service annuity purposes on account of any service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and such policeman shall not have any right to prior service annuity and the wife or widow of such policeman shall not have any right to widow's prior service annuity. However, the period of service rendered by any such policeman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be included in computing the term of service of such policeman for age and service annuity and widow's annuity purposes.

b. Deductions from the salary of any policeman to whom this subsection shall apply and contributions by the city for the purpose of providing age and service annuity for such policeman and widow's annuity for the wife of such policeman and accumulation of the sums deducted from the salary of such policeman and contributed by the city for such annuity purposes shall be made as hereinbefore provided concerning future entrants and present employes until such policeman shall attain an age of fifty-seven years; provided, that in case of any such policeman who shall re-enter the service and after he shall have become forty-two or more years of age, deductions from salary of such policeman for age and service annuity and widow's annuity purposes and contributions by the city and accumulation to the credit of such policeman of the sums so deducted and contributed for such annuity purposes shall be made while such policeman shall be in the service for a period of fifteen years from and after the date of such policeman's re-entrance into the service, notwithstanding any other provisions of this section which provide that deductions, contributions and accumulations for annuity purposes shall cease when a policeman shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed fifteen years of service when he shall have attained an age of fifty-seven years.

c. Any policeman to whom this subsection shall apply shall have a right to receive age and service annuity, from and after the date of his resignation or discharge from the service, as of his age on such date, of such amount as can be provided from the total sum to his credit for such annuity purposes on such date; provided, however, that in the case of any such policeman who shall be an annuitant or pensioner of any policeman's pension fund, or any fireman's pension fund or any public-school teachers' annuity and retirement fund, in operation, by authority of law, in such city at the time this section shall have come into effect in such city, no part of the sum to the credit of such policeman for age and service annuity purposes which shall have resulted from contributions by the city shall be used to provide any amount of such annuity in excess of the difference between the amount of annuity to which such policeman would have

had a right if deductions from his salary (which shall be assumed to have been the same throughout the entire period of service rendered by him prior to his re-entrance into the service as it shall be at the time he shall re-enter the service) and contributions by the city for such annuity purposes at the rate stated in subsection 18 of this section, concerning present employes, had been made during the entire term of service rendered by such policeman prior to his attainment of an age of fifty-seven years if he would then have completed fifteen or more years of service, or prior to the end of the fifteenth year of his service if he would not have completed fifteen years of service upon attainment of an age of fifty-seven years and the amount of the pension or annuity granted to such policemen from any such pension fund or annuity and retirement fund.

d. The amount of annuity to which the widow of any policeman to whom this subsection shall apply who shall die, while in the service, before he shall have attained an age of fifty-seven years shall have a right, from and after the date of the death of such policeman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

e. The amount of annuity to which the wife of any policeman to whom this subsection shall apply who shall resign or be discharged from the service before he shall have attained an age of fifty-seven years shall have a right, from and after the date of the death of such policeman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

f. The amount of annuity to which the wife of any policeman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service, and who shall then have completed fifteen or more years of service from and after the date of his re-entrance into the service shall have a right, from and after the date of the death of such policeman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

g. The amount of annuity to which the wife of any policeman, to whom this subsection shall apply, who shall attain an age of fifty-seven years, while in the service, and who shall not then have completed fifteen years of service from and after the date of his re-entrance into the service shall have a right from and after the date of the death of such policeman, shall be fixed on the date when such policeman shall complete the fifteenth year of such service, as of the age of such wife on the date when such policeman shall have attained an age of fifty-seven years; provided, that the age of any such wife who shall be older than her husband, shall be assumed to be the same as his. Any such annuity shall be of such amount as can be provided from the amount to the credit of the policeman concerned for widow's annuity purposes on the date when the amount of such annuity shall be fixed.

h. The amount of annuity to which the wife of any policeman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service, and who shall die before he shall have completed fifteen years of service from and after the date of his re-entrance into the service shall have a right from and after the date of the death of such policeman as of the age of such wife on the date when such policeman attained an age of fifty-seven years; provided that the age of any such wife who shall be older than her husband shall be assumed to be the same as that of such husband. Any such annuity shall be of such amount as can be provided from the amount to the credit of such policeman on the date of his death, for age and service annuity and widow's annuity purposes; provided, that no part of the said amount to the credit of such policeman shall be used to provide any amount of annuity for such widow in excess of the amount to which such widow would have had a right if such policeman had lived and continued in the service upon salary at the rate of his final salary until he had completed fifteen years of service from and after the date of his re-entrance into the service and the amount of widow's annuity for such widow were then fixed as stated in this subsection. *(S. 1, Sub. 37 a thru h, Ch. 589, L. 1921.)*

38. MAXIMUM ANNUITY GRANTED. Notwithstanding any other provision of this section received by any future entrant during his term of service shall be granted or paid to such future entrant, nor to the widow of such future entrant; and no amount of annuity in excess of an amount equal to seventy-five percent of the highest salary considered for annuity purposes in accordance with the provisions of this section which shall have been received by a present employe shall be granted or paid to any present employe or to the widow of such present employe.

b. If at the time the amount of annuity for any policeman shall be fixed, there shall be to the credit of such policeman, for the purpose of providing such annuity, an amount in excess of that necessary to provide an annuity equal to seventy-five percent of the highest salary (as hereinbefore stated in this section) of such policeman, one-third of such excess amount shall be refunded and paid at that time to any such policeman who shall be a future entrant, and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such present employe, for such annuity purposes, which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such policeman who shall be a present employe.

c. If at the time the amount of annuity for the wife of any policeman shall be fixed there shall be to the credit of such policeman, for the purpose of providing annuity for such wife when she shall become a widow, an amount in excess of that necessary to provide an annuity equal to seventy-five percent of the highest salary (as hereinbefore stated in this section) of such policeman, one-third of such excess amount shall be refunded and paid at that time to such policeman who shall be a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such policeman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such policeman who shall be a present employe.

d. If at the time of the death of a policeman there shall be to the credit of such policeman, for the purpose of providing annuity for the widow of such policeman, an amount in excess of that necessary to provide an annuity equal to seventy-five percent of the highest salary (as hereinbefore stated in this section) of such policeman, one-third of such excess amount shall be refunded and paid at the time to the widow of such policeman who shall have been a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such policeman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded, and paid at that time to the widow of such policeman who shall have been a present employe. *(S. 1, Sub. 38 a thru d, Ch. 589, L. 1921.)*

39. WHEN WIFE NOT ELIGIBLE. Except as stated in subsection 60 of this section, the following described wives or widows of policemen shall not have any right to annuity from the annuity and benefit fund herein provided for:

a. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any policeman who shall die while in the service if such widow shall not have been married to such policeman before he shall have attained an age of fifty-seven years.

b. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any policeman who shall have resigned or been discharged from the service and who shall or shall not have entered upon annuity and who shall die while out of service, if such widow shall not have been the wife of such policeman while he was in the service and before he attained an age of fifty-seven years.

c. The wife or widow of any policeman who shall have served ten or more years and who shall die while out of the service after he shall have resigned or been discharged from the service, who shall have withdrawn or applied for refund of the sums to his credit for annuity purposes to which he shall have had a right of refund as provided in subsection 42 of this section.

d. The wife or widow of any policeman who shall die while out of the service after he shall have resigned or been discharged from the service before he shall have attained an age of fifty-seven years and who shall not have served at least ten years. *(S. 1, Sub. 39, Intro. Par. and a thru d, Ch. 589, L. 1921.)*

40. OTHER CITY EMPLOYMENT. No annuity or other benefit shall be granted or paid to any fireman annuitant or beneficiary, or policeman annuitant or beneficiary, from the annuity and benefit fund of his respective department while such fireman annuitant or beneficiary, or policeman annuitant or beneficiary, is employed by the city of Milwaukee in any service under the jurisdiction of the city service commission or the fire and police commission. *(Ch. Ord. 22, File #35824, Oct. 10, 1927.)*

41. WHEN WIDOW'S ANNUITY SUSPENDED. If any widow who shall be in receipt of any annuity or pension from the annuity and benefit fund herein provided for shall marry a policeman or other person employed in any branch of the service of such city, and such person shall die, and an annuity or pension ---- payable in whole or in part from moneys contributed or to be contributed by such city ---- shall be provided for the widow of such person under any law or laws theretofore or hereafter enacted, such widow shall receive such annuity or pension payment of the annuity herein provided for such widow shall be suspended during the time she shall be in receipt of such annuity or pension if it be other than a life annuity or pension, and if it be a life annuity herein provided for such widow shall be cancelled at the time she shall accept any payment of such annuity. *(S. 1, Sub. 41, Ch. 589, L. 1921.)*

42. FUTURE OR PRESENT EMPLOYE PROVISIONS. a. Withdrawal of Funds.

a-1. Less than 10 year's Service. Any future entrant or present employe, without regard to the period of time he shall have served, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall become fifty years of age; and any future entrant or present employe, who shall have served less than ten years, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have become fifty-seven years of age, shall have a right to have refunded to him the entire amount which shall have accumulated to his credit for age and service annuity and widow's annuity purposes on the date of such resignation or discharge from the service from amounts deducted from his salary in accordance with the provisions of this section.

a-2. Fixed Annuity. Any such future entrant or present employe shall retain such right to refund of such amounts when he shall apply for same, until the amount of annuity to which he shall have a right shall have been fixed as provided in subsection 27 or in subsection 28 of this section, as the case may be. Thereafter, no such right shall exist in the case of any such future entrant or present employe. *(S. 1, Sub. 42 a-1 and 2, Ch. 589, L. 1921.)*

a-3. Re-entry Into Service. Any such future entrant or present employe who shall avail himself of such right and withdraw such amount so credited to him shall ipso facto surrender and forfeit all rights to any annuity or other benefit from the annuity and benefit fund herein provided for, and to any annuity or benefit from any policemen's pension fund in operation by authority of law, in such city, at the time this section shall have come into effect in such city, for himself and for any other person or persons who might benefit through him because of service rendered by him prior to that time he shall make application for refund of the amounts hereinbefore stated. However, such future entrant or present employe shall retain the right to have any such period of service counted as service for the purpose of computing the term of his service in the event that such future entrant or present employe shall subsequently re-enter the service before he shall attain an age of fifty-seven years and become a beneficiary of the annuity and benefit fund provided for in this section. In the event favorable action is voted for re-entry to the department, the total amount of the refund granted and received from the policemen's annuity and benefit fund, plus accumulated interest due to the date of reinstatement, shall be paid immediately upon re-entry as an active member of the Milwaukee police department. *(Ch. Ord. 202, File #54-212-b, June 29, 1954.)*

a-4. More Than Ten Years. Any such future entrant or present employe who shall have served ten or more years and who shall not withdraw the amounts aforesaid to which he shall have a right of refund shall have a right to annuity as hereinbefore stated in this section.

a-5. Less Than Ten Years. Any such future entrant or present employe who shall have served less than ten years and who shall not withdraw the amounts to which he shall have a right to refund, shall have a right to have all such amounts and all other amounts to his credit for annuity purposes on the date of his resignation or discharge from the service retained to his credit and improved by interest while he shall be out of the service at the rate of three and one-half percent per annum and used for annuity purposes for his benefit and the benefit of any person who may have any right to annuity through him because of his service, according to the provisions of this section, in the event that he shall subsequently re-enter the service and complete the number of years of service necessary to attain a right to annuity; but such sums shall be improved by interest to his credit while he shall be out of the service only until he shall have become fifty-seven years of age.

b. When Policeman Not Married. When any male policeman shall become fifty-seven years of age while in the service and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him. Thereafter, in his case, no sums shall be deducted from his salary or contributed by the city for widow's annuity purposes.

c. When Widow's Annuity Refunded. When any male policeman shall resign or be discharged from the service before he shall have become fifty-seven years of age and shall enter upon annuity and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him.

d. Funds Transferred. Whenever any amounts shall be refunded, as stated in pars. a, b and c, to any policeman or other person or persons described therein, the amounts to the credit of the policeman concerned in each such transaction for annuity purposes at the time any such refund shall be made, which shall have been accumulated from contributions by the city, shall be transferred to the prior service annuity fund described in sub. 59-f for the purposes stated in sub. 56-a, until such time as the assets of such fund become equal to the liabilities thereof as stated in sub. 56-a. Thereafter, any such amounts shall become a credit to the city and, with interest thereon at the rate of four percent per annum, shall be used to reduce the amount which the city would otherwise pay during a succeeding year to the annuity and benefit fund herein provided for.

e. Heirs. In any case in which an amount equal to the total amount accumulated and credited to the account of a deceased policeman from sums deducted, after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, from the salary of such policeman for annuity purposes, shall not have been paid to such policeman and, in the case of a married male policeman to such policeman and the widow of such policeman both together, in form of annuity before the death of the last of such persons who shall die, an amount equal to the difference between such total amount resulting from sums deducted from his salary and the entire amount paid in form of annuity or annuities, without interest upon either such amount, shall be refunded and paid to the children of such policeman, in equal parts to each, unless such policeman shall direct in writing, sworn to before an officer authorized to administer oaths in this state, and filed with the retirement board before the death of such policeman, that any such amount shall be refunded and paid to any one or more of such children; and if there be no such children such amount shall be refunded and paid to the heirs of such policeman according to the law pertaining to estates of deceased persons. *(S. 1, Sub. 42, par. a-4, a-5, and b thru e, Ch. 589, L. 1921.)*

43. OVERTIME NOT INCLUDED. No overtime or extra service shall be included in computing the term of service of any policeman and not more than one year or part thereof of service shall be allowed for service rendered during any calendar year, or part thereof, such as a day, a week, a month, etc. *(S. 1, Sub. 43, Ch. 589, L. 1921.)*

44. OTHER POLICE SERVICE. Any service rendered by any policeman while not in the police department, as a police officer employed by the board of park commissioners of such city, or as a regular member of the fire department of such city, or as a regular teacher in the public schools of such city, or as an employe, other than one described in section 16.54 [63.27] of the statutes as one of those who shall not be affected as to their election, selection, or appointment by rules made by the board of city service commissioners of such city ---- of any other department of such city, or branch of the service of such city, shall be counted, for annuity and benefit purposes under the provisions of this section, as if such service were rendered in the police service of such city. And any salary received by any policeman for such service shall be treated, for the purposes of this section, in the same manner as though such salary were received for the performance of regular duty as a policeman. *(S. 1, Sub. 44, Ch. 589, L. 1921.)*

45. ANNEXED AREAS. a. Whenever any territory shall be annexed to such city, any policeman then employed as a policeman in such annexed territory, who shall be employed in such city as a policeman of such city shall automatically come under the provisions of this section and any terms of service rendered in such territory by such policeman shall be considered, for the purposes of this section, as such a term of service rendered in such city.

b. Any such policeman shall be treated in every respect, as of the date such annexation shall come into effect, in the manner specified in this section concerning present employes of such city on the first day in the month of January of the first year after the year in which this section shall come into effect in such city. *(S. 1, Sub. 45 a and b, Ch. 589, L. 1921.)*

46. OTHER ANNUITY FUNDS.

a. When any policeman shall resign or be discharged from the police service and become employed in any other department or branch of the service of such city in a position the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "Fireman's Annuity and Benefit Fund," or any "Public School Teachers' Annuity and Benefit Fund," or any "Municipal Employe's Annuity and Benefit Fund," in such city (which fund shall be designated to provide annuities and benefits in substantially the same manner that annuities and benefits are provided for in this section) all sums to the credit of such policeman, for annuity purposes, in the annuity and benefit fund herein provided for and any moneys accumulated in said fund for such purposes for the benefit of such policeman shall be transferred from said fund to the annuity and benefit fund in which such policeman shall be included by reason of his employment in such other service of such city and used in such fund, according to the law or laws under which such fund shall be maintained, for annuity purposes for the benefit of such policeman, and of his wife if he shall have a wife.

b. No other disposition shall be made of any sum to the credit of any such policeman for annuity purposes and such policeman shall not have any right to refund of any such sum under any provision of this section but shall have a right to refund of such sum as shall be provided by the law or laws under which the annuity and benefit fund to which such sum shall be transferred shall be maintained. *(S. 1, Sub. 46-a and b, Ch. 589, L. 1921.)*

47. TRANSFER OF FUNDS. When any person who shall be employed in any other department or branch of the service of such city in a position the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "Fireman's Annuity and Benefit Fund," or any "Public School Teachers' Annuity and Benefit Fund," or any "Municipal Employe's Annuity and Benefit Fund," in such city, (which fund shall be designed to provide annuities and benefits in substantially the same manner that annuities and benefits are provided for in this section) and shall resign or be discharged from such position and shall enter the police service of such city, and any sum or sums of money to the credit of such person in any such fund for annuity purposes shall be transferred, in accordance with law, from such fund to the annuity and benefit fund herein provided for, such sum or sums shall be placed in said

annuity and benefit fund, and used therein for annuity purposes for the benefit of such person, and of his wife if such person shall have a wife, as provided in this section. *(S. 1, Sub. 47, Ch. 589. L. 1921.)*

48. CHILD'S ANNUITY. Annuity to be known as "Child's Annuity" shall be provided for children of policemen. Any such annuity shall be payable from and after the date of the death of the policeman parent of any such child until the annuitant shall attain an age of 18 years. Any such annuity shall be computed and paid in accordance with the provisions relating to annuity in subsection 13. *(S. 11, Ch. 439, L. 1947.)*

49. CHILD'S ANNUITY PROVISIONS.

a. Child's annuity, as hereinafter provided, shall be granted and paid for the benefit of any child less than eighteen years of age, the issue of any policeman whose death shall result from injury incurred in the performance of one or more specific acts of duty; provided, such child shall have been born before such policeman attained an age of fifty-seven years if such policeman shall then have completed fifteen or more years of service, or before the end of the fifteenth year of such policeman's service if such policeman shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years.

b. Child's annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under eighteen years of age, the issue of any policeman who shall die while in the service; provided that no annuity shall be granted or paid to any child of any such policeman who shall have resigned or been discharged from the service before he shall have attained an age of fifty years and who shall have re-entered the service unless such policeman shall have served at least two years from and after the date of his latest re-entrance into the service of such city; and provided further, that no annuity shall be granted or paid for the benefit of any child of any policeman who shall have entered or re-entered the service of such city after the attainment of an age of forty-two years unless such child shall be the issue of a wife or husband who married such policeman before such policeman attained an age of forty-two years; nor to any child of any policeman born after such policeman shall have attained an age of fifty-seven years.

c. Annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under eighteen years of age of any policeman who shall die after such policeman shall have resigned or been discharged from the service subsequent to this attainment of an age of fifty years who shall have entered upon annuity or who shall be eligible for annuity; provided, that only such child of such policeman as shall have been born before such policeman shall have attained an age of fifty-seven years and prior to the date of such policeman's latest resignation or discharge from the service shall be eligible for annuity; and provided further, that any such child of any such policeman who shall have entered or re-entered the service after attainment of an age of forty-two years shall be the issue of a wife or husband who married such policeman before such policeman attained an age of forty-two years. *(S. 1, Sub. 49 a, b and c, Ch. 589, L. 1921.)*

d. Any such annuity shall consist of amounts of $40 per month for each such child while a widow or widower of the deceased policeman parent of such child shall survive and of $50 per month for each such child while no such widow or widower shall exist; provided, if annuities for the widow and children of any policeman whose death shall have been the result of injury incurred in the performance of one or more specific acts of duty or for the children of such policeman in any such case wherein a widow shall not exist, computed as hereinbefore stated, would exceed an amount equal to 75% of the final salary of such policeman the annuity for each child of such policeman shall be reduced pro rata so that the combined annuities for the family of such policeman shall not exceed an amount equal to 75% of such salary; and in the case of the family of any policeman whose death shall have been the result of any cause or causes other than injury incurred in the performance of one or more specific acts of duty in which annuities for such family, computed as hereinbefore stated, would exceed an amount equal to 50% of the final salary of such policeman, the annuity of each child of such policeman shall be reduced pro rata so that the combined annuities for such family shall not exceed an amount equal to 50% of such salary; but if in any such latter case the annuity

provided as hereinbefore stated in this section for the widow of any such policeman shall exceed an amount equal to 50% of such salary, such annuity for such widow shall not be reduced. *(Ch. Ord. 217, File #55-213-a, Dec. 27, 1955.)*

e. Any annuity which shall be granted for the benefit of any child shall be paid to the parent of such child who shall be providing for such child, unless another person shall have been or shall be appointed by a court of law as the guardian of such child.

f. On or before the first day in the month of August of each year, the retirement board shall submit an estimate, to the common council of such city, of the amount which will be required to pay annuities to children during the succeeding year, and the said common council shall include such amount in the tax which shall be levied for such year for the purposes of the annuity and benefit fund herein provided for. *(S. 1, Sub. 49-e and f, Ch. 589, L. 1921.)*

50. DUTY DISABILITY BENEFITS.

a. Benefit to be known as "Duty Disability Benefit" shall be provided for policemen who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty.

b. Benefit to be known as "Child's Disability Benefit" shall be provided for policemen disabled as stated in the preceding paragraph who shall be the parents of any child or children less than eighteen years of age. *(S. 1, Sub. 50-a and b, Ch. 589, L. 1921.)*

c. Incurred in performance of duty. Any policeman who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty, shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 75% of the current annual salary for such position which he held at the time of such injury. The widow of such member after his death but only during her widowhood shall receive 70% of the amount of the duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b, c, d and 34 of this section. In the event however that a policeman who is eligible to receive duty disability has a disability involving the loss of use of both eyes or the full loss of use of one eye and one limb or the full loss of the use of 2 limbs or an equivalent disability that would impair the member's (retiree's) ability to earn a livelihood and such disability is determined by majority action of a panel consisting of 3 physicians, one physician to be designated by the professional policemen's protective association, one physician to be designated by the city labor negotiator, and the third physician to be selected by agreement of the other 2 physicians, then in such event, such policeman shall receive a duty disability pension of 90% of his current salary. If such panel reaches a determination unfavorable to the policeman on duty disability he may after 6 months but not later than one year request the convening of a second 3-physician panel to be constituted in the same manner and for the same purpose of the initial panel but such request shall be in writing. If an unfavorable result is reached, the policeman may seek further review but not sooner than 12 months from the last determination. This benefit shall be in lieu of any other benefits provided in this act for duty disability allowances. Recomputation of the amount of disability benefit shall occur whenever there is a salary adjustment for such position. Such adjustment shall thereupon become effective at once. If the position from which the member retired under a duty disability is eliminated, then the city service commission shall determine in what manner the current annual salary shall be established for such position for purposes of determining disability payments under this section. The widow of such member after his death but only during her widowhood, shall receive 75% of the amount of duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b, c, d and 34. The period of time during which duty disability benefits shall be paid shall in no event be less than the time provided for under similar circumstances in this

act prior to this amendment. Any such policeman shall also have a right to receive child's disability benefit of amounts of $40 a month on account of each child less than 18 years of age; provided, the total amount of child's disability benefit which shall be granted or paid to any such policeman shall not exceed 20% of the salary, as aforesaid to such policeman. Such benefit or benefits shall be paid to such disabled policeman periodically according to rules concerning such benefits to be adopted by the retirement board. *(Ch. Ord. 517, File #81-432, Oct. 19, 1982.)*

d. The first payment of any duty disability benefit or child's disability benefit which any policeman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board or by the retirement commission of such city, as the case may be, and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made.

e. Proof of disability shall be furnished to the retirement board (or if a retirement commission, as described in subsection 3 of this section, shall exist in such city, to such retirement commission and not to the retirement board) by at least one licensed and practicing physician, and said retirement board or retirement commission as the case may be, may require other evidence of disability. Each disabled policeman who shall receive any duty disability benefit under the provisions of this subsection shall be examined at least once a year by one or more licensed and practicing physician or physicians selected by said retirement board or by said retirement commission, as the case may be. Such physician or physicians shall advise said retirement board or such retirement commission, as the case may be, whether the disability of such policeman continues or not. When the disability of any such policeman shall cease, the said board or commission, as the case may be, shall discontinue payment of duty disability benefit and of child's disability benefit to such policeman and such policeman shall be returned to active service as a policeman at the same salary he or she received before disability occurred. *(S. 1, Sub. 50 d and e, Ch. 589, L. 1921.)*

f. Duty disability benefit shall be paid to any policeman, disabled as aforesaid, during any period of such disability until such disabled policeman shall have become 65 years of age if such policeman shall have completed 25 years of service at that time, or until the end of the 25th year of such policeman's service if such policeman shall not have completed 25 years of service at the time he shall have attained an age of 65 years, and child's disability benefit shall be paid to any such policeman, who shall be the parent of any child or children less than 18 years of age, during all or any part of such period of time until such child or children of such policeman shall attain an age of 18 years. *(Ch. Ord. 217, File #55-213-a, Dec. 27, 1955.)*

g. When any policeman so disabled shall become 65 years of age, or shall complete 25 years of service subsequent to attainment of such age, as aforesaid, such disability benefit or benefits shall cease and such disabled policeman shall thereafter receive such annuity or annuities as are provided for him in accordance with other provisions of this section. *(Ch. Ord. 217, Dec. 27, 1955.)*

h. No policeman who shall have become 65 or more years of age who shall have been in the service 25 or more years shall have a right to receive duty disability benefit or child's disability benefit. *(Ch. Ord. 217, Dec. 27, 1955.)*

i. In lieu of all amounts ordinarily deducted, for annuity purposes, from the salary of any policeman, disabled as aforesaid, the city shall contribute sums equal to such amounts for any period of disability to such policeman during which he shall receive duty disability benefit. Such sums so contributed shall be credited to such disabled policeman as though they were deducted from his salary and shall be regarded for annuity and refund purposes as sums deducted from such salary.

j. The city shall also contribute all amounts ordinarily contributed by it for annuity purposes for such policeman as though he were in active discharge of his duties during any such period of disability.

k. The retirement board, or the retirement commission if such body shall exist in such city, shall submit an estimate on or before the first day in the month of August of such year to the common council of such city,

of the amount necessary to provide duty disability benefits during the succeeding calendar year and such amount shall be paid into the annuity and benefit fund herein provided for from taxes levied and collected as hereinbefore stated in subsection 12 of this section. *(S. 1, Sub. 50 i, j and k, Ch. 589, L. 1921.)*

51. ORDINARY DISABILITY BENEFITS. a.

b. 25 Years of Service. Any policeman less than 57 years of age, and any policeman 57 or more years of age who shall not have completed 25 years of service, who shall become disabled, subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, shall have a right to receive ordinary disability benefit during any period or periods of any such disability which shall not extend beyond the date when such policeman shall have completed at least 25 years of service upon attainment of such age or beyond the 25th year of service of such policeman if such policeman shall have completed 25 years of service after attainment of the age of 57 years, and which shall not exceed, in the aggregate, throughout the entire period of such policeman's service, a period of time equal to one-fourth of the entire period of service rendered by such policeman in the service of such city prior to the time he shall have become so disabled, and which shall not exceed 5 years in any case. In computing any such entire period of service, any period of time during which such policeman shall have received ordinary disability benefit under the provisions of this section shall not be included for the purposes of this section. *(S. 13, Ch. 439, L. 1947.)*

c. Payment. The first payment of any ordinary disability benefit which any policeman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made.

d. Proof of Disability. Proof of disability shall be furnished to the retirement board by at least one licensed and practicing physician and said retirement board may require other evidence of disability. Each disabled policeman shall be entitled to any ordinary disability benefit under the provisions of this section shall be examined at least once a year by one or more licensed and practicing physician or physicians selected by said retirement board. Such physician or physicians shall advise said retirement board whether the disability of such policeman continues or not. When the disability of any such policeman shall cease the said retirement board shall discontinue payment of ordinary disability benefit to such policeman and such policeman shall be returned to active service as a policeman at the same salary he or she received before disability occurred.

e. Deductions. Ordinary disability benefit shall consist of an amount equal to fifty percent of the salary of such disabled policeman as such salary shall be at the time such disability shall occur for a period of time equal to any period of time for which any payment of such disability benefit shall become due and payable. Before any payment thereof shall be made to any policeman, an amount equal to the sum or sums ordinarily deducted from the salary of such policeman for all annuity purposes during a period of time equal to that for which such payment of ordinary disability benefit is to be made shall be deducted from such payment and credited to such policeman as a deduction from his salary for such period. Such sums so deducted and credited shall be regarded, for annuity and refund purposes, as sums deducted from the salary of such policeman.

f. Contributions. The city shall contribute all amounts ordinarily contributed by it for annuity purposes for such disabled policeman as though he were in active discharge of his duties during any such period of disability.

g. Estimates. The retirement board shall submit an estimate, on or before the first day in the month of August of each year, to the common council of such city, of the sum necessary to provide ordinary disability benefits during the succeeding calendar year. Such estimates shall show the amounts to be provided during such calendar year by the policemen included under the provisions of this section, and by the city. *(S. 1, Sub. 51 c thru g, Ch. 589, L. 1921.)*

h. Disability Contributions. To provide ordinary disability benefit, contributions shall be made by all policemen less than 57 years of age, and all policemen 57 or more years of age who shall not have completed 25 years of service, and by the city as follows: *(S. 13, Ch. 439, L. 1947.)*

h-1. During the first year after the year in which this section shall come into effect in such city, one-half of one percent of each payment of the salary of each such policeman, except those policemen who are in receipt of duty disability benefits or ordinary disability benefits, shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payment of salary are payable.

h-2. Concurrently with each such deduction from the salary of any such policeman, the city shall contribute a sum equal to one-half of one percent of each such payment of the salary of such policeman. If it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four percent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

h-3. Beginning on the first day in the month of January of the second year after the year in which this section shall come into effect in such city, and during each year thereafter, one-half of the total sum which shall be estimated annually by the retirement board as necessary to provide ordinary disability benefits during such year shall be contributed by the policemen included under the provision of this section as follows:

h-4. Such amount (one-half of said total sum) shall be pro rated among all such policemen in proportion to the salary of each such policeman, the percentage of each such salary which the sum related thereto shall constitute shall be ascertained, and a sum equal to a like percentage of each payment of such salary shall be deducted from each such payment of such salary.

h-5. Concurrently with each such deduction from the salary of each such policeman the city shall contribute a sum equal to the amount of such deduction. If it shall not be possible or practicable for the city to make any such contributions at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four percent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made. *(S. 1, Sub. 51 h 1 thru 5, Ch. 589, L. 1921.)*

52. DISABILITY BENEFIT PROVISIONS. a. Notwithstanding the provisions of subsections 50 and 51 of this section, if any policeman who shall apply for or who shall have been granted any disability benefit under the provisions of said subsections 50 and 51 shall refuse to submit to examination by any physician or surgeon selected as aforesaid, such policeman shall not have any right to receive such disability benefit and any such benefit which shall have been granted shall be cancelled immediately upon such refusal.

b. No disability benefit shall be paid on account of any form of disability for any period of time for which a disabled policeman shall receive any part of his salary, and no such benefit shall be paid for any period of disability for which a disabled policeman shall have any right to receive any part of his salary under any law or ordinance in effect in such city.

c. If any policeman who shall be disabled shall receive any compensation or allowance from such city on account of such disability under and by virtue of sections 2394-1 to 2394-32, both inclusive, of the statutes and acts amendatory thereof and supplemental thereto, except that provided for in

subsection 1 of section 2394-9, the disability benefit herein provided for such policeman shall be reduced by any amount so received if such amount shall be less than the amount of such benefit; and if the amount or amounts received as compensation or allowance exceed the amount of the disability benefit herein provided for such policeman, such policeman shall not receive any such disability benefit until a period of time during which such benefit payable at the rate herein stated would equal the amount of such compensation shall have expired. In calculating any such period of time, interest upon the amounts of money involved shall not be considered. *(S. 1, Sub. 52 a, b and c, Ch. 589, L. 1921.)*

53. ORDINARY DISABILITY.

a. Notwithstanding any other provision of this section, whenever any policeman who shall have served less than 20 years, exclusive of any period of disability during which such policeman shall have received ordinary disability benefit under the provisions of this section, shall be disabled, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, for a period or periods of time aggregating in excess of one-fourth of the entire term of such service rendered by such policeman, and whenever any policeman who shall have served 20 or more years, exclusive of any period of disability during which such policeman shall have received ordinary disability benefit under the provisions of this section, shall be so disabled for a period or periods of time aggregating in excess of 5 years and such policeman shall resign or be discharged from the service while still so disabled and before he shall have served for a period or periods of time aggregating 20 years exclusive of any period of disability, such policeman shall have the right to receive annuity from and after the date of such resignation or discharge from the service of such amount as can be provided from the sum to the credit of such policeman on the date of such resignation or discharge, for age and service annuity purposes if such policeman shall be a future entrant, or for age and service annuity and prior service annuity purposes if he shall be a present employe. Any such annuity shall be computed as of the age of the policeman concerned on the date of his resignation or discharge from the service. *(S. 14, Ch. 439, L. 1947.)*

b. The amount of annuity to which the wife of any such policeman shall have a right from and after the date of the death of such policeman shall be fixed on the date of the resignation or discharge of such policeman. It shall be of such amount as can be provided from the amount to the credit of such policeman on the date of his resignation or discharge from the service, for widow's annuity purposes if such policeman shall be a future entrant, or for widow's annuity and widow's prior service annuity purposes if such policeman shall be a present employe. Any such annuity shall be computed as of the age of such wife on the date of such resignation or discharge; provided, that if such wife shall be older than her husband her age shall be assumed to be the same as his.

c. In the case of the death of any such policeman after he shall have entered upon annuity, any child, under the age of eighteen years, who shall be the issue of such policeman shall have a right to receive annuity of the same amount as is specified in subsection 49 for a child of a policeman who shall retire after he shall have attained an age of fifty years, and the limitation stated in said subsection 49 concerning the amount of annuity to be paid to the family of a policeman shall apply in any case provided for in this subsection. *(S. 1, Sub. 53 b and c, Ch. 589, L. 1921.)*

54. PERIODS OF SERVICE. a. In computing the term of service rendered by any policeman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such policeman shall have performed the duties of his position; all periods of vacation, all periods of leave of absence with whole or part pay; all periods of leave of absence without pay which were necessary on account of disability.

b. In computing the term of service rendered by any policeman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such policeman shall have

performed the duties of his position; all periods of vacation; all periods of leave of absence with whole or part pay; all periods of disability for which such policeman shall receive any disability benefit; and all periods of disability not the result of injury incurred in the performance of one or more specified acts of duty for which the policeman shall not receive any disability benefit any one of which periods shall not exceed fifteen consecutive days.

c. In computing the term of service rendered by any policeman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, for ordinary disability benefit purposes, all periods of time described in the preceding paragraph, except any such period of time for which such policeman shall receive or shall have received ordinary disability benefit, shall be counted as periods of service. *(S. 1, Sub. 54-a, b and c, Ch. 589, L. 1921.)*

55. ANNUITY AND BENEFIT FUND.

a. It is the intention of this section that the annuity and benefit fund herein provided for shall on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and thereafter supersede and take the place of any policeman's pension fund which shall be in operation, under and by virtue of chapter 397, laws of 1903, as amended, in such city at the time this section shall come into effect in such city. Therefore, if any policeman's pension fund, created and maintained under and by virtue of said chapter 397, laws of 1903, as amended, shall be in operation in any such city at the time this section shall come into effect in such city, all moneys, securities and other assets of such fund shall be transferred, on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such fund to the retirement board of the annuity and benefit fund, herein provided for, which retirement board is hereby empowered to receive them, and shall be placed in the annuity and benefit fund herein provided for and such policeman's pension fund shall then cease to exist. If it shall not be possible or practicable for the board of trustees of any such policemen's pension fund to transfer all moneys, securities and other assets of such fund to the said retirement board on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, all such moneys, securities and other assets shall be transferred to said retirement board as soon as possible and practicable after such day, and any such transfer shall be made as of such day.

b. All annuities, pensions and other benefits allowed prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such policeman's pension fund shall thereafter be paid by the said retirement board from the annuity and benefit fund herein provided for, according to the law or laws under which such annuities, pensions or other benefits were allowed.

c. All claims for any annuity, pension or other benefit from such policemen's pension fund which are pending or ungranted on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be allowed or disallowed by said retirement board according to the provisions of said chapter 397, laws of 1903, as amended, and those which shall be allowed shall be paid from the annuity and benefit fund herein provided for.

d. Widows and children less than eighteen years of age of policemen who are or who shall become pensioners under and by virtue of chapter 397, laws of 1903, as amended, and who shall die shall have a right to receive pensions in accord with the provisions of said chapter 397, laws of 1903, as amended, and the retirement board shall allow all such pensions in accordance with the provisions of said chapter 397, laws of 1903, as amended, and shall pay all such pensions from the annuity and benefit fund herein provided for. *(S. 1, Sub. 55 a thru d, Ch. 589, L. 1921.)*

56. TRANSFERENCE OF FUNDS.

a. For the purpose of paying prior service annuities and widow's prior service annuities provided for in this section, and all annuities, pensions and benefits which have been or which shall be allowed or granted under and by virtue of chapter 397, laws of 1903, as amended, or under and by virtue of subsections 55 and 60 of this section, also for the purpose of providing a sufficient amount of money in the investment and interest fund,

described in subdivision b of subsection 59 of this section, to make possible the transfer of moneys from said funds to other funds of the annuity and benefit fund herein provided for as stated in said subdivision b of said subsection 59, the city shall contribute the sum of one hundred and twenty thousand dollars each year to the annuity and benefit fund herein provided for, beginning in the first year after the year in which this section shall come into effect in such city.

b. All such amounts contributed by the city shall be placed in the prior service annuity fund described in subdivision f of subsection 59 of this section. When the assets of the said prior service annuity fund shall equal the liabilities thereof (including in addition to all other liabilities of such fund, the present values, according to the American experience table of mortality and interest at the rate of four percent per annum, of all annuities, present or prospective, to be paid from said fund) the city shall cease to contribute the sum stated in subdivision a of this subsection herein or any part thereof; provided, however, if at any time the assets of the said investment and interest fund shall not be sufficient to permit a transfer of moneys from said fund to any other fund of the annuity and benefit fund herein provided for in accordance with the provisions of subdivision e of subsection 59 of this section, the city shall, as soon as possible and practical thereafter, contribute a sum or sums sufficient to make possible such transfer of the amount or amounts of money required, and provided further, if by reason of annexation of territory and the employment of such city of any policemen employed in such territory at the time of such annexation, the city shall have ceased to contribute as provided in subdivision a of this subsection, contributions of moneys to provide prior service annuity and widow's prior service annuity (either or both) for or on account of such policemen shall become necessary for such annuity purposes, the city shall, as soon as possible and practical thereafter, contribute a sum or sums sufficient to provide such annuities. However, the city shall not, in any event contribute any amount in excess of one hundred and twenty thousand dollars in any one year for any and all purposes stated in this subsection. *(S. 1, Sub. 56 a and b, Ch. 589, L. 1921.)*

57. FUNDS ON HAND. For the purpose of paying annuities, the retirement board may at all times keep and hold uninvested a sum not in excess of the amount required to make all annuity payments which shall become due and payable within the following ninety days. Such sum or any part thereof shall be kept on deposit in any bank in the state of Wisconsin, organized under the laws of said state as a state bank, or organized under the laws of the United States as a national bank; provided, however, that such bank shall furnish to said retirement board adequate security for any sum deposited therein by said retirement board; and provided further, that the amount which said retirement board may deposit in any such bank shall not in any case exceed twenty-five percent of the paid up capital and surplus of such bank. *(S. 1, Sub. 57, Ch. 589, L. 1921.)*

58. EFFECTIVE DATE OF ORDINANCE. No annuity shall be fixed, granted or paid, and no disability benefit shall be granted or paid, under or by virtue of this section before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. *(S. 1, Sub. 58, Ch. 589, L. 1921.)*

59. RETIREMENT BOARD.

a. Established. All money and property which shall be received by the retirement board for the annuity and benefit fund herein provided for shall be placed in some one or more of the following described funds which shall be established and maintained by said retirement board within the said annuity and benefit fund.

b. Expense Fund. All amounts of money which shall be contributed by the city and all amounts of money which shall be deducted from the salaries of policemen to defray the cost of administration of the annuity and benefit fund herein provided for, as stated in subsection 14 of this section, shall be paid into a fund known as the expense fund. All expenses of administration shall be paid from this fund.

c. City Contribution Fund. c-1. All amounts of money which the city shall contribute for age and service annuity, widow's annuity and supplementary annuity purposes, except those contributed as provided in subsection 51 of this section in lieu of deductions from the salary of any policeman who shall receive duty disability benefit, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

c-2. An individual account shall be kept in this fund concerning each policeman for whose benefit the city shall contribute for age and service annuity or for widow's annuity purposes (the former or both) and with each widow for whose benefit the city shall contribute for supplemental annuity purposes. As such contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

c-3. At least once each year, and always before any money shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

c-4. When the amount of annuity to be paid to any policeman, or to the widow of any policeman shall be fixed, and when supplementary annuity for the widow of any policeman shall first become payable, the total amount in this fund for the purpose of providing such annuity and required for such purpose shall be taken therefrom and placed in the annuity payment fund.

c-5. In any case in which there shall be in this fund to the credit of any policeman who shall resign or be discharged from the service before such policeman shall have attained an age of fifty-seven years an amount in excess of that required to provide age and service annuity for such policeman, or an amount in excess of that required to provide widow's annuity for the wife of such policeman (either or both), such amount or amounts shall be retained in this fund and improved by interest at the rate of four percent per annum until such policeman shall become fifty-seven years of age or shall die, whichever event shall occur first. Such accumulated amount shall then be used in accordance with the provisions of subdivision d. of subsection 42 of this section.

d. Salary Deduction Fund. d-1. All amounts of money which shall be deducted from the salaries of policemen for age and service annuity and widow's annuity purposes, also all amounts of money which shall be contributed by the city for any such annuity purpose for the benefit of any policeman who shall receive duty disability benefit under the provisions of subsection 50 in lieu of any such amount which would have been deducted from the salary of such policeman if such policeman were performing active duty, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

d-2. An individual account shall be kept concerning such policeman from whose salary any such amount shall be deducted or for whose benefit the city shall make any such contribution. As such deductions or contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

d-3. At least once each year, and always before any moneys shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

d-4. When the amount of annuity to be paid to any policeman or to the widow of any policeman shall be fixed or granted, the total amount of this fund for the purpose of providing such annuity and required for such purposes shall be taken therefrom and placed in the annuity payment fund.

d-5. All amounts which shall have resulted from deductions from the salary of any policeman, and all amounts which shall have resulted from contributions made by the city for the benefit of any policeman who shall receive duty disability benefit, in lieu of deduction from the salary of such policeman, in accord with the provisions of subsection 51 of this section, that are to be refunded in accordance with the provisions of this section, except those referred to in subdivision e of this subsection, shall be paid from this fund. *(S. 1, Sub. 9 a, b, c 1 thru 5, and d 1 thru 5, Ch. 589, L. 1921.)*

e. Annuity Payment Fund. e-1. All amounts of money which shall be taken from the city contribution fund and from the salary deduction fund for the purpose of paying annuities which shall have been fixed, also all amounts which shall be deducted from the salary of any policeman after the amount of age and service annuity for such policeman shall have been fixed, also all amounts which shall be transferred to this fund from the expense fund, the ordinary disability fund, the investment and interest fund, and under the provisions of subsection 66 shall be placed in this fund.

e-2. All age and service annuities and all widow's annuities shall be paid from this fund. *(S. 15, Ch. 439, L. 1947.)*

e-3. If any policeman who shall have resigned or been discharged from the service and whose annuity shall have been fixed or granted shall re-enter the service before he shall have attained an age of 57 years, and amount which shall be determined in accordance with the provisions of subdivision a of subsection 35 of this section, shall be transferred from this fund and placed to the credit of such policeman for age and service annuity purposes in the city contribution fund and the salary deduction funds, respectively. Such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for age and service annuity purposes for such policeman bore to each other at the time the annuity for such policeman shall have been fixed. If the woman who shall be the wife of such policeman when he shall re-enter the service shall be the one who was the wife of such policeman where annuity for the wife of such policeman shall have been fixed, an amount to be determined in accordance with the provisions of subdivision a of said subsection 35 shall be transferred from this fund and placed to the credit of such policeman for widow's annuity purposes in the city contribution fund and the salary deduction fund, respectively, such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for widow's annuity purposes for the wife of such policeman bore to each other at the time the annuity for the wife of such policeman shall have been fixed. *(S. 1, Sub. 59-e-3, Ch. 589, L. 1921 Stats.)*

e-4. If at the end of any calendar year the assets of the annuity payment fund shall be in excess of the amount of liabilities of said fund of 15 percent of such amount of liabilities, the amount of such excess shall be transferred to the investment and interest fund described in par. L to be used for the purposes prescribed in par. L. *(S. 16, Ch. 439, L. 1947.)*

f. Prior Service Annuity Fund.

f-1. All amounts of money which shall be contributed by the city for prior service annuity and for widow's prior service annuity purposes and all money which shall be contributed by the city in accordance with the provisions of subsection 60 shall be placed in this fund. All assets of any policemen's pension fund which shall exist under and by virtue of chapter 397, laws of 1903, as amended, in such city at the time this section shall come into effect in such city, which shall be turned over to the retirement board as provided in subsection 55 of this section shall also be placed in this fund.

f-2. All prior service annuities and widow's prior service annuities payable under the provisions of this section and all annuities, benefits and pensions which shall have been granted or shall be granted to any person or persons under, or in accord with, the provisions of chapter 397, laws of 1903, as amended, and of subsection 55 of this section shall be paid from this fund.

f-3. If at any time the assets of the investment and interest fund described in par. L shall not be sufficient to permit of transfer from said fund to the annuity payment fund of the amounts specified in paragraph 2 of said subdivision b, the amount necessary for such purpose shall be taken from this fund and placed in said investment and interest fund. *(S. 1, Sub. 59-f-1, 2 and 3, Ch. 589, L. 1921.)*

g. Child's Annuity Fund. All amounts of money which the city shall contribute to provide child's annuity according to the provisions of this section shall be placed in this fund and all such annuities shall be paid from this fund.

h. Duty Disability Fund. All amounts of money which shall be contributed by the city to provide duty disability benefits and child's disability benefits, and all amounts which shall be contributed by the city to provide compensation annuity (as defined in subsection 34 of this section) for a widow of any policeman who shall die as a result of an injury received in the performance of one or more specific acts of duty shall be placed in this fund and all such benefits and annuities shall be paid from this fund.

i. Ordinary Disability Fund. All amounts of money which shall be contributed by the city, and all amounts which shall be deducted from the salaries of policemen for the purposes of providing ordinary disability benefits shall be placed in this fund and all such benefits shall be paid from this fund.

j. Transfer of Funds. If at any time there shall not be enough money in the expense fund, the prior service annuity fund, the child's annuity fund, the duty disability fund or the ordinary disability fund either one of these ---- to pay any expenses, annuities, or benefits which shall be due and payable from any such fund, the sums necessary to pay any such expenses, annuities, or benefits shall be taken from either one or all of the following named funds in the order stated, and transferred to the said fund or funds from which such expenses, annuities, or benefits shall be payable: city contribution fund, prior service annuity fund, salary, deduction fund. When any amount in excess of that required to pay any expenses, annuities, or benefits due and payable from any of the said funds to which any such sums shall have been transferred shall be received into such fund such amount shall be transferred from such fund to the fund from which any such sums shall have been taken and transferred until the full sums so taken and transferred, shall be returned to any fund from which it was taken and transferred. Interest at the rate of four percent per annum upon any sum so taken and returned shall be paid into the investment and interest fund.

k. Gift Fund. All money or property of any kind which shall be received by the retirement board for any purpose or purposes of the annuity and benefit fund herein provided for under and by virtue of any law or laws other than this section, or as gifts, grants, or bequests or in any manner other than as provided in any preceding subsection of this section shall be placed in this fund, and the same shall be used for the purposes of the annuity and benefit fund herein provided for as shall be decided by said retirement board. All money in this fund shall be improved by interest at the rate of four percent per annum. *(S. 1, Sub. 59-g to k, Ch. 589, L. 1921.)*

L. Investment and Interest Fund.

L-1. All gains from investments and all interest earnings shall be paid into a fund to be known as the investment and interest fund. Also, all moneys which shall be transferred from the annuity payment fund, described in this subsection, and the moneys which shall be transferred under the provisions of subsection 56 shall be placed in this fund. All losses from investments shall be charged to this fund. From this fund shall be transferred all amounts due in interest upon balances existing in the city contribution fund, the salary deduction fund, the prior service annuity fund, and the gift fund. *(S. 17, Ch. 439, L. 1947.)*

L-2. Such amounts as shall be necessary according to the American experience table of mortality and interest at the rate of four percent per annum, to make the assets of the annuity payment fund equal to the liabilities thereof (including among such liabilities and in addition to all other liabilities of such fund the present values of all annuities entered upon or fixed, and not entered upon to be paid from such fund) shall be taken from this fund and transferred to the annuity payment fund at least once each year. *(S. 1, Sub. 59-1 and 2, Ch. 589, L. 1921.)*

60. SERVICE CREDIT. a. As of Dec. 31, 1921. Notwithstanding the provisions of any other subsection of this section, any employe who shall have been a member of the police department of such city on December 31, 1921, or any policeman who was not a member of the police department of such city on December 31, 1921, but was a member of such department of such city prior to said date, and resigned or was discharged from the service prior to said date, being ineligible for annuity, who re-entered such service in such city subsequent to such date and remained in such service continuously for a period of at least 15 years from his date of re-entrance into said service, who shall resign or be discharged from the (either before or after he shall have become 50 years of age) after he shall have completed 22 or more years of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge from the service, shall receive annuity from and after the date of such retirement, resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge.

b. Member After Jan. 1, 1922. Any employe who shall have become a member of the police department of such city on or after January 1, 1922, who shall retire, resign or be discharged from the service after he shall have completed 25 years or more of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge from the service, shall receive annuity from and after the date of such resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge, provided that nothing in this subsection shall act to reduce the amount of annuity of any member who was eligible to retire on annuity on the day before May 7, 1945 at 1/2 or more of his average annual earnable salary during his highest 3 years of creditable service as it was in effect on such day, to an amount less than his annuity would have been if he had retired as of that day; however, any increase in compensation received after the effective date of this section shall be considered for annuity purposes under the highest 3 years salary provisions of this section. Any member of this system who has in excess of 25 years of continuous service as a member of the police department and as defined herein shall receive for each full year of service after such initial 25 year period, 2% per year for each year of service or part thereof upon the basis of the average of his 3 highest years of his compensation, which 3 year period precedes the retirement of such member; however, in no event shall such additional service credit be granted for any period of more than 10 years of service beyond the said 25 years of service.

c. Member Prior to Jan. 1, 1971. All service of a member prior to January 1, 1971, but not exceeding a period of 10 years in excess of said 25 years of service shall be computed for purpose of retirement on the basis of the average of the 3 highest years of compensation which precedes such member's retirement. *(Ch. Ord. 378, File #69-2450-g, Jan. 18, 1972.)*

d. Member On or After Oct. 5, 1973. Notwithstanding the provisions of this subsection of this section, the average annual earnable salary for policemen presently employed on or after October 5, 1973, shall be:

d-1. For employes hired on or after May 17, 1945, the average annual regular base salary computed on the year of service in which the member's regular base salary was the highest.

d-2. For employes hired prior to May 17, 1945, the highest regular base salary annualized, for the first 25 years of creditable service, and the average annual regular base salary computed on the year of service in which the employe's regular base salary was the highest for each additional year of creditable service thereafter. *(Ch. Ord. 410, File #73-643, Feb. 5, 1974.)*

e. Service Credit from 1979 to 1990. Notwithstanding the provisions of this subsection of this section, members entitled to service credit for the years 1979 through 1990 shall receive credit for such service at the rate of 2.5% per year for each such year of service or part thereof. *(Par. e am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Par. e am. File #881667, Dec. 20, 1988; eff. March 13, 1989. Par. e am. File #890633, July 25, 1989; eff. Oct. 14, 1989.)*

f. Longevity in Rank Pay (After Jan. 1, 1983). For any policeman performing the duties of a police officer, excluding sergeant of police, detective lieutenant and ranks above the same, presently employed on or after January 1, 1983, the average annual regular base salary computed on the year of service in which the member's regular base salary was the highest and the highest regular base salary annualized shall include longevity in rank pay, if any, payable at the close of the calendar year immediately preceding retirement, and for all other policemen presently employed on or after January 1, 1985, the average annual regular base salary computed on the year of service in which the member's base salary was the highest and the highest regular base salary annualized shall include variable shift assignment pay, if any, payable for the calendar year immediately preceding the calendar year in which the retirement occurs except that for such other policemen who retire during calendar year 1985, the average annual regular base salary computed on the year of service in which the member's regular base salary was the

highest and the highest regular base salary annualized shall include variable shift assignment pay, if any, payable for calendar year 1985. Policemen above the rank of police sergeant and below the rank of police commander presently employed on or after January 1, 2000 shall have variable shift assignment pay, if any, to a maximum of $1,050 per calendar year immediately preceding the calendar year in which the retirement occurs includable in the average annual regular base salary computed on the year of service in which the member's base salary was the highest and the highest regular base salary annuitized. *(Par. f am. Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. Mar. 15, 1986. Par. f am. File #000932, Nov. 28, 2000; eff. Feb. 13, 2001.)*

60.1. WIDOW'S ANNUITY.

a. Provisions. Notwithstanding the provisions of any other subsection of this section, in any case in which the amount of annuity for a widow of any present employe described in this paragraph, provided in accordance with the foregoing provisions of this section, shall be less than the amount of annuity specified in this subsection for such widow, the widow of any present employe who shall have been a member of the police department of such city on the thirty-first day in the month of December of the year before the year in which this section shall come into effect in such city; and who shall resign or be discharged from the service and who shall enter upon annuity (provided such widow married such present employe before such resignation or discharge) and the widow of any such present employe who shall die, at any time after he shall have entered such police department of injury incurred in the line of his duty; and the widow of any such present employe, who shall have been a member of such police department fifteen or more years, who shall die from any cause shall receive annuity, from and after the date of the death of such employe, of an amount equal to the following sum relating to such widow per month:

b. Other Police Department Employes. The widow of the chief of police, sixty dollars; the widow of an inspector, fifty-five dollars; the widow of a captain or of the assistant superintendent of police alarm, fifty dollars; the widow of the secretary, or assistant secretary of the police department, or of a lieutenant, or a detective forty-five dollars; the widow of a sergeant, forty dollars; the widow of a patrolman or of an operator, thirty-five dollars.

c. When Widow Marries. When any widow described in this subsection [includes subs. 60, 60.1 and 60.2] shall marry, any amount of annuity stated in this subsection as the amount to be paid to such widow which shall be in excess of that provided for such widow under foregoing provisions of this section shall cease.

d. When Widow Dies. In case a widow shall not survive any present employe described in this subsection [includes subs. 60, 60.1 and 60.2 or in case the widow of any such present employe shall die or marry, any child or children less than eighteen years of age, the issue of such present employe, shall receive annuity equal in amount to that prescribed in this subsection for the widow of such pensioner or present employe, but any sum in excess of such amount shall not be paid to the children in any one family unless such sum is provided in accordance with the provisions of subsection 49 of this section. *(S. 1, Sub. 60 a, b, c and d, Ch. 589, L. 1921.)*

60.2. OTHER SERVICE CREDIT PROVISIONS. a. Entering Service After Age 32. Notwithstanding the provisions of any other subsection of this section, no policeman who enters the service after age 32 shall receive an annuity amounting to more than fifty percent of his final 5-year average earnable salary. *(S. 18, Ch. 439, L. 1947.)*

b. Creditable Service. Notwithstanding any other provisions of this section, the retirement board shall allow as creditable membership or prior service, as the case may be, all time during which any policeman was absent due to duty disability as determined under the provisions of sub. 50 of this section provided such policeman was presently employed from and after October 5, 1973, or due to service in the military air or naval forces or in any defense or compulsory military training programs of the United States of America, and absence during federal hospitalization because of injuries or sickness resulting from such service, provided, that such policeman was duly excused or granted leave of absence from his services as a policeman, and provided further that the period allowed for

such service shall begin with the date such duty disability benefit was granted or the date the policeman was excused or granted leave of absence, and shall extend until a date it is determined under the provisions of sub. 50 of this section that the disability has ceased, or the duty disability benefit has terminated, or until a date not more than 90 days after his discharge from military, air or naval service or federal hospitalization. Upon the retirement of such member under the provisions of this act, he shall be credited with the periods of his military service by city contribution with the same result as though the policeman and the city during such military service made the normal contributions. *(Ch. Ord. 410, File #73-643, Feb. 5, 1974.)*

61. INSUFFICIENT FUNDS.

a. Notwithstanding the provisions of any other subsection or subsections of this section to the effect that certain annuities shall be life annuities; in any case in which the sum to the credit of a policeman for the purpose of providing annuity for such policeman shall be insufficient ---- at the time the amount of such annuity shall be fixed, as hereinbefore provided ---- to provide life annuity, payable at the rate of ten dollars a month, for such policeman, a term annuity payable at the rate of ten dollars a month shall be fixed for such policeman and such annuity shall be paid to him for such a period of time as such payments can be made from the aforesaid sum to the credit of such policeman; and, in any case in which the sum to the credit of a policeman for the purpose of providing annuity for the widow of such policeman shall be insufficient at the time the amount of such annuity shall be fixed, as hereinbefore provided ---- to provide a life annuity, payable at the rate of ten dollars a month, for such widow, a term annuity payable at the rate of ten dollars a month shall be fixed for such widow, and such annuity shall be paid to such widow for such a period of time as such payments can be made from the aforesaid sum to the credit of such policeman.

b. Any annuity described in this subsection shall be computed according to the American experience table of mortality and interest at the rate of three and one-half or four percent per annum, whichever such rate of interest shall apply in any particular case in accordance with foregoing provisions of this section. *(S. 1, Sub. 61 Intro. and a, Ch. 589, L. 1921.)*

62. FUNDS EXEMPT FROM GARNISHMENTS, ETC. All moneys and other assets in and of the annuity and benefit fund herein provided for and all annuities and disability benefits granted under the provisions of this section and every portion of such annuities and benefits both before and after payment to any annuitant or other beneficiary, shall be exempt from attachment or garnishment process and shall not be seized, taken, detained or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court in this state, for the payment and satisfaction in whole or in part of any debt, claim, damage, demand, or judgment against any annuitant or other beneficiary hereunder, and no such annuitant or other beneficiary shall have any right to transfer or assign his or her annuity or disability benefit or any part thereof either by way of mortgage or otherwise. *(S. 1, Sub. 62, Ch. 589, L. 1921.)*

63. INCORRECT AGE. In the case of any policeman who shall have filed an application for appointment as a member of the police department of such city, the age stated in such application shall be conclusive evidence of the age of such policeman for the purposes of this section. *(S. 1, Sub. 63, Ch. 589. L. 1921.)*

64. COMPLIANCE. It shall be the duty of all officers, officials, and employes of such city to perform any and all acts, required to carry out the intent and purposes of this section, which it shall be necessary that any such officer, official, or employe shall perform so that the provisions of this section may be complied with and the intent and purposes thereof fulfilled. *(S. 1, Sub. 64, Ch. 589, L. 1921.)*

65. COMMISSIONER OF INSURANCE TO REPORT. Notwithstanding any other provisions of this section, if a retirement commission as stated in sub. 3, does not exist in any such city, then it shall be the duty of the commissioner of insurance of this state to examine into the affairs of the annuity and benefit fund hereby created at least once in every three years and to submit a report concerning the results of his examination to the

mayor of such city who shall submit such report to the common council of such city. The expense of such examination shall be paid by the annuity and benefit fund hereby created. *(S. 1, Sub. 65, Ch. 589, L. 1921.)*

66. CONTRIBUTIONS. a. From and after January 1, 1948, there shall be deducted and contributed to the annuity and benefit fund, herein provided for, 3% of each payment of salary of each policeman from whose salary no further age and service annuity deductions are required under the remaining subsections of this section, and 1/8 of 1% from each payment of the salary of each policeman from whose salary no further deductions for expense of administration purposes are required under the remaining subsections of this section. Such deductions shall be made at the times such payments of salary shall be made and shall be continued while such policeman shall be in the service.

b. Of the amounts deducted from salaries as prescribed in par. a, the 3% deductions required from and after the dates when no further deductions shall be required for age and service annuity purposes shall be placed in the annuity payment fund described in sub. 59-e to be used for the purposes described therein, and the 1/8 of 1% deductions required from and after the dates when no further deductions for expense of administration purposes are required shall be placed in the expense fund described in sub. 59-b to be used for the purposes described therein. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

67. ANNUITY, DEFERRED COMPENSATION. Policemen and other police department employes have been attracted to and have remained in service despite ability to receive higher wages and salaries in other employment because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in retirement systems of which they have been contributing members. The purpose of creation of this subsection is to strengthen the police service in cities of the first class by establishing the security of annuities and all other benefits provided by the policemen's annuity and benefit funds in such cities.

a. All benefits of policemen, whether in service or retired, and of beneficiaries, including widows and children of deceased policemen, by or for whom contributions shall have been made to the policemen's annuity and benefit fund of a city of the first class, shall be assured by benefit contracts.

b. Every policeman and beneficiary shall be deemed to have accepted the provisions hereof and shall by such acceptance have a benefit contract as of the effective date of this subsection unless, within 30 days thereafter, he files with the retirement board a written notice electing to have no such contract. The annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in ch. 589, laws of 1921, as amended, and then in effect in such city shall be obligations of such benefit contract on the part of the city and the retirement board and each policeman and beneficiary having such a benefit contract shall have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation nor by any other means without his consent.

c. The retirement board may issue to each policeman and beneficiary who shall have such a benefit contract a written or printed contract or may supplement any certificate or other evidence of participation issued to him by indorsement stating that the policeman or beneficiary has a benefit contract according to the terms of this subsection, but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

68. MEMBERS ONLY. No person who has not contributed to and become a member of a policemen's annuity and benefit fund in a city of the first class established pursuant to ch. 589, laws of 1921 shall be permitted to contribute to such fund or become a member thereof on or after the passage of this act nor shall he or his widow or his child be, or become, entitled to receive any benefit from such fund. Only persons who are members of such fund created by ch. 589, laws of 1921, on the day before this act becomes effective may contribute to such fund or be members thereof after said date. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

69. CITIES OF THE FIRST CLASS. For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension annuity and retirement

systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this section are matters of local affair and government and shall not be construed as an enactment of state-wide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this section in the manner prescribed by s. 66.0101, Wis. Stats; provided that no such amendment or alteration shall modify the annuities. benefits or other rights of any person who is a member of the system prior to the effective date of such amendment or alteration. For the further purpose of safeguarding the stability of pension systems in cities of the first class the provisions of ch. 396, laws of 1937, and s. 15-2 as created by ch. 441, laws of 1947, shall apply to this chapter. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

70. RIGHTS RESERVED. Notwithstanding any other provisions of this section, all rights or benefits under or by virtue of ch. 397, laws of 1903, as amended, that have accrued or shall accrue in the future to any person or persons whomsoever, including those retired on annuity, shall be preserved to such person or persons. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

71. ANNUITY INCREASES. a. Based on Contracts. Notwithstanding any other provisions contained in this chapter, and notwithstanding any other statute, and commencing on the effective date [October 5, 1961] of this subsection (1961), every city of the first class may increase the annuities and other benefits provided in chapter 589, laws of 1921, as amended, for all policemen who have retired from active service and who shall have attained the age of 65 years, and for all widows who shall have attained the age of 62 years, and for children under 18 years of age who are entitled to benefits from the fund, provided that such increase of annuities and other benefits shall be based upon amended contract between such city and such retired policemen and by or for such other beneficiaries. *(S. 1, Ch. 515, L. 1961.)*

b. Hospital Premiums. Notwithstanding any other provisions to the contrary, deductions to cover premiums for hospitalization and surgical care may be made from the annuity payroll or payments of the policemen's annuity and benefit fund with respect to payments to pensioners when authorized by them in writing, and such premiums when paid on behalf of such pensioners shall constitute a charge against amounts otherwise due them. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

c. Policemen. A policeman who retires, resigns or is discharged from the service between March 1, 1991 and December 31, 1992 after having completed 25 years of continuous service as a member of the police department shall be eligible for an increase to his age and service annuity on the anniversary of his retirement, resignation or discharge in the amount of $50 per month on the 4th annual anniversary, an additional $50 per month on the 7th annual anniversary and an additional $50 per month on the 10th annual anniversary. The widow of any such policeman shall be entitled to have her widow's annuity increased by 1/2 the amount the policeman's age and service annuity was increased between the date of the policeman's retirement, resignation or discharge and the date of death and thereafter to have her widow's annuity increased at such times and in 1/2 of the amount as such policeman age and service annuity would have been increased had such policeman continued to live. *(Par c cr. File #950521, July 28, 1995; eff. Oct. 3, 1995.)*

d. Annual Adjustment. A policeman who retires, resigns or is discharged from the service on or after January 1, 1993 after having completed 25 years of continuous service as a member of the police department shall have his monthly age and service annuity installment received in the previous December increased by the cost of living increase as measured by the increases in the Consumer Price Index (All Urban Consumers - CPI), U.S. Cities, average as reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the previous year, but in no event shall such increase be in an amount which exceeds 3% of such installment. The first increase shall occur in the installment next following March 1st of the calendar year following the first full calendar year of the policeman's retirement, resignation or discharge and subsequent increases shall occur on March 1st of each calendar year thereafter. If such policeman dies prior to retirement, resignation or discharge, the policeman widow's annuity shall be increased by the cost of living as calculated in the manner and payable at such

times as provided for such policeman. If such policeman dies after retirement, resignation or discharge, the first installment of widow's annuity shall be increased in percentage by the percentage increase in the policeman's age and service annuity between the policeman's retirement, resignation or discharge and the policeman's death, and the widow's annuity shall thereafter be increased by the cost of living calculated in the manner and payable at such times as provided for such policeman. *(Par d cr. File #950521, July 28, 1995; eff. Oct. 3, 1995.)*

e. Policemen prior to January 1, 1993.

e-1. Commencing in 1996 and subject to the following limitations, any policeman who retired, resigned or was discharged prior to January 1, 1993 with 25 years of service receiving an annuity under sub. 51 or 60 and any widow of a policeman who retired, resigned or was discharged prior to January 1, 1993 with 25 years of service receiving an annuity under subs. 27 to 34 shall be eligible to have their annuity supplemented in accordance with the following formula:

Retirement Date	Amount Supplement
Pre- 1949	400%
1950 through 1952	300%
1953 through 1954	200%
1955 through 1958	165%
1959 through 1961	120%
1962	90%
1963	85%
1964	80%
1965	75%
1966 through 1967	60%
1968 through 1969	45%
1970 through 1973	25%
1974 through 1975	14%
1976 through 1979	7%
1980 through 1982	6%
1983	3%

e-2. Any policeman who resigned, retired or was discharged prior to January 1, 1993 and who is receiving an annuity and the widow of a policeman who died in active service, resigned, retired or was discharged prior to January 1, 1993 who is receiving an annuity shall be eligible to receive a minimum annuity plus supplement of $300 per month or $3600 per year. In computing the supplement under this subsection for the widow of a policeman whose death shall have resulted from injury incurred in the direct performance of one or more specific acts of duty, the policeman's year of death shall be considered the policeman's retirement date. In computing the supplement for a widow of a policeman whose death shall have otherwise occurred while in active service, the year in which such policeman would have attained 25 years of service shall be considered the policeman's retirement date. *(Par. e cr. File #950930, November 10, 1995; eff. January 22, 1996.)*

f. Pensioner as of January 1, 2006.

f-1. Commencing in 2006 the $94 and $33 supplemental annuities will be permanent for any pensioner (annuitant and widow annuitant).

f-2. Commencing in 2006 for any pensioner (annuitant and widow annuitant) their annuity will increase in accordance with the following formula:

f-2-a. If the sum of the December 2005 annuity payment plus the $94 and the $33 supplemental annuities is less than or equal to $440, the total annuity payment inclusive of the $94 and the $33 supplemental annuities will be $500.

f-2-b. If the sum of the December 2005 annuity payment plus the $94 and the $33 supplemental annuities is greater than $440, the total annuity payment inclusive of the $94 and the $33 supplemental annuities will increase by $60. *(Par. f cr. File 060981, Dec. 12, 2006; eff. Mar. 5, 2007.)*

72. EMPLOYED AFTER AGE 57, WIDOW'S CONTRIBUTION. a. Widow's Annuity. Notwithstanding any other provisions of law to the contrary an employe covered by this annuity and benefit fund who has attained an age of 57 years and continues his employment may elect in writing to continue his widow's annuity contributions to this fund, after having attained the age of 57 years. Such election to so contribute also may be exercised by any employe who is in the service on the effective date of the creation of this subsection who continues in his employment and who has attained the age of 57 years prior to the enactment of this section by notifying the trustees of this fund or of his election to continue making the widow's annuity contributions. Such election, in the case of

employes who have attained the age of 57 years prior to the enactment of this section must be made within 6 months from the effective date of this section. When such election has been made, as herein provided for, such employe shall contribute to such fund at the rate of 4.625% of his earnable compensation until his completion of 25 years of service, thereafter such contribution shall be at the rate of 4.125% of his earnable compensation. An employe who has already attained the age of 57 years prior to the enactment of this section and who having elected to continue to contribute his widow's annuity contributions to such fund, as hereinbefore provided, shall be permitted to obtain and receive the benefits granted herein by paying to said fund the amount which he would have contributed after reaching the age of 57 had he been eligible to make such contributions as herein provided, and he shall pay in addition to accumulated contributions the interest accrued computed upon an actuarial basis and equal to the amount that his contributions would have earned had he continued to contribute the widow's annuity contributions to such fund upon attaining the age of 57 years. Such employe who has already attained the age of 57 years prior to the enactment of this section shall be required to make up all of the contributions which he would have been required to pay together with the interest hereinbefore referred to within one year from the effective date of this section, and if he fails so to do, he shall be ineligible for the benefits provided for herein.

b. Account Credited. Any such employe referred to in par. a having elected to come under the provisions hereof shall be credited for widow's annuity in his account in the salary deduction fund for all of his contributions for widow's annuity purposes both before and after attainment of age 57; and shall also be credited for widow's annuity in his account in the city contribution fund for contributions by the city at the rate of 2.5% of each payment of salary for service rendered both before and after attainment of age 57. These amounts so credited shall be improved to his credit by interest at the rate of 4% per annum during all the time that such employe shall be in the service from the date of his contribution and corresponding city credit until the date of his separation from the service. In the event of the resignation or discharge of the employe after his attainment of age 57 the total of the foregoing amounts to his credit for widow's annuity purposes on such date shall be used to compute and fix in accordance with the provisions of subs. 29-b-2 and 3, 38-c, and 39, a reversionary life annuity for an eligible wife based on their attained ages on such date provided that the age of the wife cannot be taken as greater than the attained age of the employe on the date of his resignation or discharge. An eligible widow of any such employe as referred to in par. a, who shall die in the service after his attainment of age 57, and before his resignation or discharge from the service, shall be entitled to a life annuity in accordance with the provisions of subs. 29-a, 38-d, and 39 based on the amount to the employe's credit on the date of his death for widow's annuity purposes in the salary deduction fund and city contribution fund, plus the sum to his credit for employe's annuity purposes in the annuity payment fund and prior service annuity fund for age and service and prior service annuity purposes, and based on the widow's attained age on the date of death provided that her age cannot be taken greater than the attained age of the employe on the date of his death. In the event of the death of the wife of an employe whose death shall occur while the employe is still in the service who has elected to come under the provisions of this section, and in the case of an employe who attains the age of 57 in the service whose wife subsequently dies or who becomes divorced from him while he is still in the service who has not elected to come under the provisions of this section, any such employe shall be entitled to the return of his accumulated contributions for widow's annuity purposes upon proper application to the retirement board. *(Ch. Ord. 218, File #55-213-b, Dec. 27, 1955.)*

73. APPLICABILITY. This act [ch. 589, L. 1921] shall be amendatory of the charters of all cities of the first class in this state, and any provision in any such charter which is in conflict with or inconsistent with this act is hereby repealed. All laws and parts of laws which are in conflict with or inconsistent with this act or any provision thereof, are hereby repealed. *(S. 2, Ch. 589, L. 1921.)*

35-04. Certain Payments by City to Fund.

1. In lieu of the contributions made by active participating members of the policemen's annuity and benefit fund, pursuant to the provisions of ch. 589, laws of 1921 as amended, the city will pay commencing with the first pay period of 1969 for eligible members of such fund a sum not to exceed 6% of the compensation paid to such participating members subject to such contribution, but in no event more than such members would have contributed except for the enactment of this charter ordinance; such contributions to be made by the city on an annual basis and shall constitute a part of the city's pension contribution. Commencing in 1983, members who are policemen, excluding sergeant of police, detective lieutenant and ranks above same, shall contribute 1% of their longevity in rank pay, if any, payable at the close of the year, and commencing in 1985, all other members who are policemen shall contribute 1% of the variable shift assignment pay, if any, which they receive for the calendar year. *(Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. Mar. 15, 1986.)*

2. In the event any court shall determine that the home rule powers under and pursuant to which the common council of the city of Milwaukee has the authority to amend any provision of said policemen's annuity and benefit act and under which this section is enacted, are either invalid or illegal or impaired in any respect whatsoever, then this section shall be deemed without force and effect and cease to have any operating effect from the date of its enactment, and all moneys contributed by the city under the terms of this section shall be deemed a credit against other contributions which the city is required to make for pension purposes to said fund, and the members for whom the city has contributed such amount as above set forth shall be required to make up any deficiency occurring by virtue of the fact that this section will under such circumstance become inoperative and ineffective because of the terms herein.

3. Any provisions in said policemen's annuity and benefit fund act relating to contributions to be made by the members thereof who are members of the police department and eligible to participate in such fund, shall be superceded by the provisions hereof but if a court shall determine that the home rule powers exercised by the common council are either illegal or invalid or impaired in any respect whatsoever, then they shall be in full operating effect. *(Ch. Ord. 346, File #68-2099, Dec. 6, 1968.)*

[Pages 236-300 are blank]

CHAPTER 36
EMPLOYES' RETIREMENT SYSTEM

TABLE

36-01	Purpose
36-02	Definitions
36-02.5	Tax Code Compliance
36-03	Membership
36-04	Creditable Service
36-05	Benefits
36-055	Election of Survivorship Benefits
36-06	Coordinated Plan
36-07	Re-examination of Disability Beneficiaries
36-08	Method of Financing
36-09	Management of Funds
36-10	Exemption from Taxation, Execution and Assignment
36-11	Protection Against Fraud and Elimination of Errors
36-12	Limitations on Payment of Benefit
36-13	Contractual Benefits; Miscellaneous Provisions
36-14	Home Rule
36-15	Administration

36-01. Purpose. The retirement system provided for herein shall be maintained by the city and by such agencies as are included specifically within the provisions of this chapter to assure and guarantee the payment of retirement and other benefits to persons covered by this chapter and to their beneficiaries and to such other persons who are authorized by the provisions of this chapter to receive benefits. If a person is a member of either the firemen's annuity and benefit fund or the policemen's annuity and benefit fund then he shall be ineligible to participate as a member in this system. The purpose of this chapter shall further be to safeguard and protect the funds of such retirement system and to invest the same in a prudent and vigilant manner. *(S. 36-01 rc. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

36-02. Definitions. Except where the context plainly requires different meaning, the following words and phrases shall have the following meanings:

1. ACCUMULATED CONTRIBUTIONS shall mean the sum of the contributions, in the member's account, as provided for in s. 36-08-7-i, together with regular interest, credited at the end of each year on the balance in the account at the beginning of each year. For members who retire or die, interest for the current year shall be calculated to the first day of the month preceding retirement or death. *(Sub. 1 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

2. ACT refers to the employes' retirement act as created by the provisions of ch. 396, laws of [Wisconsin] 1937, and as amended thereafter, including amendments enacted by the common council under its home rule powers.

2.5. ACTUARIAL CONTRIBUTION RATE shall mean the percentage of covered compensation that determines the amount of the annual contribution from the city and city agencies to the combined fund beginning with the contribution due on January 31, 2014. *(Sub. 2.5 cr. File #121417, April 30, 2013; eff. July 16, 2013.)*

3. ACTUARIAL EQUIVALENT shall mean a benefit of equivalent value as determined on the basis of the tables most recently adopted by the board. *(Sub. 3 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

3.2. AMORTIZATION PERIOD shall mean the period of time over which unfunded liability, if any, is amortized. *(Sub. 3.2 cr. File #091274, Mar. 2, 2010; eff. May 18, 2010.)*

3.5. ASSET SMOOTHING PERIOD shall mean the length of time over which changes in the market value of assets are converted to actuarial values. *(Sub. 3.5 cr. File #091274, Mar. 2, 2010; eff. May 18, 2010.)*

3.7. ASSET VALUATION CORRIDOR shall mean the maximum variance between the market value of assets and the actuarial value of assets that may be used in the annual valuation. *(Sub. 3.7 cr. File #091274, Mar. 2, 2010; eff. May 18, 2010.)*

4. ANNUITY shall mean the annual payments made to a beneficiary who elects an annuity in lieu of a lump sum ordinary death benefit. All annuities shall be paid in equal monthly installments. When the annuity begins after the 1st day of the month or ends before the last day of the month, the pro rata amounts shall be paid for that month. *(Sub. 4 am. Ch. Ord. 348, File #68-2287, Jan. 21, 1969.)*

5. BENEFICIARY shall mean any person in receipt of a retirement allowance, or other benefit, as provided by this act. *(S. 1, Ch. 396, L. 1937.)*

6. BOARD shall mean the annuity and pension board provided for in section 7 of this act [s. 36-15] to administer the retirement system. *(S. 1, Ch. 396, L. 1937.)*

7. CITY shall mean the city in which the retirement system as herein provided is established. *(S. 1, Ch. 396, L. 1937.)*

8. CITY AGENCY shall mean any board, commission, division, department, office or agency of the city government, including its school board under ch. 119, Wis. Stats., an exposition center under ch. 229, Wis. Stats., a local exposition district board under ch. 229, Wis. Stats., annuity and pension board under s. 62.63, Wis. Stats., a metropolitan sewerage district under ch. 66, Wis. Stats., a vocational, technical and adult education district under ch. 38, Wis. Stats., a housing authority under ch. 66, Wis. Stats., and a redevelopment authority under ch. 66, Wis. Stats., having jurisdiction within such city, by which an employe of the city or city agency is paid. *(Sub. 8 rc. File #900632, Sept. 25, 1990; eff. Dec. 11, 1990. Sub. 8 am. File #950563, July 28, 1995; eff. Oct. 16, 1995.)*

8.2. CLOSED AMORTIZATION PERIOD shall mean a schedule for amortizing unfunded liability that decreases by one year annually. *(Sub. 8.2 cr. File #091274, March 2, 2010; eff. May 18, 2010.)*

8.5. COMBINED FUND shall mean the fund created under s. 36-08-9. *(Sub. 8.5 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

9. CONSENT AGREEMENT shall mean the agreement entered into between the employe and the employer providing for participation under the coordinated plan. *(Sub. 9 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

10. COORDINATED PLAN shall mean those provisions of this chapter providing benefits in conjunction with those benefits provided under the social security act. *(Sub. 10 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

10.5. COVERED COMPENSATION shall mean the compensation earned for which membership service is credited. *(Sub. 10.5 cr. File #121417, April 30, 2013; eff. July 16, 2013.)*

11. CREDITABLE SERVICE shall mean prior service plus membership service for which credit is allowable under section 4 of this act [s. 36-04]. *(S. 1, Ch. 396, L. 1937.)*

12. EARNABLE COMPENSATION shall mean: a. The annual regular base salary that would be payable to a member if he or she worked the full normal working time for his or her position, provided, however, that where service is credited during periods of absences as provided in s. 36-04-1-b and e, the employe shall be considered to have an earnable compensation during such periods of absence equivalent to the earnable compensation the employe would have had if the employe had continued to work the full working time for the employe's position during the period of absence. In cases where compensation includes maintenance, the board shall fix the value of that part of the compensation not payable in money. Policemen, excluding sergeant of police, detective lieutenant and ranks above same, retiring on a service retirement allowance on or after January 1, 1983, shall have longevity in rank pay, if any, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation, except that policemen excluding sergeant of police, detective lieutenant and ranks above same, retiring on a service retirement allowance on or after January 1, 1998, who would have accrued 20 years of creditable service if they had remained in active service to the end of the calendar year in which they retire, shall have longevity in rank pay, if any, that would have been payable at the close of the calendar year of their retirement had they not retired included as earnable compensation, policemen of the rank of police sergeant and above (excluding the rank of commander and above) retiring on a service retirement allowance prior to January 1, 2000 shall have variable shift assignment pay, if

any, to a maximum of $1,410 per calendar year for police sergeant, administrative police sergeant, police sergeant (garage) and police identification supervisor, and $1,400 per calendar year for all others payable for the calendar year immediately preceding the calendar year in which they retire included as earnable compensation except that such other policemen who retire during calendar year 1985 shall have variable shift assignment pay, if any payable for calendar year 1985 included as earnable compensation. Policemen of the rank of police sergeant and above (excluding policemen of the rank of police commander and above) retiring on a service retirement on or after January 1, 2000 shall have variable shift assignment pay, if any, to a maximum of $1,060 per calendar year for the ranks of police sergeant, police sergeant (garage) and police identification supervisor and $1,050 per calendar year for all others payable for the calendar year immediately preceding the calendar year in which they retire included as earnable compensation. Policemen of the rank of police sergeant or administrative police sergeant retiring on a service retirement on or after January 1, 2003 shall have variable shift assignment pay, if any, to maximum of $1,360 per calendar year included in the calculation of final average salary for computing an employe's normal service retirement allowance. Policemen of the rank of police commander or above retiring on a service retirement allowance prior to January 1, 2001 shall have variable shift assignment pay, if any, to a maximum of $1,400 per calendar year for the year immediately prior to the calendar year in which they retire included as earnable compensation and policemen of the rank of police commander or above retiring on a service retirement on or after January 1, 2001 shall have variable shift assignment pay, if any, to a maximum of $1,500 per calendar year for the year immediately prior to the calendar year in which they retire included as earnable compensation. Variable shift assignment pay for policemen represented by the MPSO and retiring on a service retirement allowance on or after January 1, 2011 shall cease to be included as earnable compensation. Firemen retiring on a service retirement allowance on or after January 1, 1992, shall have up to a maximum of $550 in special emergency medical technician pay, if any, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation. Firemen retiring on a service retirement allowance on or after January 1, 2000, shall have longevity pay, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance in 2004 shall have training standards pay, if any, up to a maximum of $400, that would have been payable at the close of calendar year 2004 had they not retired, included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance on or after January 1, 2005 shall have training standards pay, if any, up to a maximum of $400 received for the calendar year immediately preceding the calendar year of their retirement, included as earnable compensation. Training standards pay for firemen represented by Local 215 IAFF and retiring on a service retirement allowance on or after January 1, 2011 shall cease to be included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance on or after January 1, 2006 shall have EMT II premium pay, if any, up to a maximum of $1000 received for the calendar year immediately preceding the calendar year of their retirement, included as earnable compensation. Members who are employes of the school board represented by Local 950, Operating Engineers International Union, who retire on or after March 4, 1990, shall have site differential pay if received on or after March 4, 1990, included as earnable compensation. Earnable compensation for any one year of creditable service shall not exceed $150,000. If for any calendar year after 1994 the excess of $150,000 increased by the cost of living adjustment prescribed by section 415(d), Internal Revenue Code, on a base period of the last quarter of calendar year 1993 exceeds $150,000 by an amount in excess of $10,000, the maximum for any subsequent calendar year shall be increased by the amount of the excess rounded to the next lowest multiple of $10,000. Earnable compensation for any calendar year commencing on or after

January 1, 2002 shall not exceed $200,000, as adjusted for cost of living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code. Earnable compensation means compensation during the calendar year or such other consecutive 12-month period over which earnable compensation is otherwise determined by the retirement system (the determination period). The cost of living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year.

b. In computing the service retirement allowance payable to a policeman retiring on a service retirement allowance under s. 36-05-1-e, a policeman retiring during calendar year 1995 shall have the certification pay benefit which would have been payable at the close of calendar year 1995, had such policeman not retired included in earnable compensation. In computing the retirement allowance payable to a policeman retiring on a service retirement allowance under s. 36-05-1-e in calendar years 1996 through 2003, the certification pay benefit payable to such policemen at the close of the calendar year immediately prior to the calendar year of retirement shall be included in earnable compensation. In computing the retirement allowance payable to a policeman who is entitled to certification pay at the time of retirement, other than a sergeant, lieutenant and ranks above, retiring on a service retirement allowance under s. 36-05-1-e in calendar year 2004, such policeman shall have the sum of $1,000 of certification pay included as earnable compensation. In computing the retirement allowance payable to a policeman who is entitled to certification pay at the time of retirement, other than a sergeant, lieutenant and ranks above, retiring on a service retirement allowance under s. 36-05-1-e on or after January 1, 2005, certification pay in an amount not to exceed the first $1,000 of certification pay payable to such policeman at the close of the calendar year immediately prior to the calendar year of retirement shall be included in earnable compensation. Certification pay for policemen represented by the MPSO and retiring on a service retirement allowance on or after January 1, 2011 shall cease to be included as earnable compensation. A policeman who has served in the position of police liaison officer, who retires on a service retirement allowance after January 1, 2004 shall have the $150 biweekly payments payable in and after pay period 1, 2004, which are payable in lieu of certain other payments and allowances received by policemen, included as earnable compensation in an amount not to exceed a maximum of 12 months of such biweekly payments. This par. shall not apply to policemen who receive a retirement allowance under s. 36-05-6-b-2 and 3, 6-c, 6-d or 6-e. *(Sub. 12 am. Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. March 15, 1986. Sub. 12 am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Sub. 12 am. File #902072, April 23, 1991; eff. July 9, 1991. Sub. 12 am. File #91154, Oct. 15, 1991; eff. Dec. 31, 1991. Sub. 12 am. (Note) File #901684, July 28, 1992; eff. Sept. 30, 1992. Sub. 12 am. File #931464, Jan. 25, 1994; eff. April 12, 1994. Sub. 12 am. File #951902, June 4, 1996; eff. Aug. 20, 1996. Sub. 12-a am. File #990892, Oct. 19, 1999; eff. Jan. 4, 2000. Sub. 12-a am. File #991213, Nov. 29, 1999; eff. Feb. 15, 2000. Sub. 12-a am. File #991904, May 19,2000; eff. Aug. 8, 2000. Sub. 12-a am File #000932, Nov. 28, 2000; eff. Feb. 13, 2001. Sub. 12-a am. File #010670, Sept. 25, 2001; eff. Dec. 10, 2001. Sub 12-a am. File # 040265, July 7, 2004; eff. Sept. 13, 2004. Sub. 12-b am. File #041649, April 12, 2005; eff. June 28, 2005. Sub. 12-a am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005. Sub. 12-a am. File #060488, Sept. 26, 2006; eff. Dec. 12, 2006. Sub. 12-a am. File #070075, May 8, 2007; eff. July 24, 2007. Sub 12-a am. File #090183, June 16, 2009; eff August 25, 2009. Sub. 12-a & b am, File #110747, Nov. 2, 2011; eff, Jan. 18, 2012.)*

13. EMPLOYE shall mean any person whose name appears on a regular payroll of the city or city agency, except persons who are contributing under the teachers' retirement act or a participating employe under the provisions of the Wisconsin retirement system; or who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this fund; or who are school crossing guards. In the event of a question arising as to the right of any person in the service of the city to be classified as an employe under this act, the decision of the board shall be final. *(Sub. 13 am. File #950985, Nov. 6, 1995; eff. Jan. 22, 1996.)*

14. EMPLOYES' RETIREMENT SYSTEM. (See Retirement System.)

14.5. EMPLOYERS' SHARE OF NORMAL COST shall mean the difference between normal cost as defined under s. 36-2-2.5 and member contributions under s. 36-8-7. *(Sub. 14.5 cr. File #121417, April 30, 2013; eff. July 16, 2013.)*

15. FINAL AVERAGE SALARY shall mean the average annual earnable compensation of a member computed on the 3 years of creditable service preceding his date of death or retirement during which his earnable compensation was the highest or if he should have less than 3 years of creditable service, then his average annual earnable compensation during his creditable service; except that for policemen whose date of death or retirement is on or after October 5, 1973, and firemen whose date of death or retirement is on or after July 28, 1974, "final average salary" shall mean the average annual earnable compensation of a member computed on the year of creditable service preceding his date of death or retirement during which his earnable compensation was the highest. *(Sub. 15 am. Ch. Ord. 526, File #83-986, Sept. 27, 1983.)*

16. FIREMAN shall mean a person first employed on or after July 30, 1947, in the fire department whose duty it is to extinguish fires and to protect property and life therefrom, including the chief and all other firemen officers. Commencing in 1975, this term includes a fireman on detached service under the contract administration provisions of a labor contract. Commencing February 14, 1989, this term includes a person employed in the fire department as a fire alarm dispatcher who was promoted from a position whose exclusive duty it is to provide emergency medical services. Commencing June 1, 1989, this term includes a person employed in the fire department whose exclusive duty it is to provide emergency medical services. *(Sub. 16 am. Ch. Ord. 561, File #86-821, Sept. 23, 1986; eff. Dec. 8, 1986. Sub. 16 am. File #890598, July 25, 1989; eff. Oct. 14, 1989.)*

17. GENERAL CITY EMPLOYE shall mean: An employe of the city or a city agency who is not a policeman or fireman. For purposes of s. 36-05-1-h-5, general city employe shall include a person meeting this definition on January 1, 2000, even though the person was no longer employed by the city or city agency on January 19, 2001. *(Sub. 17 rc. File #900631, Sept. 25, 1990; eff. Dec. 11, 1990. Par. c cr. File #941982, Apr. 25, 1995; eff. July 12, 1995. Par. b am. File #950563, July 28, 1995; eff. Oct. 16, 1995. Par. c am. File #950563, July 28, 1995; eff. Oct. 16, 1995. Par. c am. File #950869, October 17, 1995; eff. January 2, 1996. Par. d cr. File #950981, November 6, 1995; eff. January 9, 1996. Par. e cr. File #951195, Dec. 19, 1995; eff. Mar. 13, 1996. Par. a am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. b am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. c am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. d am. File #951488, Feb. 13, 1996; eff. April 30, 1996. Par. d am. File 951904, May 14, 1996; eff. July 31, 1996. Sub.17 am. File #971131, Dec. 16, 1997; eff. March 9, 1998. Par. c am. File #980238June 16, 1998; eff. Sept. 1, 1998. Sub. 17 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 17 am. File #011501, March 5, 2002; eff. May 21, 2002.)*

17.5. LEVEL PERCENT OF PAYROLL AMORTIZATION shall mean a trend in the amortization payments needed, if any, to eliminate unfunded liability, expressed as a constant percentage of projected payroll. *(Sub. 17.5 cr. File #091274, March 2, 2010; eff. May 18, 2010.)*

18. MASCULINE PRONOUN shall include the feminine. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

19. MEDICAL COUNCIL shall mean the council of physicians provided for in s. 36-15-12. *(Ch. 396, L. 1937.)*

20. MEDICAL PANEL as it relates to policemen and firemen shall mean a panel of physicians consisting of one member to be selected by designation of the city; one member to be selected by the certified bargaining agent for the affected policeman or fireman; and the 3rd member to be selected by the other 2 members. In the case of a policeman who becomes a member of the retirement system after June 28, 2005, or a fireman represented by Local 215, IAFF, who becomes a member of the retirement system after December 13, 2005 and who applies for, or is granted, a duty disability retirement allowance based on a mental injury, "medical panel" shall mean the medical council. Notwithstanding the foregoing, "medical panel" shall mean the medical council as it relates to a policeman represented by the MPSO who files an application for a duty disability retirement on

or after January 1, 2016, a policeman represented by the MPA who files an application for a duty disability retirement on or after June 19, 2016, and a fireman represented by Local 215, IAFF, who files an application for a duty disability retirement on or after July 30, 2016. In the case of a policeman or fireman who is not represented by a certified bargaining agent, "medical panel" shall mean the medical council. All decisions of the medical panel shall be made by a majority vote. *(Sub. 20 am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 20 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 20 am. File #001664, April 10, 2001; eff. June 27, 2001. Sub. 20 am. File #041649, April 12, 2005; eff. June 28, 2005. Sub. 20 am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005. Sub. 20 am. File #081272, Feb. 10, 2009; eff. Apr. 28, 2009. Sub. 20 am. File #151113, Dec. 15, 2015; eff. Feb. 29, 2016. Sub. 20 am. File #151274, Feb. 9, 2016; eff. April. 26, 2016. Sub. 20 am. File #141568, Sept. 20, 2016; eff. Dec. 6, 2016.)*

21. MEMBER shall mean any person included in the membership of the retirement system as provided in section 3 of this act [s. 36-03]. *(S. 1, Ch. 396, L. 1937.)*

22. MEMBERSHIP SERVICE shall mean service as an employe since last becoming a member of the retirement system and on account of which contributions are made by the city or city agency. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

22.5. NORMAL COST shall mean the actuarial present value of the projected retirement benefits under the benefit formulas attributable to members' service during the current year. *(Sub. 22.5 cr. File #121417, April 30, 2013; eff. July 16, 2013.)*

23. PARAMEDIC shall mean a person other than a fireman employed in the fire department and classified as a paramedic or paramedic officer. *(am. Ch. Ord. 530, File #82-2109-b, Jan. 24, 1984.)*

24. POLICEMAN for the purposes of this act shall mean a person first employed on or after July 30, 1947, in the police department whose duty it is to preserve peace and good order of the city, having the power of arrest without warrant, including the chief and all other policemen, officers and police aides hired on or before October 2, 2011. Commencing in 1969, this term includes a policeman on detached service under the contract administration provisions of a labor contract. *(Sub. 24 am. Ch. Ord. 561, File #86-821, Sept. 23, 1986; eff. Dec. 8, 1986, Sub. 24 am. File #110289, July 26, 2011; eff. Oct. 11, 2011.)*

25. PRIOR SERVICE shall mean the service of a member as an employe rendered prior to January 1, 1938, either in the service of the city or city agency, certified on a prior service certificate. In the event, however, that a person ineligible for membership in the retirement system is made eligible by amendments to this act, prior service shall be defined to mean all service of a member rendered prior to the effective date of the amendment which made him eligible for such membership. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

26. REGULAR INTEREST shall mean interest at such rate as may be set from time to time by the board in accordance with section 9 of this act [s. 36-09]. *(S. 1, Ch. 396, L. 1937.)*

26.5. RETIRED LIVES shall mean the portion of plan liabilities attributed to retired members. *(Sub. 26.5 cr. File #121417, April 30, 2013; eff. July 16, 2013.)*

27. RETIREMENT ALLOWANCE shall mean the annual payments for life, or any optional benefit payable in lieu thereof. All allowances shall be paid in equal monthly installments. When the allowance begins after the first day of the month or ends before the last day of the month, the pro rata amount shall be paid for that month. *(am. Ch. Ord. 348, File #68-2287, Jan. 21, 1969.)*

28. RETIREMENT SYSTEM shall mean the employes' retirement system of the city of Milwaukee.

29. SINGULAR. Unless the context clearly indicates otherwise, the singular shall include the plural. *(cr. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Sub. 29 cr. File #940667, July 29, 1994; eff. Oct. 17, 1994. Sub. 29 rp. File #950869, October 17, 1995; eff. January2, 1996. Sub. 30 rn. to 29, File #950869, October 17, 1995; eff. January 2, 1996.)*

30. SOCIAL SECURITY ACT shall mean Title II of the old-age survivors, disability and health insurance benefits act. *(am. Ch. Ord.332, File #67-355-a, July 25, 1967. Sub. 31 rn. to 30 File #950869, October 17, 1995; eff. January 2, 1996.)*

31. SOCIAL SECURITY BENEFIT shall mean the unreduced old-age insurance benefit provided under the social security act to which the member is entitled or would be entitled upon proper application or the reduced social security benefit to which the member is entitled if the member elects an advance against such reduced old-age insurance benefit. *(Sub. 32 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Sub. 32 rn. to 31 File #950869, October 17, 1995; eff. January 2, 1996. Sub. 31 rc. File #041179, Feb. 1, 2005; eff. April 19, 2005.)*

36-02.5. Tax Code Compliance. The following are effective January 1, 2002:

1. The retirement system is established as a qualified defined benefit plan, pursuant to ss. 401(a) and 414(d) of the Internal Revenue Code and other applicable provisions of the Internal Revenue Code, as well as applicable U.S. treasury regulations and other guidance.

2. The assets of the retirement system shall never inure to the benefit of the city or any city agency, and shall be held for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan.

3. A member shall be 100% vested in his or her retirement benefit upon attaining eligibility for a retirement benefit.

4. A member shall be 100% vested at all times in a benefit determined under this chapter attributable to the member's accumulated contributions paid by the member under this chapter.

5. In the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the retirement system, the accrued benefits of the affected members under this chapter shall be 100% vested and nonforfeitable to the extent funded and required by federal law.

6. In conformity with s. 401(a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members shall not be used to pay benefit increases. The forfeitures shall be used to reduce employer contributions. (*36-02.5 cr. File #150113, June 2, 2015; Eff. August 18, 2015.)*

36-03. Membership. 1. ELIGIBILITY. The following shall be eligible to membership in the system:

a. Any employe who is entitled to and who elected membership at the time of the creation of the retirement system, or (Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)

b. Any person who becomes an employe after January 1, 1938, and who is eligible under the provisions of this act and who shall satisfy the following conditions:

b-1. Who is a full time employe; or

b-2. Who is a part-time employe who is eligible for membership under rules and regulations adopted by the board; or

b-3. Elected officials who have evidenced their intention to join the system.

[NOTE: Notwithstanding the provisions of subd. 1, any employe of the city or a city agency as defined in s. 36-02, who became eligible for membership in the employes' retirement system as a result of part-time employment in calendar years prior to 1988, but was not enrolled as a member of the employes' retirement system during such years may file a written election not to become a member of the employes' retirement system within 60 days after February 8, 1990. Such election shall be on a form approved by the annuity and pension board and shall constitute a waiver of all present and prospective benefits which would otherwise inure to the employe by virtue of his or her membership in the employes' retirement system. If such employe becomes a member by virtue of service from and after January 1, 1988, such employe shall not be given prior service credit or service as an employe prior to January 1, 1988. *(File #881377, Nov. 17, 1989; eff. Feb. 8, 1990.)*

2. WAIVER OF MEMBERSHIP. Any person who filed with the board a written election not to become a member which shall constitute a waiver of all present and prospective benefits which would otherwise inure to him by his participation in the system, may later become a member provided he passes such medical examination as the board may require. If such employe becomes a member within one year after the effective date of establishment of the retirement system, he shall be eligible for prior service credit, but if he does not become a member within such period, he shall not be eligible for prior service credit.

3. DENIAL OF MEMBERSHIP. The board may, in its discretion, admit to membership any employe or class of employes whose compensation is only partly paid by the city or who are serving on a temporary basis, which the board considers eligible under the provisions of this act.

4. REPORT OF CITY OFFICIALS. It shall be the duty of the head of each department or agency of the city government employing persons who are members or are entitled to become members to submit to the board such statements as the board shall require, of the name, title, compensation, duties, date of birth and length of service of each such person employed by such department or agency.

5. TERMINATION OF MEMBERSHIP. Should any member in a period of 10 consecutive years after last becoming a member be absent from service a total of more than 5 years, except as provided in ss. 36-04-1-b and 36-05-6-b-2 and 6 c and d, or should he become a beneficiary as a result of his contributions under this act or die, or should he withdraw his accumulated contributions, he shall thereupon cease to be a member. *(Sub. 5 rc. Ch. Ord. 332, File #67-355-a, July 25, 1967.Sub. 5-b rp. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

6. WHO NOT TO BECOME MEMBERS. The following shall not be eligible for membership in the retirement system:

a. Persons who are actively employed as a teacher and eligible to contribute to the teacher retirement system.

b. Persons who are employed by the city as school crossing guards.

c. Persons who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this act.

d. Part time employes, except those eligible under rules and regulations promulgated by the board.

e. No disability beneficiary restored to active service prior to October 17, 1992 after attaining the minimum service retirement age shall become a member of this system.

f. Persons who are employed by the city as police aides on or after October 3, 2011.

g. Persons who are receiving a retirement allowance under any provision of this chapter.

h. Persons who are employed by the city as fire cadets.

i. Persons who are employed by the city as management trainees.

j. Persons who are employed by the Milwaukee board of school directors as management interns - restricted terms. *(Sub. 6 rc. Ch. Ord. 332, File #67-355-a, July 25, 1967. Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par f rc File #930123, May 25, 1993; eff Aug 11, 1993. Par. e am. File #941981, April 25, 1995; eff. July 12, 1995. Par. f rp File #060982, Dec. 12, 2006; eff. Mar 5, 2007. Par. f cr. File #110289, July 26, 2011; eff. Oct. 11, 2011 Par. g cr. File #110779, Oct. 11, 2011; eff. Dec. 27, 2011. Par. h cr. File #110798, Nov. 30, 2011; eff. Feb. 15, 2012. Par. I cr. File #120022 July 24, 2012; eff. Oct. 9, 2012. Par b, f and h am. File #120057 Sept. 25, 2012; eff. Dec. 11, 2012. Par j cr. File #120894 Dec. 18, 2012; eff. March 11, 2013.)*

36-04. Creditable Service. 1. SERVICE CREDITED. a. The board shall fix and determine by appropriate rules and regulations how much service in any years is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year. In no case shall the board allow credit as service for any period of more than one month's duration during which the employe was absent without pay, except that members employed by the school board for a 10-month school year shall receive credit for one year of service, and except as provided for in par. b. A determination of any service credit by the board is and has been declared to be a contractual and vested right of the member consistent with retirement requirements of this system. *(Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

b. The board shall allow as creditable service all time during which any employe was absent due to service in the military, air or naval forces, service in the National Disaster Medical System, or in any defense or compulsory military training programs of the United States of America, and absence during federal hospitalization because of injuries or sickness resulting from such service, provided that such employe was duly excused or granted leave of absence from his services as an employe, and provided further that the period allowed for such service shall begin with the date the employe was excused or granted leave of absence, and shall extend until a date of not more than 90 days after his discharge from military, air or naval service or immediately related federal hospitalization incurred as a result of such service. No absence allowed for such service under the provisions of this paragraph shall be considered as absences under the provisions of s. 36-03-5. City, city agency and member contributions shall continue to be made during periods of absence as though the employe had continued to work the full working time for the employe's position during the periods of such absence. (Par. b am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. b am. File #070075, May 8, 2007; eff. July 24, 2007. Par. b am. File #100894, Feb. 8, 2011; eff. April 26, 2011.)

c. The board shall allow one year of creditable service for each 3 years of active military service prior to enrollment in the retirement system. The creditable service awarded under this par. shall not exceed 3 years. To be eligible the member must be honorably discharged from the armed forces of the United States. To be eligible for inclusion in the calculation, a period of active military service must be a period of not less than 90 consecutive days spent in the active service of the armed forces of the United States and meet the requirements of 10 U.S.C. § 101(d)(1). If a member has accumulated less than 3 years of active military service, the member shall be allowed additional months of service credit on a pro rata basis calculated as the product of the full months of active military service under this par. multiplied by a fraction, the numerator of which is one and the denominator of which is 3. The additional service credit earned under this par. shall be taken into account for purposes of determining the amount of the service retirement allowance, but shall not be taken into account for any other purpose including, but not limited to determining eligibility for a service retirement allowance under s. 36-05-1-d or f, a deferred retirement allowance under s. 36-05-6-b-2 or 6-d-2, an early retirement allowance under s. 36-05-6-b-3 or 6-c, or eligibility for additional imputed service credit under sub. 4. *(Par. c cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. c am. File #001306, Jan. 16, 2001; eff. April 3, 2001. Par. c am. File #021584, March 25, 2003; eff. June 10, 2003. Par. c am. File #021798, April 15, 2003; eff. June 24, 2003. Par. c am. File #040265, July 7, 2004; eff. Sept. 13, 2004. Par. c am. File #040886, Nov. 3, 2004; eff. Jan. 10, 2005. Par. c. rc. File #041075, Dec. 21, 2004; eff. March 14, 2005. Par. c rc. File #041438, March 16, 2005; eff. May 31, 2005.Par. c rc. File #041775, May 3, 2005; eff. July 19, 2005. Par. c am. File #061455, March 22, 2007; eff. June 11, 2007. Par. c am. File #080369, July 30, 2008; eff. Oct. 15, 2008. Par. c am. File #081398, March 3, 2009; eff. May 19, 2009. Par. c am. File #090204, July 7, 2009, eff. Sept. 1, 2009. Par. c am. File #090613, Sept. 22, 2009; eff. Dec. 9, 2009. Par c am. File #090951, Dec. 1, 2009; eff. Feb. 16, 2010. Par. c*

am. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. c am. File #091214, Jan. 20, 2010; eff. April 5, 2010. Par. c am. File #091308, Mar. 2, 2010; eff. May 18, 2010. Par. c am. File #091530, Mar. 24, 2010; eff. June 1, 2010. Par. c am. File #100173, June 15, 2010; eff. August 25, 2010. Par. c am. File #100241, July 7, 2010; eff. Sept. 22, 2010. Par. c am. File #100286, July 27, 2010; eff. Oct. 2, 2010. Par c am File #100697, Oct. 12, 2010; eff. Dec. 21, 2010. Par. c am File 101418, Apr 12, 2011; eff June 28, 2011; Par. c am File 101246, July 26, 2011; eff Oct. 11, 2011.)

NOTE: The foregoing amendment to s. 36-04-1-c shall apply only to policemen represented by the MPA and firemen represented by Local 215, IAFF, who participate in the combined fund and who retire on a service retirement allowance between January 1, 1998 and December 31, 2002; policemen represented by the MPSO, and general city employes, who participate in the combined fund and who retire on a service retirement allowance between January 1, 1999 and December 31, 2002; non-represented firemen or policemen who participate in the combined fund and who retire on a service retirement allowance between January 1, 2000 and December 31, 2002; policemen represented by the MPA, firemen represented by Local 215, IAFF, nonrepresented firemen, and general city management and nonrepresented employes, who participate in the combined fund and who retire on a service retirement allowance on or after January 1, 2003; city of Milwaukee employes who participate in the combined fund and who retire on a service retirement allowance on or after January 1, 2003, and who are represented by Milwaukee District Council 48, AFSCME, AFL-CIO; city of Milwaukee employes represented by the Milwaukee Building and Construction Trades Council who participate in the combined fund and who retire on a service retirement allowance on or after August 1, 2007; city of Milwaukee employes represented by the Technicians, Engineers and Architects of Milwaukee, the Association of Scientific Personnel, the Association of Municipal Attorneys, SEIU Healthcare District 1199 Wisconsin/Staff Nurses Council, Local 195, IBEW, AFL-CIO, Local 75, Journeyman Plumbers and Gasfitters Union, AFL-CIO, Local 494, IBEW, AFL-CIO, Machine Shop, District 10, IAMAW, AFL-CIO, Joint Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO, Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers, Public Employees' Union 61, LIUNA, AFL-CIO, CLC, and the association of Law Enforcement Allied Services Personnel, Local #218, I.U.P.A., AFL-CIO, (Police Support Service Personnel) who participate in the combined fund and who retire on a service retirement or allowance on or after January 1, 2007; city of Milwaukee employes represented by the International Association of Machinists and Aerospace Workers who participate in the combined fund and who retire on a service retirement allowance between January 1, 2003 and December 31, 2006; and city of Milwaukee employes represented by Local 494, IBEW, AFL-CIO, Electrical Group, who participate in the combined fund and who retire on a service retirement allowance on or after June 1, 2007; and members represented by the Administrators and Supervisors Council who participate in the combined fund and retire on a service retirement allowance between January 1, 2003 and June 30, 2007; and Milwaukee public schools employes represented by Local 150, FSA/SNA/HCA, Local 150, BSH, and Local 950, International Union of Operating Engineers who participate in the combined fund and who retire on a service retirement between January 1, 2004 and June 30, 2007; and Milwaukee public schools employes represented by Milwaukee Building and Construction Trades Council, AFL-CIO, and Local 1616, AFL-CIO, District Council 48, and Milwaukee public schools employes represented by, and clerical employes exempt from, Local 1053, AFL-CIO, District Council 48, who participate in the combined fund and who retire on a service retirement allowance on or after July 1, 2007; and employes of Veolia Water Milwaukee, LLC., represented by District Council 48, AFSCME, AFL-CIO, Local 366, or IBEW, Local 494, or Steamfitters, Local 601, or International Union of Operating Engineers, Local 317, or District No. 10, I.A.M.A.W., Lodge 66, who participate in the combined fund and retire on a service retirement allowance on or after March 1, 2008; and employes of the Milwaukee Metropolitan Sewerage District represented by District Council 48, AFSCME, AFL-CIO, Local 366, who participate in the combined fund and retire on a service retirement allowance on or after March 8, 2010; and employes of the Milwaukee Metropolitan Sewerage District who are management or nonrepresented, who participate in the combined fund and retire on a service retirement allowance on or after September 1, 2010.

d. Notwithstanding any provision of s. 36-05 and the rules of the board, hours worked as city laborer-seasonal or playground laborer-seasonal (MPS), including time worked in other titles while maintaining city laborer-seasonal status, shall be taken into account as creditable service in determining the amount of a service retirement allowance. The additional creditable service earned under this paragraph shall be granted in accordance with the rules of the board and shall not exceed one year of creditable service. The additional creditable service earned under this paragraph shall not be taken into account for any other purpose including but not limited to determining eligibility for a service retirement allowance under s. 36-05-1-d or f, a deferred retirement allowance under s. 36-05-6-b-2 or 6-d-2, an early retirement allowance under s. 36-05-6-b-3 or 6-c, or eligibility for additional imputed service credit under sub. 4. *(Par d cr. File #040886, Nov. 3, 2004; eff. Jan. 10, 2005. Par. d rc. File #040987, Nov. 23, 2005; eff. Feb. 12, 2005. Par d rc. File #041075, Dec. 21, 2004; eff. March 14, 2005. Par d rc. File #041078, Dec. 21, 2004; eff. March 14, 2005. Par. d rc. File #041081, Dec. 21 2004; eff. March 14, 2005. Par. d rc. File #041309, Feb. 1, 2005; eff. April 19, 2005. Par.d rc. File #041775, May 3, 2005; eff. July 19, 2005,)* **NOTE: The foregoing amendment to section 36-04-1-d shall apply only to individuals who participate in the combined fund and who retire on a service retirement allowance on or after January 1, 2005 with at least 5 years of creditable service as a general city employe and who are city of Milwaukee employes represented by Milwaukee District Council 48, AFSCME, AFL-CIO; the Public Employees' Union 61, LIUNA, AFL-CIO; the Technicians, Engineers and Architects of Milwaukee; Local 195, IBEW, AFL-CIO and Joint**

Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO; Local 494, IBEW, AFL-CIO, Machine Shop; the Milwaukee Building and Construction Trades Council; the International Association of Machinists and Aerospace Workers; Local 494, IBEW, AFL-CIO, Electrical Group; Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers; and city of Milwaukee management employes, and nonmanagement, nonrepresented employes.

e. The board shall allow as creditable service periods of unpaid time as necessitated by furloughs mandated by the city or city agencies, subject to the limitations of par. a. *(Par e cr. File #090183, June 16, 2009; eff. August 25, 2009.)*

f. City employes represented by Milwaukee District Council 48, AFSCME, AFL-CIO, the Technicians, Engineers and Architects of Milwaukee, the Association of Scientific Personnel, and the Association of Municipal Attorneys, SEIU Healthcare District 1199 Wisconsin/Staff Nurses Council, Local 195, IBEW, AFL-CIO, Local 75, Journeyman Plumbers and Gasfitters Union, AFL-CIO, Local 494, IBEW, AFL-CIO, Machine Shop, District 10, IAMAW, AFL-CIO, Joint Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO, Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers and nonmanagement/nonrepresented employes who during the calendar year 2010 retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year. At the member's discretion, the bonus year may be added either to the member's age for purposes of retirement eligibility, or to creditable service. The bonus year may be divided into one month increments and used for a combination of additions to age and creditable service, not to exceed a total of 12 months. All or part of the bonus year cannot be applied to earn more than 35 years of creditable service or to exceed the 70% of final average salary limitation stated in s. 36-06-10-f. In order to be eligible for the bonus year provided in this paragraph, a non-represented/nonmanagement employe must provide notice of his or her intent to retire to his or her department head or designee by August 31, 2010. Employes of the Milwaukee Metropolitan Sewerage District represented by District Council 48, AFSCME, AFL-CIO, Local 366, who during the period commencing May 1, 2010 and ending April 30, 2011, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph and must give notice by February 1, 2011, of their intent to retire in order to be eligible for the bonus year. This provision shall expire at the end of April 30, 2011. Employes of the Milwaukee Metropolitan Sewerage District who are management or non-represented, who during the period commencing January 1, 2011 and ending December 31, 2011, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph and must give notice by November 1, 2011, of their intent to retire in order to be eligible for the bonus year. This provision shall expire at the end of December 31, 2011. City employes represented by Local 494, IBEW-AFL-CIO, Electrical Group, who during the period commencing June 1, 2010, and ending December 31, 2010, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph. This provision shall expire at the end of December 31, 2010. Employes of Milwaukee public schools represented by Milwaukee Building and Construction Trades Council, AFL-CIO, who during the period commencing August 1, 2010, and ending December 31, 2010, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph. This provision shall expire January 1, 2011. Employes of Milwaukee public schools represented by, and clerical employes exempt from, Local 1053, AFL-CIO, District Council 48, and employes of Milwaukee public schools represented by Local 1616, AFL-CIO, District Council 48, who during the period commencing June 21, 2011, and ending December 31, 2011, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph and must give written notice by April 1, 2011 of their intent to retire in order to be eligible for the bonus year. This provision shall expire January 1, 2012. City employes represented by Milwaukee Building

and Construction Trades Council, AFL-CIO, who during the period commencing August 1, 2010, and ending December 31, 2010, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph. This provision shall expire at the end of December 31, 2010. City employes represented by the Public Employees' Union #61, LIUNA, AFL-CIO, CLC, who during the period commencing May 1, 2010, and ending April 30, 2011, retire from active service on a normal service retirement allowance, including allowances under s. 36-05-1-d-3, or on an immediate retirement allowance under s. 36-05-6-c, shall be eligible for a bonus year pursuant to this paragraph. This provision shall expire at the end of April 30, 2011. *(Par f cr. File #090613, Sept. 22, 2009; eff. Dec. 9, 2009. Par f am. File #090951, Dec. 1, 2009; eff. Feb. 16, 2010. Par f am. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. f am. File #091214, Jan. 20, 2010; eff. April 5, 2010. Par. f am. File #091308, Mar. 2, 2010; eff. May 18, 2010. Par. f am. File #091530, Mar. 24, 2010; eff. June 1, 2010. Par. f am. File #091609, May 25, 2010; eff. August 10, 2010. Par. f am. File #100173, June 15, 2010; eff. August 25, 2010. Par. c am. File #100241, July 7, 2010; eff. Sept. 22, 2010. Par. f am. File #100286, July 27, 2010; eff. Oct. 2, 2010. Par. f am. File #100574 Sept. 21, 2010; eff. Dec. 6, 2010. Par. f am. File #101070, Jan. 19, 2011; eff. March 29, 2011. Par. f am. File #101418, April 12, 2011; eff. June 28, 2011.)*

2. PRIOR SERVICE CERTIFICATES. The board shall issue prior service certificates certifying to each member the length of service with which he is credited and which was rendered prior to January 1 , 1938, or prior to any subsequent amendment to the act which made him eligible for membership. So long as membership continues, a prior service certificate shall be final and conclusive as to prior service credit except a member may request modification within one year of the date of issue. When membership ceases for any cause other than retirement, a prior service certificate shall become void and shall not be renewed upon any return to service as an employe except as provided in ss. 36-05-6-b-4, 6-c and d, and 36-07-3. *(Sub. 2 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

3. DUTY DISABILITY RETIREMENT CREDIT. a. Any member employed as a policeman on or after October 5, 1973, who is thereafter retired from active service upon becoming entitled to a duty disability retirement allowance or who was restored to active service prior to October 5, 1973, following termination of a duty disability retirement allowance, any member employed as a fireman on or after July 28, 1974, who is thereafter retired from active service upon becoming entitled to a duty disability retirement allowance or who was restored to active service prior to July 28, 1974, following termination of a duty disability retirement allowance, and any member other than a fireman or policeman employed or receiving a duty disability retirement allowance on or after May 15, 1973, shall be allowed toward his or her service retirement a credit for each year or part thereof during which he or she is eligible to receive a duty disability retirement allowance, or in which duty disability retirement allowance is suspended under s. 36-07-3, in computing his or her service retirement on the basis of the formula applicable. Such credit shall only be reflected for the purposes of establishing eligibility for and calculating the amount of the service retirement allowance but not otherwise. The service retirement allowance shall be computed on the basis of the annual regular base salary in effect for the member's position in the year immediately prior to the member's service retirement and the additional amount that would have been includable under s. 36-02-12 in the member's earnable compensation if the member had retired from active service on a service retirement allowance on the date of the member's service retirement. The cost thereof shall be reflected by the actuary in computing the employer's contribution to the fund. *(Par. a am. File #880374, June 7, 1988; eff. Aug. 22, 1988. Par a am. File #001476, Feb. 27, 2001; eff. May 15, 2001. Par. a am. File #011514, March 5, 2002; eff; May 21, 2002.)*

b. Upon retirement of an employe, all creditable service and all other credits provided for in this act shall be reflected in determining his retirement allowance. *(Par. b rc. Ch. Ord. 398, File #73-120, May 2, 1973.)*

4. IMPUTED SERVICE CREDIT.

a. A fireman or policeman in active service as of January 1, 2000, who participates in the combined fund and who has attained 20 years of creditable service in the retirement system as a fireman or policeman shall be allowed 1.5 years of additional imputed creditable service toward the computation of his or her service retirement allowance if he or she applies for retirement as a fireman. A fireman or policeman in active service as of January 1, 2000, who participates in the combined fund and

who applies for a service retirement allowance as a fireman without first having attained 20 years of creditable service as a fireman or policeman shall be allowed additional imputed creditable service under this sub. on a pro rata basis calculated as the product of 1.5 multiplied by a fraction, the numerator of which is the full years of the member's creditable service as a fireman or policeman (excluding imputed editable service credited under sub. 1-c) to the date of retirement and the denominator of which is 20. A fireman or policeman in active service as of January 1, 2000 who participates in the combined fund who has attained 25 years of creditable service in the retirement system as a policeman or fireman or the minimum service retirement age under s. 36-05-1-b, shall be allowed 1.5 years of additional imputed creditable service toward the computation of his or her service retirement allowance if he or she applies for retirement as a policeman. The imputed service credited under this par. shall not be included in determining eligibility for a retirement allowance under s. 36-05-1-f or in calculating the maximum service retirement allowance under s. 36-05-1-e. This par. does not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-d-2, 6-b-3 or 6-c. The imputed service credit under this par. shall be included in the deceased member's allowance when calculating the spouse survivor allowance under s. 36-05-7-b-4-a.

b. Firemen and policemen survivorship fund dissolution bonus. A policeman in active service as of January 1, 2000 who participates in the combined fund shall be allowed 2 years of additional service credit toward the computation of his or her service retirement allowance if he or she applies for a service retirement allowance after having attained 25 years of creditable service in the retirement system as a policeman or fireman or the minimum service retirement age under s. 36-05-1-b. A policeman retired on a disability retirement allowance as of January 1, 2000 who participates in the combined fund shall be allowed 2 years of additional service credit toward the computation of his or her service retirement allowance upon conversion from a duty disability allowance to a service retirement allowance if he or she is an active member in good standing in the fireman or policeman's survivorship fund as of January 1, 2000. The imputed service credit under this par. shall not be included in determining the eligibility for a retirement allowance under s. 36-05-1-f or in calculating the maximum service retirement allowance under s. 36-05-1-e. This par. shall not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-b-3, 6-c or 6-d-2.

(36-04-4 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. 36-04-4 am. File #000484, July 11, 2000; eff. Jan. 19, 2001. 36-04-4-a am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001.)

36-05. Benefits. 1. SERVICE RETIREMENT ALLOWANCE. a. To File Request. Any member in active service may retire on or after reaching the minimum service retirement age, upon filing with the board a request for retirement and a retirement allowance on a form provided by the board for that purpose. The request shall be filed not less than 30 days nor more than 90 days prior to the effective date of retirement. A member whose allowance would be less than $25 per month shall be paid a lump sum amount which is the actuarial equivalent of the allowance and the member shall not be eligible to receive any other benefits under this system. The board may adjust the minimum allowance under this paragraph, 1-a, sub. 6-b-2, sub. 6-b-3, sub. 6-d-2, and sub. 10-a-3, provided however that the minimum monthly allowance of $25 may not be increased by more than the cost of living increase as measured by the increase in the Consumer Price Index-All Urban Consumers-CPI-U U.S. Cities Average as reported by the U.S. Department of Labor Bureau of Labor Statistic between January 1, 1973 and the effective date of the adjustment. A member whose allowance is less than the minimum allowance shall be paid a lump sum amount that is the actuarial equivalent of the allowance in lieu of receiving any other benefits under this system. In the event a policeman who has elected an option under sub. 7 dies between the date of his or her application and the effective date or his or her retirement, the policeman shall be treated as though he or she died immediately after his or her retirement became effective. *(Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a am. File #950521, July 28, 1995; eff. Oct. 3, 1995, Par. a am. File #001665, April 10, 2001; eff. June 27,2001. Par. a am. File #010197, June 19, 2001; eff. Aug. 29, 2001. Par. a am. File #020598, July 27, 2004; eff. Oct. 12, 2004.)*

b. Minimum Age. The minimum service retirement age shall be, in the case of firemen and policemen, age 57, for members enrolled in the retirement system prior to January 1, 2014, age 60, and for all other

members, age 65. *(Par. b am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

d. Retirement Allowance. d-1. General City Employe. For a general city employe enrolled as a member in the retirement system prior to January 1, 2014, a service retirement allowance shall equal 2% of the member's final average salary times the total number of years of all creditable service, including all other creditable and prior service credits at the percentage specified in this act and applied to the member's final average salary in the retirement system as defined in this act. For a general city employe who enrolls as a member in the retirement system on or after January 1, 2014, the service retirement allowance shall equal 1.6% of the member's final average salary times the total number of years of all creditable service, including all other creditable and prior service credits at the percentage specified in this act and applied to the member's final average salary in the retirement system as defined in this act. The member shall be guaranteed that if the total benefit in the form of a monthly retirement allowance, either under a maximum allowance or under any optional plan elected by such member pursuant to sub. 7, does not equal the amount of the member's contributions as provided for in s. 36-08-7, together with interest to the date of retirement, then the balance of the member's contributions with interest shall be payable in a lump sum amount to a designated beneficiary or to an estate entitled thereto. The guarantee provided for shall be applicable also to a retirement which was in effect as of January 1, 1971, without adjustment, and shall also be applicable to all retirements which occur after January 1, 1971, and to retirements under subs. 1-e, f and g, 2, 3 and 6. The service retirement allowance for members who retire between January 1, 1989 and December 31, 1994, shall not exceed the lesser of an amount established by the U.S. secretary of the treasury or 100% of final average salary under s. 415 of the Internal Revenue Code. The service retirement allowance for members who retire on or after January 1, 1995 shall not exceed an amount established by the secretary of the treasury under s. 415 of the Internal Revenue Code. (Subd. 1 am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Subd. 1 am. File #961325, Dec. 17, 1996; eff. Mar. 10, 1997. *Par. d-1 am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

d-2. A member shall receive a pro rata retirement allowance based upon the above formula for service for any period less than a full year. (S. 2, Ch. Ord. 344, Nov. 18, 1968.)

d-3. General City, Age 55. Effective January 1, 1996, a general city employe enrolled as a member in the retirement system prior to January 1, 2014, who attains the age of 55 years and completes 30 years of creditable service in the employes' retirement system shall be eligible for a service retirement allowance as computed under subds. 1 and 2. (Subd. 3 cr. File #941981, April 25, 1995, eff. July 12, 1995. *Par. d-3 am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

d-4. General City, Age 60. Notwithstanding subd. 3, effective January 1, 2014, a general city employe who enrolls as a member in the retirement system on or after January 1, 2014, who attains the age of 60 years and completes 30 years of creditable service in the retirement system shall be eligible for a service retirement allowance as computed under subds. 1 and 2. *(Par. d-4 cr. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

e. Firemen or Policemen, Creditable Service. The annual service retirement allowance of firemen and policemen shall consist of: (Par. e-0 am. Ch. Ord. 511, File #80-597-b, Oct. 27, 1981.)

e-1. A service retirement allowance equal to 2.25% of the member's final average salary times the number of years of creditable service up to and including 25 years of service and 2.4% of the member's final average salary times the number of years of creditable service thereafter; such credit shall be applicable only to service as a fireman or policeman. Service of policemen in the years 1979 through 1994 and service of firemen commencing March 1, 1983, and thereafter through December 31, 1994, shall be credited at the rate of 2.5% of the member's final average salary per year for each such year of creditable service or part thereof. Firemen and policemen in active service on or after January 1, 1995 shall be credited at the rate of 2.5% of the member's final average salary for each year of creditable service or part thereof as a fireman or policeman. The service retirement allowance of firemen who retire on or after March 1, 1985, and policemen who retire on or after November 3, 1988, shall not exceed 100% of the member's final average salary. The service retirement allowance of policemen who retire on or after July 1, 1989, and firemen who retire on or after March 1, 1989, shall not exceed 90% of the member's final average salary provided, however, that the application of this

limitation shall not operate to diminish that portion of a policemen's retirement allowance attributable to creditable service earned through July 1, 1989 or a firemen's retirement allowance attributable to creditable service earned through March 1, 1989. *(Subd. 1 am. Ch. Ord. 552, File #85-118-a, July 16, 1985, eff. Sept. 30, 1985. Subd. 1 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985, eff. Dec. 15, 1985. Subd. 1 am. File #872401, May 17, 1988, eff. Aug. 2, 1988. Subd. 1 rc. File #872396, Sept. 20, 1988, eff. Dec. 5, 1988. Subd. 1 am. File #881667, Dec. 20, 1988, eff. March 13, 1989. Subd. 1 am. File #890633, July 25, 1988, eff. Oct. 14, 1989. Subd. 1 am. File #890982, Sept. 19, 1989, eff. Dec. 6, 1989. Subd. 1 am. File #891650, Jan. 16, 1990, eff. Apr. 4, 1990. Subd. 1 am. File #892369, Apr. 9, 1990, eff. June 26, 1990. Subd. 1 am. File #911154, Oct. 15, 1991, eff. Dec. 31, 1991. Subd. 1 am. File #911820, Feb. 11, 1992; eff. Apr. 13, 1992. Subd. 1 am. File #901684, July 28, 1992, eff. Sept. 30, 1992. Subd. 1 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subd. 1 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Subd. 1 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995.)*

e-2. A fireman or policeman shall receive a pro rata retirement allowance based upon the above formula for service for any period less than a full year. (Subd. 2 rc. Ch. Ord. 344, File #68-726, Nov. 18, 1968.)

f. Firemen or Policemen. A fireman or policeman who has attained the age of 52 years and has completed 25 years of creditable service in the employes' retirement system in that capacity shall be eligible for a service retirement allowance as computed under par. e. A fireman represented by Local 215, IAFF, in active service on or after January 1, 1998, or a fireman who is not represented by Local 215, IAFF, in active service on or after January 1, 2000 shall be eligible for a service retirement allowance as calculated under par. e. if he or she participates in the combined fund and attains the age of 49 years and completes 22 years of creditable service as a fireman or policeman. A policeman represented by the MPA, in active service on or after January 1, 1998, a policeman represented by MPSO, in active service on or after January 1,1999, or a policeman who is not represented by the MPA or MPSO in active service on or after January 1, 2000 shall be eligible for a service retirement allowance as calculated under par. e if he or she participates in the combined fund and completes 25 years of creditable service as a policeman or fireman. A fireman, including a person who was a fireman prior to June 1, 1989, shall have all service in a position whose duty it is to provide emergency medical service included in the computation of creditable service for purposes of determining eligibility for a service retirement allowance under this paragraph and for purposes of computing creditable service under subs. 6-e and 7-b-4. Notwithstanding the foregoing, a policeman represented by the MPA who is first enrolled in the retirement system on or after December 20, 2015, shall be eligible for a service retirement allowance calculated under par. e if he or she participates in the combined fund and has attained the age of 50 years and has also completed 25 years of creditable service as a policeman in the retirement system. Notwithstanding the foregoing, a fireman who is first enrolled in the retirement system on or after July 30, 2016, shall be eligible for a service retirement allowance calculated under par. e if he or she participates in the combined fund and has attained the age of 52 years and has also completed 25 years of creditable service as a fireman in the retirement system. *(Par. f am. File #900682, Sept. 25, 1990; eff. Dec. 11, 1990. Par. f am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. f am. File #151274, Feb. 9, 2016; eff. April 26, 2016. Par. f am. File #151451, Feb. 9, 2016; eff. April 26, 2016. Par. f am. File #160124, July 26, 2016; eff. Oct. 11, 2016. Par. f am. File #141568, Sept. 20, 2016; eff. Dec. 6, 2016.)*

g. Elected Officials. The annual service retirement allowance for elected officials elected to office by vote of the people, except the mayor, shall equal 2.6% of the member's final average salary times the number of years of creditable service accrued as an elected official for years of service prior to 1996 and 2.5% of the member's final average salary times the number of years of creditable service accrued as an elected official for years of service on or after January 1, 1996. The annual service retirement for the mayor shall equal 2.6% of the mayor's final average salary times the number of years of creditable service accrued for years of service prior to 1996, and 2% of the mayor's final average salary times the number of years of creditable service accrued for years of service on or after January 1, 1996. Notwithstanding the foregoing, the annual service retirement allowance for an elected official who enrolls as a member in the retirement system on or after January 1, 2014, shall equal 1.6% of the member's final average salary times the number of years of creditable service accrued as an elected official. Service before or after service for elected officials shall be credited at the rate applicable to such service. *(Par. g am. File #920411, July 7, 1992; eff. Sept. 22, 1992. Par. g am. File #931035, Nov. 9, 1993; eff. Jan. 29, 1994. Par. g am. File #950766,October 17, 1995; eff. January 2, 1996. Par.*

g am. File #951082, Nov. 28, 1995; eff. Feb. 13, 1996. Par. g am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)

h. Escalator. h-1. Firemen who retire on a service retirement allowance under subs. 1-b or f or 3-c-3 between March 1, 1990 and December 31, 1992, policemen who retire on a service retirement allowance under subs. 1-b or f or 3-c-3 between January 1, 1990 and December 31, 1992, and firemen or policemen represented by the Milwaukee Police Association, with 25 years of creditable service as a fireman or policeman who separate from service between January 1, 1993 and December 31, 1994 and elect a deferred retirement under sub. 6-e, shall be eligible for a pension escalator in the amount of $50 per month on the 4th annual anniversary of service retirement, an additional escalator of $50 per month on the 7th annual anniversary after service retirement and an additional $50 per month on the 10th annual anniversary after service retirement.

h-3. An escalator under subd. 1 included in a fireman's or policeman's service retirement allowance at the date of death shall be included for purposes of determining a spouse's survivor allowance upon death of such fireman or policeman under Options 2 and 3 and such spouse's survivor allowance under Option 2 shall be escalated in the amount of $50 per month and under Option 3 in the amount of $25 per month at such times as such fireman's or policeman's pension would have been escalated under subd. 1 had the fireman or policeman continued to live. If a fireman or policeman elects Option 4 and selects a reduced service retirement allowance payable in equal installments during the fireman's or policeman's life with the provision that after the fireman's or policeman's death the surviving spouse shall receive an allowance payable in equal installments during the spouse's life which is a proportionate share of the member's reduced service retirement allowance, the escalator under subd. 1 included in the fireman's or policeman's service retirement allowance at the date of death shall be included for purposes of determining the proportionate share of the spouse's survivor allowance upon death of such fireman or policeman and the spouse's survivor allowance shall be escalated by an amount computed by multiplying $50 by the spouse's proportionate share at such times as the fireman's or policeman's service retirement allowance would have been escalated under subd. 1 had the fireman or policeman continued to live. If a fireman or policeman elects Option 4 and selects a reduced service retirement allowance with the provision that after the fireman's or policeman's death the surviving spouse shall receive an allowance but does not select a payout option referred to in this subdivision the escalator included in the fireman's or policeman's service retirement allowance at the date of death shall not be included in determining the spouse's survivor allowance upon death of such fireman or policeman but such spouse's survivor allowance shall be escalated $25 for each escalation the member received or would have been entitled to receive under subd. 1 if the member would have continued to live.

h-4. General city employes who retire on a service retirement allowance under sub. 1-b or 1-d-3, on or after January 1, 1993 (on or after August 16, 1994 for employes represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), and retired general city employes receiving a duty disability retirement allowance, who have attained the minimum service retirement age and convert to service retirement allowance on or after January 1, 1993 (on or after August 16, 1994 for employes represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), shall be eligible for a pension escalator of 2% effective with the installment next following the 8th annual anniversary of service retirement and an additional 2% pension escalator in each successive year effective on each subsequent anniversary of the first adjustment. Each successive adjustment shall be computed on the service retirement allowance as previously adjusted. General city employes receiving retirement benefits under sub. 6-b-2 and 3, 6-c or 6-d-2 shall not be eligible for a pension escalator under this subdivision. If a member who is eligible for an adjustment under this subd. dies without receiving an adjustment prior to death, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment in which the member would have received an adjustment had the member lived. If the member has received an adjustment under this subd. prior to death, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment in which the member next would have received an

adjustment had the member lived. If a general city employe who has elected a protective survivorship option under sub. 7-b-4 dies on or after January 1, 1993, while in active service, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment next following the 8th annual anniversary of the commencement of the spouse survivor allowance. After the first adjustment to the spouse survivor allowance, there shall be an additional 2% escalator to the spouse survivor allowance in each successive year effective on each subsequent anniversary of the first adjustment to the spouse survivor allowance. Each successive adjustment to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously adjusted. Beneficiaries, other than spouses receiving survivor benefits under sub. 7-b-2 and 4, shall not be eligible for a pension escalator. After January 1, 2000 this subd. shall not apply to members, retired members (or spouse survivors if the member or retired member is deceased) who participate in the combined fund and spouse survivors of members and retired members who participate in the combined fund.

h-5-a. A general city employe in active service on or after January 1, 2000, who participates in the combined fund and was enrolled as a member of the retirement system prior to January 1, 2014, shall be eligible for an annual pension escalator of 1.5% effective with the installment next following the second, third and fourth anniversary of his or her retirement, and an annual pension escalator of 2% effective with the installment next following the fifth and each successive anniversary of his or her retirement if he or she retires on a service retirement allowance under par. b or d, a deferred retirement allowance under sub. 6-b-2 or d-2, or an immediate allowance under sub. 6-b-3 or c. Each successive annual increase to the member's allowance under this subd. shall be calculated on the retirement allowance as previously increased. If a member eligible for an adjustment under this subd. retires on a duty disability retirement allowance and converts to a service retirement allowance, the member's adjustment following conversion shall be first payable with the installment next following the second anniversary of his or her conversion and the percentage increase of the annual escalator payable on each anniversary following conversion shall be calculated by reference to the member's date of conversion to a service retirement allowance rather than by reference to the member's date of retirement on disability. If a member who is eligible for an adjustment under this subd. elects a retirement option under sub. 7-b-1, b-2 or b-3 with a spouse survivor allowance payable to the member's surviving spouse after the member's death in proportionate share to the member's reduced retirement allowance, and the member dies after receiving a retirement allowance, the spouse survivor allowance payable on the member's death shall be calculated as a proportionate share of the member's retirement allowance including adjustments under this subd. up to the date of death and the spouse survivor allowance shall be increased by an annual pension escalator payable at the same time and in the same percentage as the increase the member would have received, had the member lived. If a member who is eligible for an adjustment under this subd. elects a protective survivorship option under sub. 7-b-4, with a spouse survivor allowance payable on the member's death in proportionate share to the member's reduced retirement allowance and the member dies while in active service, the spouse survivor allowance payable on the member's death, shall be increased by an annual pension escalator to the spouse survivor allowance payable at the same time and in the same percentages as the increases the member would have received had the member retired on the date of the member's death. Each successive annual increase to the spouse survivor allowance under this subd. shall be calculated on the spouse survivor allowance as previously increased.

h-5-b. A general city employe who enrolls as a member in the retirement system on or after January 1, 2014 and who retires on a service retirement allowance under sub. 1-b or d shall be eligible for an annual pension escalator of 2% effective with the installment next following the fifth anniversary and each successive anniversary of his or her retirement. Each successive annual increase to the member's allowance under this subparagraph shall be calculated on the retirement allowance as previously increased. General city employees receiving retirement benefits under subs. 2-a, 3, 6-b-2 and 3, 6-c or d-2 shall not be eligible for a pension escalator. If a member who is eligible for an adjustment under this subparagraph dies without receiving an adjustment prior to death, a beneficiary who iseligible for a spouse survivor allowance under subs. 7-b-1, 2 and 3 shall be eligible for a

pension escalator in the amount of 2% of the spouse survivor's proportionate allowance effective with the installment in which the member would have received an adjustment had the member lived. If the member has received an adjustment under this subparagraph prior to death, a beneficiary who is eligible for a spouse survivor allowance under subs. 7-b-1, 2 and 3 shall be eligible for a pension escalator in the amount of 2% of the spouse survivor's proportionate allowance effective with the installment in which the member next would have received an adjustment had the member lived. If a general city employe who has elected a protective survivorship option under sub. 7-b-4 dies while in active service, a beneficiary who is eligible for a spouse survivor allowance under subs. 7-b-1, 2 and 3 shall be eligible for a pension escalator in the amount of 2% of the spouse survivor's proportionate allowance effective with the installment next following the fifth annual anniversary of the commencement of the spouse survivor allowance. After the first adjustment to the spouse survivor allowance, there shall be an additional 2% escalator to the spouse survivor allowance in each successive year effective on each subsequent anniversary of the first adjustment to the spouse survivor allowance. Each successive adjustment to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously adjusted. Beneficiaries, other than spouses receiving survivor benefits under sub. 7-b, shall not be eligible for a pension escalator.

h-5-c. City employes represented by Milwaukee District Council 48, AFSCME, AFL-CIO, the Technicians, Engineers and Architects of Milwaukee, the Association of Scientific Personnel, the Association of Municipal Attorneys, SEIU Healthcare District 1199 Wisconsin/Staff Nurses Council, Local 195, IBEW, AFL-CIO, Local 75, Journeyman Plumbers and Gasfitters Union, AFL-CIO , Local 494, IBEW, AFL-CIO, Machine Shop, District 10, IAMAW, AFL-CIO, Joint Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO, Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers, Public Employees' Union #61, LIUNA, AFL-CIO, CLC, and nonmanagement/nonrepresented employes who during the calendar years 2010 and 2011 retire from active service on a normal service retirement allowance, including allowances under par. d-3, or on an immediate retirement allowance under par. 6-c, and their surviving spouses, shall receive a 2% pension escalator effective with the installment next following the first anniversary of their retirement. City employes represented by Local 494, IBEW-AFL-CIO, Electrical Group, who during the period commencing June 1, 2010, and ending December 31, 2011, retire from active service on a normal service retirement allowance, including allowances under par. d-3, or on an immediate retirement allowance under par. 6-c, and their surviving spouses, shall receive a 2% pension escalator effective with the installment next following the first anniversary of their retirement. Employes of Milwaukee public schools represented by Milwaukee Building and Construction Trades Council, AFL-CIO, who during the period commencing August 1, 2010, and ending December 31, 2010, retire from active service on a normal service retirement allowance, including allowances under par. d-3, or on an immediate retirement allowance under par. 6-c, and their surviving spouses, shall receive a 2% pension escalator effective with the installment next following the first anniversary of their retirement. Employes of Milwaukee public schools represented by, and clerical employes exempt from, Local 1053, AFL-CIO, District Council 48, and employes of Milwaukee public schools represented by Local 1616, AFL-CIO, District Council 48, who during the period commencing June 21, 2011, and ending December 31, 2011, retire from active service on a normal service retirement allowance, including allowances under par. d-3, or on an immediate retirement allowance under par. 6-c, and their surviving spouses, shall receive a 2% pension escalator effective with the installment next following the first anniversary of their retirement. City employes represented by Milwaukee Building and Construction Trades Council, AFL-CIO, who during the period commencing August 1, 2010, and ending December 31, 2011, retire from active service on a normal service retirement allowance, including allowances under par. d-3, or on an immediate retirement allowance under par. 6-c, and their surviving spouses, shall receive a 2% pension escalator effective with the installment next following the first anniversary of their retirement.

h-6. Firemen or policemen in active service on or after January 1, 1993, who become eligible to retire on a service retirement allowance under sub. 1-b or f on or after January 1, 1993, firemen or policemen who retire on a duty disability retirement allowance of 75% of current annual salary for their position under

sub. 3-c-1-a between January 1, 1993 and December 31, 1994 and thereafter convert to a service retirement allowance under sub. 3-c-3-c, policemen in active service on or after January 1, 1995 who separate from service with 25 years of creditable service as a policeman and elect a deferred retirement allowance under sub. 6-e, firemen or policemen who retire on a duty disability allowance of 75% of current salary for their position under sub. 3-c-1-a on or after January 1, 1995 and who are eligible to elect between a service retirement allowance and a duty disability allowance under sub. 3-c-3-f, firemen or policemen who participate in the combined fund and who separate from service on or after January 1, 2000, and elect a deferred retirement under sub. 6-b-2, d-2 or e, and firemen or policemen who participate in the combined fund and who separate from service on or after January 1, 2000 and elect an immediate allowance under sub. 6-b-3 or c shall have the monthly service retirement pension installment which they received in the preceding December increased by the cost of living increase as measured by the increase in the Consumer Price Index (All Urban Consumers - CPI-U) U.S. Cities Average as reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the preceding calendar year, but in no event shall such increase be in an amount which exceeds 3% of such installment. For firemen or policemen who become eligible to retire on service retirement allowance between January 1, 1993 and December 31, 1994, and firemen or policemen who retire on a duty disability allowance between January 1, 1993 and December 31, 1994 and subsequently convert to service retirement allowance, the first increase in the monthly installment shall occur on March 1 of the calendar year following the first full calendar year of the member's service retirement or conversion to a service retirement and subsequent increases in the monthly installment shall occur in the installment next following each subsequent anniversary on March 1 of each calendar year thereafter. For firemen or policemen who retire or become eligible to retire on a service retirement allowance on or after January 1, 1995, policemen who separate from active service on or after January 1, 1995 and elect a deferred retirement allowance under sub. 6-f, firemen or policemen who retire on a duty disability allowance on or after January 1, 1995, and firemen and policemen who participate in the combined fund and who separate from active service on or after January 1, 2000 and elect a deferred retirement under sub. 6-b-2, d-2 or e, or an immediate allowance under sub. 6-b-3 or c, the first increase shall occur in the monthly installment next following the first full year of the member's service retirement, deferred retirement, immediate allowance or election between a service retirement or duty disability retirement and subsequent increases in the monthly installment shall occur in the installment next following each annual anniversary thereafter. If a member who is eligible for an increase under this subd. selects a retirement option under sub. 7-b-1, b-2, b-3 or b-4 with a spouse survivor allowance payable to the member's surviving spouse after the member's death in a proportionate share to the member's reduced service retirement allowance, the spouse survivor allowance payable on death shall be computed based on the amount of the member's service retirement allowance including increases under this subd. at the date of death and the monthly survivor allowance installment shall be increased by the cost of living as calculated in the manner provided for the member under this subd. If the member dies after service retirement but prior to receiving an increase pursuant to this subd., the spouse survivor allowance shall be increased effective with the pension installment in which such member would have received an increase had the member lived. If the member dies after having received an increase prior to death under this subd., the spouse survivor allowance shall be increased effective with the pension installment in which the member would have received the next increase had the member lived. If the member has selected a retirement option under sub. 7-b-4 and dies in active service on or after January 1, 1993, the spouse survivor allowance shall be increased effective with the pension installment payable March 1 of the calendar year next following the first full calendar year after the member's death. After the first increase to the spouse survivor allowance monthly installment, there shall be an additional increase for the cost of living in the spouse survivor allowance calculated in the manner provided for the member under this subd. in each successive year effective with the pension installment on the anniversary of the previous increase to the survivor allowance. Except as otherwise specifically provided herein, this subd. shall not apply to firemen or policemen or the spouse survivors of firemen or

policemen who receive a retirement allowance authorized under sub. 6-b-2, 6-b-3, 6-c or 6-d-2.

h-7. A fireman represented by Local 215, in active service on or after January 1, 1998, a policeman represented by the MPA, in active service on or after January 1, 1998, a policeman represented by the MPSO, in active service on or after January 1, 1999, or an unrepresented policeman and fireman in active service on or after January 1, 2000 (and his or her spouse survivor if the member is deceased), shall receive a minimum annual cost of living adjustment at the time of their annual cost of living adjustment under subd. 6 of not less than 2% if the member participates in the combined fund and retires on a service retirement allowance under par. b or f, or if the member participates in the combined fund and dies in active service after electing a protective survivor option with a spouse survivor receiving a proportional share of the member's pension. The minimum annual cost of living adjustment shall be calculated on the service retirement allowance or spouse survivor allowance as previously increased. *(Par. h cr. File #891650, Jan. 16, 1990; eff. April 4, 1990. Par. h rn to h-1 File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-1 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Par. h-1 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. h-1 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Par. h-2 cr. File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-2 rp. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. h-3 cr. File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-3 am. File #911154, Oct. 15, 1991; eff. Dec. 31, 1991. Par. h-4 cr. File #921978, April 8, 1993; eff. June 16, 1993. Par. h-4 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Par. h-4 am. File 941981, April 25, 1995; eff. July 12, 1995. Par. h-4 am. File #950869, Oct. 17, 1995; eff. Jan. 2, 1996. Par. h-4 csra. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-5 cr. File #921978, April 8, 1993; eff. June 16, 1993. Par. h-5 csra, (h-5 consolidated as part of h-4) File #991585, April 11, 2001,eff. Jan. 19, 2001. Par. h-5 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-6 cr. File #940423, July 15, 1994; eff. Sept. 29, 1994. Par. h-6 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. h-6 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Par. h-6 am File #991585, April 11, 2000; eff. January 19, 2001. Par. h-7 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-5 rn to h-5-a, File #090613, Sept. 22, 2009, eff. Dec. 9, 2009. Par. h-5-b cr. File #090613, Sept. 22, 2009, eff. Dec. 9, 2009. Par. h-5-b am. File #090951, Dec. 1, 2009, eff. Feb. 16, 2010. Par. h-5-b am. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. h-5-b am. File #091214, Jan. 20, 2010; eff. April 5, 2010. Par. h-5-b am. File #091308, Mar. 2, 2010; eff. May 18, 2010. Par. h-5-b am. File #091530, Mar. 24, 2010; eff. June 1, 2010. Par. h-5-b am. File #091609, May 25, 2010; eff. August 10, 2010. Par. h-5-b am. File #100173, June 15, 2010; eff. August 25, 2010. Par. h-5-b am. File #100241, July 7, 2010; eff. Sept. 22, 2010. Par. h-5-b am. File #100574, Sept. 21, 2010; eff. Dec. 6, 2010. Par. h-5-b am. File #101070, Jan. 19, 2011; eff. March 29, 2011. Par. h-5-b am. File #101418, April 12, 2011; eff. June 28, 2011. Par. h-5-a am File #121701, May 21, 2013; eff. Aug. 10, 2013. Par. h-5-b rn to c File #121701, May 21, 2013; eff. Aug. 10, 2013. Par. h-5-b cr. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

i. Employes retired prior to January 1, 1993.

i-1. The benefits payable under this paragraph are not deferred compensation for services performed by retired members. Any provision of ch. 36 to the contrary notwithstanding, the benefits payable under this paragraph and the terms and conditions under which they are payable are neither contractually guaranteed by the city and the board nor vested in any beneficiary thereof. The city expressly reserves the unilateral right to amend or repeal this paragraph without notice and hearing to or consent of any beneficiary. Members and survivors who separated and received benefits under sub. 6-b-2, 6-b-3, c, d-2 or e shall not be eligible for benefits under this paragraph. This subd. shall not apply on or after January 1, 2000 to retired members and spouse survivors who participate in the combined fund.

i-1-a. Members who retired prior to October 1, 1987 on a service retirement allowance under par. b or f and members who retired on a duty disability allowance and converted to a service retirement allowance under sub. 3-b or 3-c-3 prior to October 1, 1987 shall be eligible for a catch-up adjustment to their service retirement allowance payable with the first installment next following January 1, 1996. Such adjustment shall be a percentage change to the retirement allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's service retirement and October 1, 1995 or the total percentage change required to bring the member's allowance to 60% of the whole inflation adjusted value of the member's allowance at the time of retirement. The percentage change in the cost of living shall be measured by the increase in the Consumer Price Index (All Urban Consumers - CPI-U) U.S. Cities as reported by the U.S. Department of Labor, Bureau of Labor Statistics. The whole inflation adjusted value of a pension at the time

of retirement shall be the sum of the product of the service retirement allowance at the time of retirement multiplied by the total percentage change in the cost of living during each full calendar month between retirement and October 1, 1995 added to the member's service retirement allowance at the time of retirement. Beneficiaries other than spouses receiving survivor benefits or protective survivor benefits shall not be eligible for benefits under this subparagraph. If a member eligible for a service retirement allowance under par. b or f elected a protective survivor option, expressed as a percentage of the member's pension, and died while in active service prior to October 1, 1987, the surviving spouse under such option shall be eligible for a catch-up adjustment to their survivor allowance payable with the first installment next following January 1, 1996 in a percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's death and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of the survivor allowance at the date of death. If a member, who retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension, and died following retirement, but prior to October 1, 1995, the surviving spouse under such option shall be eligible for a catch-up adjustment to their survivor allowance payable with the first installment next following January 1, 1996 in a percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's retirement and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of the spouse survivor allowance at the time of the member's retirement. If a member, retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension and dies while eligible for catch-up under subpar. a, the surviving spouse under such option shall have the member's catch-up included in the member's allowance in calculating the spouse survivor allowance expressed as a percentage of the member's allowance.

i-2-a. Members who retired prior to January 1, 1993 on a service retirement allowance under par. b or f and members who retired on a duty disability allowance and converted to a service retirement allowance under sub. 3-b or 3-c-3 prior to January 1, 1993 shall be eligible for a pension escalator to their service retirement allowance of up to 2% effective with the installment next following the later of the 8th annual anniversary of service retirement or January 1, 1996 and an additional pension escalator of up to 2% in each successive year effective on each subsequent anniversary of the first adjustment. The first escalator shall be computed on the service retirement allowance as previously adjusted under subd. 1-a. Each successive escalator shall be computed on the service retirement allowance as previously escalated. The payment of each pension escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. Beneficiaries other than spouses receiving survivor benefits or protective survivor benefits under sub. 7-b-2 shall not be eligible for benefits under this subparagraph. If a member, who elected a spouse survivor option and retired prior to January 1, 1993 on a service retirement allowance under par. b or f, dies, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their survivor allowance of up to 2% effective with the installment next following the later of the 8th anniversary of the member's service retirement or January 1, 1996. If a member elected a protective survivor option and died prior to January 1, 1993 while in active service, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their spouse survivor allowance of up to 2% effective with the installment next following the later of the eighth anniversary of the member's death or January 1, 1996. A spouse receiving a spouse survivor pension escalator shall be eligible for an additional escalator of up to 2% in each successive year effective on each subsequent anniversary of the first escalator to the spouse survivor allowance. The first escalator shall be calculated on the spouse survivor allowance as previously adjusted under this subd. Each successive escalator to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously

escalated. The payment of each escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. After January 1, 2000 this subpar. shall not apply to members, retired members or spouse survivors (if the member or retired member is deceased) who participate in the combined fund and spouse survivors of members and retired members who participate in the combined fund.

i-2-b. Effective January 1, 2000, the annual escalator payable under par. h-5-a shall be extended to a general city employe, fireman or policeman, retired on a service retirement allowance under par. b, d-3 or f, a general city employe, a fireman or policeman, retired on a duty disability retirement allowance who converted to a service retirement allowance or a general city employe, a fireman or policeman separated from service who retired on a deferred retirement allowance under sub. 6-b-2, d-2 or e or an immediate allowance under sub. 6-b-3 or c and their spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member is a general city employe retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 2000 or a fireman or policeman retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 1993. If a member eligible for an escalator under this subpar. was eligible for an annual escalator under subpar. a prior to January 1, 2000, the annual escalator payable under this subpar. shall be effective upon the anniversary of the escalator payable under subpar. a if such anniversary is different from the anniversary of the installment next following service retirement. If a member referred to above retires on a duty disability retirement allowance and converts to a service retirement allowance the conversion date shall be used for purposes of determining both the eligibility and the percentage increase of the annual escalator to which the member or spouse survivor is eligible. Effective January 1, 2000, the annual escalator payable under par. h-6 shall be extended to a fireman and policeman who retired on a duty disability retirement allowance of 75% of current salary for their position under sub. 3-c-1-a between October 17, 1992 and December 31, 1994 if he or she is eligible to elect between a service retirement allowance and a duty disability allowance under sub. 3-c-f effective with the installment next following one year after eligibility for an election to convert to a service retirement. Effective January 1, 2000 the annual escalator payable under par. h-6 shall be extended to a fireman or policeman who separated from service between January 1, 1993 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-b-2 or 6-d-2 or separated from service between January 1, 1995 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-e or separated from service between January 1, 1993 and December 31, 1999 and retired on an immediate allowance under sub. 6-b-3 or c and his or her spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member separated from service prior to January 1, 2000. If a member who is eligible for an increase under this subpar. dies on or after January 1, 2000 his or her spouse's proportionate share of spouse survivor allowance shall be computed based on the amount of the deceased member's allowance including increases at the date of death and the spouse survivor shall be eligible for an annual escalator to his or her spouse survivor allowance at the same time and in the same percentages as the deceased member would have received had the deceased member continued to live. *(Par. i cr. File #942016, July 14, 1995; eff. Sept. 27, 1995. Par. i-1-0 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-1-a and b csrn. to i-1-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-a and b csra. to i-2-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-b cr. File # 991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-b am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

j. Internal Revenue Code. In this paragraph, for purposes of testing under s. 415 of the Internal Revenue Code, the limitation year shall be the calendar year.

j-1. Requirements. Notwithstanding any other provisions of the retirement system to the contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of s. 415 of the Internal Revenue Code for a qualified pension plan.

j-2. Participation in Other Qualified Plans: Aggregation of Limits.

j-2-a. The s. 415(b) of the Internal Revenue Code limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in s. 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one plan.

j-2-b. The s. 415(c) of the Internal Revenue Code limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in s. 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one plan.

j-3. Basic 415(b) Limitation.

j-3-a. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in s. 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in s. 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in s. 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the retirement system. In no event shall a member's annual benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to s. 415(d) of the Internal Revenue Code and the regulations thereunder.

j-3-b. For purposes of s. 415(b) of the Internal Revenue Code, "annual benefit" means a benefit payable annually in the form of a straight life annuity, with no ancillary benefits, without regard to the benefit attributable to after-tax employe contributions, except pursuant to s. 415(n) of the Internal Revenue Code, and to rollover contributions as defined in s. 415(b)(2)(A) of the Internal Revenue Code. The "benefit attributable" shall be determined in accordance with U.S. treasury regulations.

j-3-c. The annual pension benefit payable to a member who has a freeze date specified in this paragraph shall not be less than the member's old law benefit. A member's old law benefit shall be the benefit the member was entitled to as of December 31, 1994 (the "freeze date") determined without regard to any changes in the terms and conditions of the retirement system after December 8, 1994.

j-4. Adjustments to Basic 415(b) Limitation for Form of Benefit.

j-4-a. If the benefit under the plan is other than the form specified in par. j-3, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in U.S. treasury regulations.

j-4-b. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subpar. a is applied by either reducing the s. 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount, determined using the assumptions specified in U.S. treasury regulation s. 1.415(b)-1(c)(2)(ii), that takes into account the additional benefits under the form of benefit as follows:

j-4-b-1 For a benefit paid in a form to which s. 417(e)(3) of the Internal Revenue Code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

j-4-b-1-a. The annual amount of the straight life annuity ,if any, payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

j-4-b-1-b. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption ,or the applicable statutory interest assumption; and

j-4-b-1-b-1. For years prior to January 1, 2009, the applicable mortality tables described in U.S. treasury regulation s. 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

j-4-b-1-b-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code); or

j-4-b-2. For a benefit paid in a form to which s. 417(e)(3) of the Internal Revenue Code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

j-4-b-2-a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience; or

j-4-b-2-b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption, or the applicable statutory interest assumption; and

j-4-b-2-b-1. For years prior to January 1, 2009, the applicable mortality tables for the distribution under U.S. treasury regulation s. 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequentRevenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

j-4-b-2-b-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code); or

j-4-b-2-c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit computed under U.S. treasury regulation s. 1.417(e)-1(d)(3); and

j-4-b-2-c-1.or years prior to January 1, 2009, the applicable mortality tables for the distribution under U.S. treasury regulation s. 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

j-4-b-2-c-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code), divided by 1.05.

j-4-c. The actuary may adjust the 415(b) of the Internal Revenue Code limit at the annuity starting date in accordance with subpar. b-1 and 2.

j-5. Benefits For Which No Adjustment of the 415(b) Limit is Required.

For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:

j-5-a. Any ancillary benefit which is not directly related to retirement income benefits.

j-5-b. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

j-5-c. Any other benefit not required under s. 415(b)(2) of the Internal Revenue Code and U.S. treasury regulations thereunder to be taken into account for purposes of the limitation of s. 415(b)(1) of the Internal Revenue Code.

j-6. Other Adjustments in 415(b) Limitation.

j-6-a. If the member's retirement benefits become payable before age 62, the limit prescribed by this paragraph shall be reduced in accordance with U.S. treasury regulations pursuant to the provisions of s. 415(b) of the Internal Revenue Code, so that such limit, as so reduced, equals an annual straight life benefit, when such retirement income benefit begins, which is equivalent to a $160,000, as adjusted, annual benefit beginning at age 62.

j-6-b. If the member's benefit is based on at least 15 years of service as a full-time employe of any police or fire department or on 15 years of military service, the adjustments provided for in subpar. a shall not apply.

j-6-c. The reductions provided for in subpar. a shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

j-7. Less than 10 Years of Participation or Service Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than 10 years of participation shall be the

amount determined under subd. 3, as adjusted under subd. 4 or subd. 6, multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is 10. The limit under subd. 8 concerning the $10,000 limit shall be similarly reduced for any member who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subdivision cannot reduce the maximum benefit below 10% of the limit determined without regard to this subdivision. The reduction provided for in this subdivision shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

j-8. $10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the s. 415 of the Internal Revenue Code limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed $10,000 for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

j-9. Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the limits under s. 415(b) of the Internal Revenue Code (the "Limit") to a member with no lump sum benefit, all of the following shall apply:

j-9-a. A member's applicable Limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any cost-of-living adjustments under pars. h and i.

j-9-b. To the extent that the member's annual benefit equals or exceeds the Limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than the Limit. Thereafter, in any subsequent limitation year, a member's annual benefit, including any cost-of-living increases under pars. h and i, shall be tested under the then-applicable benefit Limit, including any adjustment to the s. 415(b)(1)(A) of the Internal Revenue Code dollar limit under s. 415(d) of the Internal Revenue Code, and the regulations thereunder.

j-10. Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit shall be applied taking into consideration cost-of-living increases as required by s. 415(b) of the Internal Revenue Code and applicable U.S. treasury regulations.

j-11. Repayments of Cashouts. Any repayment of contributions, including interest, to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system, a retirement system sponsored by the state of Wisconsin or by a unit of local government in the state of Wisconsin shall not be taken into account for purposes of s. 415 of the Internal Revenue Code, in accordance with applicable U.S. treasury regulations.

j-12. Reduction of Benefits Priority. Reduction of benefits or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrators of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrators for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plans and the plan administrators of all other plans covering such member.

j-13. Section 415(c) Limitations on Contributions and Other Additions.

j-13-a. For purposes of this subdivision, effective January 1, 2002, unless otherwise provided, after-tax member contributions or other annual additions with respect to a member may not exceed the lesser of either:

j-13-a-1. $40,000, as adjusted pursuant to s. 415(d) of the Internal Revenue Code; or

j-13-a-2. 100% of the member's compensation.

j-13-b. Annual additions are defined to mean the sum, for any year, of employer and member contributions to a defined contribution plan, post-tax member contributions to a defined benefit plan, except for purposes of service purchases, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and without regard to employe contributions to a simplified employe pension which are excludable from gross income under s. 408(k)(6) of the Internal Revenue Code and to picked-up employe contributions that are paid to a defined benefit plan. The compensation limit referred to in subpar. a-2 shall not apply to any contribution for medical benefits, within the meaning of s. 419A(f)(2) of the Internal Revenue Code, after separation from service which is treated as an annual addition.

j-13-c. For purposes of applying s. 415(c) of the Internal Revenue Code and for no other purpose, the definition of "compensation", where applicable, shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by U.S. treasury regulation s. 1.415(c)-2, or successor regulation. However, member contributions picked up under s. 414(h) of the Internal Revenue Code shall not be treated as compensation.

j-13-d. "Compensation" shall be defined as wages within the meaning of s. 3401(a) of the Internal Revenue Code and all other payments of compensation to an employe by an employer for which the employer is required to furnish the employe a written statement under ss. 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code, and shall be determined without regard to any rules under s. 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in s. 3401(a)(2) of the Internal Revenue Code. However, the following adjustments shall also apply:

j-13-d-1. For limitation years beginning on and after January 1, 2002, "compensation" shall also include amounts that would otherwise be included in compensation but for an election under ss. 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. "Compensation" shall also include any elective amounts that are not includible in the gross income of the member by reason of s. 132(f)(4) of the Internal Revenue Code.

j-13-d-2. For limitation years beginning on and after January 1, 2009, "compensation" for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if any of the following are true:

j-13-d-2-a. The payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours, such as overtime or shift differential, commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

j-13-d-2-b. The payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

j-13-d-2-c. Payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

j-13-d-3. Any payments not described in subpar. d-2 are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service, within the

meaning of s. 414(u)(1) of the Internal Revenue Code, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

j-13-d-4. An employe who is in qualified military service, within the meaning of s. 414(u)(1) of the Internal Revenue Code, shall be treated as receiving compensation from the employer during such period of qualified military service equal to whichever of the following is applicable:

j-13-d-4-a. The compensation the employe would have received during such period if the employe were not in qualified military service, determined based on the rate of pay the employe would have received from the employer but for the absence during the period of qualified military service; or

j-13-d-4-b. If the compensation the employe would have received during such period was not reasonably certain, the employe's average compensation from the employer during the 12-month period immediately preceding the qualified military service, or, if shorter, the period of employment immediately preceding the qualified military service.

j-13-d-5. Back pay, within the meaning of U.S. treasury regulation s. 1.415(c)-2(g)(8), shall be treated as "compensation" for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

j-13-e. If the annual additions for any member for a plan year exceed the limitation under s. 415(c) of the Internal Revenue Code, the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System or similar Internal Revenue Service correction program.

j-13-f. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subdivision shall not exceed the annual limit under s. 401(a)(17) of the Internal Revenue Code.

(Par. j cr. File #060488, Sept. 26, 2006; eff. Dec. 12, 2006. Par. j rc. File #150113; June 2, 2015; eff. August 18, 2015.)

2. ORDINARY DISABILITY RETIREMENT ALLOWANCE. a. Years of Service. a-1. Upon the application for ordinary disability retirement made by a member in active service, or the head of the department or agency employing him where such member is prevented from filing because he is incapacitated, and who has had 10 or more years of creditable service such member may be retired by the board not less than 30 and not more than 90 days next following the date of filing such application for an ordinary disability retirement allowance, provided the medical council, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. *(Subd. 1 am. Ch. Ord, 382, File #71-2300, Mar. 21, 1972.)*

a-2. If, however, such member has less than 10 years of creditable service, he may apply for disability retirement allowance, but such allowance shall be limited in the duration of its payment to a period of time equal to 1/4 of the entire period of service rendered by such member. If a member granted a limited disability retirement allowance under this subsection is not restored to active service, there shall be refunded to him at the time of the termination of his retirement allowance a lump sum equal in amount to the difference between the amount of his accumulated contributions at the time of his retirement and the sum of the payments actually made to him during his disability retirement which is the actuarial equivalent of his accumulated contributions, conditioned as provided in sub. 6-a. *(Subd. 2 am Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

a-3. Any pre-existing physical condition as determined from a medical examination conducted for the city in connection with the employment of a member shall be deemed a bar to coverage of any disability benefits under this act as a direct or indirect result of such disability. *(Subd. 3 cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

a-4. A fireman whose duty it is to provide emergency medical services and who was enrolled as a fireman on June 1, 1989, shall continue to be eligible for an ordinary disability retirement allowance under pars. a and b for a period of 5 years from the date of enrollment as a fireman and shall have all service in a position whose duty it is to provide emergency medical services included for the purpose of computation of creditable service under this par. and the computation of the entire period of service under par. b. *(Subd. 4 cr. File #890598, July 25, 1989; eff. Oct. 14, 1989.)*

b. Disability Allowance. The ordinary disability retirement allowance shall consist of 90% of the service retirement allowance based on the creditable service to the time of disability, with a minimum allowance of 25% of his final average salary, provided that no retirement allowance shall exceed 90% of the allowance the member would receive were his service continued to the minimum service retirement age. *(Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

c. Firemen and Policemen. Firemen and policemen shall be entitled to ordinary disability benefits as stated hereafter:

c-1. Firemen and policemen who are retired on ordinary disability prior to January 1, 1971, shall be entitled to benefits provided in pars. a and b.

c-2. Firemen and policemen hired before January 1, 1971, but who were in active service on or after January 1, 1971, shall select either the benefits provided in pars. a and b, or the benefits provided under subd. 3.

c-3. The minimum ordinary disability retirement allowance shall consist of an amount equal to 25% of the member's final average salary provided he or she has 5 years of service as a fireman or policeman; for each year of service in excess of 5 years of such service as a fireman or policeman, he shall receive an additional 2% of his or her final average salary. The maximum ordinary disability retirement allowance which shall be payable to any fireman or policeman member on ordinary disability under this subsection shall be limited to 50% of such member's final average salary. Firemen or policemen shall receive a pro rata retirement allowance based upon this formula for service for any period less than a full year. *(Subd. 3 am. File #020471, July 16, 2002; eff. Oct. 1, 2002.)*

c-4. Firemen and policemen hired after January 1, 1971, shall be entitled to the benefits provided in subd. 3 and shall be entitled to no other selection. *(Subd. 4 cr. Ch. Ord. 394, File #72-1435, Nov. 14, 1972.)*

d. Death Prior to Retirement. In the event a policeman or general city employe who applies for an ordinary disability retirement allowance on or after January 1, 1985 or a fireman who applies for an ordinary disability retirement allowance on or after March 1, 1985, dies prior to retirement but after selecting an option under sub. 7, the application shall continue to be processed as though such member shall have continued to live and if such application is approved, the election of an optional benefit shall become effective on the date of the member's death. This paragraph shall not apply in the event of accidental death benefits payable under sub. 5. *(Par. d cr. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.)*

e. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5-a shall be extended to a general city employe who was enrolled as a member of the retirement system prior to January 1, 2014 and retires, or is retired before January 1, 2000 on an ordinary disability retirement allowance and a fireman or policeman who retired prior to January 1, 1993 and on an ordinary disability retirement allowance and his or her spouse survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) is a participant in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to a fireman or policeman who retires on or after January 1, 1993 on an ordinary disability retirement allowance and his or her spouse survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) is a participant in the combined fund. If a member who is eligible for an increase under this paragraph dies while on ordinary disability on or after January 1, 2000, his or her spouse's proportionate share spouse survivor allowance shall be computed based on the amount of the member's ordinary disability retirement allowance including increases at the date of death. The annual escalator shall be payable to the member or spouse survivor at same times and in the same percentages as the increases the member would have received had the

member retired on a service retirement allowance on the date of his or her ordinary disability retirement. *(Par. e cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. e am File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

3. DUTY DISABILITY RETIREMENT ALLOWANCE. a. While in Active Service. Any member in active service who shall become permanently and totally incapacitated for duty as the natural and proximate result of an injury occurring at some definite time and place while in the actual performance of duty shall, upon filing a request for retirement with the board on a form provided by the board for that purpose, be entitled to a duty disability retirement allowance to begin not less than 30 nor more than 90 days after the filing of the application therefor, provided the medical council or medical panel after a medical examination of such member shall certify that such member is mentally or physically incapacitated for further duty as a result of such service injury and such incapacity is likely to be permanent and such member should be retired. No beneficiary entitled to a duty disability retirement allowance shall receive any allowance on account of ordinary disability. No person first employed by the city as a fireman or paramedic on or after December 1, 1983, shall be eligible to receive a duty disability retirement allowance as a result of an injury occurring during the period he or she is assigned to the Fire Academy or Medical College of Wisconsin for recruit training. No person first employed by the city as a policeman on or after August 1, 1985, shall be eligible to receive a duty disability retirement allowance as a result of an injury occurring prior to field training during the period he or she is assigned to the Police Academy for recruit training. No person first employed by the city as a police aide on or after July 1, 1985, shall be eligible to receive a duty disability retirement allowance as a result of an injury occurring while in the performance of duty. *(Par. a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Par. a am. File #881103, September 20, 1988; eff. Dec. 5, 1988.)*

b. Allowance. b-1. The duty disability retirement allowance shall equal the service retirement allowance if such member has attained the minimum service retirement age; otherwise it shall consist of an allowance which is the actuarial equivalent of his accumulated contributions, plus an additional retirement allowance equal to 75% of his final average salary. *(Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972; Par. b renumbered b-1, File #921978, Apr. 8, 1993; eff. June 16, 1993.)*

b-2. If a general city employe is found to be eligible for a duty disability retirement allowance referred to in par. g-0 which is first effective prior to the member attaining age 55, such member shall mandatorily convert to a service retirement allowance upon attaining age 60. If a general city employe is found to be eligible for a duty disability retirement allowance referred to in par. g-0 which is first effective after the member attains the age of 55, such member shall mandatorily convert to a service retirement allowance after attaining age 60 or after the expiration of the maximum period under par. g-2, whichever is later. If the maximum period for a general city employe referred to in par. g-2 extends beyond age 60, such member shall be eligible to voluntarily convert to a service retirement allowance commencing at age 60. *(Subd. 2 cr. File #921978, Apr. 8, 1993; eff. June 16, 1993. Subd. 2 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Subd. 2 am. File #950869, October 17, 1995; eff. January 2, 1996.)*

b-3. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5-a shall be extended to a general city employe who was enrolled as a member of the retirement system prior to January 1, 2014 and retires andis receiving a duty disability allowance and his or her spouse survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) participates in the combined fund. If a member who is eligible for an increase under this subsection dies while on duty disability on or after January 1, 2000, his or her spouse's proportionate share spouse survivor allowance shall be computed based on the amount of the member's duty disability retirement allowance including increases at the date of death. The annual increase shall be payable to the member or spouse survivor at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her duty disability retirement. *(Subd. 3 cr. File # 991585, April 11, 2000; eff. Jan. 19, 2001. Subd. 3 am File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

c. Firemen and Policemen Duty Disability. c-1. Medical Panel, etc. Firemen and policemen who are eligible for duty disability retirement allowance shall file a request therefor with the board on a form provided by it for that purpose; such disability shall be determined as follows:

c-1-a. Recommendations. Except for policemen who become members after June 28, 2005, and firemen represented by Local 215, IAFF, who become members of the retirement system after December 13, 2005 and apply for duty disability retirement allowance based on a mental injury, such member shall be examined by a medical panel and such medical panel shall make the examination, determination and certification required under this act in accordance with the form prescribed by the board. If the panel recommends that such person is entitled to duty disability retirement allowance provided for in this section, the board shall thereupon grant such allowance. For policemen who become members of the retirement system after June 28, 2005, and firemen represented by Local 215, IAFF, who become members of the retirement system after December 13, 2005 and apply for a duty disability retirement allowance based on a mental injury, the application shall be referred to the medical council established under s. 36-15-12, in lieu of the medical panel, which medical council shall make the determination and certification required under this act. In any reexamination authorized by this act of such retired beneficiary, the beneficiary shall be referred to the medical council, in lieu of the medical panel, for reexamination and such medical council shall make the determination and certification required under this act. Notwithstanding the foregoing, an application for a duty disability retirement filed on or after January 1, 2016, by a policeman who is represented by the MPSO, or an application for a duty disability retirement filed on or after June 19, 2016, by a policeman who is represented by the MPA, or an application for a duty disability retirement filed on or after July 30, 2016, by a fireman represented by Local 215, IAFF, shall be referred to the medical council established under s. 36-15-12, in lieu of the medical panel, which medical council shall make the determination and certification required under this act, and any authorized reexamination of such beneficiary shall be referred to the medical council, which shall make the determination and certification required under this act. Except as otherwise provided in subd. 3-f and g, any fireman or policeman who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 75% of the current annual salary for such position which he held at the time of such injury. Except as otherwise provided in subd. 3-f and g, the surviving spouse of such member after his or her death but only during the period prior to remarriage shall receive 70% of the amount of the duty disability which the member received at the time of his or her death, and such percentage shall thereafter be based upon the salary of the position of such member at the time of his or her death. Prior to such person attaining the minimum service retirement age, periodic medical examinations of such person shall be made at least once each year but the heads of the respective departments may direct more frequent examinations. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5 shall be extended to the allowance received by the surviving spouse of a retired fireman or policeman who retired on a duty disability retirement allowance under this subpar. prior to January 1, 1993 and died while receiving a duty disability retirement allowance if the member (or the surviving spouse of the member is deceased) participates in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to the allowance received by the surviving spouse of a retired fireman or policeman who retired on a duty disability allowance under this subpar. on or after January 1, 1993 and dies while receiving a duty disability retirement allowance if the member (or the surviving spouse of the member is deceased) participates in the combined fund. The annual escalator shall be payable to the surviving spouse at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her death. *(Subpar. a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subpar. a am. Ch. Ord. 565, File #861820, Feb. 24, 1987; eff. May 11, 1987. Subpar. a am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subpar. a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Subpar. a am. File #001071, Nov. 28, 2000; eff. Feb. 13, 2001. Subpar. a am. File #041649, April 12, 2005; eff. June 28, 2005. Subpar. a am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005. Subpar. a am. File #071497, April 9, 2008; eff. June 30, 2008. Subpar. a am. File #081272, Feb. 10, 2009; eff. Apr. 28, 2009. Subpar. a am. File #151113, Dec. 15, 2015; eff. Feb. 29, 2016. Subpar. a am. File #151274, Feb. 9, 2016; eff. April. 26, 2016. Subpar. a am. File #141568, Sept. 20, 2016; eff. Dec. 6, 2016.)*

c-1-b. Case Review. In the event a member receiving a duty disability retirement allowance is later determined to be fit for service he shall be restored to service in his department and he shall no longer be entitled to receive a duty disability retirement allowance. The board may at any time request information concerning such person or investigate his status or request a medical examination of such person. The provisions of ss. 36-07-2 and 3 and 36-12 shall apply in all respects to such person entitled to receive a duty disability retirement allowance. In the event however that such fireman or policeman who is eligible to recover duty disability has a disability involving the loss of use of both eyes or the full loss of use of one eye and one limb or the full loss of the use of 2 limbs or an equivalent disability that would impair the member's (retiree's) ability to earn a livelihood and such disability is determined by majority action of the medical panel or medical council, then in such event the disabled fireman or policeman shall receive a duty disability pension of 90% of his current salary, and the board may waive the annual medical examination by the said panel or medical council of physicians; but in lieu thereof the disabled fireman or policeman annually shall submit a report from his personal physician to the board. If such panel or medical council reaches a determination unfavorable to the fireman or policeman on duty disability he may after 6 months but not later than one year request a reexamination by the medical council, or the convening of a second 3-physician panel to be constituted in the same manner and for the same purpose as the initial panel but such request shall be in writing. If an unfavorable result is reached, the fireman or policeman may seek further review but not sooner than 12 months from the last determination. This benefit shall be in lieu of any other benefits provided in this act for duty disability allowances. (Subpar. b am. Ch. Ord. 565, File #86-1820, Feb. 24, 1987; eff. May 11, 1987. Su`1bpar. b am. File #041649, April 12, 2005; eff. June 28, 2005.)

c-1-c. Recomputation. Recomputation of the amount of disability benefits shall occur once whenever there is a salary adjustment in the salary for such position. Such adjustment shall thereupon become effective at once. If the position from which the member retired under a duty disability is eliminated, then the city service commission shall determine in what manner the current annual salary shall be established for such position for purposes of determining disability payments under this section.

c-1-d. Surviving Spouse and Child Benefits Related to 90% Duty Disability Allowance. The surviving spouse of a member receiving a duty disability allowance of 90% of current salary after his or her death but only during the period prior to remarriage shall receive 75% of the amount of duty disability which the member received at the time of his or her death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his or her death. The period of time during which duty disability benefits shall be paid shall in no event be less than the time provided for under similar circumstances in this act prior to this amendment. Any such fireman or policeman shall also have a right to receive child's disability benefit of amounts of $40 a month on account of each child less than 18 years of age; provided, the total amount of child's disability benefits which shall be granted or paid to any such fireman or policeman shall not exceed 20% of the salary as aforesaid to such fireman or policeman. Such benefit or benefits shall be paid to such disabled fireman or policeman periodically according to rules concerning such benefits to be adopted by the retirement board. *(Subpar. d am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subpar. d am. File #071497, April 9, 2008; eff. June 30, 2008.)*

c-1-e. Maximum Allowance. Except for a policeman or a fireman receiving a duty disability allowance of 90% of current salary under this section, the duty disability allowance together with outside earnings shall not exceed 100% of the current annual salary, and in the event outside earnings together with the duty disability allowance exceed 100% the duty disability allowance shall be reduced in the amount that

such earnings together with the duty disability allowance exceed 100%, as provided in part 2 of charter ord. 416, File #73-1842, passed Oct. 8, 1974. *(Subpar. e am. Ch. Ord. 526, File #83-986, Sept. 27, 1983.)*

c-2. Effective Date. It is declared to be the intent of charter ord. 380, File #70-2025, passed by the common council on February 8, 1972, that persons who were on duty disability from and after January 1, 1971, but whose duty disability was terminated prior to the effective date of charter ord. 380 by returning to active employment shall be entitled to the benefits provided by charter ord. 380 for the period of time from January 1, 1971, to the time when they returned to such active employment predicated upon the computations set forth in charter ord. 380. All the conditions referred to in charter ord. 380 shall also be applicable to this charter ordinance. *(Ch. Ord. 386, File #70-2025-a May 26, 1972.)*

c-3. Period of Eligibility.

c-3-a. Policemen who are found to be eligible for a duty disability retirement allowance prior to November 1, 1976 and firemen who are found to be eligible for a duty disability retirement allowance prior to October 1, 1977, shall continue to receive such allowance for life during their period of eligibility.

c-3-b. Policemen who are found to be eligible for a duty disability retirement allowance on or after November 1, 1976 and firemen who are found to be eligible for a duty disability retirement allowance on or after October 1, 1977, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following age 63, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-c. Firemen who are found to be eligible for a duty disability retirement allowance on or after March 1, 1984 and policemen who are found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after August 1, 1985, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age as provided in sub. 1-b, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-d. Firemen who are found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after February 22, 1988 and policemen who are not members of the Milwaukee Police Association bargaining unit and found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after January 1, 1988, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age, as provided in sub. 1-b or their attainment of the age of 54 years and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-e. Policemen found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after January 1, 1990 and firemen found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after December 17, 1989, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age, as provided in sub. 1-b or their attainment of the age of 52 years and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-f. Firemen or policemen who retire on a duty disability retirement allowance on or after October 17, 1992 shall continue to receive their allowance during their period of eligibility until they reach the first of the month next following their minimum service retirement age as provided in sub. 1-b or their attainment of age 52 and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall convert to a service retirement allowance if they do not irrevocably elect to continue to receive their duty disability retirement allowance as provided in this subd. The member shall make such

election in writing on a form prescribed by the board at any time within 6 months prior to the conversion date. If a member elects to continue to receive a duty disability allowance, the member shall receive an amount equal to the amount the member would have received had the member converted to service retirement allowance provided, however, the amount the member shall receive shall not be more than 75% of the current annual salary for the position held at the time of the member's injury nor less than 57% of a fireman or 60% in the case of a policeman of the current annual salary for the position held at the time of the member's injury. During 6 months prior to the conversion date, the member may also irrevocably elect a spouse survivor option under sub. 7-b-1, 7-b-2 or 7-b-3. If the member elects a spouse survivor option, the spouse survivor allowance shall be effective at the same time, calculated in the same manner and subject to the same terms and conditions as would have been the case had the member converted to a service retirement allowance and elected such option. This subd. shall not apply to members or the surviving spouses of members who are eligible to receive a duty disability retirement allowance of 90% of current salary for the position under subd. 1-b. Members who irrevocably elect to continue their duty disability retirement allowance under this subd. shall not be eligible to continue to receive an amount equal to 75% of current salary under subd. 1-a and their surviving spouses shall not be eligible to receive 70% of the amount received by the member under subd. 1-a.

c-3-g. Notwithstanding any provision of subd. b to f to the contrary, a policeman or fireman receiving a duty disability allowance of 90% of current salary under this section shall continue to receive such allowance for life during their period of eligibility for such 90% duty disability allowance and such fireman's or policeman's surviving spouse after the member's death and prior to remarriage shall continue to be eligible to receive 75% of the amount which the member received at death. *(Subd. 3 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subd. 3 am. File #872401, May 17, 1988; eff. Aug. 2, 1988. Subd. 3 am. File #872396, Sept. 20, 1988; eff. Dec. 5, 1988. Subd. 3 am. File #881667, Dec. 20, 1988; eff. March 13, 1989. Subd. 3 am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Subd. 3 am. File #891650, Jan. 16, 1990; eff. April 4, 1990. Subd. 3 am. File #900239, July 10, 1990; eff. Sept. 25, 1990. Subd. 3 rc. File #901940, March 26, 1991; eff. June 11, 1991. Subd. 3-f ra. to 3-g File #940423, July 15, 1994; eff. Sept. 28, 1994. Subd. 3-f cr. File #940423, July 15, 199;, eff. Sept. 28, 1994. Subd. 3-f am. File #950521, July 28, 1995, Oct. 3, 1995. Subd. 3-f am. File 951195, Dec. 19, 1995; eff. March 13, 1996. Subd. 3-g am. File #950521, July 28, 1995; eff. Oct. 3, 1995.)*

d. Special Fund. Duty disability retirement allowances for retirees who are not participants in the combined fund shall be paid specifically from a special fund created for that purpose and the city shall be liable for contributions to such fund in order that it may be adequate to meet the required payments. City agencies that are also covered by this act shall be required to contribute to such fund the cost of duty disability allowances for members in their employment who are entitled thereto. *(Par. d am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. d am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

e. Death Prior to Retirement. In the event a policeman who applies for a duty disability retirement allowance on or after January 1, 1985, or a fireman who applies for a duty disability retirement allowance on or after March 1, 1985, dies prior to retirement leaving a surviving spouse, the application shall continue to be processed as though the member shall have continued to live and if such application is approved, the surviving spouse's benefit shall become effective as of the date of the member's death. In the event a general city employe who applies for a duty disability retirement allowance on or after January 1, 1985, dies prior to retirement but after selecting an option under sub. 7, the application shall continue to be processed as though such member shall have continued to live and if such application is approved, the election of an optional benefit shall become effective on the date of the member's death. This paragraph shall not apply in the event accidental death benefits are payable under sub. 5. *(Par. e cr. Ch. Ord. 554, File #85-845, Oct 1, 1985, eff. Dec. 15, 1985.)*

g. Older Worker's Benefit Protection Act. Note: par. g repealed pursuant to File #000697, September 22, 2000, eff. December 11, 2000. Notwithstanding the repeal of par. g, its provisions continue to apply to a number of general city employes; the text of the repealed par. g follows:

g. Older Worker's Benefit Protection Act. General city employes hired on or after October 17, 1992, and general city employes hired prior to October 17, 1992, who elected an optional benefit under par. f and apply for a duty disability retirement allowance on or after January 1, 1993, will be eligible for a duty disability retirement allowance on the same terms as the duty disability retirement allowance which would otherwise apply to them except:

g-1. The amount of the member's benefit shall be 72% of final average salary. Effective with the installment next following the month such member attains age 62, the member's benefit shall be reduced by the amount of the service retirement allowance which would be payable upon voluntary conversion at age 62 under par. b-2.

g-2. If a member is between the ages of 55 and 59 at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the member attains age 60 or the expiration of a maximum period of 46 months, whichever is later. If a member is between the ages of 60 and 65 at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the expiration of a maximum period of 27 months. If a member has attained 65 years of age at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the expiration of a maximum period of 16 months. (Par. g cr. File #921978, Apr. 8, 1993; eff. June 16, 1993. Par. g-0 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Par. g-0 am. File #950869, October 17, 1995; eff.January 2, 1996. Par. g rp File #000697, Sept. 22, 2000; eff. Dec. 11, 2000.)

i. General city employes who retire on a duty disability retirement allowance on or after January 1, 1995 (on or after August 16, 1994 for employes represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), shall be eligible for and receive a duty disability retirement allowance equal to 75% of final average salary. General city employes who have not attained the age of 60 years at the time of such retirement shall continue to receive such allowance during their period of eligibility until they reach the first of the month next following age 65, at which time they shall convert to a service retirement allowance. General city employes who have attained the age of 60 years at the time of such retirement shall continue to receive such allowance during their period of eligibility for a period of 5 years, at which time they shall convert to a service retirement allowance. *(Par. i cr. File #941981, April 25, 1995; eff. July 12, 1995; Par. i am. File #951195, December 19, 1995; eff. March 13, 1996. Par. i am. File #000697, Sept. 22, 2000; eff. Dec. 11, 2000.)*

5. ACCIDENTAL DEATH BENEFIT.

a. Spouse or Child's Annuity. Upon receipt of proper proofs of the death of a member in active service containing evidence acceptable to the board that such death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board, in lieu of the ordinary death benefit of a lump sum payment of 1/2 the final average salary of such deceased member, shall grant a pension of 60% of the final average salary of such deceased member and the return of accumulated contributions of such member to: *(Par. a-0 am. Ch. Ord. 370, File #71-239, May 24, 1971; Par. a-0 am. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972.)*

a-1. His widow or her widower. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5-a shall be extended to such widow or widower of a general city employe who was enrolled as a member of the retirement system prior to January 1, 2014 and died at any time or of a fireman or policeman who died prior to January 1, 1993 if the member (or widow or widower if the member is deceased) participates in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to such widow or widower if a fireman or policeman who dies on or after January 1, 1993 if the member (or widow or widower if the member is deceased) participates in the combined fund. The annual escalator shall be payable to the widow or widower at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her death. *(Par. a-1 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-1 am. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972. Par. a-1 am. File 950294, June 27, 1995; eff. Sept. 13, 1995. Par. a-1 am. File #990234, June 2, 1999; eff. Aug. 18, 1999. Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a-1 am. File #121701, May 21, 2013; eff. Aug. 10, 2013.)*

a-2. If there be no widow or widower, or if the widow or widower dies before the youngest surviving unmarried child of such deceased member attains the age of 21, then to his or her child or children under said age, divided in such manner as the board in its discretion shall determine, to continue until there are no surviving unmarried children of such deceased member under said age; or *(Par. a-2 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a-2 am, File 950294, June 27, 1995; eff. Sept. 13, 1995. Par. a-2 am. File #950562, Sept. 27, 1995; eff. Dec. 13, 1995)*

a-3. If there be no widow or widower or unmarried children as indicated in subd. 2 surviving such deceased member, then to his or her dependent father or mother, as the board in its discretion shall direct, to continue for life. For purposes of determining the eligibility of dependents of deceased members for benefits hereunder, "dependency" shall mean that the deceased member shall have contributed 50% or more of the support of such parents during the 3 years preceding his or her death. *(Par. a-3 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-3 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a-3 am, File 950294, June 27, 1995; eff. Sept. 13, 1995.)*

b. When No Dependents. Whenever it shall appear to the satisfaction of the board that relatives, named in par. a-3 are not dependent upon the deceased, then in such instances if the beneficiary is not eligible for the death benefit provided for in sub. 10 because the time of employment was less than that required to receive payment under that section, then the ordinary death benefit shall be payable. (Par. b am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.)

c. When Beneficiary Not Eligible. Whenever a beneficiary is not eligible for the benefit under this subsection, then the death benefits under sub. 10 shall be paid. *(Par. c am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.)*

6. SEPARATION BENEFITS. a-1. Return of Accumulated Contribution. Should a member cease to be an employe except by death or retirement under the provisions of this act, he or she shall be paid his or her accumulated contributions as they were at date of separation from service, upon filing with the board a request for such return of contributions on a form provided by the board for that purpose, except that this provision will not apply to a member enrolled after December 31, 1970, until he or she has completed 8 years of creditable service or 4 years of creditable

service if the member separates from service as a general city employe, and will not apply to a policeman enrolled after June 30, 1983, or a fireman or paramedic enrolled after October 31, 1983, unless he or she has completed 10 years of creditable service. However, with respect to the 1% contribution made by policemen, this provision shall not be applicable and as to such 1%, such policemen shall have the withdrawal rights without change. The separation benefits provided for in this paragraph as to policemen shall be effective from and after July 1, 1972, and policemen entering this system prior to such date shall be governed by the separation benefits as the same were prior to the enactment of ch. ord. 365, File #70-2387, approved by the common council on February 17, 1971. *(Par. a am. Ch. Ord, 530, File #82-2109-b, Jan. 24, 1984. Par. a-1-0 am., par. a rn to a-1, File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. a-1 am. File #130184, File #130184, June 11, 2013; eff. August 27, 2013.)*

a-2 Return of Member-Paid Accumulated Contribution. The retirement system shall return to members who separate from service prior to vesting the contributions made by the members under s. 36-08-7-a, b or c. A member may elect to withdraw his or her contribution either after separation or upon termination of membership under s. 36-03-5. Upon filing with the board a request for return of member-paid contribution, on a form provided by the board, the member shall be paid his or her contribution and the regular interest credited on the contribution as it was at the date of separation and ½ the regular interest credited to the account thereafter. A member who withdraws his or her contribution shall not be eligible for any benefits under this chapter and his or her membership shall be terminated. In the event the member dies after separation, the contribution, if not previously paid, shall be paid with the credited interest to the member's estate or designated beneficiary. *(Par. a-2 cr, File #091068, Dec. 22, 2009; eff. March 10, 2010; Par. a-2 am. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015.)*

b. Involuntary Separation. A member who is removed or otherwise involuntarily separated from service for any cause, may elect: *(Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

b-1. To withdraw his accumulated contributions, as provided in par. a; or *(am. Ch. Ord. 332, File #67-355-a July 25, 1967.)*

b-2. To leave his accumulated contributions in the fund until such member attains the minimum service retirement age, at which time he shall be entitled to a retirement allowance calculated in the same manner as provided in sub. 1, providing his retirement allowance at the above mentioned age equals or exceeds $25 per month. During the interim between such member's separation from service and the effective date of his retirement, the member's account shall be annually credited with interest at a rate not exceeding the regular interest rate and his retirement allowance shall be calculated accordingly; or

b-3. To receive a retirement allowance beginning immediately that is the actuarial equivalent of the retirement allowance payable under subd. 2, provided the retirement allowance equals or exceeds $25 or more. (Subd. 3 am File #020598, July 27, 2004; eff. Oct. 12, 2004.)

b-4. In the event a member who has exercised the option provided in subd. 2 returns to active service prior to attaining the minimum service retirement age, he shall again become an active member of the retirement system, and the credits for service which he had at the time of such separation shall be restored to him. Upon his subsequent retirement, he shall be credited with his service as a member subsequent to his last restoration to membership and shall receive a retirement allowance computed as if he were a new member and, in addition, he shall receive an allowance for service prior to his reinstatement computed on the formula in effect at the time he first left such service.

b-5. Should a beneficiary receiving a retirement allowance under the provisions of subd. 3 be restored to active service, his or her allowance shall cease, and he or she shall again become a member of the retirement system and the credit for service which he or she had at the time of such separation shall be restored to him or her. In the event of subsequent separation, death or retirement, the benefits to be paid shall

be reduced by the actuarial equivalent of the retirement allowance under subd. 3 which has not been repaid with interest to the date of repayment. (Subd. 5 am. File #941491, Feb. 14, 1995; eff. May 2, 1995.)

b-6. Upon the death of a person before the effective date of his deferred retirement allowance, as provided in subd. 2, there shall be paid to his estate or to such person as he has nominated by written designation, duly executed and filed with the board, a death benefit equal to his accumulated contributions, conditioned as provided in par. a.

b-7. If a member authorized to make an election under this paragraph does not make an election within a time specified by the board, the board may by rule direct the election be made on the member's behalf. *(Subd. 7 cr. File #880375, June 28, 1988; eff. Sept. 13, 1988.)*

c. Voluntary separation, age 55. A member who separates from service for any cause who has at least 15 years of creditable service and who has attained age 55 shall have the same option as given a member under par. b, except, that if he elects to receive an immediate allowance as provided under par. b-3, he shall be required to file his application at least 30 days prior to the time his retirement shall be deemed effective for the purpose of receiving an immediate allowance. Should a member separated from service elect to retire under par. b-3 and subsequently be engaged in a gainful occupation prior to attaining the minimum service retirement age paying more than the difference between his final average salary at the time of retirement and his retirement allowance, he shall be required to submit such information as the board shall require and his allowance shall be reduced by the amount of such excess. *(Par. c am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

d. Deferred Retirement. A member who separates from service for any cause and who has a minimum of 4 years of creditable service may elect one of the following options:

d-1. To withdraw his accumulated contributions, as provided for in par. a; or

d-2. To leave accumulated contributions in the fund until the member shall attain the minimum service retirement age, at which time the member shall be entitled to a retirement allowance which shall be calculated in the same manner as specified in sub. 1; provided, however, that the member has a minimum of 4 years of creditable service and provided the member's allowance is equal to or exceeds the sum of $25 per month. During the interim of a member's separation from service and the effective date of retirement, the member's account shall annually be credited with interest at a rate not exceeding the regular interest rate and the retirement allowance shall be calculated accordingly. If a member who separated from service and left his or her accumulated contributions in the fund subsequently wishes to withdraw the accumulated contributions prior to retirement, the member shall then be entitled to receive the accumulated contributions credited to the account to the date of separation from service, conditioned as provided in par. a, together with 1/2 the interest credited to the account subsequent thereto, but the member shall have no right to any retirement allowance. Should a member who has elected a deferred retirement subsequently return to service prior to attaining the minimum service retirement age, the member shall again become an active member of this retirement system and the credits for service which he or she had at the time of such separation shall be restored to the member. Upon subsequent retirement the member shall be credited with his or her service as a member subsequent to his or her last restoration to membership and the member shall receive an allowance as if the member were a new member; and in addition the member shall receive an allowance in respect of service prior to his or her last restoration to service computed on the formula in effect at the time he or she first left such service, provided the member has not previously withdrawn contributions as provided under par. b-1. Upon the member's death prior to the time that the member would otherwise be eligible to receive a retirement allowance, there shall be paid to the member's estate or to the member's beneficiary nominated by written designation duly executed and filed with the board prior to the member's death, a death benefit equal to the member's accumulated contributions, conditioned as provided in par. a. Any member separating from service, as hereinbefore provided for, and desiring to avail himself or herself of the rights under this paragraph shall notify the board in writing within 30 days following the date of separation from service. A general city employe, policeman or fireman who separates from service on or after January 1, 1993, and elects this option may elect to defer commencement of the deferred retirement allowance to a date no later than April1 of the calendar year following the

calendar year in which the member attains age 70-1/2 provided, however, that such election must be made no later than 30 days prior to the previously scheduled date for commencement of the receipt of such deferred retirement allowance.

d-3. If a member authorized to make an election under subd. 2 does not make an election within a time specified by the board, the board may by rule direct the election be made on the member's behalf.

(Subd. 2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972; Subd. 2 am. File #921978, Apr. 8, 1993; eff. June 16, 1993; Subd. 2 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subd. 2 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Subd. 3 cr. File #020475, July 16, 2002, eff. Oct. 1, 2002. Subd. 2 am. File #061416, March 22, 2007; eff. June 11, 2007.)

e. Firemen or Policemen, Deferred Retirement. A member who is a fireman or policeman may elect a deferred retirement allowance prior to reaching age 52, provided he has had 25 years of creditable service as such fireman or policeman by notifying the board in writing of his election to do so, and he shall then be entitled to receive his deferred retirement allowance commencing the first of the month following his 52nd birthday; such allowance shall be determined in accordance with sub. 1. *(Par. e cr. Ch. Ord. 370, File #71-239, May 24, 1971. Par. e am. Ch. Ord. 379, File #69-2460-f Feb. 8, 1972.)*

f. When on Leave. Should any member who has separated from service and elected a separation benefit under pars. b-2, c or d-2 subsequently return to city employment for less than 6 months, he shall not be eligible for additional creditable service for such service, and contributions deducted from the member's compensation during such period shall be returned to him and such service shall not terminate the retirement status of the member. *(Par. f cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

g. Less Than One Year's Leave. Should any member who elects a separation benefit under pars. b-2, c or d-2 and subsequently returns to city employment after a lapse of less than one year from the date he left city employment and who remains in city employment until retired for service or disability, he will have his ultimate benefit based on his total creditable service with the city, excluding that period during which he was absent. *(Par. g cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

7. OPTIONAL BENEFITS. a. Death Within 30 Days After Retirement. No election of an optional benefit, except under par. b-4, shall be effective in the event the member dies within 30 days after retirement, and the member shall be considered as an active member at the time of death unless the member elected an optional benefit under par. b-4. This paragraph shall not apply to general city employes who retire on a service retirement allowance on or after February 1, 1983, or on an ordinary or duty disability retirement allowance on or after January 1, 1985, to firemen who retire on a service retirement allowance or on an ordinary or duty disability retirement allowance on or after March 1, 1985, or to policemen who retire on a service retirement allowance or on an ordinary or duty disability retirement allowance on or after January 1, 1985.

b. Retirement Options. Until the effective date of retirement, any member may elect to convert the retirement allowance into a reduced retirement allowance that is the actuarial equivalent of the retirement allowance otherwise payable as follows:

b-1. "OPTION 2". A reduced retirement allowance payable during the member's life, with the provision that after the member's death it shall continue during the life of and shall be paid to such person as the member shall have nominated by written designation duly executed and filed with the board at the time of retirement.

b-2. "OPTION 3". A reduced retirement allowance payable during the member's life, with the provision that after the member's death an allowance of 1/2 of the member's reduced allowance shall be continued during the life of and shall be paid to such person as the member shall have nominated by written designation duly executed and filed with the board at the time of retirement. The retirement allowance because of the election of an option which provides that 1/2 of the member's allowance shall be paid to the member's spouse, shall be limited, however, to a reduction which is not in excess of 5% of the retirement allowance which the member would have received had the member elected no option; it being intended that the election of this option when the beneficiary is the member's spouse shall not reduce the member's maximum retirement allowance in excess of 5% thereof. If a member who has elected a spouse survivorship option under this paragraph receives an adjustment under sub. 1-h-4 prior to

death, the 50% survivorship allowance shall be computed based on the member's service retirement allowance including adjustments at the date of death.

b-3. "OPTION 4." A reduced retirement allowance payable during the member's life, with some other benefit payable to a designated beneficiary or for the benefit of a designated beneficiary after the member's death, provided the succeeding benefits are payable over a period not extending beyond the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary, subject to the provisions of par. e.

b-4. Protective Survivorship Option.

Note to s. 36-05-7-b-4. Any Provision of ch. 36 notwithstanding, general city employes in active service who have selected their spouse as their designated beneficiary under a protective survivorship option under s. 36-05-7-b-4 prior to January 19, 2001 shall be permitted to reselect a retirement option during the 90-day period preceding the effective date of their retirement. (Part 46-1, File #991585, April 11, 2000; eff. Jan. 19, 2001.)

b-4-a. Any member eligible for normal service retirement under this act, except policemen who attain eligibility for normal service retirement under sub. 1-f on or after January 1, 1985, and firemen who attain eligibility for normal service retirement under sub. 1-f on or after March 1, 1985, may elect a protective survivorship option without a reduction because of such election by selecting an option under this subdivision in the manner hereinafter set forth, which option shall then become effective at his or her death, with the same force and effect as if such member had retired under such option immediately prior to his or her death. Any policeman who attains 25 years of creditable service as a policeman under this act on or after January 1, 1985, any fireman who attains 25 years of creditable service as a fireman under this act on or after March 1, 1985, and any fireman eligible for a service retirement allowance under sub. 1-f after attaining the age of 49 years and 22 years of creditable service, may elect a protective survivorship option without a reduction because of such election by selecting an option under this subdivision in the manner hereinafter set forth, which option shall then become effective at or after his or her death with the same force and effect as if such member had retired under such option immediately prior to his or her death, provided sub. 5 is inapplicable. Such option shall operate as do other options selected under the provisions of this section. A member in order to be eligible for the election of such option based on eligibility for normal service retirement shall be required to make his or her election in writing on a form prescribed by the board within 6 months prior to the date when he or she shall first become eligible for normal service retirement. A fireman eligible for election of such option based on 22 years of creditable service shall be required to make his or her election within 6 months of attaining 22 years of creditable service. A policeman or fireman eligible for election of such option based on 25 years of creditable service shall be required to make his or her election within 6 months of attaining 25 years of creditable service. A policeman who is in the Milwaukee Police Association bargaining unit on or after November 3, 1988, a policeman not in the Milwaukee Police Association bargaining unit who was in the Milwaukee Police Association bargaining unit between November 3, 1988, and December 31, 1988, a policeman who is not in the Milwaukee Police Association bargaining unit on or after July 25, 1989, and a fireman in active service on or after January 16, 1990, shall be permitted to make a new election within 6 months of marriage or remarriage. If a fireman or policeman has a spouse at the time he or she becomes eligible to make an election under this subd., such fireman or policeman shall be deemed to have elected the option specified in subd. 1; namely, "option 2", the option which provides a 100% survivor option to the member's beneficiary and to have named his or her spouse as the designated survivor, unless, at the time he or she becomes eligible to make an election under this subd., he or she elects a different option within the time allotted. If a member marries, is divorced or retires, the member shall be permitted to reselect an option under subd. 7-b. The election shall be irrevocable and shall continue after retirement. The option shall be automatically revoked in the event the joint annuitant predeceases the member before retirement; or if the member is legally divorced from the joint annuitant before retirement when such election shall be canceled upon written notice from the member to the board requesting such cancellation. The benefit payable shall be the actuarial equivalent of the benefits otherwise payable. For firemen and policemen eligible for the option provided for by this subdivision based on attaining the minimum

service retirement age, the option shall be effective 30 days after written election thereof is made by the member. For firemen and policemen eligible for the option provided in this subdivision, the option shall be effective on the date of death in the event the member has attained the minimum service retirement age or on the date the member would have attained the minimum service retirement age in the event the member has not attained such age on the date of death. The election of a survivorship option heretofore made shall be deemed to have been made under the provisions of this subdivision as amended.

b-4-b. The election of a protective survivorship option permitted and provided for in this subdivision and made either prior to or after October 14, 1989, wherein such member elected "Option 3", namely, the option which provides a 50% survivorship allowance to the member's spouse, automatically includes such member's right to and results in such member's maximum retirement allowance being reduced only by an amount which is not in excess of 5% of the maximum retirement allowance to which such member would be entitled except for the member's election of "Option 3"; the 5% limitation of the reduction of the member's retirement allowance referred to herein is that limitation stated in subd. 2.

c. Notwithstanding any other provision of sub. 7, on or after January 1, 1989, a member may not elect an option in which the present value of the allowance payable to the member over the member's life expectancy does not exceed the present value of the succeeding benefit. Effective for members electing an option on or after January 1, 1995, this par. does not apply when the member elects an option with the member's spouse as the designated survivor.

d. Disposition of Final Pro-Rated Payment. d-1. In this paragraph, "final pro-rated payment" means that portion of a benefit that has been earned by a beneficiary prior to the death of a beneficiary but had not been paid to the beneficiary prior to his or her death.

d-2. Upon the death of a member who has not elected any survivorship option under this subsection, the member's final pro-rated payment shall be paid to the member's estate, unless the member has named a person or trust to receive the member's final pro-rated payment on a form approved by the board for that purpose.

d-3. Upon the death of a member who has elected any survivorship option under this subsection, the member's final pro-rated payment shall be paid to the member's survivor. If the survivor predeceases the member, the member may name a person or trust to receive the member's final pro-rated payment on a form approved by the board for that purpose.

d-4. Upon the death of a survivor, the survivor's final pro-rated payment shall be paid to the survivor's estate, unless the survivor has named a person or trust to receive the survivor's final pro-rated payment on a form approved by the board for that purpose.

e. The following provisions will apply to any distribution of a member's interest and will take precedence over any conflicting provisions of this chapter.

e-1. This paragraph is not intended to provide an optional form of distribution or commencement date not otherwise permitted under this chapter unless the timing or amount of payment to be made under applicable provisions of this chapter, without regard to this paragraph, would be later than the latest commencement date or less than the required minimum provided under this paragraph.

e-2. Distributions to a member shall commence no later than April 1 of the calendar year following the later of the calendar year the member retires or attains age 70-1/2.

e-3. All distributions required under this paragraph shall be determined and made in accordance with sec. 401(a)(9) of the Internal Revenue Code, as hereafter amended, and the regulations hereunder, including the minimum distribution incidental benefit requirements of 26 Code of Federal Regulations sec. 1.401(a)(9)-6, Q and A-2; provided, however, if a distribution option provided by this chapter on April 17, 2002 is inconsistent with the requirements of 26 Code of Federal Regulations sec. 1.401(a)(9)-6, but is consistent with a good faith interpretation of sec. 401(a)(9) of the Internal Revenue Code, without regard to such regulations, such distribution option will not cause this chapter to fail to satisfy the requirements of sec. 401(a)(9) of the Internal Revenue Code.

e-4. Distribution of benefits, if not made in a single sum, shall be made over one of the following periods, or a combination thereof:

e-4-a. The life of the member.

e-4-b. The lives of the member and a designated beneficiary.

e-4-c. A period not extending beyond the life expectancy of the member.

e-4-d. A period not extending beyond the life expectancy of the member and a designated beneficiary.

e-5. If the distribution of the member's interest has begun in accordance with subd. 4, and the member dies before his or her entire interest has been distributed to the member, the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution used as of the date of death of the member.

e-6. If the member dies before distribution commences, the member's entire interest will be distributed no later than December 31 of the calendar year containing the 5th anniversary of the death of the member except to the extent an election is made to receive the distributions in accordance with the following:

e-6-a. Payments of any portion of such interest to or for the life expectancy of a beneficiary may be made over the life or life expectancy of such beneficiary commencing no later than December 31 of the calendar year containing the first anniversary of the member's death.

e-6-b. Payments of any portion of such interest to the member's surviving spouse are not required to begin earlier than December 31 of the calendar year in which the member would have attained age 70-1/2 or, if later, December 31 of the calendar year following the calendar year of the member's death. If the spouse dies before payments begin, subsequent distributions are required under this subdivision as if the spouse was the member.

e-6-c. Such election must be made by the member (or the member's beneficiary, if the member dies without having made such an election) on or before the earlier of the date by which distributions must commence absent an election and the date distributions must commence assuming such election has been made.

e-7. For the purposes of this paragraph, distribution of a member's interest is considered to begin on the date that distributions must commence to the member (or if subd. 6-b applies, the date distribution is required to begin to the surviving spouse pursuant to subd. 6). If distribution in the form of an annuity irrevocably commences to the member before distributions must commence, distribution is considered to commence on the date it actually commences.

e-8. Any amount paid to a child of the member will be treated as if it had been paid to the surviving spouse when the child reaches the age of majority.

e-9. For the purposes of this paragraph any distribution under the incidental death benefit requirements of sec. 401(a)(9) of the Internal Revenue Code shall be treated as a distribution required under sec. 401(a)(9) of the Internal Revenue Code. *(Sub. 7-a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 7-b-6-a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 7-a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 7-b-6-a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 7-b-6-a am. File #881667, Dec. 20, 1988; eff. March 13, 1989. Sub. 7 rc. File #890633, July 25, 1989; eff. Oct. 14, 1989. Sub. 7-b-4-a am. File #891171, Sept. 28, 1989; eff. Dec. 17, 1989. Sub. 7-b-4-a am. File #891650, Jan. 16, 1990; eff. April 4, 1990. Sub. 7-b-4-b (Note), File #901684, July 28, 1992; eff. Sept. 30, 1992. Sub. 7-b-2 am. File #921978, April 8, 1993; eff. June 16, 1993. Sub. 7-b-4-a am. File #941981, April 25, 1995; eff. July 12, 1995. Sub. 7-b-4-a am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Sub. 7-c am. File #960457, July 12, 1996; eff. Sept. 30, 1996. Sub. 7-d cr. File #060064, May 31, 2006; eff. Aug. 16, 2006. Sub. 7-b-3 am. File #060488, Sept. 26, 2006; eff. Dec. 12, 2006. Sub. 7-e cr. File #060488, Sept. 26, 2006; eff. Dec. 12, 2006. Sub. 7-b-4-a am. File # 090049, May 27, 2009; eff. August 12, 2009. Sub. 7-b-4-a am. File #111504; Mar. 20, 2012; eff. June 5, 2012.)*

8. SURVIVORSHIP BENEFITS.

a. Firemen or Policemen, Death While in Active Service. a-1. In addition to other benefits provided for in the employes' retirement act, a fireman or policeman in active service prior to January 1, 2000, who is not a participant in the combined fund and who shall die prior to the time of his retirement from active service and who has had at least 30 days of creditable service prior to the time of his death, shall be covered by the provisions of this subsection. In such instance, the widow and other dependents hereinafter specified of such member, meeting the conditions herein set forth, shall be entitled to survivorship benefits which shall commence immediately upon the death of such member. (*Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

a-2. Any fireman or policeman who is not a participant in the combined fund and who retires after July 1, 1967, because of an approved disability shall be eligible to participate in survivorship benefits provided for herein if such member continues to make his same contribution as required by this section. It is intended that if such member retired under an approved disability and because thereof is no longer a member, he shall nevertheless be considered as a member for the purposes of the benefits provided for under the survivorship provisions until he shall reach the minimum service retirement age established by this chapter. *(Par. a-2 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

b. Dependents. The survivorship benefits granted hereunder shall be as follows:

b-1. If such member shall die leaving surviving a widow or widower without children, such widow or widower shall be entitled to receive as a survivorship benefit the sum of $115 per month, which shall commence at the time that such widow or widower shall reach the age of 62 except that the widow or widower of a member employed as a policeman on or after November 3, 1974 or employed as a fireman on or after April 6, 1975 shall be entitled to receive the aforementioned survivorship benefit commencing at the time such widow or widower shall reach the age of 57. *(Subd. 1 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-2. If such member shall leave surviving a widow or widower with one or more children of the member, and such children are under the age of 18 years, the widow or widower shall receive for herself or himself and for such children a survivorship benefit in a sum not to exceed $230 per month, which shall be payable to her or him as long as such children are under the age of 18 years. In the event all of her or his children reach the age of 18 years or over, the survivorship benefits herein provided for shall cease until or unless the widow or widower shall have reached the age of 62 years, except that the widow or widower of such a member employed as a policeman on or after November 3, 1974, or employed as a fireman on or after April 6, 1975, shall be entitled to receive the aforementioned survivorship benefit commencing at the time such widow or widower shall reach the age of 57. *(Subd. 2 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-3. If such member shall die without leaving a widow or widower, but he or she shall have a child under the age of 18 years, such child shall be entitled to receive a survivorship benefit in the amount of $115 per month as long as said child shall be under the age of 18 years. *(Subd. 3 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-4. If such member shall die and leave surviving him 2 or more children under the age of 18 years and no widow or widower, then as long as said children shall be under the age of 18 years they shall receive $230 per month as survivorship benefits. However, in the event that such children reach the age of 18 years and only one child is under such age, then the remaining child shall be entitled to receive as survivorship benefits the sum of $115 per month, which, however, shall terminate upon such child reaching the age of 18 years. The board shall have the right to determine the allocation of the amounts herein paid to children under the age of 18 years if they are part of the same family unit and if in the board's judgment an equitable allocation of survivorship benefits payable is both justifiable and practical. The provisions of subds. 2, 3 and 4 shall not apply to children who are adopted following the death of such member. *(Subd. 4 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-5. In order for a widow or widower to be eligible for survivorship benefits herein provided, such widow or widower must have been married to a member covered by the provisions of this subsection for a period of at least 30 days prior to the date of death; a child of such member in order to be entitled to the benefits hereunder must be unmarried or under a disability which commenced prior to the attainment of age 18. *(Subd. 5 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-6. In the event such member shall die and shall not leave surviving either a widow or widower or child or children eligible to the survivorship benefits, then in such event a dependent father or mother shall be entitled to receive as a survivorship benefit the amount of $115 per month which shall be payable to each of the dependent parents (father and/or mother, as the case may be); provided, however, such surviving dependent shall establish to the satisfaction of the board that the dependency actually existed during the life of such member and that such surviving dependent received at least 1/2 of his or her support from such deceased member. In order to be eligible hereunder for survivorship benefits, such dependent parent must at the time of receiving such survivorship allowance have reached the

age of 65 years. The board may request such additional proof from time to time as it may consider appropriate in order to establish that the dependency continues. *(Subd. 6 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-7. In the event a widow or widower of such member entitled to receive survivorship benefits hereunder shall remarry, then whatever benefits she or he is entitled to shall immediately cease. However, the benefits which are paid on behalf of any child under the age of 18 years shall continue as long as such minor children shall not have reached the age of 18 years. The board may require proof in such form as it determines applicable to demonstrate that such widow or widower has not remarried. *(Subd. 7 am. File #892368, April 9, 1990; eff. June 26, 1990.)*

b-9. In the instance of a widow or widower, or in the instance of minor children, being entitled to receive survivorship benefits hereunder, such survivorship benefits shall be paid in accordance with the provisions of this subsection. The death benefit provided for in sub. 10 shall be paid in addition to any survivorship benefits to which such persons are eligible. The provisions of this subdivision shall be deemed applicable to deaths having occurred among firemen and policemen who elected to come under the provisions of ch. ord. 238, File #57-3152, passed Mar. 18, 1958. *(Subd. 9 am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.)*

b-10. It is intended that the increased benefits of $230 per month or $115 per month herein provided for are being granted because there is no added cost, but if the experience is adverse the benefits are to be reduced so as not to increase costs. *(Subd. 10 rc. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972.)*

b-11. The increase in benefits granted through amendment to this subsection is predicated upon the condition that if such increased benefits at any time hereafter make it necessary to provide additional funds in order that the survivorship benefits may be paid, then the members covered by this section shall be required to pay such additional contributions as may be determined to be necessary by the actuary, and the city shall match such increased contributions. Whenever the actuary certifies that increased contributions are required by both the members and the city, such contributions shall become effective immediately following the actuarial certification. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

b-12. For beneficiaries of policemen whose date of death occurs on or after October 5, 1973, and for beneficiaries of firemen whose date of death occurs on or after July 28, 1974, survivorship benefits payable in the amount of $115 per month shall be increased to $140 per month and payable in the amount of $230 per month shall be increased to $280 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1979, survivorship benefits payable in the amount of $140 per month shall be increased to $175 per month and payable in the amount of $280 per month shall be increased to $350 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1981, survivorship benefits payable in the amount of $175 per month shall be increased to $200 per month, and payable in the amount of $350 per month shall be increased to $400 per month under the terms and conditions set forth in subd. 11. For beneficiaries of policemen whose date of death occurs on or after September 29, 1981, survivorship benefits payable in the amount of $140 per month shall be increased to $200 per month and payable in the amount of $280 per month shall be increased to $400 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1984, and policemen whose date of death occurs on or after January 1, 1985, survivorship benefits payable in the amount of $200 per month shall be increased to $300 per month, and payable in the amount of $400 per month shall be increased to $600 per month under the terms and conditions set forth in subd. 10. Effective with the installment next following January 1, 2000 for beneficiaries who began receiving survivorship benefits before January 1, 2000 or who are eligible to receive survivorship benefits in the future due to a death occurring prior to January 1 2000, and who participate in the combined fund, survivorship benefits shall be increased to $300 per month for widows or widowers age 57 without children dependent parents and an eligible single child (no widow or widower) and $600 per month (for widows or widowers with eligible children and 2 eligible children, no widow or widower). *(Subd. 12 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subd. 12 am. File #991585, April 18, 2000; eff. Jan. 19, 2001. Subd. 12 am. File # 020342, June 25, 2002; eff. Sept. 11, 2002.)*

[Note: Positions in the fire department which subd. 12 applies to can be found in Parts 3 to 5 of Ch. Ord. 539, File #83-2362-a, passed July 27, 1984.]

b-13. Any other provision of this subsection notwithstanding, survivorship benefits shall not be paid to beneficiaries of firemen or policemen who participate in the combined fund and die on or after January 1, 2000. *(Subd. 13 cr. File #991585, April 18, 2000; eff. Jan. 19, 2001.)*

c. Payments. The payments of all benefits to any members or their beneficiaries entitled to such payments under this subsection and the maintenance of the reserves required therefore are specifically exempt from the provisions of s. 36-13-4 and the benefit contract contained in s. 36-13-2, and the conditions applicable to such survivorship benefits may be modified. In the event that social security coverage is ultimately provided to firemen and policemen under federal enactment, then the provisions of this subsection as to survivorship benefits shall thereafter be without force and effect. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

d. Firemen's and Policemen's Survivorship Fund. There is created a fund known as the firemen and policemen's survivorship fund. Into such fund there shall be paid by a member who is a fireman or policeman covered by this act 0.87% of his or her annual salary, limited, however, to the sum of $6,000 for the purpose of computing the member's contribution. The city shall contribute an equal sum into such fund. The proceeds of such fund shall be used solely and exclusively for paying survivorship benefits herein provided for. All contributions made by each employe to the firemen and policemen's survivorship fund shall remain in such fund and shall not be returned to such member in the event of separation from the city's service. In the event that social security is provided to firemen and policemen covered by this act, then the balances in such fund over and above any and all liabilities created or existing shall be used for the payment of social security taxes of the members who may thereafter participate in such a plan. Effective January 1, 2000, no contributions shall be required on behalf of active or retired firemen and policemen who are members of the combined fund and any amounts contributed by members of the combined fund after January 1, 2000 shall be set aside and returned. *(Par. d am. Ch. Ord. 337, File #67-3079, Feb. 20, 1968. Par. d am File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

e. Survivorship Rates. Survivorship benefits which result because of a death of a member covered by the provisions of this subsection shall be paid for at the following rate:

e-1. Survivorship benefits of $150 per month for a family, or $75 per month for one person are applicable with respect to the death of a member occurring from and after May 27, 1958 to April 13, 1963.

e-2. Benefits of $175 per month for a family, or $87.50 per month for one person are applicable with respect to the death of any member occurring from and after April 14, 1963, to December 23, 1966.

e-3. Benefits of $200 per month for a family or $100 per month for one person are applicable with respect to the death of a member occurring from and after December 24, 1966 and shall be applicable to December 31, 1970. Benefits of $230 per month for a family or $115 per month for one person are applicable with respect to the death of a member occurring from December 31, 1970 and thereafter. *(Par. e rc. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972. Par. e-3 am. Ch. Ord. 402, File #69-2460-2k, July 24, 1973.)*

f. Entrants After May 27, 1958. All firemen and policemen who enter into city service after May 27, 1958, shall be covered under this subsection as a condition of employment.

g. Withdrawal. No member shall be permitted to withdraw from coverage under the survivorship provisions of this subsection while he is a member of the fire or police departments and is covered by the employes' retirement act. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

j. Board to Adopt Rules. The board in consultation with the legal advisor for the employes' retirement system is authorized to adopt such rules and regulations as may be required in order to effectively carry out this subsection and a liberal construction shall be accorded such provisions in order to carry out the purposes and intent of this subsection. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

9. BASIS OF COMPUTATION OF DISABILITY AND SEPARATION BENEFITS. Any ordinary or duty disability retirement allowance, or separation benefits shall be determined in the manner set forth in this act but effect shall be given to the applicable provisions

of charter ord. 344. *(Sub. 9 cr. Ch. Ord. 350, File #68-2747, April 15, 1969.)*

10. ORDINARY DEATH BENEFIT.

a. Beneficiary. Upon the receipt of proper proofs of death of a member in active service which is not the result of an accident in the actual performance of duty as defined in sub. 5, his or her accumulated contributions shall be paid to such person, or such trustee, if any, as he or she has nominated by written designation duly executed and filed with the board prior to his or her death, otherwise to his or her estate, and if such member has completed one or more years of creditable service there shall be paid in addition a lump sum benefit of 1/2 the final average salary of such deceased member. Such person designated by the member may elect to receive the amount payable as follows:

a-1. A single lump sum payment; or

a-2. Monthly payments in equal installments until the principal amount and interest have been exhausted; or

a-3. An allowance payable in equal monthly installments, the amount of such allowance to be the actuarial equivalent of the benefits otherwise payable at the time of the member's death on the basis of the age of the beneficiary at that time; provided that the monthly payments be no less than $25 per month.

b. Death of Beneficiary. Should a beneficiary who elected payments under par. a-2 or 3 die before receiving allowance payments equal in total to the lump sum amount otherwise payable under par. a-1, the balance, if any, shall be paid to such person whom the beneficiary shall nominate by written designation duly acknowledged and filed with the board.

c. Death While on Leave. Any member who dies while on a leave of absence which was granted or extended for a period of more than 3 months and which leave of absence was taken for any reason other than sickness, military service, lay-off between seasons, lack of work, lack of funds, or for educational purposes, the leave for which is not more than one year, shall not be considered in active service and no ordinary death benefit shall be payable to his beneficiary or to his estate.

d. Death Prior to Retirement. In the event a policeman or general city employe who applies for an ordinary disability retirement allowance under sub. 2 or a duty disability retirement allowance under sub. 3 on or after January 1, 1985, or a fireman who applies for ordinary disability retirement allowance under sub. 2 or a duty disability retirement allowance under sub. 3 on or after March 1, 1985, dies prior to retirement with benefits payable to a surviving spouse or other beneficiary under sub. 2-d or sub. 3-e, the member shall not be considered in active service, and no ordinary death benefits shall be payable to his or her beneficiary or to his or her estate. *(Sub. 4 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Sub. 4 rn. to sub. 10, Ch. Ord. 417, File #74-365, Feb. 11, 1975. Sub. 10-b am. Ch. Ord. 467, File #78-825, Oct. 3, 1978 Sub. 10-d cr. Cr. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 10-a-0 am. File #020474, July 16, 2002; eff. Oct. 1, 2002.)*

11. LUMP SUM BONUS. a. The following persons shall be eligible for a lump sum bonus if they participate in the combined fund: a member in active service as of January 1, 2000; a spouse survivor (under a protective survivorship option) of a member in active service as of January 1, 2000 if the member dies prior to retirement; an accidental death surviving spouse beneficiary of a member in active service as of January 1, 2000 if the member dies prior to retirement; a retired member, spouse survivor or accidental death surviving spouse beneficiary who is receiving a retirement or accidental death benefit allowance as of January 1, 2000; or a member separated from service prior to January 1, 2000 who is eligible for a deferred retirement allowance commencing on or after January 1, 2000. The bonus shall be paid to active members and members eligible for deferred retirement allowance at the time of commencement of their retirement allowance and to spouse survivors and accidental death surviving spouse beneficiaries of members in active service as of January 1, 2000 at the time of commencement of their spouse survivor allowance or accidental death benefit allowance. The bonus for those receiving a retirement or survivor allowance or accidental death benefit allowance as of January 1, 2000, shall be paid as soon as administratively feasible after January 1, 2000, and shall be 5% of the last full monthly installment payable prior to January 1, 2000, or if no full monthly installment was payable prior to January 1, 2000, the first full monthly installment payable immediately following January 1, 2000, multiplied by 12 times the appropriate lump sum factor. The bonus for members in active service as of January 1, 2000, members separated from service prior to January 1, 2000, who are eligible for a deferred

retirement allowance commencing on or after January 1, 2000, spouse survivors of members in active service as of January 1, 2000 and accidental death beneficiaries of members in active service as of January 1, 2000, shall be 5% of the accrued annual retirement benefit (without a reduction on account of an election under sub. 7, or adjustment for cost of living), 5% of the accrued annual spouse survivor allowance (without an adjustment for cost of living) or 5% of the accrued annual accidental death benefit allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor. The appropriate lump sum factors are as follows:

Attained Age	Factor	Attained Age	Factor	Attained Age	Factor
15	12.1075	44	11.3842	73	7.5404
16	12.0994	45	11.3235	74	7.3474
17	12.0906	46	11.2586	75	7.1531
18	12.0810	47	11.1891	76	6.9565
19	12.0706	48	11.1151	77	6.7563
20	12.0593	49	11.0365	78	6.5512
21	12.0481	50	10.9531	79	6.3413
22	12.0364	51	10.8647	80	6.1274
23	12.0242	52	10.7711	81	5.9115
24	12.0116	53	10.6720	82	5.6961
25	11.9984	54	10.5674	83	5.4845
26	11.9847	55	10.4570	84	5.2783
27	11.9692	56	10.3406	85	5.0788
28	11.9516	57	10.2182	86	4.8870
29	11.9320	58	10.0896	87	4.7030
30	11.9106	59	9.9551	88	4.5257
31	11.8873	60	9.8147	89	4.3527
32	11.8625	61	9.6685	90	4.1814
33	11.8361	62	9.5166	91	4.0088
34	11.8077	63	9.3591	92	3.8326
35	11.7774	64	9.1961	93	3.6518
36	11.7448	65	9.0280	94	3.4698
37	11.7099	66	8.8553	95	3.2898
38	11.6724	67	8.6779	96	3.1157
39	11.6322	68	8.4955	97	2.9496
40	11.5891	69	8.3084	98	2.7901
41	11.5430	70	8.1178	99	2.6289
42	11.4937	71	7.9253	100	2.4623
43	11.4408	72	7.7327		

b. Firemen and Policemen Survivorship Fund Dissolution Bonus. The following persons shall be eligible for an additional lump sum bonus if they participate in the combined fund: a fireman in active service as of January 1, 2000; a fireman retired on a disability retirement allowance as of January 1, 2000 who is an active member in good standing of the firemen and policemen's survivorship fund as of January 1, 2000; a spouse survivor (under a protective survivorship option) of a fireman in active service as of January 1, 2000 if the member dies prior to retirement; or an accidental death surviving spouse beneficiary of a fireman or policeman in active service as of January 1, 2000 if the member dies prior to retirement. A policeman in active service as of January 1, 2000 who is a participant in the combined fund, a policeman retired on a disability retirement allowance as of January 1, 2000 who is a participant in the combined fund or a spouse survivor (under a protective survivorship option) of a policeman in active service as of January 1, 2000 who is a participant in the combined fund (if the member dies prior to retirement) shall be eligible for an additional lump sum bonus if the policeman is an active member in good standing of the firemen and policemen's survivorship fund as of January 1, 2000 and is ineligible for additional service credit under s. 36-04-4-b. The bonus for members other than members who either are retired on a disability allowance as of January 1, 2000 or retire on a disability allowance thereafter shall be paid at the time of commencement of their service retirement allowance, spouse survivor allowance or accidental death benefit allowance. The bonus for members who retire before or after January 1, 2000 on a disability retirement allowance shall be payable at the time of the installment next following attainment of their conversion age. If a member is retired on a disability retirement allowance and is ineligible for conversion to a service retirement allowance, the bonus shall be payable in the installment next following the attainment of age 63 or January 1, 2000 whichever shall come last. The bonus for active members shall be 8.6% of the accrued annual service retirement allowance (without reduction on account of an election under sub. 7, or adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par.

a. The bonus for spouse survivors (under a protective survivorship option) shall be 8.6% of the accrued annual spouse survivor allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for an accidental death surviving spouse beneficiary shall be 8.6% of the accrued annual accidental death benefit allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are eligible to convert to a service retirement allowance shall be 8.6% of their accrued service retirement allowance (without adjustment for cost of living) at a conversion age multiplied by the appropriate factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are ineligible for conversion shall be 8.6% of the annual service retirement allowance at age 63 (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. If a member retired on a disability retirement allowance who is ineligible for conversion to a service retirement allowance is older than age 63 as of January 1, 2000 the bonus shall be 8.6% of the member's disability retirement allowance payable for the year immediately prior to January 1, 2000 multiplied by the appropriate factor as set forth in par. a. This par. shall not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-b-3, 6-c or 6-d-2.

c. Military Service Credit Bonus. Each member who served and was honorably discharged from the military service prior to first being enrolled in the retirement system and who retired on a service retirement allowance prior to January 1, 2000 shall be eligible for a military service credit bonus if he or she is a participant in the combined fund and is ineligible for military service credit under s. 36-04-1-c. The bonus shall be computed by multiplying the sum of $1,000,000 by a fraction, the numerator of which is the member's eligible active military service credit and the denominator of which is the total eligible active military service credit of all retirees eligible under this paragraph. Military service shall have the same meaning as under sec. 36-04-1-c. To be eligible for inclusion in the calculation a period of active service must be a period of not less than 90 consecutive days spent in active military service. One year of military service shall be credited for 3 years of eligible military service, however, the maximum military service credit taken into account for purposes of calculating this bonus shall not exceed one year. The maximum military service credit bonus shall not exceed the amount of the full monthly installment payable for the month immediately prior to January 1, 2000 or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000. The retirement system shall determine the appropriate military documentation for crediting such military service. In order to be eligible for a military service credit bonus, each retired member must apply to the retirement system no later than 6 months following a final and binding determination by a court of competent jurisdiction that this ordinance is legal and enforceable **[reference is to charter ordinance file number 000792, passed Oct. 10, 2000, eff. Jan. 19, 2001]**.

d. Retiree Special Bonus. Every retiree, spouse survivor and accidental death beneficiary who participates in the combined fund and who is receiving a retirement allowance or accidental death benefit as of January 1, 2000 shall be eligible to receive a lump sum payment. The bonus shall be paid as soon as administratively feasible after January 1, 2000 and shall be equal to the full monthly installment payable for the month immediately prior to January 1, 2000, or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000, multiplied by the following multiplier factor:

Status at Retirement or Death	Year of Retirement or Death	Multiplier
General City	1997-1999	2
	1996	3
	1995	4
	1994	5
	1993	6½
	1992 and prior	8
Firemen and Policemen	all years	8

If a retiree or spouse survivor eligible to receive a lump sum payment under this par. has received an overpayment of catch-up or COLA payable under s. 36-05-1-i in 1996 or 1997, then, in lieu of the repayment of such overpayment through an adjustment of future benefit payments prescribed in this section, such retiree or spouse survivor shall repay all or a portion of such overpayment by offsetting dollar for dollar the lump sum payable under this section by the amount of the overpayment or 3 times the monthly installment identified in this section whichever is less. If a retiree who died prior to January 1, 2000, elected a spouse survivor who is eligible to receive a lump sum payable under this section the overpayment to such retiree in an amount not to exceed the lesser of the amount of overpayment to such retiree or 3 monthly installment identified in this section (excluding overpayments) payable to the retiree immediately prior to his or her death, shall be set off dollar for dollar against the lump sum payable to the spouse survivor under this section. If the amount of the overpayment exceeds the amount of the dollar for dollar set off applied under this section the excess of the amount of the overpayment over the amount set off shall become an obligation of, and paid from, the combined fund. If a retiree died prior to January 1, 2000, and either did not elect a spouse survivor who is eligible to receive a lump sum payable under this section or elected a spouse survivor who predeceased the retiree the amount of the overpayment to such retiree shall become an obligation of, and paid from, the combined fund. Notwithstanding the foregoing, the amount set off against the spouse survivor on account of overpayments received by the deceased member, the spouse survivor, or both, shall not exceed 3 times the full monthly installment payable to the spouse survivor for the month immediately prior to January 1, 2000 or if no full monthly installment was payable for the month immediately prior to January 1, 2000, the first full monthly installment payable after January 1, 2000.

e. Designated Beneficiary. A participant in the combined fund eligible to receive a lump sum bonus payment under this subsection shall be permitted to elect a designated beneficiary to receive such payment in lieu of the participant's estate, if the participant dies prior to the payment being made. *(Sub. 11 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 11 am. File #00484, July 11, 2000; eff. Jan. 19, 2001. Sub. 11-b am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-c am. File # 00792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-d am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub 11-e cr. File # 020891, Oct. 15, 2002; eff. Jan 2, 2003.)*

12. HEART ACT AND CODE SECTIONS 401(a)(37) AND 414(u).

a. Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service are governed by s. 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act of 1994.

b. Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in ch. 43 of title 38, United States Code, to the extent required by s. 401(a)(37) of the Internal Revenue Code, survivors of a member in a state or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's

period of qualified military service shall be counted for vesting purposes. This shall not include eligibility for a benefit under sub. 5.

c. Beginning January 1, 2009, to the extent required by s. 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments, as defined under s. 3401(h)(2) of the Internal Revenue Code, from an employer shall be treated as employed by that employer, and the differential wage payments shall be treated as compensation for purposes of applying the limits on annual additions under s. 415(c) of the Internal Revenue Code. This provision shall be applied to all similarly-situated individuals in a reasonably equivalent manner. (Sub. 12 cr. File #150113, June 2, 2015; eff. August 18, 2015.

36-055. Election of Survivorship Benefits.

1. FIREMEN TO MAKE WRITTEN REQUEST. A member who is a fireman as defined in s. 36-02 and who was employed as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, but was not eligible for survivorship benefits under s. 36-05-8, as amended, may within 30 days following July 21, 1975 but not later than such date, make and execute an irrevocable written election to be covered by the survivorship benefits provided for under such section, said election shall be in writing on a form prescribed for such purposes by the annuity and pension board and be signed by the employe.

2. CONTRIBUTION. Upon receipt of the properly executed election for eligibility for survivorship benefits under s. 36-05-08 by the board within the time prescribed and upon the employe and the city each contributing $530.70 to the firemen and policemen's survivorship fund, the employe eligible to make such election shall be entitled to survivorship benefits under s. 36-05-8, as amended, in the same amounts and under the same conditions as firemen currently eligible for such benefits. The $530.70 payment herein required may be paid in not more than 52 installments to be determined by the annuity and pension board prior to filing of application for eligibility hereunder.

3. SURVIVOR. The survivor of a member of the employes' retirement system who was a fireman as defined in s. 36-02 employed by the city as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, and who died between July 28, 1974, and the effective date of this section [July 21, 1975] but not later than such date, without being eligible for survivorship benefits under s. 36-05-8, as amended, may make a written election within 30 days following the effective date of this section to receive the survivorship benefits provided for by s. 36-05-8, as amended. Such benefits shall be payable retroactively to the date of death in the same amount and under the same conditions as for survivors of firemen currently eligible for such benefits upon the city and the survivor each contributing the sum of $504.43 to the firemen and policemen's survivorship fund. Said election shall be in writing on a form prescribed for such purpose by the annuity and pension board and be signed by the survivor. The $504.43 payment herein required may be paid in not more than 12 monthly installments to be determined by the annuity and pension board, within 30 days following July 21, 1975.*(Section 36-055 cr. Ch. Ord. 419, File #75-68, May 6, 1975; eff. July 21, 1975.)*

36-06. Coordinated Plan. 1. ESTABLISHED. A coordinated plan is established within the present retirement system as of January 1, 1958, which shall be governed by the provisions of the employes' retirement act, except as hereinafter provided, and which shall provide for participation in old age, survivors, disability and health insurance benefits derived under the social security act. (Sub. 1 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)

2. MEMBERSHIP. Membership in the coordinated plan shall include those members of the employes' retirement system who elect such coverage and are covered by the provisions of the social security act. Such coordinated plan members shall consist of all future employes who shall enter upon membership of the retirement system on and after January 1, 1958, the effective date of the social security agreement extending coverage under the social security act to members of the retirement system, except employes in positions to which such coverage is not extended. *(Sub. 2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

4. CONTRACTUAL RIGHTS MAINTAINED. The contractual rights which are vested and provided for under the employes' retirement act, including the provision therein with respect to deferred pay, shall in all respects apply and be in effect with respect to the coordinated plan. None of such rights shall be disturbed or impaired, except that contributions required of the employe and employer to such coordinated plan may be adjusted in accordance with the provisions of the coordinated plan, and a deduction in benefits or allowances granted under the employes' retirement act subsequent to the effective date of the coordinated plan may be made in order to carry out the provisions of such coordinated plan. The benefits or allowances under the coordinated plan may be subsequently amended only in the particulars required because of amendments to the social security act, it being expressly understood that a participating employe in such coordinated plan shall in no manner whatsoever, except as provided in this subsection at the time of its enactment, have his rights, benefits or privileges cancelled, impaired or abrogated; and any employe eligible to participate in such coordinated plan shall have a vested right upon a contractual basis to obtain the rights, benefits and privileges which are accorded and granted by the employes' retirement act under the coordinated plan. Such rights, benefits and privileges herein referred to and existing upon a contractual and vested basis are predicated upon a consideration for services rendered and to be rendered by such employe and deferred pay as provided in s. 36-13-4; and as a consideration of the employment, such benefits, rights and privileges shall neither be abrogated nor impaired, except only as is required by virtue of amendments to the social security act which affect the provisions of the coordinated plan. Contractual rights hereunder shall be applicable also to any member who entered the system after January 1, 1958. *(Sub. 4 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

5. PROVISIONS OF COORDINATED PLAN DETAILED. a. Benefits. The benefits of the coordinated plan shall be those set forth in s. 36-05 with the following exceptions:

a-1. Optional benefits. Any optional benefit payable prior to the payment of a social security benefit shall be based on the actuarial equivalent of the retirement allowance otherwise payable, taking into account the reduction in the retirement allowance after the social security benefit becomes payable.

a-2. Adjustment of retirement allowances for social security benefits. Until the effective date of any service retirement, any coordinated plan member may elect to convert the allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that, with his social security benefit he will receive, so far as possible, approximately the same amount per year before and after the commencement of such benefit. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

b. Contributions. b-1. Coordinated plan members' contributions. The contributions required of the coordinated plan member shall be those set forth in s. 36-08-7. This section shall be operative with the first pay period for 1969. *(Subd. 1 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*)

b-2. Employer's contribution under coordinated plan. The contributions required by the employer under the coordinated plan may be adjusted as is required under s. 36-08-6. *(Subd. 2 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.)*

b-3. Retroactive taxes under federal insurance contributions act. The proper cityofficers and the annuity and pension board are authorized to pay from the annuity savings fund an amount equal to the taxes under the federal insurance contributions act payable by a coordinated plan member for the period beginning January 1, 1956, to the date of transfer. Such amount shall be deducted from the amount credited to such member in the annuity savings fund and the execution of the consent agreement as hereinafter provided for shall evidence authority granted by such member for such deduction. (Subd. 3 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)

6. CONSENT AGREEMENT. Members of the employes' retirement system who elect to participate under the coordinated plan shall execute a consent agreement. (Sub. 6 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)

7. AUTHORITY TO ACT UNDER COORDINATED PLAN AGREEMENT. The common council may by resolution within the limitation provided for in this subsection authorize the manner and method of making deductions from wages and for making payments and designate the officer or officers of the city who shall be required to make such deductions and payments. (Sub. 7 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.)

9. LIMITATIONS OF PAYMENT UNDER COORDINATED PLAN. In applying the provisions of this section relating to the coordinated plan, it is expressly provided that no member participating in the coordinated plan and who shall retire during the period from June 29, 1975 to December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 82% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits, paid to him or her, not including social security benefits paid in respect of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 82% of his or her final average salary. It is expressly provided, however, that additional contributions made by an employe who shall retire after June 29, 1975 under s. 36-08-7-f shall be excluded in determining the 82% limitation provided for herein. It is further expressly provided that no member participating in the coordinated plan and who shall retire from and after December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 85% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits paid to him or her, not including social security benefits paid in respect of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 85% of his or her final average salary. It is expressly provided, however, that additional contributions made by an employe who shall retire after December 28, 1975, under s. 36-08-7-f shall be excluded in determining the 85% limitation provided for herein. Commencing with duty disability payments occurring on or after January 1, 1995, in applying the provisions of this subsection the maximum duty disability allowance payable to a member participating in the coordinated plan under s. 36-05-3 together with the member's social security benefit shall be limited to an aggregate sum of 100% of the member's final average salary, provided the disability pension is not fixed. (Sub. 9 am. Ch. Ord. 423, File #74-675-d, July 15, 1975. Sub. 9 am. File #940937, Oct. 18, 1994; eff. Jan. 3, 1995.)

10. CONSTRUCTION AND APPLICATION OF COORDINATED PLAN PROVISIONS.

a. The provisions of this section shall be construed and applied in such a manner so that the same shall be consistent with and in conformity to the provisions of the federal laws and regulations relating to Title II of Federal Old Age, Survivors, and Disability and Health Insurance Benefits act, and the effective date referred to shall be deemed to be January 1, 1958 the date when an agreement extending coverage under the social security act to members of the employes' retirement system was executed. *(Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

c. In construing or applying the provisions of this section referring to the attainment of age 65 for social security benefits or allowances, such age shall apply except, however, that if the social security act is amended to provide for a different age for eligibility for full benefits or allowances, then such age for eligibility for full benefits as provided for in the social security act as amended shall be applicable in applying provisions of the coordinated plan.

[This page blank]

d. It is expressly provided that any person who participates in the coordinated plan shall be required as a condition of his participation in such plan to make available to the annuity and pension board of the employes' retirement system such information concerning social security benefits as the board shall deem pertinent. *(Par. d am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

e. From and after December 31, 1966, there shall be no reduction in nor shall there be any offset to, the retirement allowance of any member of the coordinated plan who retires at any time subsequent to December 31, 1966, because of his receipt or eligibility to receive social security allowances or benefits. As to a member in the coordinated plan, who retires between January 1, 1966, and December 31, 1966, both dates inclusive, and who is eligible to receive or receives social security benefits, there shall be no reduction nor offset in his retirement allowance after December 31, 1966. This amendment has no application whatever to provisions of the employes' retirement act pertaining to the 82% maximum for those members who shall retire during the period from June 29, 1975 to December 28, 1975, and to the 85% maximum for those members who shall retire after December 28, 1975, as set forth in sub. 9. It is the intendment of this subsection that the retirement allowance of any member in the coordinated plan who retires on January 1, 1967, or any time thereafter, shall not be reduced nor shall it be offset in any manner because such member is or becomes eligible to receive or does receive Social Security benefits and that the social security offset hereinbefore provided for in the employes' retirement act is eliminated, further as to those members of the coordinated plan who retire at any time subsequent to December 31, 1965, but prior to January 1, 1967, no offset shall be applied effective January 1, 1967. *(Par. e am. Ch. Ord. 423, File #74-675-d, July 15, 1975.)*

f. Notwithstanding sub. 9, general members in the coordinated plan who retire on or after January 1, 1989, shall not receive a reduction in their service retirement allowance on account of social security benefits. Members in the coordinated plan who retire on or after January 1, 1989, shall not receive by way of a service retirement allowance, exclusive of social security benefits, a sum in excess of 70% of final average salary provided, however, that the application of this limitation shall not operate to diminish that portion of a member's retirement allowance attributable to creditable service earned through December 30, 1988. (Par. f. cr. File #891171, Sept. 28, 1989; eff. Dec. 17, 1989.)

12. BOARD TO CERTIFY NUMBER OF TRANSFERS. The board shall certify to the director of the public employes social security fund, the number of persons who have qualified to be covered by each modification to be submitted to implement this section. *(Sub. 12 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

36-07. Re-examination of Disability Beneficiaries. 1. PERIODIC MEDICAL EXAMINA-TIONS. Once each year during the first 5 years following retirement of any disability beneficiary and once in every 3 year period thereafter, the board may require such beneficiary, if he has not attained the minimum service retirement age, to submit to a medical examination by a physician or physicians of or appointed by the medical council or the board. Should any such beneficiary refuse in any such year or period to undergo at least one such medical examination, his allowance may be discontinued until he consents to the examination; and should the refusal continue for one year, all rights in and to the allowance may be revoked by the board, in which event there shall be refunded to him at the time of the termination of his allowance a lump sum equal in amount to the difference between the amount of his accumulated contributions at the time of his retirement and the sum of the payments actually made to him during his disability retirement that is the actuarial equivalent of his accumulated contributions at retirement. However, the refund herein provided for shall only be payable if such member is eligible therefor under s. 36-05-6. *(Sub. 1 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

2. ADJUSTMENT OF ALLOWANCE.

a. In the event the board shall determine, based upon information received by it from the medical council or from other sources, that a disability beneficiary is able to engage in a gainful occupation which pays more than the difference between the current salary for the position held by such person at the time of retirement and the retirement allowance granted to him, in such instance the pension of such person shall be reduced by the amount of such excess earnings. If the earning capacity of

such person be later changed, then the amount of his pension may be modified, provided the new pension shall at no time exceed the amount of the pension granted at the time of his retirement. This provision shall not apply in the instance of a disability beneficiary having attained the age for service retirement.

b. Any person who was a member of the employes' retirement system and who had retired on a disability pension prior to the enactment of par. a, ch. ord. 307 passed July 14, 1964, which was granted under the provisions of this act, shall have his disability pension computed as provided for in s. 36-07-2-a of ch. ord. 338 commencing from and after January 1, 1968. *(Sub. 2 rn. to sub. 2-a, Ch. 338, File #63-2069-c, March 7,1968. Sub 2-b cr. Ch. Ord. 338, File #63-2069-c, Mar. 7, 1968.)*

3. MEMBERSHIP RESTORED. Should any disability beneficiary be restored to active service prior to attaining the minimum service retirement age, or should any disability beneficiary other than a fireman retired on ordinary disability, or a policeman retired on duty disability and appointed to a position in active service pursuant to s. 62.51, Wis. Stats., on or after May 3, 1988, be at any time in active service prior to attaining the minimum service retirement age, the disability retirement allowance shall cease, and he or she shall again become a member of the retirement system. Should a fireman retired on ordinary disability apply for and accept employment with the city or a city agency prior to attaining the minimum service retirement age, his or her disability retirement allowance shall cease and he or she shall become a member upon completion of a probationary period. Should a policeman retired on duty disability be appointed to a position in active service pursuant to s. 62.51, Wis. Stats., on or after May 3, 1988, payment of the duty disability retirement allowance shall be suspended during the period in which the person holds office pursuant to s. 62.51, Wis. Stats.; and thereafter, notwithstanding s. 36-05-3-c-1, the person shall receive a duty disability allowance during the period of the disability in an amount equal to 75% of the annual salary at the time of appointment pursuant to s. 62.51, Wis. Stats., for the position which the person held at the time of injury, increased by the percentage of across-the board management pay increases occurring after appointment pursuant to s. 62.51, Wis. Stats. For a person restored to membership under this subsection, any prior service certificate on the basis of which an allowance was computed at the time of disability retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement the person shall be credited with all his or her membership service on the basis of which the allowance was computed at the time of disability retirement, and all service credit to which, the person is entitled under s. 36-04-3. (Sub. 3 am. Ch. Ord. 559, File #85-737-d, April 15, 1986; eff. June 30, 1986. Sub. 3 am. File #880374, June 7, 1988; eff. Aug. 22, 1988. Sub. 3 am. File #881667, Dec. 20, 1988; eff. March 13, 1989.)

[Note: This subsection shall apply to policemen retiring on a normal service retirement allowance on or after January 1, 1987. *(File #881667, Dec. 20, 1988; eff. March 13, 1989.)*]

36-08. Method of Financing. 1. FUNDS. The assets of the retirement system shall be credited according to the purpose for which they are held in one of 4 funds as follows:

2. RETIREMENT FUND.

a. Contributions. The retirement fund shall be the fund into which all member and city or city agency contributions, made with respect to members, retired members, survivors, and beneficiaries who are not participants in the combined fund, together with investment income attributable to the retirement fund shall be paid except as hereinafter otherwise provided. There shall also be paid into the retirement fund all other amounts received by the board with respect to members, retired members, survivors, and beneficiaries who are not participants in the combined fund as directed by it. All retirement allowances, death benefits, separation benefits and other benefits except as hereinafter otherwise provided shall be paid from the retirement fund for members, retired members, survivors, and beneficiaries who are not participants in the combined fund. *(Par. a-1 cr. File #942016, July 14, 1995; eff. Sept. 27, 1995. Par. a am. File #970387, Oct. 14, 1997, eff. Dec. 17, 1997. Par. a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a-1 rp File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

b. Duty Disability Fund. The actuary for the board shall each year determine what funds are required to provide duty disability benefits under s. 36-05-3 and heart and lung law benefits under s. 891.45, Wis. Stats. with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund. He or she shall certify the

contributions required of the city and the city agencies to pay for the duty disability benefits for firemen and policemen and general employes with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund; and also the contributions required of the city to pay benefits which arise and are allowed under the heart and lung law in excess of any disability and/or death benefits otherwise payable under the system. Benefits arising under the heart and lung law with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund shall be paid only from a fund established for such purpose and such heart and lung benefits shall not be paid out of any other funds of the retirement system. Effective January 1, 2000, there shall no longer be separate determinations each year relative to the funds required to provide duty disability retirement benefits for participants in the combined fund. (Par. b am. File #950929, Nov. 10, 1995; eff. Jan. 31, 1996. Par. b am File #991585, April 11, 2000. eff. Jan. 19, 2001.)

c. Duty Disability, Special Fund. The actuary shall annually determine the funds necessary to provide all duty disability benefits under s. 36-05 with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund. He or she shall certify the contributions required of the city and the city agencies to provide such benefits. Benefits arising under s. 36-05-3-c with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund shall be paid only from a fund established for such purpose and such benefits shall not be paid from any other funds of the retirement system. It shall be a violation of law to do so. There shall not be a separate contribution under this par. for participants in the combined fund. Effective February 1, 1996, the duty disability, special fund shall be merged with the retirement fund for members first enrolled on or after February 1, 1996. Thereafter, there shall no longer be separate determinations each year of the funds necessary to provide all necessary duty disability benefits under s. 36-05 for members first enrolled on or after February 1, 1996 and benefits for members first enrolled on or after February 1, 1996 arising under s. 36-05-3-c shall be paid from the retirement fund. Effective January 1, 2000 the retirement system shall transfer into the combined fund: (1) the liabilities of the duty disability special fund attributable to participants in the combined fund, (2) the proportionate share of the market value of assets in the duty disability special fund which is calculated by multiplying the market value of assets in the duty disability special fund by a fraction the numerator of is the liabilities of the duty disability special fund attributable to participants in the combined fund and the denominator of which is the total liabilities of the duty disability special fund. *(Par. c, cr., Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. c, am. File 950929, Nov. 10, 1995; eff. Jan. 31, 1996. Par. c am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

3. EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money deposited in accordance with s. 36-09-6 to pay the expenses necessary in connection with the administration and operation of the retirement system and from which payments are made for those administrative expenses. For purposes of this section, investment expenses shall include all fees and costs associated with investment of the retirement system assets, including fees for investment managers, investment advisors and investment consultants, and the costs of buying and selling securities or other investments.

a. Annually, the board shall estimate the amount of money which shall be deemed necessary to provide for the expense of operation of the retirement system. On or before the second Tuesday in May of each year the board shall file with the mayor a detailed statement of all estimated expenses which are to be incurred during the ensuing calendar year. Such statement shall be reviewed and approved as are all other budgetary requests under ch. 18. The board may authorize the payment of expenses from the combined fund, which were not contemplated at the time the annual budget was approved, if the payment of such expenses is authorized by a resolution adopted by a three-quarter vote of the members-elect of the city common council.

b. Excess revenue deposited in the expense fund in accordance with s. 36-09-6 shall be available for expenditure by the employes retirement system without budgetary authorization provided that such expenditure shall be approved in advance by the board and such expenditure for the prior year shall be reported to the mayor at the time the board files a detailed statement of all estimated expenses which are to be incurred during the ensuing calendar year. Excess revenue from security

ending deposited in the expense fund which is not expended by the close of the calendar year next following the calendar year in which it is deposited shall be transferred to the retirement fund established under sub. 2.
(Sub. 3 am. Ch. Ord. 477, File #79-693, July 24, 1979. Sub. 3 am. File #930242, July 6, 1993; eff. Sept. 21, 1993., Sub. 3 rc. File #970387, Oct. 14, 1997; eff. Dec. 17, 1997. Sub. 3 am. File #991585, April 18, 2000; eff. Jan. 19, 2001. Sub. 3-0 and a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub 3 am. File #021328, Jan. 22, 2003; eff. April 9, 2003.)

4. FIREMEN AND POLICEMEN'S SURVIVORSHIP FUND. The firemen and policemen's survivorship fund shall be the fund in which shall be accumulated all reserves from contributions by members and the city for the payment of survivorship benefits for members, retired members survivors and beneficiaries who are not participants in the combined fund as provided for in this act. The funds for firemen and policemen's survivorship benefits may be invested as provided in s. 36-09. Effective January 1, 2000 the firemen and policemen's survivorship fund shall no longer be in existence for firemen and policemen and firemen and policemen retired on a disability allowance who participate in the combined fund. (*Sub. 4 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

5. INVESTMENT FUND ACCOUNT.

a. The board shall maintain as part of its accounts a separate and independent account known as the investment fund account. All gains realized by the board upon the sale, redemption or other disposition of securities during a calendar year shall be credited to such fund, and all investment expenses and losses sustained by the board through the sale, redemption or disposition of securities except sales of bonds referred to in par. b during a calendar year shall be charged against such fund. The board shall have approval over investment expenditure arrangements but shall file with the mayor a detailed statement of all estimated investment expenses which are to be incurred during the ensuing calendar year, similar to the expenses to be paid from the expense fund in sub. 3. Any remaining balance in such fund at the close of the calendar year shall be allocated to the various other funds established under this section based upon the weighted average fund balances at cost for the year for such funds. *(Par. a rc., Ch. Ord. 499, File #80-1509, Jan. 20, 1981; Par. a-1 rc. File #970387, Oct. 14, 1997; eff. Dec. 17, 1997.)*

b. The board shall maintain as part of its accounts an account known as unamortized losses on sale of bonds for reinvestment. This account shall be charged with all losses sustained by such board upon the sale of bonds effected by investment counsel without prior approval of such board, but only upon written recommendation from investment counsel including a report that the proceeds from other securities purchased with the proceeds of such sale will produce or exceed recovery of the loss over the remaining life of the bonds sold, or 10 years, whichever period is the shorter. The investment counsel shall be liable to the fund for any imprudence in making such sales without prior approval of the board. Based on the period during which the losses were determined to be recovered, such amortization annually shall be charged against investment income before determining net income realized from investments. This paragraph shall not apply to sales of bonds occurring on or after January 1, 1983. *(Par. b am. Ch. Ord. 518, File #82-968, Oct. 19, 1982.)*

6. CITY CONTRIBUTIONS. Contributions by the city and city agencies shall be made as follows:

a. Retirement Fund. On account of members, retired members, survivors, and beneficiaries who are not participants in the combined fund, there shall be paid annually into the retirement fund by the city and city agencies for the preceding fiscal year an amount equal to the "normal contribution" as that term is defined in subd. 1, plus the amount required to bring the expected actuarial funded status of the retirement fund, as of the date the contribution is payable, to a percentage in excess of 100%.

a-1. The normal contribution for the retirement fund for the preceding fiscal year shall be the growth in actuarial accrued liability expected as a result of service in that year for all members participating in the retirement fund reduced, but not below zero, by member contributions expected to be deposited in the retirement fund under sub. 7. The actuarial accrued liability as of the valuation date shall be the portion of the total liabilities of the retirement fund that is based on service earned as of the valuation date by each active member, beneficiary and separated vested member who has not withdrawn accumulated contributions. The normal contribution shall be determined separately in respect of firemen and policemen. The determination of the normal contribution shall be based on such interest,

mortality, separation, morbidity and retirement tables as have been adopted by the board. The normal contribution shall be determined by the actuary after each valuation. *(Subd. 1 am Ch. Ord. 489, File #80-225, June 17, 1980. Subd. 1 am. File #921978, Apr. 8, 1993; eff. June 16, 1993. Par. a rc. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

a-2. Any difference between the actuarial accrued liability as defined in subd. 1, and the sum of the actuarially determined value of the assets of the retirement fund plus any unamortized bases established under this par. in prior valuations, shall be amortized over a period which will not exceed 30 years from the valuation date on which such difference is established; provided that as part of the valuation next following a fiscal year in which the city and city agency contributions are zero due to application of the 100% funded status limitation of this par. the actuary may eliminate any previously established amortization schedules and bases and shall recalculate a new "fresh-start" amortization schedule. Future payroll growth may be taken into account in the amortization process. *(Subd. 2 rc. File #942017, July 14, 1995; eff. Sept. 27, 1995. Subd. 2 rc. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

b. Firemen and Policemen's Survivorship Fund. There shall be paid annually into the firemen and policemen's survivorship fund the amount required under s. 36-05-8-d. Notwithstanding the foregoing, effective January 1, 2000 no contributions shall be made to the firemen and policemen's survivorship fund by or on behalf of participants in the combined fund. *(Par. b am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par c rp. File # 991585, April 11, 2000; eff. Jan. 19, 2001. Par. d cr. File #942017, July 14, 1995; eff. Sept. 27, 1995.) Pars. c and d rp. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

e. On or before September 1 in each year, the board shall certify to the common council or other governing body, and city agencies, the amounts which will become due and payable during the year next following to each of the funds of the retirement system. The amount so ascertained shall be included by the common council or other governing body and city agencies in their budgets and shall be appropriated and paid to the retirement system by the city and city agencies in January of the fiscal year next following. (Par. d rn. to e File #942017, July 14, 1995; eff. Sept. 27, 1995.)

f. In order to meet the requirements of this act, the common council or other governing body or city agency is authorized to levy a tax annually, which tax shall be in addition to all other taxes such common council or other governing body or city agency has been authorized to levy upon all taxable property, real and personal. Such tax shall be levied and collected at the same time and in the same manner as other city or city agency taxes are levied and collected according to law. *(Par. e rn to f File #942017, July 14, 1995; eff. Sept. 27, 1995.)*

g. Such city agencies not authorized by law to levy a tax upon taxable property shall upon the direction of the board include the necessary amounts so needed in their respective budgets. *(Par. f rn. to g File #942017, July 14, 1995; eff. Sept. 27, 1995.)*

h. Combined Fund.

h-1. Beginning with the contribution due on January 31, 2014, on account of members, retired members, survivors and beneficiaries who are participants in the combined fund, the city and city agencies shall pay annually into the combined fund for the preceding year an amount equal to the product of the actuarial contribution rate applied to the sum of the covered compensation. The actuarial contribution shall be based on separately calculated rates for policemen, firemen, and general city employees and shall be applicable for a 5-year period. The actuary shall, consistent with actuarial standards of practice, set the actuarial contribution rate at a percentage sufficient to fund the entire amount of the employers' share of the normal cost, to amortize any unfunded past service liability and to maintain the solvency of the combined fund to meet benefit obligations for retired lives.

h-2. Commencing with the contribution due on January 31, 2019, the actuary shall reset the actuarial contribution rate every 5 years in conjunction with a 5-year experience review of the employes' retirement system. The actuary shall, consistent with standards of actuarial practice, base the reset rate on the current interest, mortality, separation, morbidity and retirement tables as adopted by the board.

h-3. The actuary shall submit the annual contribution amounts payable each year based on the actuarial contribution rate to the board no later than August 15. *(Par. h cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-2 am. File #091274, March 2, 2010; eff. May 18, 2010. Par. h rc File #121417, April 30, 2013; eff. July 16, 2013.)*

7. MEMBER CONTRIBUTIONS. Member contributions to the system shall be deposited in the member's account as follows:

a. Members who are not firemen, policemen or elected officials shall contribute or have contributed on their behalf, 5.5% of the members' earnable compensation. Subsequent to and commencing with the first pay period of 1970, the city shall contribute on behalf of a general city employe 5.5% of such member's earnable compensation. Members employed by city agencies participating in the system shall contribute 5.5% of their earnable compensation less any contribution made on their behalf as determined by the governing bodies of such agencies. Notwithstanding the foregoing, subsequent to and commencing with the first pay period following the effective date of this charter ordinance, all members who are not firemen, policemen or elected officials and were enrolled as members of the retirement system prior to January 1, 2014, shall contribute 5.5% of their earnable compensation. General city employes who enroll as members in the retirement system on or after January 1, 2014, shall contribute 4% of their earnable compensation. *(Par. a rc., Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. a ra. to a-1, File #090613, Sept. 22, 2009; eff Dec. 9, 2009. Par. a-1 am. File #121701, May 21, 2013; eff. Aug. 10, 2013; Par. a-1 am. File #110740, Nov. 7, 2014; eff. 1/26/2015.)*
(Par. a-2 cr, File #090613, Sept. 22, 2009; eff. Dec. 9, 2009. Par. a-2 am. File #090951 Dec. 1, 2009; eff. Feb. 16, 2010. Par. a-2 am. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. a-2 am. File #091214, Jan. 20, 2010; eff. April 5, 2010. Par. a-2 am. File #091308, March 2, 2010; eff. May 18, 2010. Par. a-2 am. File #091530, March 24, 2010; eff. June 1, 2010. Par. a-2 am. File #091609, May 25, 2010; eff. August 10, 2010. Par. a-2 am. File #100173, June 15, 2010; eff. August 25, 2010. Par. a-2 am. File #100241, July 7, 2010; eff. Sept. 22, 2010. Par. a-2 am. File #100574, Sept. 21, 2010; eff. Dec. 6, 2010. Par. a-2 am. File #101070, Jan. 19, 2011; eff. March 29, 2011. Par. a-2 am. File #101418, April 12, 2011; eff. June 28, 2011. Par. a-2 am. File #101246, July 26, 2011; eff. Oct. 11, 2011. Par. a-1 ra. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015)
(*Par. a-3 cr. File #121701, May 21, 2013; eff. Aug. 10, 2013. Pars. a-2 & 3 rp. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015.)*

b. Except for members of the system, who are initially employed as firemen or policemen on or after October 3, 2011, the employer shall have the obligation to contribute the percentages set forth in this section. Members who are firemen shall have contributed for them by the employer 7% of such firemen's earnable compensation. Members who are policemen shall have contributed by the employer, commencing with the 1st pay period of 1971, 6% of such policemen's earnable compensation; policemen shall contribute 1% of their earnable compensation. Members who are policemen shall have contributed by the employer commencing with the first pay period of 1990, 7% less $1 of such policemen's earnable compensation. Commencing in 1990, policemen, excluding sergeant of police, detective lieutenant and ranks above same, shall contribute $1 of their longevity in rank pay, if any, payable at the close of the year. Notwithstanding the foregoing, commencing with the 1st pay period of 2016, policemen who were enrolled as members in the retirement system before October 3, 2011, shall contribute 7% of their earnable compensation. Notwithstanding the foregoing, commencing with the 1st pay period of 2015 until the 1st pay period of 2016, firemen who were enrolled as members in the retirement system before October 3, 2011, shall contribute 3.5% of their earnable compensation; thereafter, commencing with the 1st pay period of 2016, these firemen shall contribute 7% of their earnable compensation. Members of the system who are initially employed as firemen or policemen on or after October 3, 2011, shall contribute 7% of their earnable compensation.
(Par. b am. Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. Feb. 17, 1986. Par. b am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Par. b, am. File #910901, Sept. 24,1991; Dec. 10, 1991 Par. b am. File #110347, July 26, 2011; eff. Oct. 11, 2011. Par. b am. File #151113, Dec. 15, 2015; eff. Feb. 29, 2016. Par. b am. File #141569, May 24, 2016; eff. Aug. 10, 2016. Par. b am. File #160124, July 26, 2016; eff. Oct. 11, 2016. Par. b am. File #141568, Sept. 20, 2016; eff. Dec. 6, 2016.)

c. Members who are elected officials shall contribute or have contributed on their behalf 7% of the members' earnable compensation, and in respect to such members subsequent to and commencing with the 1st pay period of 1971 the city shall contribute 7% of earnable compensation. Notwithstanding the foregoing, subsequent to and commencing with the first pay period following the effective date of this charter ordinance, elected officials who were enrolled in the retirement system prior to January 1, 2014, and whose accrual rate is 2.5% under s. 36-05-1-g, shall contribute 7% of their earnable compensation and elected officials who were enrolled as members in the retirement system prior to January 1, 2014, and

whose accrual rate is 2% under s. 36-05-1-g, shall contribute 5.5% of their earnable compensation. Elected officials who enroll as members in the retirement system on or after January 1, 2014, shall contribute 4% of their earnable compensation. *(Par. c rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. c am. File #121701, May 21, 2013; eff. Aug. 10, 2013.; par. c am. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015.)*

d. The board shall certify the percentage of earnable compensation of each member to be contributed for a member on each payroll. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payrollperiod, and it may omit contributions for any period less than a full payroll period if an employe was not a member on the first day of the payroll period. *(Par. d rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

e. The contributions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the contributions provided for herein and shall receipt for his full salary or compensation and payment of salary or compensation less said contributions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The city and city agencies shall transmit the amounts contributed and said amounts shall be paid into the retirement fund for participants in the retirement fund, or the combined fund for participants in the combined fund and shall be credited, together with regular interest thereon to the individual account of the member. Effective January 1, 2000, individual accounts, including interest credited annually thereto, for participants in the combined fund shall be transferred from the retirement fund to the combined fund. (Par. e rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. e am File #991585, April 11, 2000; eff. Jan. 19, 2001.)

f. In addition to the contributions credited to the member's account as hereinbefore provided, any member may deposit with the system an additional amount, such additional amount in any year not to exceed the amount of the deposit as hereinbefore provided in respect of the member. In respect of such additional contribution, an additional retirement allowance, death benefit or separation benefit shall be paid that is the actuarial equivalent of such additional accumulated contributions. Such additional amounts so deposited, improved with interest at a rate not exceeding the regular interest rate shall be returnable to the member in cash upon application to the board, or as an additional allowance of equivalent actuarial value at the time of retirement. If such additional amounts are withdrawn at any time prior to the retirement, the member shall not thereafter be eligible to make additional contributions. *(Par. f rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

g. Any member covered by the social security act from whose compensation the city is required to make deductions in order to pay taxes or contributions, shall be required to reimburse the city for that part of the social security taxes or contributions which would ordinarily be deductible from compensation paid to such member. If he fails so to do, the board shall deduct from the member's account the amount due the city for such social security taxes or contributions paid before turning over any amounts to such member or to a beneficiary in the instance where the beneficiary would be entitled to the proceeds from such member's account. *(Par. g rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

h. If the employer shall pay a part or all of the member contribution to the fund which formerly was deducted from the member's salary or compensation then in such instance no deduction shall be made from the member's salary or compensation for that amount paid by the employer in lieu of the member's contribution, and such contribution shall be credited to the member's account. *(Par. h rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

i. The member's account shall consist of those member contributions deposited in accordance with pars. a, b, c, and f and reduced in accordance with par. g together with regular interest thereon. *(Par. i rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

j. Notwithstanding anything herein contained to the contrary, in the event the contributions required under pars. a, b, or c are not made by or on behalf of a member, or in the event contributions with or without regular interest or a portion thereof have been returned to a member or paid on his behalf to another party, such member's account shall be reduced accordingly and the benefits otherwise provided under the system shall be reduced by the actuarial equivalent of such payment or

contributions not paid by or on behalf of the member. *(Par. j rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

k. Whenever a member's account is less than $5 upon death or separation from service, his or her membership and account in this system shall be terminated and the amount shall be credited to the retirement fund (or combined fund in the case of participants in the combined fund); however, if a valid claim for the amount is filed by the member or a person legally entitled to the sum, the same shall be refunded. *(Par. k rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. k am. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

L. In addition to any other member contributions under sub. b, effective Pay Period 1 through Pay Period 26, 1993 and December 31, 1995 through December 28, 1996 for firemen, and effective Pay Period 1, 1993 through December 30, 1995 for policemen, each fireman or policeman in active service and each fireman or policeman, other than a fireman or policeman eligible under s. 36-05-3-c-1-b, who retires on a duty disability retirement allowance on or after January 1, 1993 shall contribute 1% of the member's earnable compensation or 1% of the member's duty disability retirement allowance toward the cost of the benefit provided for under s. 36-05-1-h-6. Effective Pay Period 1, 1994 through December 30, 1995, each fireman, other than a fireman eligible under sec. 36-05-3-c-1-b, in active service and each fireman who retires on a duty disability retirement allowance on or after January 1, 1993 shall contribute 2% of the member's earnable compensation or 2% of the member's duty disability retirement allowance toward the cost of the benefit provided for under s. 36-05-1-h-6. A fireman who retires on a duty disability retirement allowance shall cease to make this contribution at the time the member makes an irrevocable election to continue duty disability or converts to normal service retirement under s. 36-05-3-c-3-f. *(Par. L cr. File #940423, July 15, 1994; eff. Sept. 28, 1994. Par. L am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. L rc. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995.)*

m. During the 8-year period immediately following their enrollment, general city employes who are enrolled as members on or after January 1, 2000 shall contribute to the combined fund a sum expressed as 1.6% of the members' pensionable earnings if they participate in the combined fund. If a member who makes contributions under this paragraph separates from service without a vested pension or withdraws his or her accumulated contributions, amounts contributed under this paragraph shall be returned to the contributor without interest. This subsection shall not apply to general city employes including elected officials, required to contribute a member contribution under par. a or c. *(Par. m cr. File #991585, April 11, 2000; eff. January 19, 2001. Par. m am. File #090613, Sept. 22, 2009; eff. Dec. 9. 2009. Par. m am. File #090951, Dec. 1, 2009; eff. Feb. 16, 2010. Par. m am. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. m am. File #091214, Jan. 20, 2010; eff. April 5 2010. Par. m am. File #091308, March 2, 2010; eff. May 18, 2010. Par. m am. File #091530, March 24, 2010; eff. June 1, 2010. Par. m am. File #091609, May 25, 2010; eff. August 10, 2010. Par. m am. File #100173, June 15, 2010; eff. August 25, 2010. Par. m am. File #100241, July 7, 2010; eff. Sept. 22, 2010. Par. m am. File #100574, Sept. 21, 2010; eff. Dec. 6, 2010. Par. m am. File #101070, Jan. 19, 2011; eff. March 29, 2011. Par. m am. File #101418, April 12, 2011; eff. June 28, 2011. Par. m am. File #110174, June 14, 2011; eff. Aug. 30, 2011. Par. m am File #121701, May 21, 2013; eff. Aug. 10, 2013. Par. m am. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015.)*

n. If a general city employe who enrolled as a member on or after January 1, 2000 separates from service without having contributed the full amount of the contribution required under par. m, and if the employe does not voluntarily pay the amount owed, then the board shall collect the amount as far as practicable by deducting from any benefit payment an amount sufficient to collect the amount owed over the remaining life expectancy of the member. If the benefit is to be paid in a lump sum, the amount owed shall be deducted from the lump sum. If the benefit is to be paid monthly, the monthly payments shall be actuarially reduced over the remaining life of the member to an amount that will collect the amount owed and the loss caused by late payment. *(Par. n cr. File #051397, Feb. 28, 2006; eff. May 16, 2006.)*

o. Pre-Tax Deduction. All member contributions made under pars. a, b and c, except the policemen's $1 contribution, shall be implemented pursuant to the provisions of Internal Revenue Code Section 414(h) (2) by means of direct payment by the city or city agency to the combined fund. The city or city agency shall fund the cost of member contributions under pars. a and c and for members initially employed as firemen or policemen on or after October 3, 2011, as provided in par. b by means of a pre-tax salary deduction from the salary of employes on whose

behalf such payments are made. Members shall not have the option of choosing to receive the contributed amounts directly instead of having them paid to the combined fund. *(Par. o cr. File #091068, Dec. 22, 2009; eff. March 10, 2010. Par. o am. File #110201, June 14, 2011; eff. Aug. 30, 2011. Par. o am. File #110740, Nov. 7, 2014; eff. Jan. 26, 2015.)*

8. EMPLOYERS' RESERVE FUND. Effective January 1, 2000 there shall be created a fund to be known as the employers' reserve fund for the exclusive purpose of holding voluntary employer contributions made by the city and city agencies. The retirement system shall establish separate accounts within the fund for the city and each city agency. Earnings on funds on deposit in each account shall be credited annually as part of the annual valuation. The city's funds in the employers' reserve fund shall be invested in a manner consistent with guidelines approved by the common council. The administrative functions shall be the responsibility of the committee on finance and personnel. The city shall bear any incremental costs associated with the administration or investment of the city funds. Absent any investment guidelines approved by the common council, earnings shall be credited based on the earnings of the retirement system as a whole. The reserve shall be funded by voluntary contributions from the city and city agencies and also by the amount transferred from the firemen and policemen's survivorship fund. The reserve shall be used to offset against contributions required under subs. 6 and 7 in accordance with directives contained within a formal resolution adopted by the city or city agencies and for no other purposes. No funds may be transferred from the combined fund or the retirement fund to the employers' reserve fund. *(Sub. 8 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 8 am. File #100502, Oct. 12, 2010; eff. Dec. 28, 2010)*

9. COMBINED FUND. a. Creation. Effective January 1, 2000, there shall be created a fund to be known as the combined fund into which all member contributions, city contributions and city agency contributions, shall be paid on account of members, retired members and beneficiaries participating in the combined fund, together with interest earnings attributable to assets of the combined fund. There shall be paid annually into the combined fund by the city and city agencies for the preceding fiscal year the actuarial contribution under sub. 6-h-1 for members who participate in the combined fund. All members of the retirement system first enrolled after June 27, 2000 shall participate in the combined fund. Members and retired members (or their survivors and beneficiaries if the member is deceased) enrolled in the retirement system prior to June 28, 2000 may execute a consent form to participate in the combined fund in which case they shall participate in the combined fund effective January 1, 2000. Other members, retired members, survivors and beneficiaries shall participate in the combined fund effective January 1, 2000 only after there is a final determination by a court of competent jurisdiction that such participation does not violate their individual rights. If a member is a participant in the combined fund the member's survivors and beneficiaries shall be designated as participants in the combined fund by virtue of the members' participation in the combined fund. All retirement allowances, disability benefits, separation benefits and other benefits payable to combined fund participants shall be paid from the combined fund effective January 1, 2000 or upon enrollment in the retirement system if participants are first enrolled in the retirement system after January 1, 2000. Effective January 1, 2000, all expenses in connection with the administration and operation of the retirement system defined as those described in the letter dated April 29, 1999 (and attachments), attached to the file **[#991585, April 11, 2000; eff. Jan. 19, 2001**], including investment related expenses, computerization related expenses and indirect related expenses (overhead) shall be paid from the combined fund created under this subsection.

b. Outstanding debts. Any provision of ch. 36 notwithstanding, all outstanding judgment debts or contributions of the city or any city agency for unpaid contributions to the separate funds under s. 36-08 or the merged fund (merged special disability fund and retirement fund for members enrolled after February 1, 1996, but before January 19, 2001; incurred prior to January 1, 2000, including special disability fund obligations of the city for

the years 1996 through 1999, performance fee obligations of the city for the year 1997, investment expense obligations of the city and city agencies for the years 1998 and 1999 and merged fund obligations of the city and city agencies for the years 1997 through 1999 and interest owing thereunder shall become obligations of, and paid from, the combined fund. *(Sub. 9 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a am. File #121417, April 30, 2013; eff. July 16, 2013.)*

36-09. Management of Funds. The funds of the retirement system, which, when taken in the aggregate shall constitute a special trust fund to be held in reserve as provided in this act for the payment of benefits, shall be managed as follows:

1. INVESTMENT OF FUNDS. The board shall be the trustee of the several funds of the system and shall contract for investment management services. No one shall be selected as investment manager who does not have 5years continuous experience acting as investment manager or investment adviser in recognized fields of investments for retirement systems of comparable stature. The board shall exercise prudence in selecting the investment manager, but the exercise of prudence by the board shall not relieve the board from all liability and responsibility with respect to investment of the funds of the system. The board shall reserve the right to terminate any contract for investment management services upon reasonable notice.

a. The several funds of the system shall be invested in accordance with the requirements of ss. 40.03(1)(n) and 62.63 (3), Wis. Stats. Not more than 25% of the assets of the system as measured by their cost as set forth in the last official report shall be invested in accordance with s. 40.03(1)(n), Wis. Stats. Not more than 70% of total assets as measured by their cost shall be invested in stocks of corporations.

b. The board shall establish written objectives and guidelines which shall govern the investment manager selected by the board. The investment manager shall have authority to purchase legal investments and to sell or exchange legal investments in accordance with the written objectives and guidelines established by the board for this purpose. The board shall evaluate the performance of the investment manager on a systematic and regularly scheduled basis. The board shall have the full power at its sole discretion to contract for an independent performance evaluation of the investment manager.

c. All investments shall be made by the investment manager and nothing contained herein shall prohibit the board from retaining 2 or more investment managers to perform the duties and assume the responsibilities herein provided for and the board may determine the amount of the whole fund to be allocated for investment purposes among such investment managers where more than one investment manager has been selected. However, any investment manager selected shall be required as a condition of his or her selection to meet and satisfy all of the requirements and qualifications specified herein and provided for, for investment manager.

d. Prudent Investor Rule. Except as otherwise specifically provided in this chapter, the board and a person under contract to the employes' retirement system who invests and manages trust assets owes a duty to comply with the prudent investor rule.

d-1. Standard of Care; Portfolio Strategy; Risk and Return Objectives. The board and a person under contract to the employes' retirement system to invest and manage trust assets shall invest and manage assets as a prudent investor would by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the board and such person shall exercise reasonable care, skill and caution. Investment and management decisions respecting individual investment assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the trust. A reasonable effort shall be made to verify facts relevant to the investment and management of trust assets. Assets may be invested in any kind of property or type of investment consistent with the standards of this subd. A board member or a person under contract to the employes' retirement system who invests and manages trust assets who has special skills or expertise or is named in reliance upon his or her representation that he or she has special skills or expertise has a duty to use those special skills or expertise.

d-2. Diversification. The board and person under contract to the employes' retirement system to invest and manage trust assets shall diversify the investment of the trust unless the board reasonably determines that because of the special circumstances, the purposes of the trust are better served without diversifying.

d-3. Loyalty. The board and a person under contract with the employes' retirement system to invest and manage trust assets shall invest and manage the trust assets solely in the interests of the beneficiaries.

d-4. Investment Costs. In investing and managing trust assets, the board and a person under contract to the employes' retirement system to invest and manage trust assets may only incur costs that are appropriate and reasonable in relation to the assets for the purposes of the trust and the skills of the trustee.

d-5. Delegation. The board has a duty to personally perform the responsibilities of trusteeship except as those responsibilities are by this section delegated to others or except as a prudent person might delegate those responsibilities to others. In deciding whether and to whom and in what manner to delegate fiduciary authority in the administration of the trust and thereafter supervising agents, the board is under a duty to the beneficiaries to exercise fiduciary discretion and to act as a prudent person would in similar circumstances. In performing a delegated function, a person under contract to the employes' retirement system to invest or manage funds owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation. The board shall not be liable to the beneficiaries or to the trust for the decisions or actions of a person to whom a function was delegated provided that the board shall have used reasonable care, skill and caution in selecting the person; establishing the scope and terms of the delegation consistent with the purposes and terms of the trust; and periodically reviewing the person's actions in order to monitor performance in compliance with the terms of delegation.

d-6. Reviewing Compliance. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of the decision or action and not by hindsight.

d-7. The text and comments to the Uniform Prudent Investor Act promulgated by the National Conference of Commissioners on Uniform State Laws (1994) and the Restatement of Trusts 3d: Prudent Investor Rule (1992) are interpretive of the provisions of this par.

d-8. Nothing in this par. prevents the board and the employes' retirement system from requiring indemnification or insurance from a contractor, nor does anything in this par. preclude the board and the employes' retirement system from obtaining indemnification or insurance for their activities.

2. TRANSFERS OF PROPERTY; REINVESTMENT OF FUNDS. The board shall have full power to make all transfers and conveyances of any securities or property in which it may from time to time invest and reinvest the several funds of the system or any part thereof, and no purchaser or purchasers shall be responsible for the application of the purchase money or other avails received by or for said board.

3. INTEREST. The board annually shall credit regular interest to the members' accounts and on the mean amount for the preceding year in each of the other funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the board from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid by the city and city agencies, and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the city and city agencies except for the firemen and policemen's survivorship fund. Regular interest shall mean such rate, compounded annually, as shall be determined by the board on the basis of interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future such rate to be limited to a minimum of 3% and a maximum of 4%.

4. INTEREST IN OR USE OF FUND. Except as herein provided no member of the board and no employe of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the board. No member of the board or employe thereof shall directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are authorized by the board; nor shall any member or employe of the board become an endorser or surety or

In any manner an obligor for moneys loaned by or borrowed from the board.

5. EFFECTIVE DATE. Wherever used in this act the term "effective date of the retirement system" shall be construed to mean January 1, 1938, and the term "effective date of the act" shall refer to the effective date when the legislature made such provision effective in the event of legislation enacted by the Wisconsin legislature, and in the event of a charter ordinance the effective date when such amendment came into effect as a result of common council enactment of the charter ordinance.

6. POWERS AND PRIVILEGES OF RETIREMENT SYSTEM. The retirement system shall have all of the powers and privileges of a corporation, as enumerated in chs. 180 and 182, Wis. Stats., including the power to contract with its members, and shall be known as the "employes' retirement system of the City of Milwaukee," and by such name shall all of its business be transacted. All of its funds shall be invested, or held in the name of the employes' retirement system, except that investment in loans, securities or other investments may be in the name of or transferred to nominees of one or more banks or trust companies under a custodial agreement between the board and each such bank or trust company. The custodial agreement may provide that loans, securities or other investments in the name of or transferred to nominees of one or more banks or trust companies may be loaned by the custodian with suitable collateral in an amount not less than 102% of market value. All its cash and securities and other property shall be held in trust for the purpose for which received. Revenue from security lending shall be used to offset custodial fees and any excess revenue from security lending shall be deposited in the expense fund established under s. 36-08-3. Any incorrect spelling of name of the system shall not be deemed to invalidate any document or affect any transaction of the system and for purposes of action under this act shall be without consequence or effect.

7. LIMITATIONS. All funds of the system shall be invested prudently and in accordance with the requirements of the law and of this act and no funds whatsoever of the pension system may be either pledged, deposited, or used in any form or in any manner whatsoever to provide either credits or support or act as deposit for or be used as collateral for any banking, financing, borrowing or other related transaction whatsoever. The board may contract for investment or custodial services or both with a state investment board or with a nationally recognized banking or investment institution. It is intended that this provision shall be given its most liberal construction which will prevent and preclude the use of funds for the purposes heretofore enumerated. This provision is deemed to be contractual and a vested right of each and every member and beneficiary of the system.

8. COMPLIANCE FOR GROUP TRUST PARTICIPATION. a. The board may, unless restricted by law, transfer all or any portion of the assets of the retirement system to a collective or common group trust, as permitted under Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 ,or subsequent guidance, that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under s. 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under s. 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of s. 457(b) of the Internal Revenue Code, and governmental plans under s. 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance company that is treated as a trust under s. 401(f) or s. 457(g)(3) of the Internal Revenue Code.

b. Any collective or common group trust to which assets of the retirement system are transferred pursuant to par. a shall be adopted by the board as part of the retirement system by executing appropriate participation, adoption agreements, or trust agreements with the group trust's trustee.

c. The separate account maintained by the group trust for the retirement system pursuant to par. a shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the retirement system.

d. For purposes of valuation, the value of the separate account maintained by the group trust for the retirement system shall be the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

(S. 36-09 am. Ch. Ord. 332, File #67-355-a, July 25, 1967. 36-09-0 am. Ch. Ord. 368, File #70-2757, April 13, 1971. 36-09-1 rc. Ch. Ord. 448, File #77-152, July 26, 1977. 36-09-1-0 am. File #912350, April 15, 1992; eff. July 9, 1992. 36-09-1-a am. File #891732, Jan. 16, 1990; eff. April 4, 1990. 36-09-1-a am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-c am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-d cr. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-3 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-09-6 am. Ch. Ord. 537, File #83-2361, June 12, 1984. 36-09-6 am. File #930242, July 6, 1993; eff. Sept. 21, 1993. 36-09-7 cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969. 36-09-8 cr., File #150113, June 2, 2015; eff. August 18, 2015.)

36-10. Exemption from Taxation, Execution and Assignment. 1. All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county, or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained, or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand, or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made for the payment of insurance premiums. The exemption from taxation contained herein shall not apply with respect to any tax on income.

2. a. Notwithstanding sub. 1, and for purposes of compliance with section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit an election by a distributee, as defined in par. b, to make a rollover. A distributee may elect, at thetime and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

b. For purposes of this subsection:

b-1. "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

b-2. "Distributee" means a member. It also includes the member's surviving spouse. Effective January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

b-3. "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

b-3-a. Effective January 1, 2002, an individual retirement account described in s. 408(a) of the Internal Revenue Code.

b-3-b. Effective January 1, 2002, an individual retirement annuity described in s. 408(b) of the Internal Revenue Code.

b-3-c. Effective January 1, 2002, an annuity plan described in s. 403(a) of the Internal Revenue Code.

b-3-d. A qualified trust described in s. 401(a) of the Internal Revenue Code.

b-3-e. Effective January 1, 2002, an annuity contract described in s. 403(b) of the Internal Revenue Code.

b-3-f. Effective January 1, 2002, a plan eligible under s. 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system.

b-3-g. Effective January 1, 2008, a Roth IRA described in s. 408A of the Internal Revenue Code.

b-4. "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint

lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of section 415 of the Internal Revenue Code or any distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse. Also effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:

b-4-a. To an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

b-4-b. On or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code or to an annuity contract described in section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

b-4-c. On or after January 1, 2008, to a Roth IRA described in section 408A of the Internal Revenue Code.

3. If on or after March 28, 2005, the retirement system provides for mandatory distribution of eligible rollover distributions with a present value greater than $1,000, and if a member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly, the system will pay the distribution in a direct rollover to an individual retirement plan designated by the board of trustees in accordance with section 401(a)(31)(B) of the Internal Revenue Code and IRS Notice 2005-5.

4. Notwithstanding sub. 1., a beneficiary who is a public safety officer as defined in s. 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968, has separated from service with all participating employers due to disability or the attainment of normal retirement age and is entitled to a service retirement allowance or a disability retirement allowance, may elect that an amount be deducted from his or her benefit payments to pay the premiums for coverage of the beneficiary, the beneficiary's spouse or the beneficiary's dependents (as defined in s. 152 of the Internal Revenue Code) under an accident or health insurance plan or qualified long-term care insurance contract (as defined in s. 7702B(b) of the Internal Revenue Code). The employes' retirement system shall pay any amounts withheld from a beneficiary's benefit payments under this subsection directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract under such plan or contract. The beneficiary shall designate the annual amount to be deducted from his or her benefit payments, which amount shall not exceed the lesser of either $3,000, reduced by any amounts deducted from the beneficiary's benefit for this purpose under any other eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code, or the amount required to pay such premiums. Elections pursuant to this subsection shall be made in a time, manner, and subject to any limitations established by the annuity and pension board and may only be changed in accordance with rules established by the board. *(S. 36-10 cr. File #67-355-a, July 25, 1967; 36-10 rn. 36-10-1, File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-3 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-3 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-2 am. File #051174, Jan. 18, 2006; eff. April 5, 2006. 36-10-4 cr. File #061555, April 17, 2007; eff. July 3, 2007. 36-10-4 am. File #070201, May 30, 2007; eff. Aug. 15, 2007. 36-10-2 am. File #091068, Dec. 22, 2009; eff. March 10, 2010. 36-10-2 & 3 rc File #111058, Dec. 20, 2011; eff. March 13, 2012. 36-10-2-b-3 rc File #150113, June 6, 2015; eff. August 18, 2015.)*

36-11. Protection Against Fraud and Elimination of Errors. 1. PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and shall be punishable therefore under the laws of the state of Wisconsin.

2. ELIMINATION OF ERRORS. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, the board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. *(s. 36-11 am. Ch. Ord. 332 File #67-355-a, July 25, 1967. s. 36-11 rc. File #020065, May 14, 2002; eff. July 31, 2002.)*

36-12. Limitations on Payment of Benefit. Any amounts which may be paid or payable under the provisions of any state worker's compensation, or similar law, to a member or to the dependents of a member on account of any disability shall be offset against and payment in lieu of any benefits payable out of funds provided by the city under the provisions of this act on account of the same disability. Within 30 days of notification by the board, any member may elect to offset the full amount of a lump sum award of amounts payable in fulfillment of the obligation to offset amounts payable. In case the present value of the total commuted benefits under said worker's compensation or similar law is less than the reserve on the benefits otherwise payable from funds provided by the city under this act, then the present value of the commuted payments shall be deducted from the reserve and such benefits as may be provided by the reserve so reduced shall be payable under the provisions of this act. Upon recommendation of the actuary, the board may approve separate tables for purposes of computing present values under this section. The board may permit a member whose retirement allowance is being offset by amounts payable to satisfy the offset with a lump sum payment, provided that any costs of the actuary in calculating the amount of the lump sum payment are paid by the member. Within 30 days of notification by the board, any member who received an award of amounts payable on or before January 1, 1995 shall have the optionof electing to pay the present value of such award or of electing to have the offset recalculated using separate tables developed for this purpose. Notwithstanding the foregoing, amounts paid or payable as social security disability benefits shall not be offset against the benefits payable by the city under the provisions of this act on account of the same disability to members in the coordinated plan. *(S. 36-12 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-12 am. File #941597, Feb. 14, 1995; eff. May 2, 1995. 36-12 am. File #950767, Oct. 17, 1995; eff. Jan. 2, 1996. 36-12 am. File #121025, Nov. 27, 2012; eff. Feb. 12, 2013.)*

36-13. Contractual Benefits; Miscellaneous Provisions. 1. LEGISLATIVE POLICY. Employes have been attracted to and have remained in the public service in cities of the first class despite the prevailing higher wages in other employments because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in the retirement system to which they have been admitted as contributing members. The purpose of this act is to strengthen the public service in cities of the first class by establishing the security of such retirement and death benefits.

2. CONTRACTS TO ASSURE BENEFITS. The benefits of members, whether employes in service or retired as beneficiaries, and of beneficiaries of deceased members in the retirement system created by chapter 396, laws of 1937, as amended, shall be assured by benefit contracts as herein provided.

a. Every such member and beneficiary shall be deemed to have accepted the provisions of this act and shall thereby have a benefit contract in said retirement system of which he is such member or beneficiary as of July 30, 1947, unless, within period of 30 days thereafter, he files with the board administering the system a written notice electing that this subsection shall not apply to him. The annuities and all other benefits in the amounts and upon the terms and conditions and in all other respects as provided under this act and as amended shall be obligations of such benefit contract on the part of the city and of the board administering the system and each member and beneficiary having such a benefit contract shall

have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation or by any other means without his consent.

b. The board administering the system may issue to each member and beneficiary who shall have a benefit contract under this act a written or printed contract but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued.

c. Any person who shall become a member of this retirement system after July 30, 1947, except persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, and persons who shall become members of this retirement system on or after August 1, 1985, as a result of being employed as policemen, shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of commencement of his membership and as subsequently amended. Every person who shall become a member of this retirement system on or after March 1, 1985, as a result of being employed as a fireman, and every person who shall become a member of this retirement system on or after August 1, 1985, as a result of being employed as a policeman shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of the commencement of his membership. *(Par. c am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. c am. Ch. Ord. 565, File #86-1820, Feb. 24, 1987; eff. May 11, 1987.)*

d. Contributions which are made to this fund under this act by the city or by an agency which is covered by this act, as contributions for members of this system shall not in any manner whatsoever affect, alter or impair any member's rights, benefits, or allowances, to which such member under this act is or may be entitled; neither shall the fact that such contributions are made, grant or confer upon such city or agency covered by this act, any additional rights, interest or authority in such contributions so made or in the management or supervision of this system or in the fund thereof. Contractual and vested rights, benefits or allowances which either have been or are declared and expressed in this act continue without impairment or reduction in any manner whatsoever, and such rights, benefits or allowances shall not be or are not in any manner affected, modified or diminished as a result of such contributions made by the city or an agency covered by this act; nor can such rights, benefits or allowances be altered, modified or impaired so that any diminution occurs in any member's rights, benefits or allowances. *(Par. d cr. Ch. Ord. 370, File #74-239, May 24, 1971.)*

e. No rights, benefits or allowances whatsoever created under or pursuant to the provisions of the employes' retirement act or as amended heretofore or hereafter, nor creditable, nor prior service, nor credits granted, either recognized or allowed to such member, or retired member or beneficiary, nor any rights or benefits allowed or allowances granted by virtue of any minimum or maximum retirement provisions or requirements, nor any minimum or maximum retirement provisions of this act shall in any manner whatsoever, or in any form, either be altered, modified, reduced, changed, cancelled, revoked or impaired, now or hereafter to the disadvantage or loss of such member or retired member or beneficiary as to his pension rights, payments or retirement allowances, and no action shall be taken nor provision enacted which in any manner diminishes, reduces or denies to such member or retired member or beneficiary any of his or her retirement allowances, benefits or rights derived from or under any section of this act or rule promulgated by the board as authorized by this act or as heretofore provided. No application nor interpretation of the provisions of this act or rule of the board shall be either effected, instituted or promulgated retroactively or applied in such a manner as to such member, retired member or beneficiary so that it results in any form, in the diminution, loss or partial loss or reduction of any credit, benefit or retirement allowance to which such person was or is entitled because of prior interpretation or application of the provisions of this act or rule whether general or specific. The protection, safeguarding and the security of the rights, benefits and allowances expressed in this subsection are and shall be

deemed fully vested, contractual and binding upon the employer and guaranteed by it. No act, action or delinquency of a member of this system shall in any manner defeat or prevent him or his beneficiary from receiving the full benefits or allowances to which he was entitled up to the time of the occurrence of such act, action or delinquency and any provision of this act which is in conflict therewith is deemed superseded and repealed and to be without force and effect. This paragraph shall not apply to persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, or persons who become members of this retirement system on or after August 1, 1985, as a result of being employed as a policeman. *(Par. e am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. e am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.)*

f. Any provision of ch. 36 notwithstanding, the granting of a benefit to any member, retired member, survivor or beneficiary participating in the retirement system to the exclusion of a member, retired member, survivor or beneficiary participating in the combined fund shall not be deemed in violation of the rights of such other member, retired member, survivor or beneficiary participating in the combined fund who is not granted such benefit, even if funded by the existing assets of the retirement system and/or future earnings. *(Par f. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

g. Every member, retired member, survivor and beneficiary who participates in the combined fund shall have a vested and contractual right to the benefits in the amount and on the terms and conditions as provided in the law on the date the combined fund is created. *(Par g. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

h. Notwithstanding any other provision of this chapter, the contractual rights of members enrolled on or after November 23, 2011, shall be governed by this paragraph. The right of the city on its own behalf, or on behalf of a city agency, to amend or repeal all or part of this chapter by enactment of ordinance is reserved to the city and the city agency. Members shall have no right to further accrual of benefits or rights for service rendered after the effective date of any ordinance repealing or altering the ordinance that authorizes the benefit or right. Benefits accrued and rights earned by a member under this chapter for service rendered prior to the effective date of any ordinance shall be due as a contractual and vested right and shall not be abrogated or altered by any subsequent legislation. No alteration of an ordinance shall abrogate any rights or benefits earned but not exercised before the effective date of an ordinance altering or abrogating the right or benefit. This paragraph shall not apply to members of a certified collective bargaining unit with a labor contract while it is in force and in effect that contains provisions inconsistent with this paragraph. *(Par h. cr. File #110348, Sept. 20, 2011; eff. Dec. 7, 2011.)*

4. GUARANTY AND SUPERVISION.

a. The creation and maintenance of reserves in the retirement fund, the maintenance of annuity reserves and pension reserves as provided for, and regular interest creditable as provided for to the various funds, shall be mandatory and shall be obligations of the city and city agencies whose employes are under this act. (Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)

b. The payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act shall be deemed deferred pay of such member, and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act and all expenses in connection with the administration and operation of the retirement system are made obligations of the city and city agencies.

c. The legal title to the funds created by this act shall be in the retirement system and shall be held by it in trust for the purposes for which they were contributed under this act and no amendment to the act shall reduce the benefits of any member below those which can be provided by the reserves of the system held in his account, nor shall the reserves held in his account, nor shall the reserves held on account of any member be diluted by the addition of new members or annuitants receiving benefits of any members.

d. The various funds of the employes' retirement system shall be subject to periodic audit examination, and each 5 years there shall be valuation of the system by the board's actuary as provided in s. 36-15-14. (Par. d am. Ch. Ord. 372, File #71-797, July 30, 1971. Par. d am. File #100788, Nov. 23, 2010; eff. Feb. 10, 2011.)

5. TRANSFER AND CREDITS.

a. Creditable Service. Any person who is a member of either the county or city of Milwaukee retirement system who within 60 days after termination of employment transfers from employment in either the county or city, as the case may be, without receiving any withdrawal benefits from either the city or county retirement system, shall be entitled to receive a service retirement allowance which shall be computed in the following manner, except as otherwise noted in pars. b and c: *(Par. a-0 am. Ch. Ord. 553, File #85-643, July 30, 1985; eff. Oct. 15, 1985. Par. a-0 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 18, 1986. Par. a-0 am. File #892334, April 9, 1990; eff. June 26, 1990.)*

a-1. The formula of the retirement system to which he has transferred in effect at the time of his retirement shall be used.

a-2. The final average salary of such person in the retirement system to which he has transferred shall be the base to which is applied the formula.

a-3. The aggregate creditable service including all service credit shall be the number of years or fraction of years of such service allowable under the respective provisions of both the county or city retirement system, as the case may be, together with the years of service or part thereof in the retirement system to which such person transferred.

a-4. The retirement system from which such person transferred shall contribute toward the service retirement allowance computed as hereinbefore set forth as follows: Such contribution shall be prorated on the basis of the total service earned by virtue of the service in the system from which the member transferred to the total service as provided for in subd. 3. *(Subd. 4 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 8, 1986.)*

a-5. In the event an entire department or a substantial number of employes in a department are transferred from city to county, or vice versa, then under such circumstances the method of contribution by the retirement system from which such employe transferred shall be handled at the time of transfer on a basis satisfactory to both systems and the method of contribution by the respective pension systems may be altered in that event, but this shall not affect the other provisions hereof.

b. Transfer From County. Any person who is transferred from the county system to the city system under this section and whose retirement occurs within 5 years of the date of transfer shall receive an allowance on account of his service prior to the date of transfer which shall not be greater than the allowance he would have received on account of his service to the date of transfer if he had remained a member of the system from which he transferred. He shall also be entitled to and receive an allowance on account of his service subsequent to such transfer. *(Par. b am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

c. Transfer To County. When any person who has been a member of the city system transfers to the county system and at the time of such transfer to that system, such member has less than one year of creditable service, his membership in the city system shall be terminated as of the date of transfer, and there shall be refunded to such person all sums contributed by him to the fund during the period of time he was in active city service.

d. Payments and Accounts. The liability of the city system for such credits and payments because of former members of the city system who shall have become members of the county system shall be taken into account by the board in its valuations and determinations of contributions to be made to the funds of the city system.

e. Transfer of Credits. Whenever any city employe who is a member of this system or any other system to which the city is a contributor desires to change his city employment, and such city employment is approved by the proper city officers, the credits which such person has accrued from the pension system from which he is transferring shall be transferred in full to this system, and such person shall be granted under this system credits in the same manner as if he had been a member of this system from the inception of his city service. An actuarial determination shall be made of any deficiency of credits, and the city and the employe shall be required to contribute to this system any difference in amount which shall be found by the actuarial determination to be required in order to make such person's account actuarially sound.

f. Termination of Membership. Any time after December 1, 1961, when an employe of the city, who is also a member of this system, transfers to employment in the county or becomes a member of the employes' retirement system of Milwaukee county because of court reorganization as provided for by state act, he may withdraw his contributions from this system provided that such member shall execute a waiver and release and such other forms as shall be determined by the board, and, following the return of contributions to such employe, his membership shall be terminated and such employe shall have no right or interest whatsoever in any pension, annuity or benefit of the system nor any other right or privilege whatsoever as a result of his membership in this system. Such election shall also terminate any right or interest of such member to any transfer by the city or by this system of accruals, credits, rights or benefits to any other retirement system, and such employe shall be deemed to waive any rights as to membership or restoration thereof in this system for the period of time prior to refund of his contributions.

g. Any member of the city or county employes' retirement system, who separated from service after having elected deferred retirement benefits, who thereafter became a member under the other system within 60 days of separation from the first system and who separated from the other system without having first received benefits from the first system, shall have service under both systems included for purposes of determining final average salary for retirement allowance purposes under each system and shall have creditable service under the first system included in determining whether the vesting requirements for retirement purposes of the other system have been met. This paragraph shall be the exclusive reciprocity for all members separating from the first system on or after June 1, 1991. *(Par. g cr. File #911897, passed Feb. 11, 1992. This file provided that par. g would become effective when Milwaukee county passed an ordinance identical in all respects to par. g. On June 27, 1995, the common council passed File #950326, effective Sept. 13, 1995, which repealed the contingency placed on par. g with respect to Milwaukee county action.)*

h. When Member of State Retirement System. Whenever the state of Wisconsin retirement system certifies that a member of this retirement system has service credit as a member of the retirement system of the State of Wisconsin, he shall receive credit therefor in computing his retirement allowance at a specific rate of 1.6% of his final average salary for each year or part thereof. The retirement allowance upon his retirement under the provisions of this act shall be reduced by the maximum amount which such member is entitled to receive as a retirement allowance from the state retirement system. If the member is not entitled to receive a retirement allowance from the state retirement system because of an election he has made on or after March 11, 1977, his retirement allowance shall nevertheless be reduced by the maximum amount to which he would have been entitled from the state retirement system had such election not been made. *(Par. g am. Ch. Ord. 439, File #76-164, Dec. 23, 1976. Par. g rn. to h, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.)*

i. Applicability. The board shall adopt rules for the application of par. g respecting treatment of interrupted service, computation of offset and service credit not in excess of creditable service in this system. *(Par. h cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969. Par. h rn. to i, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.)*

6. GUARDIAN FOR MEMBER. Whenever a guardian has been appointed for a member by a court of record and a certified copy of the order appointing the guardian has been filed with the secretary of the board, such guardian may file an application for retirement and also elect the option and may designate the beneficiary when authorized by such court so to do.

7. DEATH BENEFIT PAYMENTS TO BENEFICIARIES RESIDING IN FOREIGN COUNTRIES. In the event that a member designates a beneficiary who is both a resident and a citizen of a foreign country to receive a death benefit and contributions made by such member, the board shall determine whether such benefit shall be paid to the beneficiary or instead be made payable to the estate of such deceased member. No death benefit shall be payable on account of the death of such

member and only the member's contributions shall be paid to the beneficiary or the estate of the member, unless the board shall determine otherwise. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

36-14. Home Rule. For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension, annuity and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this act are matters of local affair and government and shall not be construed as an enactment of statewide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this act in the manner prescribed by s. 66.0101, Wis. Stats., provided that no such amendment or alteration shall modify the annuities, benefits or other rights of any persons who are members of the system prior to the effective date of such amendment or alteration. *(am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)*

36-15. Administration. 1. ANNUITY AND PENSION BOARD. a. Retirement System and Group Life Insurance. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in an annuity and pension board which shall be organized immediately after the first 4 members provided for in this section have qualified and taken the oath of office. In addition to all other duties and responsibilities assigned to the board by the provisions of the employes' retirement act, the board shall be responsible for administering the city's group life insurance program, retiree health benefits and retiree dental COBRA benefits as provided for in ordinance adopted by the common council. (Par. a am. File #990253, June 2, 1999; eff. Aug. 18, 1999.)

b. Emergency Powers. It is expressly provided that in the event of a national emergency declared by the president of the United States or a national emergency resulting from aerial attack on the area surrounding or on the city of Milwaukee, and a quorum of the board is not available to direct activities of the board, or no member of the board is available or present to authorize continuation of the board's operations, including maintaining and safeguarding of records, receipts and disbursements, expenditure of funds, and safeguarding of investments and securities, then in such event the secretary of the board shall have full authority to discharge the duties and responsibilities of such board, as is provided for in this act, and shall be further empowered to bind the board; provided further, that in the event the secretary of the board is incapacitated, then the assistant secretary shall function in his stead and in the manner hereinbefore provided. However, any vacancies on the board shall be filled as soon as possible.

c. Firemen's Pension Fund of the Former Town of Lake. At any time after May 12, 1964, when the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake certifies to the city clerk of Milwaukee that less than 3 active members remain in such fund, all of the duties and responsibilities devolving upon the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake shall be transferred to and assumed by the annuity and pension board of the employes' retirement system. In the event that such transfer occurs as herein provided for all funds of the city of Milwaukee firemen pension fund of the former Town of Lake shall at the effective date of transfer be turned over to the annuity and pension board of the employes' retirement system. Such funds so transferred shall be maintained separately and apart from any other funds under the direction, supervision and control of the annuity and pension board of the employes' retirement system and shall be used solely for the purposes of administering the city of Milwaukee firemen's pension fund of the former Town of Lake as provided for by law. Payments out of such fund shall be made upon direction of the annuity and pension board of the employes' retirement system. All receipts of such fund shall be under the supervision, direction and control of the annuity and pension board of the employes' retirement system, it being the intent of this subsection that whatever duties and responsibilities relating to the administration of the fund of the city of Milwaukee firemen's pension fund of the former Town of Lake are to be assumed and performed by the annuity and pension board of the employes' retirement system from and after the transfer of such fund.

d. The annuity and pension board is authorized to perform administrative work necessary to implement the provisions of s. 34-06, provided it is compensated by the city for the actual cost of the work performed.
(Par. d cr. File #041513, March 16, 2005; eff. May 31, 2005.)

e. Policemen's Annuity and Benefit Fund.

e-1. The annuity and pension board is authorized to exercise all powers and duties vested in the policemen's annuity and benefit fund board of trustees by ch. 35.

e-2. The annuity and pension board is authorized to invest the assets of the policemen's annuity and benefit fund provided it accounts for the assets separately from the assets of the combined fund.

e-3. All cost and expenses incurred by the annuity and pension board to manage, administer, or operate the policemen's annuity and benefit fund shall be paid by the city of Milwaukee.

e-4. The city of Milwaukee shall indemnify and hold harmless the board members, officers, directors and employes of the annuity and pension board and the employes' retirement system from any liability, damages, or injury arising out of the management, administration, investment or operation of the policemen's annuity and benefit fund.

e-6. The annuity and pension board annually shall conduct a meeting, or direct its staff to conduct a meeting, to report on the status of the fund and answer any inquiries of retirees or widows. The annuity and pension board shall give all retirees and widows at least 30 days' notice of the time and location of the meeting. *(Par. e cr. File #050744, Oct. 18, 2005; eff. Jan. 3, 2006. Par e-5 rp. File #151869, June 14, 2016; eff. August 30, 2016.)*

2. MEMBERSHIP. The membership of the board shall consist of the following:

a-1. Three members to be appointed by the president of the common council subject to the confirmation of such common council for a term of 4 years.

a-2. Commencing in 1997, when terms expire for members appointed by the common council president, members shall be appointed for terms expiring the 3rd Tuesday of April 2000. Thereafter the common council president shall appoint members for a term of 2 years within 60 days of the commencement of a new common council term, and then within 60 days following 2 years of the commencement of a common council term. If a vacancy occurs in a board position, the president shall appoint within 60 days after the vacancy occurs.

a-3. Three members to be appointed by the mayor subject to the confirmation of the common council. For members appointed by the mayor in 2014, they shall be appointed for terms expiring on the 3rd Tuesday of April, 2016. Thereafter, the mayor shall appoint, within 60 days of the commencement of the mayor's regular term of office, members for a term of 2 years to the board. If a vacancy occurs in a board position, the mayor shall appoint a member within 60 days after the vacancy occurs.

b. The city comptroller ex-officio.

c. Three employe members who shall be members of the retirement system and who shall be elected by the members of the retirement system for a term of 4 years according to such rules and regulations as the board shall adopt to govern such election. Notwithstanding the foregoing, the employe members shall consist of one policeman in active service, one fireman in active service, and one general city employe in active service, which shall be determined in the following manner:

c-1. For the member term that expires on December 31, 2014, or at the date the position is vacated, if earlier, a fireman in active service shall be elected to the member position and only a member who is a fireman in active service shall be allowed to vote for this member position.

c-2. For the member term that expires on December 31, 2016, or at the date the position is vacated, if earlier, a general city employe in active service shall be elected to the member position and only a member who is a general city employe in active service shall be allowed to vote for this member position.

c-3. For the member term that expires on December 31, 2017, or at the date the position is vacated, if earlier, a policeman in active service shall be elected to the member position and only a member who is a policeman in active service shall be allowed to vote for this member position.

d. One member to be elected by the vote of persons who had been members but who have retired from the retirement system and receive a retirement allowance, to serve for a term of 4 years. The election of such person shall be conducted in the same manner as is the election of an employe member under par. c except, however, that only retirees as herein described shall be allowed to vote in such election. Nothing herein contained shall preclude any member elected to the board from succeeding himself or herself. *(Sub. 2 am. Ch. Ord. 486, File #79-869-a, Mar. 13, 1980. Sub. 2-a ra. to 2-a-1 File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-a-2 cr. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-c am. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-d am. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub 2-a-3 cr. File #131162, Dec. 17, 2013; eff. March 10, 2014. Sub 2-c-0 am. File #131162, Dec. 17, 2013; eff. March 10, 2014. Sub 2-c-1 to 3 cr. File #131162, Dec. 17, 2013; eff. March 10, 2014.)*

3. VACANCY. If a vacancy occurs in the office of a board member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

4. OATH OF OFFICE. Each member of the board shall, within 10 days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system.

5. DECISION VOTE. Each member of the board shall be entitled to one vote in the board. A majority of members present shall be necessary for a decision by the members of the board at any meeting of the board. (Sub. 5, am. Ch. Ord. 544, File #84-1168, Dec. 11, 1984.)

6. RULES AND REGULATIONS. Subject to the limitations of this act and with the advice of the city attorney the board shall, from time to time, establish rules and regulations for the administration of the funds created by this act, for the transaction of its business and in order to carry out the provisions of this act. All rules and regulations promulgated by the board shall be filed with the city clerk within 30 days after they have been approved by the board and revocation of such rules or amendments thereto shall be filed in the same manner.

7. OFFICERS AND EMPLOYES; EXPENSES. The board shall elect from its membership a chairman and vice chairman and shall by a majority vote of all its members appoint a secretary, who may be, but need not be, one of its members. It shall appoint an executive director and shall engage such actuarial and other service as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve. *(Sub. 7 rn. to 7-0, File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

a. It shall be the duty of the secretary and executive director of the retirement system to maintain records respecting the amount of system funds invested in common stocks and preferred stocks and such secretary and executive director shall function under direction of the annuity and pension board and shall be appointed by such board under civil service procedure with civil service status; the incumbent secretary and executive director shall have civil service status with the enactment of this section. In the event of a vacancy in the office of secretary and executive director, such office shall be filled by the board under civil service procedures and thereafter such secretary and executive director shall have civil service status, subject to the rules and

regulations thereof. An executive director hired pursuant to an exemption granted by the board of city service commissioners shall continue to serve unless dismissal is approved by 8 board members voting in open session. *(Par. a cr. File #950077, July 14, 1995; eff. Sept. 27, 1995. Par. a am. File #131162, Dec. 17, 2013; eff. March 10, 2014.)*

b. The assistant secretary and executive director shall fulfill the duties of the secretary and executive director in his or her absence for any reason, and in the event a vacancy shall occur in the office of assistant secretary and executive director the position shall be filled by the board under civil service procedures, and he or she shall have civil service status under the rules and regulations applicable thereto. *(Par. b cr. File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

8. DATA REQUIRED. The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system.

9. RECORDS. The board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the assets of the system and the financial condition of the system as disclosed by an actuarial valuation of the retirement system. The board shall by resolution determine which of its records are obsolete or no longer required and direct the secretary of such board to destroy those records; provided, however, that no records shall be destroyed unless the secretary shall certify that it is no longer required in the conduct of the board's business or essential to the safeguarding of records with respect to members' or retired members' rights or benefits, and provided further that in no event shall any record be destroyed until it has been in existence for more than 7 years.

10. LEGAL ADVISOR. The city attorney shall be the legal advisor of the board.

11. CUSTODIAN OF FUNDS. The city treasurer shall be the custodian of the several funds of the retirement system and shall give up such bond for the proper performance of his duties as is required by the board. All payments from said funds shall be made by him only upon vouchers signed by 2 persons designated by the board. A duly attested copy of a resolution of the board designating such persons and bearing on its face specimen signatures of such person shall be filed with the treasurer as his authority for making payments upon such vouchers. No payment shall be made unless it has been authorized by the board. Nothing contained herein shall preclude the board from providing for custody by an appropriate entity of its funds and securities in the manner in which it deems prudent. *(Sub. 11 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

12. MEDICAL COUNCIL. The board shall designate a medical council to be composed of 3 physicians. If required, other physicians may be employed to report on special cases. The medical council shall arrange for and pass upon all medical examinations required by the retirement system, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board its conclusion and recommendations upon all the matters referred to it. Nothing contained in this subsection shall prevent the making of a certification by the medical panel of physicians of either the fire department or police department with respect to the operation of s. 36-05-3-c.

13. ACTUARY. The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

14. PERIODIC VALUATIONS; TABLES AND RATES THEREON. At least once in each 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the results of such investigation and valuation, the board shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.*(Sub. 14 rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

15. ANNUAL VALUATIONS. a. On the basis of such tables as the board shall adopt, the actuary shall make an annualvaluation of the assets and liabilities of the funds of the retirement system. This annual valuation shall comply with Actuarial Standards of Practice and shall contain a certification from the board's actuary to that effect. For the purposes of the annual valuation, the actuary shall employ the projected unit credit actuarial cost method. (*Par. a ra. File #091274, Mar. 2, 2010; eff. May 18, 2010.)*

b. Beginning with the valuation that determines employer contributions due and payable January 31, 2011, the actuary shall employ a 5-year asset smoothing period and an asset valuation corridor that allows for a variation between the market value and actuarial value of assets of 20%. The actuary shall calculate amortization of unfunded liability based on a level percentage of payroll amortization. The actuary shall apply a closed amortization method to a 24-year amortization period, until the amortization period is reduced to the expected future working lifetime of the active population, calculated separately for police, fire and general city members. Beginning with the valuation that determines employer contributions due and payable January 31, 2011, the board shall provide a copy of the final annual valuation, as certified by the board, to the mayor and the common council no later than August 15. No changes shall be made to this paragraph without an affirmative vote of the board of at least 6 of its members, and written certification from the board's actuary that such changes comply with Actuarial Standards of Practice. *(Par. b cr. File #091274, Mar. 2, 2010; eff. May 18, 2010. Par. b am. File #131162 Dec. 17, 2013; eff. March 10, 2014.)*

16. EXECUTION OF DOCUMENTS. Whenever any document, record or paper requires the signatures of either the chairman of the board or the secretary or both, or the vice chairman in the absence of the chairman, such officers may execute the aforesaid documents on behalf of the board and the employes' retirement system by identifying themselves in the case of the chairman or vice chairman of the board as president or vice president of the employes' retirement system and in the instance of the secretary of the board as secretary of the employes' retirement system, and the executions made with that identification shall in all respects be deemed the execution for and on behalf of the board and of the employes' retirement system.

17. CONTRACT FOR FUND ADMINISTRATION. The board is authorized notwithstanding any other provision to the contrary, to enter into contracts with established trust companies who have been engaged in such trust business extensively for at least 25 years continuously or other similar established companies able to demonstrate sufficient fiscal experience and expertise and administrative capacity to undertake operations, investments and custody of pension and retirement funds and to exercise a trustee relationship over the fund so as to accept total responsibility, obligation, administration, investment and custodial services and serve as trustee of this fund. When such services are contracted for as provided for herein, members of the board shall be thereupon released from their obligations or liability under this act with respect to all functions, duties, responsibilities and obligations which are undertaken by contract by such trust entity. The provisions of this subsection are vested and contractual as to members and beneficiaries of this fund. Contracts ente305
red into pursuant to this subsection shall neither be impaired, abrogated or suspended during their duration by any collateral, indirect or direct procedures or actions and the rights herein provided for which are designated to protect the members and the beneficiaries of the fund and the integrity of such fund are in all respects vested, contractual and binding and shall not be altered, modified or impaired by subsequent action. *(Sub. 17 cr. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

18. REVIEW. Any person, aggrieved within the meaning of ch. 68, Wis. Stats., by a determination of the board reviewable under ch. 68, Wis. Stats., may have such determination reviewed in accordance with the procedures established under ss. 68.08 to 68.13, Wis. Stats. *(Sub. 18 cr. Ch. Ord. 478, File #78-2302, Oct. 23, 1979.)*