

Chapter 6 BOARDS AND COMMISSIONS¹

ARTICLE I. IN GENERAL

Sec. 6-1. False testimony before city council or city board or commission.

- (a) It shall be unlawful for any person to give false testimony under oath or affirmation during any hearing before the city council or any boards or commissions of the city.
- (b) Any person convicted of a violation of the provisions of this section shall be subject to the penalties as provided in section 1-4.

(Code 1971, § 13-28)

Sec. 6-2. Prohibition against serving on more than two boards or commissions simultaneously.

No person shall serve on more than two city boards, commissions, agencies, advisory committees, authorities and all other appointments by the mayor, the city council, or the city council president simultaneously. In the event that a person is appointed to a city board or commission for a term which coincides with any portion of a term of two other city boards or commissions of which he or she is a member, then that appointment shall be null and void.

The foregoing shall not apply to any member of a city board or commission who shall serve in an ex officio capacity.

(Ord. No. O-09-5, § I, 2-19-09)

Sec. 6-3. Scheduling of meetings.

Meetings of the planning board or the zoning board of review shall not be scheduled to or otherwise coincide with a regularly scheduled meeting of the Warwick City Council or any committees thereof.

(Ord. No. O-21-25, § I, 12-10-21)

Secs. 6-4—6-30. Reserved.

ARTICLE II. DIVERSITY COMMISSION²

¹Cross reference(s)—Harbor management commission, § 24-5; Warwick Station Redevelopment Agency (WSRA), § 51-22 et. seq.

²Editor's note(s)—Ord. No. O-07-16, § I, adopted July 10, 2007, repealed § 6-31, which pertained to established affirmative action commission; membership; duties; organization and derived from Ord. No. O-94-20, § I, 9-

12-94; Ord. No. O-96-22, § I, 6-10-96. Subsequently, Ord. No. O-07-15, § I, adopted July 10, 2007, added § 6-31 to read as herein set out.

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Sec. 6-31. Established; membership; duties; organization.

Under the authority granted to the city council under section 8-20, entitled "additional boards," of the City Charter, a diversity commission shall be established. The commission shall consist of seven members; four of which shall be appointed by the mayor and three of which shall be appointed by the city council president, upon recommendation of council members. The members shall be appointed for a term of four years and shall serve without compensation. The commission at its first meeting shall select a chairperson and such other officers as it deems necessary from among its members and adopt rules of procedure for the conduct of its business not inconsistent with the provisions of the City Charter and the personnel merit system. It shall be the duty of the commission, in cooperation with the director of personnel and appointing officers, to assist all municipal departments and divisions to ensure that they are fully integrating all residents into the work they do for the community and that they are accessible to all residents.

(Ord. No. O-07-15, § I, 7-10-07)

Secs. 6-32—6-50. Reserved.***ARTICLE III. BOARD OF ASSESSMENT REVIEW³*****Sec. 6-51. Rules of procedure for appeals from assessments.**

The procedure to be followed in the filing of appeals by property owners from assessments as determined by the tax assessor is as follows:

- (1) All appeals to the board of assessment review shall be on petitions provided by such board and must be filed with such board no later than December 15, 1977, and October 15 of each year thereafter.
- (2) All questions on such petition shall be answered completely.
- (3) A separate petition shall be filed for each review requested.
- (4) The owner of record must file all petitions or, if this is not possible, his/her mark or the signature of his/her legal representative must appear, and his/her title must be affixed thereto.
- (5) Petitioners will be notified of the time and place of the hearing.
- (6) The owner of record, or his/her representative, must appear at such hearing. If persons other than the owner of record are to testify, then a written authorization filed by the landowner of record must be presented and recorded.
- (7) Failure on the part of any petitioner or his/her legal representative to appear at the time and place designated by such board for his/her petition to be heard, without prior notification, will be recorded as a default by nonappearance.
 - a. Any petition so recorded will not be reheard for a period of one fiscal year. No petition may be resubmitted for any year for which a prior petition was recorded as a default due to the nonappearance of the petitioner or his/her legal representative.
 - b. There shall be no rehearing of any petition for the period of one fiscal year, unless the petitioner can present new or different evidence, which evidence could not have been presented to such

³Cross reference(s)—Taxation, ch. 74.

board at the time of the original hearing, or unless in the opinion of such board unusual circumstances warrant a rehearing.

- (8) The procedure for rehearing shall be as follows:
- a. A new petition must be filed with an accompanying list or brief explanation.
 - b. The board of assessment review, at its regular meeting after the filing of the petition for rehearing, will decide on the merits for a rehearing, and the petitioner will be notified in writing of the findings and recommendations of such board.
- (9) Attorneys, expert witnesses, and any other persons may be presented by the petitioners to such board in the hearing of any petitions.
- (10) All testimony given before such board shall be under oath and shall be recorded.
- (11) The proceedings of the board of assessment review shall be recorded and kept in a minutes book provided by such board. This minutes book shall never leave the office of the board of assessment review.
- (12) All decisions of the board of assessment review shall be by resolution.
- (13) The public hearing of the board of assessment review shall be open to the public and to the press.
- (14) All petitioners will be notified in writing of the finding, recommendations, and decision of such board.
- (15) All petitions shall be numbered and heard with reference to the tax assessor's plat and lot numbers.
- (16) All petitions will be acknowledged by the board of assessment review by a postcard.
- (17) All proceedings of the board of assessment review shall be by an agenda.

(Code 1971, § 21-1)

Secs. 6-52—6-70. Reserved.

ARTICLE IV. BOARD OF PUBLIC SAFETY⁴

DIVISION 1. GENERALLY

Sec. 6-71. Establishment of regulations pertaining to removal of illegally parked vehicles.

The board of public safety may make further rules and regulations not inconsistent with chapter 76 to implement the provisions of section 76-7 et seq.

(Code 1971, § 22-12)

Sec. 6-72. Permits: concealed carry weapons.

- (a) *Preamble:* G.L. § 11-47-11 establishes the standards for local municipalities to issue concealed carry weapons (CCW) permits; and as qualified applicants are law-abiding citizens trained and certified in the use of firearms

⁴Cross reference(s)—Civil preparedness, ch. 14; fire prevention and protection, ch. 20.

they must be treated with dignity and respect as they engage in the legal right to seek said permit; while the board of public safety has the power to regulate the issuance of CCW permits for the City of Warwick, it is critical to ensure procedures and standards are not imposed in an overly broad, or arbitrary manner. Warwick residents and business owners who meet the criteria set forth by the State of RI must be ensured a timely, fair, predictable and consistent process to apply for a CCW permit through our municipal licensing authority; in an effort to promote transparency in government, avoid any misunderstandings, and protect applicants' right to due process, applicants who are denied a CCW permit must be notified of the reason(s) for disapproval in a timely, written manner; and the Warwick City Council is adamant that CCW permits processed by the board of public safety be issued in strict compliance with G.L. § 11-47-11.

- (b) *The Warwick Board of Public Safety shall adhere to the following procedures in considering the application and issuance of CCW permits:*
1. The Warwick Board of Public Safety (a.k.a. "the board"), as the licensing authority for the City of Warwick is charged with issuing concealed carry weapons (CCW) permits. Individuals must be 21 years of age or older to apply for a CCW permit and meet the following criteria:
 - a. Have a bona fide residence or place of business within the City of Warwick verified by either the Warwick Board of Canvassers, Warwick Department of Taxation or the Warwick Chief of Police, or
 - b. Have a bona fide residence within the United States and a license or permit to carry a pistol or revolver concealed upon his or her person issued by the authorities of any other state or subdivision of the United States.
 - c. The board will consider business, employment and personal factors when reviewing "good reasons" and "proper reasons" to determine if a CCW permit is to be issued.
 2. Per G.L. § 11-47-11, the board shall issue a permit to an applicant to carry a pistol or revolver concealed upon his/her person everywhere within this state for four years from date of issue. This permit shall not contain any restrictions, however state and federal law shall still apply. The permit shall be issued to the applicant if:
 - a. It appears that the applicant has good reason to fear an injury to his or her person or property;
 - b. The applicant has any other proper reason for carrying a pistol or revolver;
 - c. He or she is a suitable person to be so licensed;
 - d. The applicant must demonstrate competence, familiarity and proficiency with a handgun by completing a certified NRA firearms safety course or its equivalent of at least four hours, which includes classroom and range time.
 - (1) The firearms safety course must be completed within three years prior to the initial permit. CCW permit renewals will only require recertification on the range, as indicated by the CCW permit application.
 - (2) A list of certified firearms safety courses is included in the CCW permit application.
 3. An applicant is not required to present a "purpose" or "need" beyond what is called for in G.L. § 11-47-11. For the purpose of applications to the board under G.L. § 11-47-11 "Self-defense" based upon previous threats/threatening conduct within the prior six months documented by a police report or written complaint is a "good" or "proper reason. No line of questioning by the board during the interview process will call for speculation as to how the applicant may alter his or her actions to negate the request/ need for a CCW permit. The following may be considered when the board determines a "good" or "proper reason.

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- a. Conditions of employment or business necessity, whether required or preferred, are considered "proper reason" for issuing a CCW permit. The nature of an applicant's work may warrant a "good reason" for a CCW permit to be approved. Examples include but are not limited to: amount of money carried, lateness of the hour, past instances of crime, the surrounding neighborhood and other dangerous circumstances.

Requesting a reciprocal CCW permit by the City of Warwick when a CCW permit has been issued by the Rhode Island Attorney General is a "proper reason." Possession of a current federal firearms license is a factor in consideration of the application for the CCW permit.
 - c. Suitability of the applicant may also be a consideration when issuing a permit. Decisions must be based on evidence provided by the application process and not merely conjecture. The board must articulate a specific and justifiable reason to find someone unsuitable.
4. The board will review the completed application along with three letters of reference and a background criminal investigation (BCI) within 60 calendar days of receipt. Letters of reference shall only be required for new, not renewal, permit applications. Applicants are required to appear before the board for a personal interview. A hearing with written or recorded minutes must be held for the applicant. The specific reason(s) for denying a CCW permit must be provided in writing by registered mail within ten business days of conducting the interview or the permit shall be automatically issued.
- a. Applicants may request reconsideration in the case of a CCW permit denial by the board. Furthermore, said applicants have the right to judicial review under G.L. § 42-35-15, RI Administrative Procedures.
5. Legitimate reasons for an applicant to be deemed unsuitable to be licensed include:
- a. Be ineligible to possess a firearm by virtue of having been convicted of a felony.
 - b. Have been found guilty of, or entered a plea of guilty or nolo contendere to a misdemeanor under Rhode Island General Laws or similar laws of any other state relating to a controlled dangerous substance within a five-year period immediately preceding the date on which the application is submitted.
 - c. Found guilty of, or entered a plea of guilty or nolo contendere to operating a vehicle while intoxicated within the five-year period immediately preceding the date on which the application is submitted, or at any time after the application has been submitted.
 - d. Entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence, as defined by G.L. §§ 11-47-2(2), 11-47-5(a), including domestic abuse, at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed, prior to the date on which the application is submitted.
 - (1) Prohibition also applies to any person sentenced to community confinement or electronic surveillance in accordance with G.L. § 11-47-5(c).
 - e. Been convicted of, have entered a plea of guilty or nolo contendere to, or be charged under indictment or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater.
 - f. Is a fugitive from justice.
 - g. Released from active or reserve duty from the Armed Forces of the United States with a discharge characterized as "bad conduct discharge", or a "dishonorable discharge". In the case of Commissioned Officers and Warrant Officers of the United States Armed Forces, the punishment of "dismissal" rendered subject to a verdict of "guilty" at a trial by military court-martial is

deemed to be disqualifying under this paragraph. For the purposes of this paragraph, the United States Coast Guard is considered an Armed Force.

- i. Be ineligible to possess or receive a firearm under 18 U.S.C. 922(g).
 - j. Had a permit revoked by the board within four years prior to the most recent application.
 - k. Been denied a pistol permit in a jurisdiction other than the City of Warwick based on suitability grounds within four years prior to the most recent application.
 - l. Adjudged mentally incompetent at the time of application or for five years prior to application as defined in G.L. § 40.1-5.3-3 or a comparable procedure located in another state following a hearing at which the applicant/defendant was represented by counsel or a representative.
6. Notwithstanding any other chapter or section of the general laws of the state of Rhode Island, the board shall not provide or release to any individual, firm, association or corporation the name, address, or date of birth of any person who has held or currently holds a license or permit to carry a concealed pistol or revolver. This section shall not be construed to prohibit the release of any statistical data of a general nature relative to age, gender and racial or ethnic background nor shall it be construed to prevent the release of information to parties involved in any prosecution of § 11-47-8 or in response to a lawful subpoena in any criminal or civil action which the person is a party to that action.
- a. While completing their duties and responsibilities in exercising their authority to issue or deny CCW permits in compliance with federal, state and local law, the board of public safety is acting under sovereign immunity.
7. Warwick Ordinance § 40-1(19) disorderly conduct is the prevailing law for those individuals issued a CCW permit unless circumstances necessitates the gun owner to no longer keep his or her weapon concealed. Brandishing, improper exhibition or unlawful display is not permissible. Unintended viewing of the weapon as a nondeliberate act is not actionable.

(Ord. No. O-15-4, § I, 5-15-15)

Secs. 6-73—6-90. Reserved.

DIVISION 2. FIRE DUTIES⁵

Sec. 6-91. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any section of article II of chapter 5 of the 1959 compiled ordinances, relative to the bureau of fire, and all such sections are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1971, § 7-19)

⁵Cross reference(s)—Buildings and building regulations, ch. 8.

State law reference(s)—Establishment of bureau of fire, P.L. 1953, ch. 3136; P.L. 1955, ch. 3554.

Sec. 6-92. General powers and duties of board of public safety in lieu of board of fire.

The board of public safety shall fulfill all the duties and responsibilities of, and have all the rights and powers of, the bureau of fire, under the ordinances of the city and Public Law No. 3136, passed by the general assembly at its January 1953 session, pursuant to section 8-6 of the city Charter.

(Code 1971, § 7-20)

Sec. 6-93. Responsibility for administration of fire department.

All matters relating to the administration of the fire department shall be considered by the board of public safety as a whole, which bureau shall be responsible to the mayor and council for the administration and management of the fire department.

(Code 1971, § 7-21)

Sec. 6-94. Authority over fire department.

The board of public safety shall have the authority to appoint, remove, organize, and control the chief of the fire department, the officers and men/women of the fire department and all other attaches of the fire department of the city as such is now or hereafter may be constituted, and shall also have authority to make all needful rules, regulations, etc., for the efficiency, management and direction thereof not inconsistent with the laws of the state.

(Code 1971, § 7-22)

Sec. 6-95. Temporary appointments to fill vacancies in fire department.

In case of a vacancy in any office of the fire department, the board of public safety shall designate an officer of the permanent department to act in such office until a permanent replacement has been appointed. Such acting officer shall not be permanent.

(Code 1971, § 7-23)

Sec. 6-96. Estimate of annual expenses for fire protection.

The board of public safety shall be responsible for the preparation of the estimate of the annual expenses of the fire department for fire protection. Such estimate shall be submitted to the mayor for his/her annual budget, and to the council.

(Code 1971, § 7-24)

Sec. 6-97. Control of fire apparatus.

All fire apparatus now owned by the city shall be under the control and direction of the board of public safety.

(Code 1971, § 7-25)

Secs. 6-98—6-120. Reserved.

ARTICLE V. COMMISSION ON HISTORICAL CEMETERIES⁶

Sec. 6-121. Established.

A commission on historical cemeteries is hereby created. The name of such commission shall be "Warwick Commission on Historical Cemeteries." Such commission shall be nonpolitical.

(Code 1971, § 5-40)

Sec. 6-122. Membership.

The membership of the historical cemetery commission shall be composed as follows:

- (1) Membership is restricted to bona fide residents of the city.
- (2) Membership is restricted to a maximum of seven members. The commission shall also include two alternates, to be designated as the first and second alternate members. These alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the board is unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the board unless they have attended all hearings concerning such matter.
- (3) The members shall be appointed by the mayor from a group of prominent and actively interested citizens.

(Code 1971, § 5-41; Ord. No. O-96-15, § I, 4-8-96; Ord. No. O-03-13, § I, 7-21-03)

Sec. 6-123. Term of office.

- (a) Upon passage of this article, the mayor shall appoint, with the approval of the city council, seven members.
- (b) The mayor shall annually, in the month of January, appoint, subject to the approval of the city council, a number of members equal to the number of members whose terms expire to hold office for three years from the first Monday of January in the year of his or her appointment, and until his or her successor is chosen.

(Code 1971, § 5-42; Ord. No. O-96-15, § I, 4-8-96)

Sec. 6-124. Replacement of members for failure to attend meetings.

In the event that any member of the historical cemetery commission shall be absent from three consecutive meetings, he/she may be replaced as a member of the commission. Such replacement shall be made by the mayor and confirmed by the city council and such membership shall terminate upon the appointment and confirmation of the member chosen as a replacement.

⁶Cross reference(s)—Cemeteries, ch. 12.

(Code 1971, § 5-43)

Sec. 6-125. Purpose.

The purpose of the historical cemetery commission shall be as follows: The commission shall cause to be created an inventory of historical cemeteries within the city; formulate and develop plans and programs to restore, rehabilitate and maintain historical cemeteries; recommend to the mayor and city council such action as may be necessary to implement such plans and programs; and investigate sources of funds, including fundraising, grants and development of both corporate and individual sponsors, and all other legitimate and related activities.

(Code 1971, § 5-44)

Sec. 6-126. Acceptance of support and money.

The historical cemetery commission shall have the authority to accept public support and funds from individuals or others for the purpose of carrying out the purposes of this article, and shall make reports of accounting quarterly to the director of finance of the city.

(Code 1971, § 5-45)

Sec. 6-127. Appropriations by city council.

The city council has the authority, in its discretion, to appropriate funds necessary to carry out the purpose of this article, and to transfer such funds to the historical cemetery commission for expenditures.

(Code 1971, § 5-46)

Secs. 6-128—6-150. Reserved.

ARTICLE VI. HOUSING BOARD OF REVIEW⁷

Sec. 6-151. Established; powers.

There shall be a housing board of review, which is authorized to hear and decide appeals from compliance orders. The board shall have the power to reverse or affirm wholly or partly or to modify any order of the director; and in specific cases to authorize a variance in the application of the terms of chapter 26, where, owing to unusual conditions, a literal enforcement of the provisions of chapter 26 will result in unnecessary hardship, and so that the spirit of chapter 26 shall be observed and substantial justice done.

(Code 1971, § 10-84)

⁷Cross reference(s)—Buildings and building regulations, ch. 8; fee for appeals before housing board of review, § 18-9.

Sec. 6-152. Conditions for appeal.

Any person upon whom a compliance order has been served may appeal from the compliance order to the board.

(Code 1971, § 10-85)

Sec. 6-153. Application for appeal.

Application for such an appeal may be made whenever it is alleged that the compliance order does not conform with the true intent of chapter 26 or of the rules and regulations adopted pursuant thereto, that the compliance order is contrary to law, that the provisions of chapter 26 do not fully apply, or that in unusual conditions unnecessary hardship will result from the literal enforcement of the provisions of chapter 26. Any eligible person desiring to take an appeal shall file in the office of the board, within ten days after service of the compliance order, a written appeal including a brief statement of the reasons therefor, and a detailed statement of the facts supporting the appeal. A notice of the appeal shall be forwarded immediately to the director by the secretary of the board.

(Code 1971, § 10-86)

Sec. 6-154. Appeal fee.

An appeal fee, in accordance with chapter 18, shall be paid upon filing of any application for appeal before the board. Upon receipt of the appeal fee by the board, said fee shall be paid into the city treasury.

(Code 1971, § 10-87)

Sec. 6-155. Effect of appeal.

An appeal to the board shall stay all proceedings under the compliance order from which such appeal has been taken, except that the director may certify to the board, after receipt of the notice of the appeal, as provided in section 6-153, that, by reason of the facts stated in the certificate, any stay of proceedings would in his/her opinion cause a direct hazard or immediate peril to the health or safety of the occupants of a dwelling or of the public, and in such event proceedings shall not be stayed except by a restraining order granted by the chairperson or the acting chairperson of the board on application therefor by the appellant upon notice to the director, and on due cause shown, or by a court of competent jurisdiction. Whenever a restraining order has been issued, the appeal shall be given priority over all other matters before the board, and shall be promptly heard and decided.

(Code 1971, § 10-88)

Sec. 6-156. Membership; appointment of members.

The housing board of review shall consist of five members appointed by the mayor subject to the approval of the city council. One member shall be of the minority party.

(Code 1971, § 10-89)

Sec. 6-157. Term of office.

One member of the board shall be appointed for five years, one for four years, one for three years, one for two years, and one to serve for one year, and each new member to serve for five years and until his/her successor has been appointed and qualified. The mayor, with the approval of the council, shall appoint a member of the board to fill any unexpired term if a vacancy occurs.

(Code 1971, § 10-90)

Sec. 6-158. Qualifications of members.

Each member of the board shall be a resident and qualified elector of the city, and one member shall be a qualified builder, or a licensed architect, or a licensed professional engineer. No member of the board shall serve on any other appointive board of the city.

(Code 1971, § 10-91)

Sec. 6-159. Officers.

The board shall select one of its members to serve as chairperson, and the board shall select one of its members to serve as vice-chairperson.

(Code 1971, § 10-92)

Sec. 6-160. Exemption of members from voting.

No member of the board shall pass on any matter in which he/she has a business or personal interest.

(Code 1971, § 10-93)

Sec. 6-161. Notice of meeting.

The board shall meet at least once a month and at other times upon the call of the chairperson. Notice of the meeting to hear an appeal shall be given the appellant, the director, and the members of the board, at least ten days before the holding of the meeting, except for a hearing on an appeal involving a restraining order, at which time notice need not exceed 48 hours. Upon receipt of notice of an appeal the director shall forward immediately to the chairperson of the board all pertinent records.

(Code 1971, § 10-95)

Sec. 6-162. Quorum for hearing appeal.

In order for the board to hear an appeal, a quorum of three members of the board must be present. When a quorum is not present, the hearing of the appeal shall be postponed until such time as a quorum is present. The board shall provide for a new date for the hearing of the appeal in accordance with the provisions of section 6-161.

(Code 1971, § 10-96)

Sec. 6-163. Proceedings.

All hearings of the housing board of review shall be de novo. All hearings shall be public, and the appellant, his/her representative, the director and any other person whose interest may be affected by the matter on appeal, and who files a written entry of appearance, shall be given an opportunity to be heard. Written entry of appearance at such hearing shall fulfill the requirements for service of any notice or order by the director. The chairperson, or, in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. Proceedings of the board shall be conclusive with respect to questions of fact and may be reviewed only on questions of law by courts of competent jurisdiction as provided in section 6-166.

(Code 1971, § 10-97)

Sec. 6-164. Majority vote required.

A concurring vote of a majority of the members of the board present at the hearing shall be necessary to reverse or modify any order or decision of the director, and to authorize a variance in the application of any of the provisions of chapter 26 as provided in section 6-151. In the event of a tie vote of the members of the board present at the hearing, the order or decision of the director shall be deemed to have been sustained.

(Code 1971, § 10-98)

Sec. 6-165. Records; notice of decisions.

All decisions of the board shall be in writing. The board shall keep clear and detailed minutes of all its proceedings, including its decisions and the reasons therefor and the vote of each member participating therein and the absence of a member or his/her failure to vote. Such record, immediately following the board's decision, shall be filed in the office of the board and shall be a public record. Notice of the board's decision shall be promptly furnished to the appellant, to his/her representative, to any person who has filed a written entry of appearance, and to the director, and the director shall take immediate action in accordance with the decision of the board.

(Code 1971, § 10-99)

Sec. 6-166. Court review of decisions.

Any person, including the director, aggrieved by a decision of the housing board of review may present to the supreme court a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the housing board of review to review such decision of the board and shall prescribe therein the time within which a return thereto must be made, which shall be not less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, upon notice to the board and on due cause shown, grant a restraining order. The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show grounds of the decision appealed from and shall be verified. If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a master to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly or may modify the decision brought up for review.

(Code 1971, § 10-100)

Secs. 6-167—6-190. Reserved.

ARTICLE VII. JUVENILE HEARING BOARD

Sec. 6-191. Established.

There is hereby established within the city a juvenile hearing board with the powers set forth in this article for the purpose of hearing all cases referred to such board by the chief of the police department, with respect to persons resident in the city, under the age of 18 years, who are charged with violating the criminal laws of the state or the city.

(Code 1971, § 2-121)

Sec. 6-192. Referral of offenders to board.

- (a) Any person who is a resident of the city and under the age of 18 years who allegedly shall have committed a juvenile offense which if committed by an adult would be a misdemeanor may request a hearing before the juvenile hearing board rather than being referred to the family court; provided, however, that said referral to the juvenile hearing board is made with the approval of the chief of police of the city; and further provided that referral to said juvenile hearing board shall not be offered to any juvenile:
 - (1) Who has been charged with the crime of assault or battery, unless specifically approved by the chief of police of the city;
 - (2) Who shall have been twice previously referred to said board or who shall have been once previously referred to said board and refused or failed to abide by the sanctions imposed or to make the restitution recommended by said board; or
 - (3) Who at the time of commission of such juvenile offense was within the custody and control of family court, not to include guardianship matters.
- (b) The chief of police may offer referral to the juvenile hearing board to any other juvenile offender where, in the opinion of the chief of police, such referral would be beneficial to the juvenile concerned and the community at large. No referral to said board shall be made by the chief of police until such person, together with his/her legal guardians, shall have, in writing, waived such person's right to a hearing in the family court with respect to the offense charged, shall have admitted guilt to the offense charged, and shall have agreed to abide by the decision of said board; provided, however, that failure to comply with the decision of said board may result in the referral of said juvenile to the family court by the chief of police.

(Code 1971, § 2-122)

Sec. 6-193. Refusal of referral.

The board, after investigation, may refuse to hear any case in which it appears that a juvenile was wrongfully referred in violation of section 6-192. In addition, the board may refuse to hear any case in which the juvenile refuses to supply the board with requested information, fails to appear when requested or refuses to cooperate with the proceedings of the board. The board shall immediately notify the chief of police, in writing, of any case

which it refuses to hear, and the chief of police shall take whatever further action that is deemed necessary, including referral to the family court.

(Code 1971, § 2-123)

Sec. 6-194. Legal representation of offenders.

Any juvenile offender shall be entitled to be represented by counsel and present evidence at said hearing. Said legal representation shall be at the offender's own expense.

(Code 1971, § 2-124)

Sec. 6-195. Powers and duties; imposition of sanctions.

- (a) The board shall hear all cases referred to it by the chief of police and shall recommend sanctions (other than incarceration) and shall direct restitution for any injuries resulting from the commission of such offense.
- (b) Sanctions imposed by the board shall be for a period of time not to exceed six months and may consist of, but shall not be limited to, public service, referral to counseling, curfews, restrictions on association with other offenders, restrictions on employment, and fines not to exceed \$100.00, or any combination of the above.
- (c) In those cases in which the board shall order restitution, it shall attempt to assist the offender and his/her parents in providing a means whereby the offender may make such restitution. In ordering restitution, the board shall take into account the offender's ability to pay and the amount of actual damages caused as a result of the commission of such offense.
- (d) In any proceeding, the board, prior to imposing sanctions, shall request the juvenile offender and his/her parents to agree to the sanctions imposed and to agree to the amount of restitution and manner of making the same. In imposing sanctions or ordering restitution, the board shall consider the nature of the offense, the prior record of the offender, and any mitigating circumstances involved.
- (e) The board shall have the right to levy hearing costs.

(Code 1971, § 2-125)

Sec. 6-196. Meetings and rules of procedure.

- (a) The board shall meet not less than once each month; however, the board shall not be required to meet if there are no pending cases before it and no cases currently referred to it by the chief of police. It shall give written notice of the matters to be heard before it to the chief of police, the juvenile officer, and the juvenile offender and his/her parents, not less than ten days prior to the date of the hearing. Said notice shall set forth the nature of the offense, the time and place of the hearing, and the offender's right to be represented by counsel at the offender's expense.
- (b) A majority of the members of the board shall constitute a quorum, and its proceedings shall be closed to the public. The board shall elect one of its members as its chairperson and one as its vice-chairperson. In the absence of the chairperson, the vice-chairperson shall be the presiding officer. A majority of the members present shall be required to take any action. The board shall have the power from time to time to draft rules governing its proceedings or to amend or repeal any rules theretofore adopted, with the approval of the chief of police, and not inconsistent with this article.

(Code 1971, § 2-126; Ord. No. O-16-20, § I, 8-17-16)

Sec. 6-197. Membership; term of office.

- (a) The membership of the board shall consist of seven persons over the age of 18 years, to be appointed by the city council, all of whom shall have been residents for at least three years within the city, and none of whom shall be attorneys admitted to practice before the supreme court of the state, and none shall be an elected official in any capacity in any city or town. The city council shall appoint one member whose term shall expire on December 1, 1992, and thereafter until his/her successor is appointed and qualified, three members whose term shall expire on December 1, 1993, and thereafter until their successors are appointed and qualified, and three members whose term shall expire on December 1, 1994, and thereafter until their successors are appointed and qualified. During the month of November and annually thereafter, the city council shall appoint a member or members to succeed the member or members whose terms will then next expire, to serve for a term of three years, commencing on December 1, and thereafter until their successors are appointed and qualified. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, such vacancy shall be filled in like manner as the original appointment, but only for the remainder of the term of the former member. No member of the board shall be entitled to receive any compensation by reason of his or her service on the board. An attorney may be appointed to the board as an ex officio member by the chief judge of the family court.
- (b) The composition of the board shall consist of citizens of the city who have a background in and of the related fields of education, probation and parole, human services, or community youth programs, members of the clergy, former law enforcement or judicial officials or any citizens whom the council deems have the credentials that would be an asset to the board.

(Code 1971, § 2-127)

Sec. 6-198. Effective date.

This article shall apply to all juveniles alleged to have committed an offense after July 12, 1992.

(Code 1971, § 2-128)

Secs. 6-199—6-220. Reserved.***ARTICLE VIII. PERSONNEL HEARING BOARD⁸*****Sec. 6-221. Established; membership; term of office.**

There is hereby established a personnel hearing board to consist of three qualified electors of the city who shall be known to be in sympathy with the application of modern personnel practices, under a merit system of personnel administration in the public service, and not more than two of whom shall be members of the same political party. The members of the board shall be appointed by the mayor. Each member shall be appointed for a term of six years commencing on the expiration of the terms of the present members as follows: one in December 1994, one in December 1996, and one in January 1998. A vacancy, whatever the circumstances of its creation, shall be filled by appointment of the mayor, within 60 days and only for the unexpired portion of the term.

⁸Cross reference(s)—Personnel merit system, ch. 48.

(Code 1971, § 14-22)

Sec. 6-222. Organization; meetings; quorum; compensation of members.

The personnel hearing board shall elect one of its members chairperson. Each member shall take the oath of office before entering upon the duties of office. Members of the board shall be reimbursed for necessary travel and other expenses and each member of the board shall be paid a sum to be determined by the council. The board shall meet at such times and places as shall be specified by call of the chairperson or the mayor. Notice of each meeting shall be given in writing to each member. Two members shall constitute a quorum for the transaction of business.

(Code 1971, § 14-23)

Sec. 6-223. Removal of members.

A member of the personnel hearing board shall be subject to removal by the mayor as provided in section 3-3 of the Charter.

(Code 1971, § 14-24)

Sec. 6-224. Appeals to board.

The personnel hearing board shall hear appeals:

- (1) By any person holding full status in the classified service aggrieved by action of the chief of the division of personnel on matters of personnel administration.
- (2) By any person holding full status in the classified service who has been discharged, demoted, suspended or laid off by any appointing authority.
- (3) By any person who holds the belief that he/she has been discriminated against because of his/her race, color, creed, national origin, religious or political opinions, handicap, sex, or affiliations in any personnel action. Such appeals shall be taken in accordance with the provisions of chapter 48 or the personnel rules.

(Code 1971, § 14-25)

Sec. 6-225. Members not to run for or hold elective office.

No member of the personnel hearing board shall seek the nomination of or be a candidate for any elective office; neither shall any elective officer be appointed a member of the personnel hearing board unless he/she resigns his/her elective office.

(Code 1971, § 14-82)

Secs. 6-226—6-240. Reserved.

***ARTICLE IX. RETIREMENT BOARD (FOR SYSTEM EFFECTIVE PRIOR
TO JULY 1, 1992)⁹***

DIVISION 1. GENERALLY

Sec. 6-241. Administration and general responsibility for retirement system.

The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of article II of chapter 60 are hereby vested in a retirement board.

(Code 1971, § 16-114)

Sec. 6-242. Membership.

The membership of the retirement board shall consist of:

- (1) The director of finance, ex officio.
- (2) The chief of personnel, ex officio.
- (3) The chairperson of the city council finance committee, ex officio.
- (4) The president of the municipal employees bargaining unit, ex officio.
- (5) Three members to be elected within 60 days following the effective date of Ordinance No. O-70-9 for a term expiring June 30, 1973, providing:
 - a. One of the three members shall be elected from and by the membership of the retirement system who also hold membership within an appropriate bargaining unit as designated by the state labor relations board for collective bargaining purposes with a participating employer. Such member shall hold office only while a member of both the retirement system and appropriate bargaining unit.
 - b. One of the three members shall be elected from and by the membership of the retirement system who are also retirants of the system. Such member shall hold office only while a member of the retirement system as a retirement.
 - c. One of the three members shall be elected from and by the membership of the retirement system who does not hold membership within an appropriate bargaining unit as described above and who is not a retirant. Such member shall hold office only while a member of the retirement system.

Subsequent elections shall be for terms of three years beginning July 1, 1970, and each three years thereafter.

⁹Cross reference(s)—Retirement system, ch. 60.

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- (6) Four members who shall not be officers or employees of the city. When this article becomes effective, the mayor shall appoint two members for a term of one year, one for a term of two years and one for a term of three years. Thereafter, each member shall be appointed for a term of three years from the date of expiration of the term for which his/her predecessor was appointed.

(Code 1971, § 16-115)

Sec. 6-243. Filling of vacancies.

If a vacancy occurs in the office of a retirement board member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(Code 1971, § 16-116)

Sec. 6-244. Voting.

Each board member shall be entitled to one vote on the board. An affirmative vote of a majority of the board members present shall be necessary for a decision by the members at any meeting of the board. The presence of six members of the retirement board shall be required to constitute a quorum for conducting business at any meeting.

(Code 1971, § 16-118; Ord. No. O-09-24, § I, 9-15-09)

Sec. 6-245. Jurisdiction.

The retirement board shall have exclusive original jurisdiction in all matters relating to or affecting the funds provided for in this article and article II of chapter 60, including, in addition to all other matters, all claims for benefits and refunds under article II of chapter 60, and its action, decisions or determinations in any matter shall be reviewable according to law.

(Code 1971, § 16-119)

Sec. 6-246. Establishment of regulations for administration of retirement system; other functions of board.

Subject to the limitations of this article and article II of chapter 60, the retirement board shall, from time to time, establish rules and regulations for the administration of funds created by this law, for the transaction of its business and for the limitation of the time within which claims may be filed and for the administration and transaction of the business of the retirement system, and shall perform such other functions as are required for the execution of this article and article II of chapter 60.

(Code 1971, § 16-120)

Sec. 6-247. Officers.

The retirement board shall elect a chairperson from its membership by majority vote. The chief of personnel shall be the secretary of the retirement board, but he/she may appoint an employee of the retirement system to perform necessary duties of the position.

(Code 1971, § 16-121)

Sec. 6-248. Payment of expenses.

All necessary expenses of the retirement board and the staff of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

(Code 1971, § 16-122)

Sec. 6-249. Employees of retirement system.

The mayor shall appoint all employees of the retirement system of the city and direct their work in accordance with the policy and rules established by the retirement board. The compensation of all persons so appointed shall be paid in accordance with the comprehensive compensation plan of the city. Appointment to positions created as a result of this article shall be made in accordance with the merit system ordinance.

(Code 1971, § 16-123)

Sec. 6-250. Authority to engage actuarial, investment and other services.

The retirement board may engage such actuarial, investment, administrative and other services as may be required or deemed advisable to transact the business of the retirement system.

(Code 1971, § 16-124)

Sec. 6-251. Collection of data for evaluation.

The staff of the employee retirement system under the direction of the chief of personnel shall keep in convenient form such data as shall be necessary for actuarial evaluation of the liabilities of the retirement system and for checking the experience of the system.

(Code 1971, § 16-125)

Sec. 6-252. Records; annual report.

The secretary of the retirement board shall be responsible for keeping a record of all its proceedings, which shall be open to public inspection. He/she shall publish annually a report approved by the retirement board showing, for the fiscal year, the amount of the accumulated cash financial conditions of the system by means of an actuarial evaluation of the assets and liabilities of the retirement system.

(Code 1971, § 16-126)

Sec. 6-253. Duties of city solicitor.

The city solicitor shall be the legal adviser and counsel of the retirement board.

(Code 1971, § 16-127)

Sec. 6-254. Medical board.

The retirement board shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of article II of chapter 60, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the retirement board its conclusions and recommendations upon all the matters referred to it.

(Code 1971, § 16-128)

Sec. 6-255. Recommendation of changes in retirement system due to changes in Social Security Act.

Whenever the maximum earnings base for taxes and benefits under the federal Social Security Act is changed in the future, the retirement board shall study the effect on total contributions and total benefits provided by the federal Social Security Act and by this retirement system and shall make recommendations as to the desirability of changes in the retirement system to the city council.

(Code 1971, § 16-129)

Sec. 6-256. Limitation on administrative powers and duties.

Except as provided in this article and article II of chapter 60, the retirement board shall have no administrative powers or duties.

(Code 1971, § 16-130)

Secs. 6-257—6-270. Reserved.*DIVISION 2. ACTUARIAL SERVICES***Sec. 6-271. Actuary to be technical adviser; qualifications.**

The actuary shall be the technical adviser of the retirement board on matters regarding the operation of the funds created by this article and article II of chapter 60, and shall perform such other duties as are required in connection therewith. He/she shall be a qualified member as a Fellow of the Society of Actuaries.

(Code 1971, § 16-141)

Sec. 6-272. Actuarial investigation to be performed every three years.

The retirement board shall have made at least every three years an actuarial investigation into the mortality, service and compensation experiences of the members, retirants, and beneficiaries of the retirement system and, taking into account the results of such investigation and valuation, the retirement board shall establish for the retirement system such mortality, service and other tables as shall be deemed necessary.

(Code 1971, § 16-142)

Sec. 6-273. Annual evaluation of assets and liabilities.

On the basis of tables arrived at pursuant to the actuarial investigation as the retirement board shall adopt, it shall make an annual evaluation of the assets and liabilities of the fund of the retirement system. The assets used for such evaluation shall equal the lesser of the asset value before adjustment and the market value of assets, including any accrued contributions.

(Code 1971, § 16-143)

Sec. 6-274. Certification of rates of contribution payable by employer.

On the basis of the annual evaluation performed pursuant to this division, the retirement board shall certify the rates of contribution payable by the employers.

(Code 1971, § 16-144)

Sec. 6-275. Determination of asset value before adjustment and market value of assets; establishment of adjustment ratio.

On each January 31 from 1985 through 1988, on June 30, 1988, and on each subsequent June 30, the asset value before adjustment and the market value of assets shall be determined. If the market value of assets exceeds the asset value before adjustment by an amount equal to six percent or more of the actuarial accrued liability of the benefits of all retired employees and beneficiaries, then an adjustment to the monthly benefit is warranted. An increase in monthly benefits may be granted, such that the increase in actuarial accrued liability does not exceed one-third of the amount by which the market value of assets exceeded the asset value before adjustment and such that the average increase in monthly benefits does not exceed the sum of the negotiated increases in base wages covered under the collective bargaining agreement effective during the 12-month period beginning on the July 1 immediately prior to the effective date of increase in monthly benefits. If an increase in the monthly benefits is granted, then the adjustment referred to in "asset value after adjustment" shall equal two times the actuarial accrued liability of the increase in monthly benefits.

(Code 1971, § 16-145)

Secs. 6-276—6-290. Reserved.***DIVISION 3. INVESTMENT OF TRUST FUNDS*****Sec. 6-291. Board designated trustee of funds; powers and duties.**

The retirement board shall be the trustees of the funds created by this article and article II of chapter 60 and shall have full power to invest and reinvest such funds, subject to all the terms, conditions, limitations and restrictions imposed by law upon a corporate trustee in the state in making and disposing of its investments, and subject to like terms, conditions, limitations and restrictions said retirement board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created in this article and article II of chapter 60 shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds.

(Code 1971, § 16-156)

Sec. 6-292. Fiduciary role of members and employees of retirement system with regard to funds.

Except as provided in this article and article II of chapter 60, no member of and no employee of the retirement system shall have any direct interest in the gains or profits of any investment made by the retirement board, nor as such receive any pay or emolument for his/her services. No member of the board or employee of the retirement system shall directly or indirectly for himself/herself or as an agent in any manner use the assets of the retirement system except to make such current and necessary payments as are authorized by the retirement board, nor shall any member or employee of the retirement system become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the retirement board.

(Code 1971, § 16-157)

Sec. 6-293. Group annuity contract purchase authorized.

The retirement board is hereby authorized and empowered to apply for and purchase from an insurance company, authorized to transact business in the state, a group annuity contract, in form approved by said retirement board, for the purpose of providing benefits to members of the retirement system, as defined by article II of chapter 60. Such group annuity contract may contain a provision for establishing separate accounts funding for the purpose of allocating thereto amounts paid to the insurer by the retirement board in connection with the retirement system for the future payment of retirement benefits in guaranteed fixed amounts.

(Code 1971, § 16-158)

Secs. 6-294—6-310. Reserved.

ARTICLE X. RETIREMENT BOARD (FOR SYSTEM EFFECTIVE JULY 1, 1992)

Sec. 6-311. Established; responsibility for administration of plan; membership; voting; officers.

- (a) *Board established; general duties.* The general administration and the responsibility for the proper operation of the plan and for making effective the provisions of article III of chapter 60 are hereby vested in a retirement board.
- (b) *Membership.* The membership of the retirement board shall consist of:
 - (1) The city's finance director ex officio;
 - (2) The city's personnel chief ex officio;
 - (3) The chairperson of the city council finance committee ex officio;
 - (4) The president of the union ex officio;
 - (5) Three members to be elected for a term expiring June 30, 1994, providing:
 - a. One of the three members shall be elected from and by the membership of the plan who also hold membership within an appropriate bargaining unit as designated by the state labor relations board for collective bargaining purposes with the city. Such member shall hold office only while a member of both the plan and the appropriate bargaining unit.

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- b. One of the three members shall be elected from and by the membership of the plan who are retirees. Such member shall hold office only while a retiree.
 - c. One of the three members shall be elected from and by the membership of the plan who does not hold membership in the union as described above and who is not a retiree. Such member shall hold office only while a member of the plan.

Subsequent elections shall be for terms of three years beginning July 1, 1994, and each three years thereafter.

- (6) Four members who shall not be employees of the city shall be appointed for terms of three years from the date of expiration of the term for which the predecessor of each member was appointed.
- (c) *Filling of vacancies.* If a vacancy occurs in the office of a retirement board member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
- (d) *Voting.* Each retirement board member shall be entitled to one vote on the board. An affirmative vote of a majority of the board members present shall be necessary for a decision by the members at any meeting of the board. The presence of six members of the retirement board shall be required to constitute a quorum for conducting business at any meeting.
- (e) *Officers.* The retirement board shall elect a chairperson from its membership by majority vote. The chief of personnel shall be the secretary of the retirement board, but he or she may appoint an employee of the plan to perform necessary duties of the position.

(Ord. No. O-93-31, § I(7.1), 12-13-93; Ord. No. O-09-25, § I, 9-15-09)

Sec. 6-312. Powers and duties.

- (a) *Jurisdiction.* The retirement board shall have exclusive original jurisdiction in all matters relating to or affecting the funds provided for in this article and article III of chapter 60, including, in addition to all other matters, all claims for benefits and refunds under this article and article III of chapter 60, and its action, decisions or determinations in any matter shall be reviewable according to law.
- (b) *Authority to establish regulations for administration of plan.* Subject to the limitations of this article and article III of chapter 60, the retirement board shall, from time to time, establish rules and regulations for the administration of funds created by this law, for the transaction of its business and for the limitation of the time within which claims may be filed and for the administration and transaction of the business of the plan, and shall perform such other functions as are required for the execution of this article and article III of chapter 60.
- (c) *Payment of expenses.* All necessary expenses of the retirement board and the staff of the plan shall be paid at such rates and in such amounts as the retirement board shall approve.
- (d) *Limitation on administrative powers and duties.* Except as provided in this article and article III of chapter 60, the retirement board shall have no administrative powers or duties.

(Ord. No. O-93-31, § I(7.2), 12-13-93)

Sec. 6-313. Records; annual report.

The secretary of the retirement board shall be responsible for keeping a record of all its proceedings, which shall be open to public inspection. He or she shall publish annually a report approved by the retirement board showing the financial condition of the fund.

(Ord. No. O-93-31, § I(7.3), 12-13-93)

Sec. 6-314. Duties of city solicitor.

The city solicitor shall be the legal adviser and counsel of the retirement board.

(Ord. No. O-93-31, § I(7.4), 12-13-93)

Sec. 6-315. Amendment of plan.

The city council shall have the right to amend the plan. The plan may not be altered or amended without consultation between the city council and the retirement board.

(Ord. No. O-93-31, § I(7.5), 12-13-93)

Sec. 6-316. Designation of beneficiary by members of plan.

After joining the plan in accordance with section 60-341, each member shall designate, on such forms as are acceptable to the retirement board, one or more individuals, estates or trusts as his or her beneficiary under the plan, including contingent beneficiaries. The member may change his or her designated beneficiary at any time prior to retirement.

(Ord. No. O-93-31, § I(7.6), 12-13-93; Ord. No. O-98-43, § I, 12-14-98)

Sec. 6-317. Group annuity contract purchase authorized.

The retirement board is hereby authorized and empowered to apply for and purchase from an insurance company, authorized to transact business in the state, a group annuity contract, in form approved by said retirement board, for the purpose of providing benefits to members of the plan. Such group annuity contract may contain a provision for establishing separate accounts funding for the purpose of allocating thereto amounts paid to the insurer by the retirement board in connection with the plan for the future payment of retirement benefits in guaranteed fixed amounts.

(Ord. No. O-93-31, § I(7.7), 12-13-93)

Secs. 6-318—6-340. Reserved.

ARTICLE XI. SEWER BOARD OF REVIEW¹⁰

¹⁰Cross reference(s)—Sewers and sewage disposal, ch. 66.

State law reference(s)—Creation of sewer board of review for city, and authority thereunder, P.L. 1962, ch. 254, § 19.

Sec. 6-341. Powers and duties.

The city sewer board of review shall have all the powers and duties hereinafter set out and as prescribed in P.L. 1962, ch. 254, as amended.

(Code 1971, § 18-16)

Sec. 6-342. Officers.

The sewer board of review shall elect from among its members a chairperson and a secretary at the first meeting after the organization and upon the appointment of any new member for a full term, and shall fill any vacancy that may occur in either office from any cause.

(Code 1971, § 18-17)

Sec. 6-343. Clerk.

The sewer board of review may appoint a clerk, who shall perform such administrative duties as may be prescribed by the board as well as all other duties prescribed by law.

(Code 1971, § 18-18)

Sec. 6-344. Meetings.

Meetings of the sewer board of review shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson may administer oaths.

(Code 1971, § 18-19)

Sec. 6-345. Quorum.

The presence of all three members shall be required to constitute a quorum for conducting the business of the sewer board of review.

(Code 1971, § 18-20)

Sec. 6-346. Hearings to be public; notice of hearings.

All hearings of the sewer board of review shall be open to the public. At least five days prior to the date scheduled for a hearing, notice shall be mailed to the petitioner, and a copy of same shall be forwarded to the city sewer authority. In case of continuances of public hearings, notice of this fact must be sent to the petitioner and the city sewer authority.

(Code 1971, § 18-21)

Sec. 6-347. Minutes and other records.

The sewer board of review shall keep minutes of its proceedings showing the vote of each member upon each question or, if such member is absent or fails to vote, indicating such fact, and shall keep records of its

examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record.

(Code 1971, § 18-22)

Sec. 6-348. Time limit for filing appeals.

Within 60 days after mailing of notice of an assessment or charge under section 9 of 1962 Public Laws, chapter 254, or within 30 days after giving or mailing of notice of an order under section 17 of 1962 Public Laws, chapter 254, any person aggrieved by such assessment, charge or order may appeal to the sewer board of review.

(Code 1971, § 18-23)

Sec. 6-349. Appeals to be in writing; timely filing.

Appeals must be in writing on forms provided by the sewer board of review and shall be filed in the office of the board within the times specified above.

(Code 1971, § 18-24)

Sec. 6-350. Docketing of appeals; order of hearing; hearing continued matters.

All appeals filed with the sewer board of review shall be numbered, docketed and assigned by the clerk for hearing in the order in which received. All continued matters shall be heard prior to the matters docketed at any meeting.

(Code 1971, § 18-25)

Sec. 6-351. Determination of number of appeals to be heard at each meeting.

The sewer board of review shall determine the number of appeals that may be assigned for hearing to any particular meeting.

(Code 1971, § 18-26)

Sec. 6-352. Powers regarding appeals.

The sewer board of review shall have power to hear and decide appeals where it is alleged that an assessment, charge or order of the city sewer authority is unwarranted in whole or in part, and shall annul or modify the same and make such order as justice may require. Otherwise it shall affirm the same.

(Code 1971, § 18-27)

Sec. 6-353. Executive session; deferment of decision; majority vote required.

The merits of any petition may be discussed by the sewer board of review in executive session; provided, however, that all decisions of the board shall be made in open session. The board in its discretion may reserve consideration and decision to a later date. All decisions shall be made by majority vote.

(Code 1971, § 18-28)

Sec. 6-354. Notice of decision.

Notice of the sewer board's decision shall be sent to the petitioner and a copy of same forwarded to the city sewer authority.

(Code 1971, § 18-29)

Sec. 6-355. Filing new petition for same premises or subject matter.

No new petition pertaining to the same premises or subject matter involved in a decision of the sewer board of review may be heard until the expiration of two years from the date of such decision.

(Code 1971, § 18-30)

Secs. 6-356—6-380. Reserved.***ARTICLE XII. TREE COMMISSION¹¹*****Sec. 6-381. Jurisdiction; duties.**

- (a) The city tree commission, hereinafter referenced as the "commission," shall have jurisdiction over all forestry functions, including the planting, care and removal of trees, shrubs and other plants, on the properties for which it is responsible. The commission shall do all acts necessary and proper for the care, management, improvement, maintenance and protection of the public park and street trees under its jurisdiction.
- (b) The duties of the commission shall be interpreted to include, but not be limited to, the protection, maintenance, removal and planting of trees on public property, and making such recommendations from time to time to the city council as to desirable legislation concerning the tree program and activities for the city.

(Code 1971, § 25-3)

Sec. 6-382. Appointment and qualifications of tree warden.

The tree warden shall be appointed by the city tree commission. This person shall have training and experience in arboriculture and shall have passed the state arborist exam.

(Code 1971, § 25-4(a))

Secs. 6-383—6-400. Reserved.

¹¹Cross reference(s)—Trees, ch. 78.

ARTICLE XIII. RESERVED¹²

Secs. 6-401—6-419. Reserved.

ARTICLE XIV. RESERVED¹³

Secs. 6-420—6-439. Reserved.

ARTICLE XV. AIRPORT LAND USE COMMISSIONS

Sec. 6-440. Statement of purpose.

The city desires to be a good neighbor with the T.F. Green State Airport in promoting its economic vitality, and in promoting the use and enjoyment of said airport for our citizens.

At the same time, the city recognizes the adverse impact that the expansion of T.F. Green Airport has had to our surrounding neighborhoods. The city further recognizes that this problem is significant and has far reaching implications including, but not limited to, the following:

- (1) It adversely impacts the health, safety and welfare of the residents surrounding the airport;
- (2) It reduces the fair market value of homes in the city;
- (3) Vital tax dollars are lost in perpetuity to the city when homes and land are purchased by the state airport corporation, which is a tax exempt entity;
- (4) The haphazard purchase of property around T.F. Green based on noise contour lines creates an inefficient land-use pattern in and around the airport;
- (5) It threatens our economic vitality by placing an increased tax burden on the remaining commercial and residential property owners;
- (6) It destroys the intrinsic visual beauty of the landscape; and
- (7) It increases traffic, increases noise and air pollution, creates safety concerns, and leads to deteriorating roadways.

¹²Editor's note(s)—Ord. No. O-13-7, § I, adopted June 12, 2013, repealed §§ 6-401—6-405, which pertained to growth management coordinating council and derived from Ord. No. O-00-11, § I, 4-11-00; Ord. No. O-01-23, § I, 12-26-01.

¹³Editor's note(s)—Ordinance No. O-02-18, § I, adopted August 13, 2002, repealed §§ 6-420—6-427 in their entirety. Formerly, such sections pertained to juvenile hearing board for truancy and derived from Ord. No. O-97-25, § I, 11-10-97.

Therefore, it is clear that in order to protect the quality of life around T.F. Green Airport, city officials must work to develop effective mechanisms to control airport expansion in and around T.F. Green Airport.

(Ord. No. O-00-19, § I, 5-16-00)

Sec. 6-441. Creation of airport land use commission.

There is hereby established a neighborhood buyout commission, which shall act as an advisory commission to city officials and as a liaison between and among the state airport corporation, the community noise advisory committee, and the citizens of the city in order to develop a framework for coordinated and consistent planning for the control and development of land use patterns in and around the airport.

The commission will also consider initiatives that will enable the city to lay a realistic foundation for sustainable growth of T.F. Green Airport while protecting the quality of life for residents of the city. These initiatives should include, but are not limited to:

- (1) Promoting greater citizen involvement in the planning process around the airport;
- (2) Examining initiatives for alleviating noise and air pollution for neighborhoods surrounding the airport;
- (3) If neighborhoods so desire, assisting them in marketing their land as a whole in order to increase the fair market value of their individual properties which may include assistance with comprehensive plan amendments and/or zone changes;
- (4) Examining the city's infrastructure capacity and setting guidelines for future expansion of T.F. Green Airport, including the development of noise compatibility overlay zones;
- (5) Promoting an active approach to the acquisition of land for open space and recreation to act as buffer zones between the airport and residential neighborhoods, and
- (6) To work with neighborhood residents, whose properties are being bought out and RIAC to address the following concerns:
 - a. Establishing a written time table which residents can rely upon to determine when individual homes will be purchased;
 - b. Providing the residents with information as to how the fair market value of their homes and property will be determined; and
 - c. Providing residents with an informational booklet as to their rights and responsibilities pursuant to the buyout program.

(Ord. No. O-00-19, § I, 5-16-00)

Sec. 6-442. Members.

The membership of the commission shall be the following:

- (1) Each member of the city council;
- (2) The director of the planning department of the city or his or her designee who shall attend each meeting of the commission;
- (3) The city council constituent liaison who shall attend each meeting of the commission and be a non-voting member of the commission;

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- (4) The Executive Director of the Rhode Island Airport Corporation, or his or her designee, who shall be a non-voting member of the commission; and
 - (5) Two citizens of the City of Warwick who shall be appointed by the president of the city council.

No member of the commission shall receive any compensation by reason of his or her service on the commission.

(Ord. No. O-00-19, § I, 5-16-00; Ord. No. O-04-1, § I, 2-10-04; Ord. No. O-05-17, § I, 6-22-05; Ord. No. O-08-9, § I, 3-11-08)

Sec. 6-443. Funding.

Funding for the commission shall be in such amounts as may be determined by the city council and the mayor for the purposes set forth herein from year to year.

(Ord. No. O-00-19, § I, 5-16-00)

Sec. 6-444. Meetings and rules of procedure.

- (a) The commission shall meet once each quarter, and shall comply with the provisions of the open meetings law. A meeting may also be called by the chairperson of the commission.
- (b) Four of the members of said commission shall constitute a quorum, and its proceedings shall be open to the public. At the first meeting of each calendar year, the commission shall elect one of its members as its chairperson and one of its members as its vice-chairperson, who shall serve for a term of one year each. In the absence of the chairperson, the vice-chairperson shall be the presiding officer. A majority of the voting members present shall be required to take any action. Any member wishing to place a matter on the agenda for consideration and/or discussion by the commission at a future meeting, shall submit a brief description of the matter in writing to the chairperson or vice-chairperson no less than 48 hours prior to said meeting. The commission shall have the power from time to time to draft rules governing its proceedings or to amend or repeal any rules thereafter adopted which are not inconsistent with this section.

(Ord. No. O-00-19, § I, 5-16-00; Ord. No. O-05-17, § II, 6-22-05)