

OFFICE CONSOLIDATION

This consolidation is prepared for convenience only; for accurate reference see by-laws as adopted by City Council.

BY-LAW NO. 10649

Respecting the Toronto Fire Department Superannuation and Benefit Fund.

(Passed December 14th, 1925)

As amended by By-laws Nos.: 10876, 11392, 11517, 11928, 12741, 15271, 15393, 15752, 15991, 16538, 16871, 18465, 18733, 19183, 21009, 21224, 21673, 21827, 21836, 21904, 22305, 22402, 22696, 225-69, 274-69, 33-70, 240-70, 177-72, 269-72, 149-73, 416-74, 106-75, 110-76, 329-76, 224-77, 274-77, 381-77, 719-77, 525-78, 529-78, 731-78, 292-79, 909-79, 417-80, 376-81, 261-82, 268-82, 578-83, 260-84, 376-85, 380-85, 459-85, 663-86, 836-86, 463-87, 558-87, 72-88, 877-88, 1001-88, 1002-88, 199-89, 333-89, 369-89, 363-90, 354-91, 445-91, 580-91, 584-91, 50-92, 557-92, 1994-0029, 1994-0438, 1995-0451, 1996-0249, 1997-0300, 1997-0327, 1997-0676, 301-1999, 11-2000, 558-2002, 947-2002, 948-2002, 617-2003, 854-2005, 165-2007, 397-2007, 1024-2008, 1095-2009, 620-2010, 127-2016, 1209-2017, 1210-2017, 792-2018

The Council of the Corporation of the City of Toronto enacts as follows:

I

The Fund heretofore created and established and known and designated as the “Toronto Fire Department Superannuation and Benefit Fund” is hereby continued under the same name.

II

In this By-law, unless the context clearly indicates otherwise, every instance of each expression defined in this Section shall be interpreted accordingly. (1024-2008 and 1095-2009)

“Act” means the Pension Benefits Act, R.S.O. 1990 and Regulations made thereunder; (584-91) (1994-0029)

“Actuary” means a fellow of the Canadian Institute of Actuaries or firm of actuaries retained by, but independent of, the City or retained by Pension Committee as the actuary to the Plan; (584-City of Toronto Consolidation of By-law No. 10649 2 91) (1994-0029)

“City” means (584-91) (11-2000)

(a) with respect to the period prior to January 1, 1998, The Corporation of the City of Toronto; and (11-2000)

(b) with respect to the period following December 31, 1997, the City of Toronto incorporated by the *City of Toronto Act, 1997*; (11-2000)

“Committee” means The Benefit Fund Committee as provided for in Section VI and clauses VII(e) and (f). (1024-2008)

“Deputy City Treasurer” means such senior subordinate of the City Treasurer as such Treasurer may from time to time appoint for the purpose. (1024-2008)

“Disabled” means in relation to an individual, suffering from a physical or mental impairment that prevents the individual from performing the duties of the employment in which the individual was engaged before the commencement of the impairment, as amended from time to time by subsection 8500(1) of the Regulations under the Income Tax Act, certified by a medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides; (1994-0029)

“Fund” means the Toronto Fire Department Superannuation and Benefit Fund, created, established, known as, designated as and continued as aforesaid to which contributions are to be made and from which pensions and other benefits under the Plan are to be paid and shall consist of the corpus thereof together with earnings, appreciation and depreciation, additions or reductions thereto; (584-91) (1024-2008)

“Interest” means interest on contributions payable under this By-law, calculated at the rate of 3% per annum up to the 31st day of December, 1987, and at the rate of 5% per annum thereafter, compounded yearly in respect of the completed months from the end of the year in which the contribution was paid into the Fund until the first day of the month in which (584-91)

(a) the contribution is refunded, or (584-91)

(b) a pension has become payable, whichever is the earlier month. (584-91)

After December 31, 1987, where interest on contributions is payable in accordance with this By-law, Interest shall mean interest calculated on the basis of the average of the yields of five-year person fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management (CANSIM) series B 14045 published monthly in the Bank of Canada Review, over a reasonably recent period, such that the averaging period does not exceed 12 months, in accordance with the Act. (584-91)

“member” means a member of the Plan who has not retired, terminated employment or died, and who contributes to the Fund. (584-91) (1024-2008)

“normal retirement date” means the first day of the month following a member's 65th birthday. (584-91)

“Plan” means the pension plan provided for in this By-law. (1024-2008)

“plan year” means the calendar year. (584-91)

“Post Retirement Spouse” means a person of the opposite sex, or if the member's death occurs on or after June 5, 1998, of either sex, who: (1997-0327) (301-1999)

(a) married the member after commencement of pension and is not living separate and apart from the member at the time of the member's death; or (1997-0327)

(b) establishes before the Committee that, although she or he did not meet the requirements under the definition of “Spouse” at the time the member's pension commenced, she or he had, for a period of not less than three years immediately prior to the date of the member's death, been residing with the member and with whom by law she or he was prohibited from marrying by reason of a previous marriage either of the member or of herself to another person, and has been maintained and publicly represented by the member as his spouse; or (1997-0327)

(c) establishes before the Committee that, although she or he did not meet the requirements under the definition of “Spouse” at the time the member's pension commenced, she or he had, for a period of two years immediately prior to the date of the member's death, been residing with the member, has been maintained and publicly represented by the member as his spouse, and that at the date of the member's death neither she or he nor the member was married to any other person; or (1997-0327)

(d) is not married to the member, but who on the date of the member's death was living with the member in a conjugal relationship if they are the parents of a child as set out in the *Children's Law Reform Act*. (1997-0327) (1209-2017)

“Prescribed amount” means for the purpose of calculating a member's pension adjustment and reporting his pension adjustment as defined under the Income Tax Act (Canada) and Regulations made thereunder, (1994-0029)

(a) a period of Disability pursuant to Section IIIA established by this By-Law 10649, as amended, which is treated as service credit, the remuneration the member could reasonably be expected to have received from the City for the period if the member had not been Disabled; or (1994-0029)

(b) in respect of a member on a temporary leave of absence pursuant to Section XXIII(7)(b) and

(c) established by this By-Law 10649, as amended, which is treated as service credit, the remuneration the member could reasonably be expected to have received from the City for the year had he remained in the employment of the City. (1994-0029)

“Salary” means earnings paid as salary or wages by the City including such earnings in respect of service after completion of 35 years of service. (1994-0029) (1997-0327)

Salary for periods of temporary leave of absence which are treated as service credits shall be deemed to be the salary in effect immediately prior to the date such absence occurs. (1994-0029)

Salary for periods of disability which are treated as service credits shall be deemed to be the salary which would have been in effect prior to his period of disability. (1994-0029)

For the purposes of calculating a member's pension adjustment and reporting his pension adjustment as defined under the Income Tax Act (Canada) and Regulations made thereunder, in respect of a member on a temporary leave of absence which is treated as service credit, or in respect of a member on a period of disability which is treated as service credit, salary during such absences shall mean a Prescribed Amount. (1994-0029)

“Service Credits” means accrual of service while a contributing member of the Plan. Service Credits shall accrue as specified pursuant to Sections IIIA and XXIII(7). (1994-0029) (1024-2008)

“Spouse”, after December 31, 1987, means a person of the opposite sex, or if the member's death occurs on or after June 5, 1998, of either sex, who: (584-91) (1994-0029) (1997-0327) (301-1999)

- (a) is married to the member and is not living separate and apart from the member; or (584-91) (1997-0327)
- (b) establishes before the Committee that she or he had, for a period of not less than three years immediately prior to the date a determination is required, been residing City of Toronto Consolidation of By-law No. 10649 5 with the member and with whom by law she or he was prohibited from marrying by reason of a previous marriage either of the member or of herself to another person, and has been maintained and publicly represented by the member as his spouse; or (584-91) (301-1999)
- (c) establishes before the Committee that she or he had, for a period of two years immediately prior to the date a determination is required, been residing with the member, has been maintained and publicly represented by the member as his spouse, and that at the date a determination was required neither she or he nor the member was married to any other person; or (584-91)
- (d) is not married to the member, but who on the date a determination is required had been living with the member in a conjugal relationship if they are the parents of a child as set out in the *Children's Law Reform Act*. (584-91) (1994-0029) (1209-2017)

In this By-law, the member's “Spouse” will be determined, for purposes of a benefit payable upon the death of a member while he is in service, on the date of his death; and for purposes of a benefit payable upon the death of a member after his retirement, on the date he commences to receive his pension. (584-91)

“Spouse” before December 31, 1987, includes a woman who (584-91) (1994-0029) (1997-0327)

- (i) establishes before the Committee that she had for a period of not less than 7 years immediately prior to the death of the member with whom she had been residing and with whom by law she was prohibited from marrying by reason of a previous marriage either of the member or of herself to another person, been maintained and publicly represented by the member as his wife, or (584-91) (1024-2008 and 1095-2009)
- (ii) establishes before the Committee that she had, for a period of one year immediately prior to the death of the member with whom she had been residing, been maintained and publicly represented by the member as his wife, and that at the time of the death of the member neither she nor the member was married to any other person. (584-91) (1024-2008 and 1095-2009)

“Remarriage” and “marriage” unless the context otherwise requires, includes the “common law” status of a spousal relationship described in the definitions of “Spouse” and “Post Retirement Spouse”. (584-91) (1994-0029) (1997-0327) (301-1999)

“Totally and Permanently Disabled” means in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of the individual's education, training or experience and that can reasonably be expected to last for the remainder of the individual's lifetime, or as amended from time to time by subsection 8500(1) of the Regulations under the Income Tax Act (Canada), certified by a medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides. (1994-0029)

IIA (11-2000)

With respect to the period following December 31, 1997, every reference in this by-law to (11-2000)

- (a) a „City“ official or department by title shall be read as if it were a reference to the official or department of the City having that title or responsible for the functions previously performed by the official or department known by that title when The Corporation of the City of Toronto was in existence; (11-2000)
- (b) the „Executive Committee“ shall be read as if it were a reference to the appropriate committee of City Council, as designated by the Council from time to time, for the relevant purpose. (11-2000)

III

- (1) Subject to subsections (1a) to (1b) of this Section, every member of the Fire Department eligible to participate in the said Fund shall contribute thereto a fortnightly amount equivalent to seven and one-half percentum of a member's fortnightly salary. (416-74) (106-75) (1994-0029) (1210-2017)
- (1a) From and after the first day of January 1966, the contributions to the Fund payable under subsection (1) by any member shall be reduced by the amount contributed as an employee's contribution by or for such person to the Canada Pension Plan or the amount which would be required to be contributed to the Canada Pension Plan if the member were required to contribute to such Plan. (110-76)
- (1a.1) Notwithstanding subsections (1) and (1a), the aggregate of member contributions thereunder for current service in any year shall not exceed \$ 1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulation's under the *Income Tax Act* (Canada) unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and 3(g) of those Regulations. (1210-2017)
- (1b) Effective January 1, 1995 active members who have completed 35 years of service shall cease making required contributions. (1997-0327)

- (1c) If, before the 1st day of January 1995, a member made contributions under this Section while having credited service in excess of thirty-five years, such contributions shall subject to subsections (1d) and (1e) of this Section, be refunded to the member or, if the member is deceased, to a spouse receiving a pension in respect of the member, in each case with „Interest“ calculated without regard either to the word „or“ at the end of clause (a) of the first paragraph of the definition of that expression in Section II of this By-law or to clause (b) of that paragraph, provided that the person to whom the refund is to be made was alive on the 17th day of September, 2001. (947-2002)
- (1d) The amount of any contributions refunded under subsection (1c) of this Section shall be reduced by any refund previously paid to or in respect of the member under clause (d) of section V of this By-law in respect of the period during which such contributions were made. (947-2002)
- (1e) Subsection (1c) of this Section shall not come into operation until the Superintendent of Financial Services has given consent to the refund therein provided for, pursuant to subsection 63(7) of the Act. (947-2002)
- (2) The City shall, to the extent that the contributions are required pursuant to the recommendation of the Actuary, and permitted under subsection 147.2(2) of the *Income Tax Act* (Canada), contribute to the said Fund in each year, an amount equivalent to the contributions by the members to the Fund plus an additional amount as determined by the Actuary which together with such contributions and members contributions, is required to provide for the proper amortization of any going concern unfunded actuarial liability or solvency deficiency of the Fund. (269-72) (719-77) (1994-0029) (1210-2017)

The City shall deposit such contributions to the Fund no less frequently than as required under the Act. (1994-0029)

The actuary's recommendation shall be based on an actuarial valuation report of Plan which complies with the provisions of Section 147.2(2) of the *Income Tax Act* (Canada). (1994-0029)

- (2a) Notwithstanding anything herein contained, no provision shall operate to provide in any year, a pension adjustment, as defined under the *Income Tax Act* (Canada) and Regulations made thereunder, for any member, from the City in excess of the lesser of: (1994-0029)
- (a) for 1991, \$12,500
 - for 1992, \$12,500
 - for 1993, \$13,500
 - for 1994, \$14,500
 - for 1995, \$15,500

and years thereafter, such amounts as may be contained in Section 147.1 of the *Income Tax Act* (Canada) and, (1994-0029)

- (b) 18% of the member's compensation for the year (as defined under the Income Tax Act (Canada)), (1994-0029)

or cause the determination of amounts under Part LXXXIII of the Income Tax (Canada) and Regulations made thereunder to be inappropriate in relation to the pensions provided under the Fund. (1994-0029)

- (2b) The City, upon notice from Revenue Canada, may amend the Fund at any time to reduce the retirement benefits provided to members under any of its provisions to the extent necessary to avoid the revocation of the registration of the Fund. (1994-0029)

Notwithstanding anything to the contrary herein the Committee shall cause a return of contributions to the City or members, as applicable, to avoid revocation of the Plan's registration where benefits or contributions fail to comply with the Income Tax Act (Canada) or Regulations made thereunder. (1994-0029)

III A

- (1) (a) For purposes of this Section, a member shall be considered to be “Disabled” as of the date that a certificate of a legally qualified medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, appointed by the Committee declares to be the date upon which the member is wholly prevented due to mental or physical incapacity from performing the regular duties of the occupation in which such member was engaged immediately prior to such date, and such disability shall be considered to continue if the member is so prevented during the first twenty-four month period immediately after such date, and, thereafter, such disability shall be considered to continue if the member is wholly prevented from engaging in any occupation or performing any work for compensation or profit for which the Committee, on the advice of a legally qualified medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, appointed by the Committee, considers the member is or may become reasonably qualified by education, training or experience; (836-86) (1994-0029)
- (b) Notwithstanding paragraph (a) of this subsection, a member shall be considered not to be “Disabled”, (836-86) (1994-0029)
 - (i) during any period in which the member engages in any occupation for compensation or profit other than an occupation associated with a rehabilitation program approved by the Committee; (836-86)
 - (ii) on and after the day following the first twenty-four month period immediately after the date the member is considered “Disabled” under subsection (1) as the result of mental illness, unless at that time a medical doctor licensed to practice under the laws of a province of Canada or the place where the member resides, specializing in psychiatry or neurology certifies that the member continues to be Disabled; (836-86) (1994-0029)

- (iii) where the member becomes Disabled as a result of wilfully self-inflicted injury or the commission or attempted commission by the member of a indictable offence under the Criminal Code (Canada) or the engagement by the member in an unlawful occupation. (836-86) (1994-0029)

(2) Notwithstanding any other provision of this By-law, a member who after the 8th day of September, 1986, is considered to be Disabled within the meaning of this By-law and who (836-86) (1994-0029)

- (i) has not and does not elect to retire, or (836-86)
- (ii) has not or does not receive a pension under any Section of this By-law, or (836-86)
- (iii) has not taken or does not take a return or cash of the paid personal contributions to the member's credit in the Fund, or (836-86) (1994-0029)
- (iv) has not ceased to be a member of the Fire Department of the City of Toronto (836-86)

shall accrue service credits from the latest of (836-86)

- (a) the first day following the last day upon which such member receives income from the City of Toronto through his or her sick bank, or (836-86)
- (b) the first day following the last day upon which such member received benefits under Section 23 of the Collective Agreement between the City and Local 113 where such member is not eligible for Workers' Compensation benefits, or (836-86)
- (c) the date such member ceases to make contributions under Section III hereof (836-City of 86)

until the earlier of (836-86)

- (a) such member's normal retirement date, or (836-86)
- (b) The date upon which such member is in receipt of a pension under any Section of this By-law, or (836-86)
- (c) the date upon which such member ceases to be a member of the said Fire Department, or (836-86)
- (d) the date upon which such member ceases to be considered to be "Disabled" within the meaning of this Section (836-86) (1994-0029)

and, during the period of the accrual of such service credits, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were last made by the member under Section III hereof and, notwithstanding said Section II, the member shall not make contributions to the Fund in

respect of such contributory earnings during the period of accrual of such service credits so long as such member continues to have the status of an employee within the meaning of this By-law (836-86)

- (1) no service credits shall accrue under this Section until the first day of the fifth calendar month following the month in which the member is considered “Disabled”; (836-86) (1994-0029)
- (2) that nothing in this Section shall affect the right of a member who under this By-law is considered to be “Disabled” within the meaning of this Section and who is entitled to accrued service credits under this Section to elect, in lieu of the accrual of service credits under this Section, to receive a pension in accordance with this By-law. (836-86) (1994-0029)
- (3) Notwithstanding any other provision of this By-law, a member who on the 8th day of September, 1986, was on that date making contributions under Section III of this By-law but who at any time prior to that date, while being an employee within the meaning of this By-law was in receipt of payments under a long-term disability plan of the City and who (836-86)
 - (i) did not elect to retire, or (836-86)
 - (ii) did not elect to take a pension under any provision of this By-law, or (836-86)
 - (iii) did not take a return of the paid personal contributions to his or her credit in the Fund, or (836-86)
 - (iv) did not cease to be a member of the said Fire Department

shall receive service credits for that portion of the period during which such member was in receipt of payments under a long-term disability plan of the City calculated from the latest of (836-86)

- (a) the first day following the last day upon which such member received income from the City of Toronto through his or her bank, or (836-86)
- (b) the first day following the last day upon which such member received benefits under Section 23 of the Collective Agreement between the City and Local 113 where such member is not eligible for Workers’ Compensation benefits, or (836-86)
- (c) the date such member ceased to make contributions under Section III hereof (836-86)

until the date upon which such member ceased to receive payments under a long-term disability plan of the City and during the period of accrual of such service credits under this subsection, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were made by the member under Section III hereof immediately prior to the date upon which the service credits

began to be calculated under this Section and the member shall not make contributions to the Fund in respect of such service credits provided however (836-86)

- (1) no service credits shall accrue under this Section until the first day of the fifth calendar month following the month in which the member was considered "Disabled" and (836-86) (1994-0029)
- (2) no service credits shall accrue under this Section for any period during which he was Disabled prior to the 1st day of January, 1978; (836-86) (1994-0029)
- (4) Notwithstanding any other provision of this By-law, a member who on the 8th day of September, 1986, was in receipt of payments under a long-term disability plan of the City and who is considered to be "Disabled" within the meaning of this Section on and after that date and who (836-86) (1994-0029)
 - (i) has not or does not elect to take a pension under any Section of this By-law, or (836-86)
 - (ii) has not taken or does not take a return of cash of the paid personal contributions to the member's credit in the Fund, or (836-86) (1994-0029)
 - (iii) has not ceased and does not cease to be a member of the said Fire Department, (836-86)

shall accrue service credits from the latest of (836-86)

- (a) the first day following the last day upon which such member received income from the City of Toronto through his or her sick bank, or (836-86)
- (b) the first day following the last day upon which such member receives benefits under Section 23 of the Collective Agreement between the City and Local 113 where such member is not eligible for Workers' Compensation benefits, or (836-86)
- (c) the date such member ceased to make contributions under Section III hereof until the earlier of (836-86)
 - (a) such member's normal retirement date, or (836-86)
 - (b) the date upon which such member elects to take a pension under any Section of this By-law, or (836-86)
 - (c) the date upon which such member ceases to be a member of the said Fire Department, or (836-86)
 - (d) the date upon which such member ceases to be considered to be "Disabled" within the meaning of this Section (836-86) (1994-0029)

and, during the period of the accrual of such service credits, both before and after the 8th day of September, 1986, the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were last made by the member under Section III hereof and, notwithstanding said Section III, the member shall not make contributions to the Fund in respect of such contributory earnings during the period of accrual of such service credits so long as such member continues to have the status of an employee within the meaning of this By-law provided, however, that nothing in this Section shall affect the right of a member who under this By-law is considered to be "Disabled" within the meaning of this Section and who is entitled to accrued service credits under this Section to elect, in lieu of the accrual of service credits under this Section, to receive a pension calculated in accordance with this By-law provided however, (836-86) (1994-0029)

- (1) no service credits shall accrue under this Section until the first day of the fifth calendar month following the month in which the member was considered "Disabled" and (836-86) (1994-0029)
- (2) no service credits shall accrue under this Section for any period during which he was Disabled prior to the 1st day of January, 1978. (836-86) (1994-0029)

IV

The following members of the Fire Department of the City of Toronto shall be eligible to participate in the said Fund, namely,

- (a) Every member of the said Fire Department who was a contributor to the Fund on the date of the passing of this By-law
- (b) Every member of the said Fire Department appointed as a fire fighter after the date of the passing of this By-law, whose age at the date of such appointment did not exceed twenty-six years and who is not required by The Ontario Municipal Employees Retirement System Act, 1961-62, and Regulations to join the pension plan established by such Act. (21224) (33-70) (1994-0029)

V

- (a) The contributions provided to be made to the Fund by subsection 1 of Section III shall be deducted on the pay sheet in like manner as any other stoppage and shall be paid over fortnightly in a lump sum to the Treasurer of the Fund. (416-74)
- (b) The amount of all arrears of contributions shall be a first charge upon any entitlement payable to or in respect to the person owing said arrears, and shall be deducted by the Treasurer of the Fund from such entitlement. (15393) (15991) (16538)
- (c) The contributions provided to be made to the Fund by subsection (2) of Section III shall be paid over from time to time as required by the Act and the Income Tax Act (Canada) and Regulations made thereunder. (584-91) (1994-0029)
- (d) A member, or any other person entitled to a benefit to be paid from the Fund, and whose member contributions made after December 31, 1986 with interest exceed

50% of the commuted value of the benefit earned after December 31, 1986, as determined by the Actuary, shall have such excess contributions with interest returned upon becoming entitled to the payment of such benefit on the death of the member, his termination of employment or his retirement. Such return shall be in the form of a single lump sum refund to the member or such other person entitled to a benefit, or in the form of one of the transfers described in subsection (2d) of Section XXIII as selected by the member, or such other person entitled to a benefit under this By-law, and may be made on a non-locked-in basis pursuant to the Act. (584-91)

VI

The Fund shall be under the management and control of a committee, which shall be called “The Benefit Fund Committee”.

VII

- (a) The composition of the Benefit Fund Committee shall be as specified in paragraph (e): (445-91) (1024-2008)
- (i) one member of the City Council appointed by City Council upon nomination of the Executive Committee; (199-89)
 - (ii) three representatives of the fire fighters who are members of the Toronto Fire Department Superannuation and Benefit Fund to be elected annually as hereinafter provided; (1994-0029)
 - (iii) three alternate representatives of the fire fighters who are members of the Toronto Fire Department Superannuation and Benefit Fund to be elected annually as hereinafter provided; (1994-0029)
 - (iv) one member of the Toronto Fire Department Pensioners’ Association appointed by Council as a member of the Committee for a term to coincide with the election term of the said Association; (72-88)
 - (v) subject to paragraph (ix) of this Section, one alternate who is a member of the Toronto Fire Department Pensioners’ Association appointed by Council as an alternate member of the Committee for a term to coincide with the election term of office of the said Association; (72-88)
 - (vi) the City Treasurer;
 - (vii) the City Solicitor;
 - (viii) the Chief of the Fire Department;
 - (ix) alternate members referred to in paragraph (iii) and (v) shall receive notices, agendas and minutes of all Committee meetings but only in the absence of a member shall the alternate member attend the meetings and have the right to

participate in its discussions and vote on any matter coming before the Committee; (72-88)

- (x) the City Treasurer, the City Solicitor and the Chief of the Fire Department shall be ex officio members of the Committee any of whom may appoint a member of his department to attend and vote at meetings of the Committee in his stead provided that the City Treasurer, when appointing a member of his department under this paragraph shall not appoint the Secretary of the Committee or any other member of his department acting for the Secretary; (333-89)
- (xi) when the office of the City Treasurer, the City Solicitor or the Chief of the Fire Department is vacant, the Deputy City Treasurer, the Deputy City Solicitor or the Deputy Chief of the Fire Department shall respectively be pro tempore an ex officio member of the Committee with the powers applicable respectively to the City Treasurer, the City Solicitor and the Chief of the Fire Department. (731-78)
- (b) The Benefit Fund Committee shall appoint a Secretary and may define his duties in addition to his duties set out in this By-law. (15393) (224-77)
- (c) The City Treasurer shall be the Treasurer of the Fund and he may from time to time delegate such part of his duties as he may deem necessary to the Deputy City Treasurer. (15393) (16538) (21836) (22305) (33-70)
- (d) All charges, other than pensions, benefits and privileges authorized by this By-law or those fees authorized to be paid out of the Fund pursuant to subsection (1) of Section XVII of this By-law or those expenses authorized to be paid out of the Fund pursuant to subsections (f)(iv) and (g) of Section VII or subsection (3) of Section XVII of this By-law, that are competent to and in connection with the operation and administration of this By-law shall be borne by the city. (224-77) (369-89) (1997-0327)
- (e) Notwithstanding anything contained in this By-law, from and after January 1, 1992, The Benefit Fund Committee shall be composed of: (445-91) (127-2016)
 - (i) one person appointed by the City Manager from among his or her subordinates for a term as provided for in paragraph (e.1); (127-2016)
 - (i.1) one person appointed by the Deputy City Manager and Chief Financial Officer from among his or her subordinates for a term as provided for in paragraph (e.1); (127-2016)
 - (ii) *subject to subclauses (f.1)(i)(A) and (iv)(A), two representatives of the fire fighters who are members of the Toronto Fire Department Superannuation and Benefit Fund to be elected annually as hereinafter provided;* (445-91) (1994-0029) (1024-2008) **REPEALED (127-2016)**
 - (iii) *subject to clauses (ix) to (ix.2) and (f.1)(i) and (ii), two alternate representatives of the fire fighters who are members of the Toronto Fire Department Superannuation and Benefit Fund to be elected annually as hereinafter provided;* (445-91) (1994-0029) (1024-2008) **REPEALED (127-2016)**

- (iv) three representatives of the Toronto Fire Department Pensioners' Association appointed by that Association for a term coinciding with the election term of its officers; (445-91) (1024-2008) (127-2016)
- (v) subject to clauses (ix.2) to (ix.4), three or fewer alternate representatives of the said Association appointed in like manner for the same term; (445-91) (1024-2008) (127-2016)
- (vi) the City Treasurer; (445-91)
- (vii) (445-91; deleted by 11-2000)
- (viii) *subject to paragraph (f.2), the Chief of the Fire Department*; (445-91) (1024-2008) **REPEALED (127-2016)**

Subject to the following provisions: (1024-2008)

- (viii) the cessation in office of the City officer who has made the appointment of a designate under clause (e)(i) or (e)(i.1) shall not affect the continuing validity of such appointment; (127-2016)
- (viii.1) if there is a cessation of office as described in clause (viii), the individual exercising the powers of that office during any resulting vacancy shall have the power to make a further appointment under paragraph (e)(i); (127-2016)
- (viii.2) the cessation of the employment with the City of any designate appointed under clause (e)(i) or (e)(i.1) shall constitute his or her resignation from the Committee; (127-2016)
- (ix) alternate members referred to in clause (v) shall receive notices, agendas and minutes of all Committee meetings but only in the absence of a member shall the alternate member attend the meetings and have the right to participate in its discussions and vote on any matter coming before the Committee; (445-91) (127-2016)
- (ix.1) nothing in clause (ix) shall prevent an alternate representative referred to therein from attending any meeting of the Committee or, if the Committee so permits, from participating in any discussion thereat"; (1024-2008)
- (ix.2) none of the alternate representatives referred to in clause (v) shall when not acting in the stead of an absent representative be considered to be a member of the Committee for the purposes of establishing a quorum or a majority to determine any question or matter; (1024-2008) (127-2016)
- (ix.3) each alternate representative referred to in clause (v) shall receive notices, agendas and minutes of each Committee meeting, and may attend same, but unless clause (ix.4) is applicable to him shall not have the right at any such meeting to (1024-2008)

- (A) participate in any discussion thereat, unless the Committee so permits; or (1024-2008)
 - (B) vote on any matter. (1024-2008)
- (ix.4) if any representative appointed pursuant to clause (iv) is absent from a meeting of the Committee or any part thereof, (1024-2008)
- (A) any alternate representative appointed pursuant to clause (v) and who is present thereat may for all purposes act in the stead of such absent representative during such absence, (1024-2008)
- but
- (B) no such alternate representative may simultaneously act in the stead of more than one absent representative; and (1024-2008)
 - (C) if the number of such alternate representatives present at any meeting of the Committee is greater than the number of such absent representatives, the determination of which of them shall act pursuant to subclause (A) shall be made by agreement among them, failing which they shall draw lots; and (1024-2008)
- (x) the City Treasurer shall be an *ex officio* member of the Committee and vote at meetings of the Committee in his/her stead provided that the City Treasurer, when appointing a member of his/her department hereunder shall not appoint the Secretary of the Committee or any other member of his/her department acting for the Secretary; (445-91) (11-2000) (1024-2008) (127-2016)
- (xi) when the office of the City Treasurer is vacant, the person acting in his or her stead Department shall be *pro tempore* an *ex officio* member of the Committee with the powers applicable to the City Treasurer in that respect. (445-91) (11-2000) (1024-2008) (127-2016)
- (e.1) Subject to paragraph (e.2), the term of office of any designate provided for in clause (e)(i) or (i.1) shall coincide with the remainder of the term of the City Council in existence when the designate is appointed, or such shorter term as the document appointing the designate may specify. (127-2016)
- (e.2) Notwithstanding the appointment of a person under clause (e)(i) or (i.1), the City Manager, or the Deputy City Manager and Chief Financial Officer, as the case may be, may at any time make a further appointment under that clause and thereupon such further appointment shall, to the extent inconsistent with any previous appointment, supersede such previous appointment. (127-2016)
- (f) (i) From and after a date in 1992 to be named by Council, in addition to the members of the Committee set out in this Section, one member of the Committee shall be

appointed by Council on nomination of the Committee and the member appointed under this subsection shall not be; (50-92)

- (a) a member or former member of the Toronto Fire Department Superannuation and Benefit Fund, or (50-92) City of Toronto
 - (b) an employee of the City of Toronto, or (50-92)
 - (c) a member of Council. (50-92)
- (ii) The term of office of the member appointed by Council under subparagraph (i) of this paragraph shall be the same as the term of office of the Council making such appointment, but notwithstanding the foregoing, such member shall continue to hold office after the expiry of the term of office of the Council until his or her successor is appointed by the newly-elected council. (50-92) (1024-2008)
 - (iii) The member of the Committee appointed under subparagraph (i) of this paragraph shall have full voting rights on all matters before the Committee, save and except such member shall have no vote in respect of the appointment, dismissal or honorarium of the Chair. (50-92) (1024-2008)
 - (iv) The Committee may appoint as Chair of the Committee the member appointed by Council under subparagraph (i) of this paragraph and any person appointed Chair under this subsection shall be paid by the Fund an honorarium of \$7,500.00 per annum. (50-92) (1997-0327) (1024-2008)
- (f.1) *From the time that the number of fire fighters who are members of the Plan declines to*
- (i) *three, clause (e)(iii) shall, subject to clause (ii) below, be treated as if the opening words thereof to and including the word „members“ in the first line thereof read one alternate representative of the fire fighters who is a member“; and (1024-2008)*
 - (ii) *two, clauses (e)(iii) shall cease to apply; (1024-2008)*
 - (iii) *one,*
 - (a) *clause (e)(ii) shall, subject to subclause (iv)(A) below, be treated as if the opening words thereof to and including the word „members“ in the first line thereof read „one representative of the fire fighters who is a member“; and (1024-2008)*
 - (b) *clauses (e)(iv) and (v) shall, subject to subclause (iv)(B) below respectively, be treated as if the word „two“ where it appears therein in each case read „three“ (1024-2008)*
 - (iv) *zero,*
 - (a) *clause (e)(ii) and Sections VIII to X shall cease to apply; (1024-2008)*

- (b) *clauses (e)(iv) and (v) shall, subject respectively to clauses (f.2)(i) and (ii), be treated as if the word „two“ where it appears therein in each case read four“; (1024-2008)*

REPEALED (127-2016)

(f.2) Effective the 1st day of January, 2009, (1024-2008)

- (i) *clause (e)(iv) shall be treated as if the word „two“ where it appears therein in each case read „three“; (1024-2008)*
- (ii) *clause (e)(v) shall be treated as if the word „two“ where it appears therein in each case read „three or fewer“; (1024-2008)*
- (iii) *clause (e)(viii) shall cease to apply; (1024-2008)*
- (iv) *in clauses (x) and (xi), the reference in each to „the Chief of the Fire Department“ shall be disregarded. (1024-2008)*

REPEALED (127-2016)

- (g) The Fund shall be responsible for and shall pay for the following external professional services and expenses: (1997-0327)
- (i) actuarial valuations, cashflow projections and services directly related to Plan administration, (1997-0327) (1024-2008)
- (ii) external legal assistance and advice directly related to the administration of the Fund, (1997-0327)
- (iii) training and development expenses for employee or pensioner representatives on the Committee, (1997-0327)
- (iv) out-of-pocket and other administrative expenses which the Committee deems to be necessary for the proper administration of the Fund. (1997-0327)

VIIA

The Benefit Fund Committee may prescribe the role, responsibilities and duties of the Chair. (50-92)

VIII

Subject to subclause VII(f.1)(iv)(A), the representatives of the fire fighters on The Benefit Fund Committee and the alternate representatives shall be elected by Ballot of all members of the Fire Department entitled to participate in the Benefit Fund during October in each year in accordance with the By-laws of the Toronto Fire Fighters Association, Local 113 of the International Association of Fire Fighters. The representatives so elected shall hold office for twelve months from the first day of January following the election. (15393) (16538) (731-78) (445-91) (580-91) (1994-0029) (1024-2008)

REPEALED (127-2016)

IX

- (a.0) *Subject to subparagraph VII(f.1)(iv)(A), nominations for the representatives and alternate representatives to be elected pursuant to Section VIII shall be made in accordance with paragraphs (a) to (c). (1024-2008)*
- (a) *The nomination meeting shall be concurrent with the nominations for officers of Local 113, Toronto Fire Fighters Association. (149-73) (731-78) (580-91)*
- (b) *Any member of the Fire Department entitled to participate in the Benefit Fund may be a candidate. (580-91)*
- (b.1) *If there are fewer than three fire fighters who are members of the Plan, no seconder shall be required for a nomination of a candidate. (1024-2008)*
- (b.2) *If there is only a single fire fighter who is a member of the Plan, he may nominate himself as the candidate. (1024-2008)*
- (c) *Subject to paragraphs (b.1) and (b.2), the nomination of any one absent from the meeting shall not be received except on a declaration of the proposer and the seconder that they have consulted the person proposed and that he has consented to be nominated, and that he is in every sense a bona-fide candidate. (580-91) (1024-2008)*

REPEALED (127-2016)

IXA

(445-91; deleted by 580-91)

X

- (1) (a) *Subject to subclause VII(f.1)(iv)(A), should any representative of the fire fighters on The Benefit Fund Committee wish to resign, he must tender his written resignation to the Secretary, who immediately on receiving it, shall notify the Chief of the Department in writing, who, on receiving the notification, shall request the fire fighters' representatives on the Committee to appoint one of the alternate representatives to replace the resigning member. (731-78) (1994-0029) (1024-2008)*
- (b) *Subject to subclause VII(f.1)(iv)(A), any vacancy occurring in the office of representative of the fire fighters on The Benefit Fund Committee shall be filled in the manner set forth in paragraph (a) above for the unexpired portion of the term, by one of the alternate representatives appointed by the representatives of the fire fighters on the Committee. (731-78) (1994-0029) (1024-2008)*

REPEALED (127-2016)

XA

(445-91; deleted by 580-91)

XI

As soon as possible in the month of January in each year, the Chairman of The Benefit Fund Committee for the preceding year shall convene the new Committee, and shall preside until Chairman has been elected. (15393)

XII

The Benefit Fund Committee shall meet, taking into account the meeting provided for in Section XI, quarterly at such time and place as the Committee may decide. A majority of the Committee shall constitute a quorum. (274-69) (1024-2008)

XIII

- (1) The Benefit Fund Committee shall keep correct minutes of its proceedings in a book, and at the end of each year shall forward a copy of the report on its operations for the year to the Executive Committee
- (2) The Secretary shall keep a correct list, which shall set forth the name, rank, age, description and service of each retirement, amount of pension or other entitlement, and the circumstances under which the pension or other entitlement, was granted. (15393) (16538) (33-70)

XIV

Any question or matter considered by the Benefit Fund Committee shall be determined by a majority of the members of the Benefit Fund Committee holding office at that time, provided however, that any question or matter involving the investment of money accumulated to the credit of the Fund shall be determined by at least a unanimous vote less one of the members of the Benefit Fund Committee in attendance at the meeting when such determination is made but in no case shall any question or matter involving the investment of money accumulated to the credit of the Fund be determined by less than a majority of the members of the Benefit Committee holding office at that time. (15393) (369-89)

XV

All moneys accumulated in the said Fund shall be invested from time to time with the approval of The Benefit Fund Committee in such investments as are authorized by the Act and the *Income Tax Act* (Canada) and the Regulations made thereunder and, where such approval has been given by The Benefit Fund Committee, the Treasurer is empowered to take such declarations, execute such documents and do such acts or things as may be necessary to give effect thereto. (177-72) (1994-0029) (1210-2017)

XVI

No money shall be paid out of said Fund by the Treasurer unless ordered by The Benefit Fund Committee and in accordance with this By-law, the Act, the Income Tax Act (Canada) and Regulations made thereunder. (225-69) (584-91) (1994-0029)

XVII

(Previous Section XVII was repealed by By-law No. 15393.)

- (1) The Benefit Fund Committee may delegate to any person or body, subject to any restrictions which may be imposed by the Benefit Fund Committee, the power to invest all or any part of the money accumulated to the credit of the Fund and not require for current expenditure and for paying out of the Fund any fees payable to such person or body; (369-89) (1994-0029)
- (2) All or any part of the money and investments accumulated to the credit of the Fund may be held in the name of the Fund or may be held for the account of the Fund by another person or body designated for that purpose by the Benefit Fund Committee; (369-89)
- (3) The Benefit Fund Committee may pay out of the Fund any expenses incurred by the Benefit Fund Committee in providing for the custody and safekeeping of securities, certificates or other investments belonging to the Fund or in obtaining investment performance measurements and investment management services. (369-89) (1997-0327)

XVIII

- (1) It shall be the duty of the Treasurer to prepare an Annual Report immediately after the close of each year giving the revenues and expenditures of that year in detail. Such report shall be laid before the new Committee at its regular meeting in March. Copies of the report shall then be printed and distributed for the information of the members of the Fund and to the Executive Committee. Such Annual Report shall include a balance sheet of the assets and liabilities of the Fund, as at the close of the year, as well as the revenues and expenditures of that year in detail.
- (2) At least once in each three years, an actuarial valuation of the assets and liabilities of the Fund shall be made and the results included in the Annual Report of the Treasurer. (15393) (33-70)

XIX

At the end of each year, and at such other times as the Executive Committee may determine, the books and accounts of the Treasurer shall be audited by the City Auditor, who shall report the result thereof to the Executive Committee and to The Benefit Fund Committee. (15393) (33-70)

XX

Upon termination of service all benefits may be paid, provided such benefits conform to the respective Sections of the by-law the Act and the Income Tax Act (Canada) and Regulations made thereunder and as such they are to be reported to the Committee at its next meeting when every application for an entitlement shall come before The Benefit Fund Committee and the whole circumstances of the case shall be fully gone into, and a report on the case sent in for the approval of the Executive Committee, and in cases of differences between The Benefit Fund Committee and the Executive Committee, a representative of the said Benefit Fund Committee shall be heard by the Executive Committee, and if possible, concurrence arrived at; but in case of failure to concur, the judgement or decision of the Executive Committee shall be final. (15393) (16538) (731-78) (1994-0029)

XXI

In all cases where a member of the Fire Department contributing to the Fund claims an entitlement under paragraph (a) or (b) of subsection 1 of Section XXIII or is reported by the Medical Officer of the Department as physically or mentally unfit for further service, The Benefit Fund Committee shall convene a Medical Board of physicians to enquire into such case, who shall report to the Committee. The Medical Board shall be composed of three members appointed as follows: The Committee shall appoint one member whose fee shall be paid from the Benefit Fund; the member interested shall appoint the second member and shall pay his fee; and the said two appointees shall appoint the third member whose fee shall be paid from the Benefit Fund. (15393) (16538)

XXII

Subject to the Act the Income Tax Act (Canada) and Regulations made thereunder and any other applicable legislation, every entitlement, other than a death payment, under this by-law shall be payable to the contributor; and every death payment after December 31, 1987, shall be payable to the living Spouse or Post Retirement Spouse, eligible to receive a pension under Section XXIIC, of the deceased, or, if the deceased does not have a Spouse or Post Retirement Spouse on the date a determination is required, or if the deceased and his Spouse or eligible Post Retirement Spouse have signed a waiver in the prescribed form, to the living beneficiary designated by the deceased during his lifetime upon a form provided for the purpose and deposited with the Secretary of the Fund or to the estate of the deceased if no beneficiary has been so designated or in the event of the designated beneficiary predeceasing the deceased. (16538) (529-78) (584-91) (1994-0029) (1997-0327)

XXIIA

Every member, and any other person entitled under the Act, shall be given a written explanation of the terms and conditions of the Plan and amendments thereto applicable to him, together with an explanation of the rights and duties of the employee with reference to the benefits available to him under the terms of the Plan, and any other information required to be provided under the Act. (22402) (584-91) (1024-2008)

XXIII

Schedule of Entitlements

- (1) Subject to subsections 2 and 3, upon ceasing to be a member of the fire department and a contributing member of The Toronto Fire Department Superannuation and Benefit Fund after November 1, 1974 there shall be payable in accordance with the provisions of this by-law an annual pension as follows:
 - (a) Upon becoming Totally and Permanently Disabled, in the lawful execution of duty so as to be wholly and permanently incapacitated from further service as a member of the Fire Department subject to subsection (5) hereof, an amount equal to the pension such member would have received if he had retired with 30 years of service calculated in the same manner as prescribed in paragraph (c). In accordance with the Income Tax Act (Canada) and Regulations made thereunder,

such benefit shall be subject to the maximum benefit increase for Totally and Permanently Disabled members where (i) does not exceed (ii) below: (381-77) (1994-0029)

- (i) the benefit calculated pursuant to the above with additional years of service for a total of 30 years; and (1994-0029)
- (ii) the benefit accrued to the date of disability payable unreduced plus the amount of benefit based on additional years of service to the member's attainment of age 65. (1994-0029)

It is provided, however, that on completion of thirty years service or more there shall be payable an amount equal to the pension such member would have received had the pension been calculated in the manner prescribed in paragraph (c). (381-77) (1994-0029)

- (b) Where worn out in the service of the Fire Department, subject to subsection (5) hereof, (1994-0029)
 - (i) (Deleted by 1994-0029).
 - (ii) On completion of over twenty-five years' service but less than thirty years' service, or where the total of age and service are equal to or exceed 75, an amount equal to the pension such member would have received if calculated in the manner prescribed in paragraph (c) without an actuarial reduction. (1994-0029)
 - (iii) On completion of thirty years' service or more an amount equal to the pension such member would have received had the pension been calculated in the manner prescribed in paragraph (c). (274-77)
- (c) On completion of thirty years or over of continuous service an annual amount payable semi-monthly for life equal to two (2.0) per centum of the average annual earnings of such member during the 60 consecutive months during which such earnings were highest multiplied by years and completed months of credited service to a maximum of 35 years reduced at age 65 or upon receipt of Canada Pension by 0.7 per centum of the lesser of such average earnings or the average of the years' maximum pensionable earnings as defined in the Canada Pension Plan at retirement and the two preceding years multiplied by the number of years and completed months of credited service after January 1, 1966. (106-75) (110-76) (731-78)
- (d) Except as provided by paragraphs (a) and (b) of this subsection, after having completed twenty-five years but less than thirty years of service, an amount being a percentage of the annual pension calculated in the manner prescribed under paragraph (c) of this subsection, such percentage being in accordance with the following schedule: (1994-0029)

Percentage of

Pension

(1)	After 25 years ^{cc} service.....	85%
(2)	After 26 years ^{cc} service.....	88%
(3)	After 27 years ^{cc} service.....	91%
(4)	After 28 years ^{cc} service.....	94%
(5)	After 29 years ^{cc} service.....	97%

(dd) For the period January 1, 1994 to December 31, 1995, upon attaining a combination of age plus credited service equal to or greater than 75, and electing to retire by the later of: (1994-0438)

(i) May 31, 1994, and (1994-0438)

(ii) three months after attaining a combination of age plus service totalling 75; (1994-0438)

an annual pension calculated in the manner prescribed under paragraph (c) of this subsection without actuarial reduction for early retirement. (1994-0438)

(e) Except as provided by paragraphs (a), (b), (c), (d), or (dd) of this subsection (1), on retiring at any time after December 31, 1987 within the ten year period prior to his normal retirement date, an amount calculated in the manner prescribed under paragraphs (c) or (d) of this subsection (1), as the case may be, actuarially reduced to reflect the earlier commencement date of the pension. (584-91) (1994-0438)

(f) Notwithstanding anything contained herein to the contrary with respect to the member, the lifetime pension benefit paid under the Plan as a result of retirement, death, termination of service or termination of the Plan (including any pension benefit payable as a result of a distribution of surplus or to the Spouse or Post Retirement Spouse on marriage breakdown pursuant to a written agreement) shall not exceed an annual amount calculated as set out below and determined in the year in which such pension benefit commences to be paid, that is the lesser of: (1994-0029) (1997-0327) (1024-2008)

(i) \$1,722.22 for each year of the member's service credits on and after January 1, 1992 with the City, or such other limit as may be prescribed under the Income Tax Act (Canada), and (1994-0029)

(ii) 2% of the average of the member's final average indexed earnings times the number of years of service credits on and after January 1, 1992 with the City. (1994-0029)

Further, the amount of lifetime pension benefit payable to the member under the Plan commencing prior to his normal retirement date shall not exceed in the year in which such pension benefit commences to be paid, the maximum retirement pension as set out under (i) or (ii) above, reduced by 3% for each year by which the commencement of the early pension benefit precedes the earliest of the member's 55th birthday, completion of 25 years of continuous service,

combination of age plus continuous service equals 75 or commencement of total and permanent disability. (1994-0029) (1997-0327)

The amount of lifetime pension benefit payable to a member for a particular calendar year after the year in which the lifetime pension benefit commences to be paid cannot exceed the maximum allowable amount of lifetime pension benefit in the year in which the lifetime pension benefit commences to be paid multiplied by the percentage increase in the Consumer Price Index from the calendar year in which the lifetime pension benefit commences to be paid until such particular calendar year. Such percentage increase may be determined in any other alternative manner provided for by the Regulations under the Income Tax Act (Canada).” (1994-0029)

- (2) Subject to subsections (2a) and (2b) of this Section and to Section XXIV upon ceasing to be a member of the Fire Department where such member is not entitled to a pension under the provisions of subsection (1) and where no death payment is payable, there shall be payable with interest in accordance with subsection (11) of this Section, an amount equivalent to the aggregate of such members’ contributions. (376-85) (584-91) (1994-0029)
- (2a) Where a member of the Fire Department ceases to be a member and at the date of such cessation has attained the age of 45 years or more and has completed at least ten continuous years of service with the Fire Department, and is not entitled to a pension under subsection (1), such member shall, without limiting the right in respect to service prior to January 1, 1965 to a return of contributions, with interest in accordance with subsection (11) of this Section, be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (c) of Section XXIII less the pension credit earned by such member up to and including December 31, 1964 calculated in accordance with the provisions of the Plan applying to such member on December 31, 1964 except that the minimum pension shall not apply in calculating the pension credit earned unless the member's entire service is in respect to periods on and after January 1, 1965. (416-74) (376-85) (1994-0029)
- (2b) In lieu of the benefit provided in subsection (2a) above, where a member of the Fire Department ceases to be a member after December 31, 1987, and at the date of such cessation has not attained the age of 45 years or more and has not completed at least ten continuous years of service with the Fire Department but has completed two years of contributing membership in the Plan and is not entitled to a pension under subsection (1), such member shall, without limiting the right in respect to service prior to January 1, 1987 to a return of contributions with interest be entitled to and receive an annual service pension payable monthly for life commencing at age 65, calculated in the same manner as prescribed in subsection (1)(c) of Section XXIII less the pension credit earned by such member up to and including December 31, 1986 calculated in accordance with the provisions of the Plan applying to such member on December 31, 1986 except that the minimum pension shall not apply in calculating the pension credit earned. (584-91) (1994-0029)

- (2c) A member entitled to a benefit in accordance with subsections (2a) or (2b) of this Section may elect to commence his pension at any time after he has attained age 55, in which case his pension will be actuarially reduced to reflect the earlier commencement date. The member shall notify the Committee of such election in the prescribed form. (584-91)
- (2d) Notwithstanding any other provisions of this By-law, a member who is entitled to a pension in accordance with subsections (2a) or (2b) of this Section after December 31, 1987 and who has not attained age 55, in lieu of any other benefits under this By-law, and subject to the provisions of the Act and any other applicable legislation, shall be entitled to require that the Committee authorize the transfer of the commuted value of his benefit to:
- (i) subject to the maximum transfer limitation of Section 8517 of the Regulations under the Income Tax Act (Canada), an individual locked-in registered retirement savings plan in the name of the member; or (584-91) (1994-0029)
 - (ii) subject to the maximum transfer limitation of Section 8517 of the Regulations under the Income Tax Act (Canada), another registered pension plan if the administrator of that pension plan agrees to accept the payment; or (584-91) (1994-0029)
 - (iii) an insurance company licensed to carry on an annuities business in Canada for the purchase of a life annuity that will not commence prior to the member's age 55; (584-91) (1994-0029)

provided that the transfer is administered in accordance with the requirements of the Act, the Income Tax Act (Canada) and Regulations made thereunder and any other applicable legislation, including the locking-in provisions of the Act and provided the member notifies the Committee of his election of one of the above transfer options on the prescribed form within the time period required under the Act. (584-91) (1994-0029)

(3) Death payments:

On death from any cause while in the service, after December 31, 1987, if the member does not have a Spouse then alive, or where the member and his Spouse have signed waivers in the prescribed manner under the Act, there shall be paid as a death payment to the designated beneficiary of the member, or, if the member does not designate a beneficiary or if the beneficiary is not alive on the member's date of death, to the member's estate. Such death benefit shall, except to the extent that it exceeds the commuted value limit stipulated in paragraph 8503(2)(i) of the Regulations under the *Income Tax Act* (Canada), be equal to the greater of: (376-85) (584-91) (1994-0029) (1210-2017)

- (a) an amount equal to the aggregate of the member's contributions with interest, plus \$100.00 for each completed year of service with the Fire Department, such death benefit to be not less than \$3,500.00, subject to maximum value of the annual benefit accrued to the members for all years of service credits; (584-91) (1994-0029)

- (b) the commuted value of the member's benefit accrued after December 31, 1986 plus the aggregate of the member's contributions made prior to January 1, 1987 with interest, paid as a lump sum cash payment. (584-91)

If a member dies from any cause while in the service after December 31, 1987, and a death benefit is payable to the dependent children of the member as provided in subsection (2) of Section XXIII A, the death benefit payable to the designated beneficiary or estate of the member, as the case may be, as provided in this subsection shall be reduced by the commuted value of such dependent child benefit. (584-91)

- (4) Wherever used in this Section member means a contributor to the Fund. (1994-0029)
- (5) No entitlement claimed by a member by reason of being disabled from injuries received in the lawful execution of duty so as to be wholly and permanently incapacitated from further service as a member of the Fire Department, or by reason of being worn out in the service of the said Department shall be allowed unless a Medical Board through written certification of a medical doctor licensed to practice under the laws of a province of Canada or of a place where the member resides, shall have found that the claimant is Totally and Permanently Disabled or worn out in the service of the Fire Department, as applicable, and unfit for further service as a member of such Fire Department. (1994-0029)
- (6) No member entitled to receive an annual pension for life under subsection (1) under circumstances other than those referred to in subsection (5) shall retire without the consent of the Executive Committee. (416-74)
- (7)
 - (a) In estimating the length of service, those members who resigned or were dismissed, and were subsequently reappointed, shall count their service from the date of their appointment
 - (b) Absence on or occasioned by or directly resulting from active service with the naval, military or air force of Canada or Great Britain, or with the Corps of (Civilian) Canadian Fire Fighters for Service in the United Kingdom, in time of war shall not be deemed to have interrupted the continuity of service of any member and in calculating the amount of entitlement payable in respect of a member who has been so absent he shall be deemed to have received during the period of such absence salary of the same amount as he would have received had he not been so absent. (1994-0029)
 - (c) Effective December 20, 1990, a member shall accrue up to 35 weeks of service credits due to pregnancy or parental leave of absence as required under the Employment Standards Act (Ontario). (1994-0029)
- (8) In the event of a pensioner dying before he has drawn an aggregate amount of pension equal to what his death entitlement would have been under subsection 3, of this Section, had he died in the service immediately before the commencement of his pension, then there shall be payable the amount of the said death entitlement, less the aggregate amount which he had drawn as pension.

- (9) Repealed by By-law No. 909-79.
- (10) No person who retires prior to December 31, 1989 and who is entitled to receive a pension under Subsection (1), shall receive less than \$13,600.00 per annum. (416-74) (16538) (19183) (21009) (22696) (22402) (274-69) (33-70) (269-72) (329-76) (525-78) (417-80) (376-81) (268-82) (578-83) (260-84) (459-85) (663-86) (463-87) (558-870) (877-88) (363-90) (354-91) (557-92) (1995-0451) (1996-0249) (1997-0300) (1210-2017)
- (11) Where interest on contributions is payable under this Section, such interest shall be calculated as provided in the definition of "Interest" in Section II. (376-85) (584-91) (1997-0327)
 - (a) the contribution is refunded, or (376-85)
 - (b) a pension has become payable whichever is the earlier month. (376-85)

XXIII A (21673)

Spousal Pension - Pre-retirement Spouse; Dependant Children (1997-0327)

- (1) Where a member of the Fire Department on or after the 5th day of November, 1962, (21673)
 - (a) is killed or dies from injuries received, accidentally in the discharge of his duties; (21673)
 - (b) dies in receipt of a pension under subsection (1) of Section XXIII; or (21673)
 - (c) dies in the service under circumstances where (a) and (b) do not apply (21673)

there shall be paid, subject as hereinafter set forth, to his Spouse if she is then living during her life, provided that the member and his Spouse did not sign waivers in the form required by the Act, a pension in the amounts hereinafter set out in subsection (8). (21673) (584-91) (1994-0029)

- (2) Where a person who is a member of the Fire Department on or after the 5th day of November, 1962, dies under the circumstances set out in subsection (1) and if the member does not have a Spouse or Post Retirement Spouse then alive, or where the member and the member's Spouse or Post Retirement Spouse have signed waivers in the prescribed manner under the Act there shall be paid, subject as hereinafter set forth, to his dependent children under the age of 18 years or under the age of 21 years if in attendance, on a full-time basis, at an educational institution of a class determined by The Benefit Fund Committee, who are beneficiaries designated pursuant to Section XXII to receive a death payment, and until they respectively attain such age, a pension as hereinafter set out in subsection (9). Provided however, and notwithstanding any other provisions of this By-law, the benefit payable to the dependent children shall not be less than the benefit payable to the surviving Spouse or Post Retirement Spouse, as applicable, of the member, had she been alive on his date of death. (21673) (584-91) (1994-0029) (1997-0327)

- (3) Where a Spouse becomes entitled to a pension under subsection (1), after December 31, 1987, she may elect in writing to receive, in lieu of a benefit as hereinafter set out in this Section XXIII A, a death benefit equal to the benefit as provided in subsections (3) or (8) of Section XXIII. (21673) (584-91) (1994-0029)
- (4) Where a Spouse is in receipt of a pension under this Section XXIII A, and thereafter dies without any dependent children under the age of 18 years or under the age of 21 years if in attendance, on a full-time basis, at an educational institution of a class determined by The Benefit Fund Committee, and no benefits are payable under Section XXIII C, and the aggregate of pension payments received by her up to the time of her death together with any amounts received as pension by the deceased member are less than the death payment she would have received if she had elected to receive a benefit equal to the benefit provided in subsections (3) or (8) of Section XXIII, the difference between the said death payment and the said aggregate of pension payments shall be paid to her estate, except to the extent in excess of the maximum imposed by paragraph 8503(2)(j) of the Regulations under the *Income Tax Act* (Canada). (21673) (584-91) (1994-0029) (1997-0327) (1210-2017)
- (5) Where a Spouse who is in receipt of a pension dies with one or more dependent children under the age of 18 years or under the age of 21 years if in attendance, on a full-time basis, at an educational institution of a class determined by The Benefit Fund Committee, each of such children shall receive a pension until the age of 18 years or 21 years, as the case may be, as set out in subsection (9), provided however, and notwithstanding any other provisions of this By-law, such pension payable to the dependent children of the Spouse shall not be less than the benefit the Spouse was receiving on her date of death. (21673) (584-91) (1994-0029)
- (6) The amount payable monthly as pensions to dependent children of any one member shall not exceed amount to which his Spouse would be entitled monthly if she had continued living and had been entitled to receive a pension, and in the event that the said payments to such dependent children would exceed the said amount the payments to each of such children shall be reduced proportionately as long as such excess continues. (21673) (584-91) (1994-0029)
- (7) All payments to dependent children hereunder shall be made by paying the same for the benefit of such children to the guardian or other person standing in loco parentis to the children respectively. (21673)
- (8) Subject to subsection (8b), the amount of pension referred to in subsection (1) shall be as follows, provided that for pensions referred to in paragraphs (a) and (c) it shall be deemed that the date of retirement occurred before the required age and the pension shall not be diminished by reason of the expiry of the time at which the member would if he had lived, have reached age 65. (21673) (416-74) (292-79) (1210-2017)
 - (a) in the case of a member dying under circumstances indicated in paragraph (a) of subsection (1) - Sixty-six and Two-thirds per centum (66 2/3%) of the amount to which the member would have been entitled if he had continued living and retired with a pension under paragraph (a) of subsection (1) of Section XXIII in which

case the date of death shall be deemed to be the date of retirement; (21673) (1001-88) (1997-0327) (165-2007) (397-2007)

(b) in the case of a member dying under circumstances indicated in paragraph (b) of subsection (1) - Sixty-six and Two-thirds per centum ($66 \frac{2}{3}\%$) of the amount of the pension which the member was receiving before his death; (21673) (1001-88) (165-2007) (397-2007)

(c) in the case of a member dying under circumstances indicated in paragraph (c) of subsection (1) (21673)

(i) who has completed less than 20 years service - Sixty-six and Two-thirds per centum ($66 \frac{2}{3}\%$) of the amount of the pension which the member would have received if he had continued living and retired with a pension under clause (i) of paragraph (b) of subsection (1) of Section XXIII reduced in accordance with the following schedule and the date of death shall be deemed to be the date of retirement. (1001-88) (165-2007)

Up to and including	15 years of service	30%
	16 years of service	26%
	17 years of service	21%
	18 years of service	15%
	19 years of service	8%

(ii) who has completed 20 years' service but less than 25 years' service - Sixty-six and Two-thirds per centum ($66 \frac{2}{3}\%$) of the amount of the pension which the member would have received if he had continued living and retired with a pension under clause (I) of paragraph (b) of subsection (1) of Section XXIII, and the date of death shall be deemed to be the date of retirement. (1001-88) (165-2007)

(iii) who has completed 25 years' service but less than 30 years - Sixty-six and Two-thirds per centum ($66 \frac{2}{3}\%$) of the amount of the pension which the member would have received if he had continued living and retired with a pension under clause (ii) of paragraph (b) of subsection (1) of Section XXIII, in which case the date of death shall be deemed to be the date of retirement. (1001-88) (165-2007)

(iv) who has completed 30 or more years service - Sixty-six and Two-thirds per centum ($66 \frac{2}{3}\%$) of the amount of the pension which the member would have received if he had continued living and retired with a pension under paragraph (c) of subsection (1) of Section XXIII, and the date of death shall be deemed to be the date of retirement. (416-74) (1001-88) (165-2007)

(8a) Notwithstanding any other provisions of this By-law, in the case of a member dying under circumstances indicated in paragraphs (a) or (c) of subsection (1) of this Section XXIII after December 31, 1987, the benefit payable to the Spouse of such member shall be the greater of the benefit provided in paragraphs (a) or (c), as the case may be, of

subsection (8) above, and a benefit equal to the commuted value of the member's benefit accrued after December 31, 1986, paid, as the Spouse shall elect, as a lump sum cash payment or as an immediate or deferred annuity, which shall not commence later than the Spouse's age 71. If the Spouse does not elect within the time prescribed by the Act, she shall be deemed to have elected the immediate pension. (584-91) (1994-0029)

- (8b) In no case shall a survivor benefit payable under this Section XXIII A exceed the maximum permissible under paragraph 8503(2)€ of the Regulations under the *Income Tax Act* (Canada). (1210-2017)
- (9) The amount of pensions referred to in subsection (2) payable to the dependent children shall be, subject to subsections (2) and (6), \$50.00 to each dependent child per month. (21673) (1994-0029)
- (10) No Spouse shall be entitled to any benefits under this Section unless she was married to the member before his retirement from the Department, except that this subsection does not prohibit a payment under subsection (12) to the estate of the Post Retirement Spouse. (21673) (110-76) (1994-0029) (1997-0327)

Section (11) previously authorized by By-law No. 21673.

- (11) (a) (i) A pension payable to a Spouse under this Section shall be payable for her lifetime; (261-82) (380-85) (1994-0029)
 - (ii) Notwithstanding anything hereinbefore contained in this By-law, a Spouse whose pension was terminated upon remarriage prior to the 22nd day of April, 1982, shall have such pension reinstated effective the 1st day of July, 1984. The monthly pension to be recommenced under this clause will be equivalent to the monthly amount that would have been paid to such Spouse on the 1st day of July, 1984, if such pension had not been so terminated. (380-85) (1994-0029)
 - (b) Subject to subsection (5) of this Section, and providing no benefits are payable under Section XXIIIC, if the aggregate of pension payments received by the Spouse referred to in paragraph (a) above up to the time of her death is less than the death payment she would have received if she had so elected, the difference between the death payment and the aggregate of pension payments shall be paid to her estate, except to the extent in excess of the maximum imposed by paragraph 8503(2)(j) of the Regulations under the *Income Tax Act* (Canada). (416-74) (261-82) (1994-0029) (1997-0327) (1210-2017)
- (12) Where the aggregate of the pension payments under By-law No. 390-74 and under subsections (2), (3) and (5) of this Section and Section XXIIIC together with any amounts received by the deceased member are less than the death payments payable under subsection (3) of Section XXIII, the difference between the said death payment and the said aggregate of pension payments shall be paid to the estate of the deceased member or to the estate of his Spouse or of his Post Retirement Spouse, whichever last survived, except to the extent in excess of the maximum imposed by paragraph 8503(2)(j)

of the Regulations under the *Income Tax Act* (Canada). (21673) (416-74) (1994-0029) (1997-0327) (1210-2017)

- (13) In this Section „dependent children“ shall mean,
- (a) children of the member living at his death who were dependent upon him for support and maintenance and (110-76)
 - (b) children of the Spouse or Post Retirement Spouse, where applicable, of a member living at the death of the member, who were dependent upon him for support and maintenance; and (110-76) (1994-0029) (1997-0327)
 - (c) children of a member born after his death; and (110-76)
 - (d) adopted children of a member living at his death who were dependent upon him for support and maintenance; and
 - (e) adopted children of the Spouse or Post Retirement Spouse, where applicable, of the member living at his death who were dependent upon him for support and maintenance. (21673) (21904) (22696) (240-70) (1994-0029) (1997-0327)

XXIIIB

Was repealed by By-law No. 416-74.

XXIIIC

Spousal Pension - Post Retirement Spouse. (1997-0327)

- (1) Effective January 1, 1995, a spousal pension is payable under this section to a Post-Retirement Spouse provided that no spousal or dependant children's pension is payable to a Spouse or dependent children under the provisions of Section XXIIIA. (1997-0327)
- (2) The amount of the spousal pension payable under this section shall be 60% of the pension which the former member was receiving immediately prior to his death, provided that if the Post Retirement Spouse is more than 10 years younger than the former member, the spousal pension will be actuarially reduced to reflect a maximum age difference of 10 years. (1997-0327)
- (3) If a member died prior to January 1, 1995, a Post Retirement Spouse shall, subject to the conditions in subsection (1) above, be entitled to receive the spousal pension described in subsection (2) above, reduced by any death benefits or residual payments paid out as a result of the member's death whether or not these were received by such Post Retirement Spouse or other designated beneficiary of the member, and provided, however, that such spousal pension shall not in any case, commence prior to January 1, 1995. (1997-0327)

XXIV

- (1) Subject to the Act, the *Income Tax Act* (Canada) and Regulations made thereunder, and any other applicable legislation, the pensions, benefits or privileges provided under this by-law are for a member's, Spouse's, Post Retirement Spouse's or beneficiary's own use

and benefit and may not be assigned, charged, anticipated, given as security, surrendered, sold, transferred, pledged, attached, encumbered in any way or otherwise alienated and do not confer upon any member, Spouse, Post Retirement Spouse, beneficiary, personal representative or dependant or any other person, any right or interest in any such pension, benefit or privilege capable of being assigned or otherwise alienated and contributions by a member may not be borrowed against, or withdrawn other than as hereinafter provided. (529-78) (584-91) (1994-0029) (1997-0327) (1210-2017)

- (2) Subject to the Act and any other applicable legislation, and without limiting anything herein contained, the entitlement to pension referred to in subsection (2a) of Section XXIII is not capable of surrender or commutation and does not confer upon any employee, Spouse, Post Retirement Spouse, beneficiary, personal representative or dependant, or any other person, any interest in the said pension capable of being surrendered or commuted. (529-78) (584-91) (1994-0029) (1997-0327)
- (3) Subject to the Act and any other applicable legislation, a member who becomes entitled to a pension under subsection (2a) of Section XXIII shall not upon termination of employment be entitled to withdraw any part of the contributions he has been required to make under this by-law on or after January 1, 1965 except as provided in subsection (d) of Section V, and such contributions shall be applied to the provision of the pensions, benefits and privileges conferred by this by-law. (22402) (529-78) (584-91)
- (4) Subject to the provisions of the Act, a member who becomes entitled to a pension under subsection (2b) of Section XXIII shall not upon termination of employment be entitled to withdraw any part of the contributions he has been required to make under this By-law after December 31, 1986, except as provided in subsection (d) of Section V, and such contributions shall be applied to the provisions of the pensions, benefits and privileges conferred by this By-law. (584-91)
- (5) Where a decree, an order or judgement from a court of competent jurisdiction or a valid written domestic contract pursuant to the Family Law Act (Ontario) as amended from time to time has been received by the Committee requiring division of a member's benefit under this By-law due to breakdown of marriage or dissolution of common-law relationship, such division shall be made in accordance with such order or contract, as determined by the Committee, and subject to the Act and any requirements prescribed under applicable legislation. Any necessary adjustments shall be made to the member's benefit entitlement. (584-91) (1994-0029)

XXIVA

- (1) Subject to subsections (3) and (5), all actuarial surpluses or any portion thereof in the Fund, shall continue to be used solely to pay for improved pension benefits, including excess interest indexing under subsection (3a) or as approved by City Council, but in no case shall the method of determining indexing increases provide a benefit in excess of that permitted under paragraph 8503(2)(a) of the Regulations under the *Income Tax Act* (Canada) . (1002-88) (1997-0327) (1997-0676) (1210-2017) (792-2018)
- (2) City Council shall continue to provide the necessary funding, by way of special payments, to fund those benefit improvements adopted prior to October 21, 1988, which were not funded from Fund surpluses. (1002-88) (1997-0676)
- (3) In the event that any future pension benefit improvements are approved by City Council which, as a result of there being insufficient surplus in the Fund to fund such improvements, require the City to make additional special payments, the City may, following consultation with the Benefit Fund Committee, offset in part or in full the amount of such special payments against any surpluses arising subsequent to the granting of the benefit, provided however, that no such offset shall occur in any year unless the Actuary has reported that the surplus for that year is sufficient to pay all previously approved pension benefits, including excess interest indexing under subsection (3a) or as approved by City Council. (1002-88) (1997-0676)
- (3a) In each year, if the Actuary has determined that the Fund is in a surplus position as at December 31 of the preceding year and that there are sufficient surpluses available to provide for an additional increase, pension benefits that commenced on or before December 31 of the preceding year shall be increased according to the formula in subsection (3b) of this Section as of: (1997-0676) (948-2002)
 - (a) July 1 in the years 1998, 1999, 2000 and 2001; (948-2002)
 - (b) July 1 in the year 2002, together with, as soon thereafter as is convenient, a lump-sum payment equal to the additional increases that would have been prior to that date in that year if such formula had been implemented as of January 1 of that year; (948-2002)
 - (c) January 1 in any year following 2002. (948-2002)
- (3b) Subject to subsections (3c) and (3d), the increase under subsection (3a) shall be the lesser of: (1997-0676) (558-2002) (617-2003)
 - (a) the investment rate of return of the Fund (using a five (5) year smoothing technique) in excess of the rate of return required to maintain the actuarial solvency of the Fund as determined by the Actuary; and (1997-0676)
 - (b) the increase in the year over year level of the average Consumer Price Index (CPI) for Canada as published by Statistics Canada. (1997-0676)

- (3c) For the purposes of the increase payable pursuant to subsection (3a) on July 1, 2002, subsection (3b) shall be interpreted as if the word "lesser" in the first line read "greater" (558-2002)
- (3d) For the purposes of the increase payable pursuant to subsection (3a) on January 1 in each of the years 2003 to 2005 inclusive and 2010, subsection (3b) shall be interpreted as if the word "lesser" in the first line read "greater". (617-2003) (854-2005) (620-2010)
- (4) Nothing in this section precludes the City from improving pension benefits and funding these from sources other than surpluses. (1002-88) (1997-0676)
- (5) Upon wind-up of the Fund, the City of Toronto shall receive any surplus then remaining in the Fund, subject to the appropriate provisions of the Fund, applications, legislation and government rules relating to plan wind-up in effect at that time. (1002-88)

XXV

This By-law shall not be amended, changed or altered unless such amendment, change or alteration shall first have been passed and approved by the affirmative vote of five members of The Benefit Fund Committee at a regular meeting of such Committee, written notice of such amendment, change or alteration having been given at a previous regular meeting. (15393) (16538)

XXVI

By-law No. 7951, and all amendments thereto, are hereby repealed.

THOMAS FOSTER,
Mayor.

W. A. LITTLEJOHN,
City Clerk

COUNCIL CHAMBER,
Toronto, December 14th, 1925.
(L.S.)