

CHAPTER 2008-27

**No. 211 AN ORDINANCE ESTABLISHING A PRESUMPTIVE
CANCER BENEFIT & WELLNESS INCENTIVE FOR
FIREFIGHTERS**

Approved May 9, 2008

Be it ordained by the City of Providence:

WHEREAS, in the line of duty, firefighters are exposed to heat, smoke, and radiation, as well as known carcinogens such as benzene, chloroform, soot, styrene, and formaldehyde; and

WHEREAS, numerous studies have found firefighters to have a far greater risk of developing cancers of the hematological system, lungs, lymphatic system, and skin than the general population; and

WHEREAS, the City of Providence has a compelling interest in the protection of the health and safety of its employees; and

WHEREAS, alcoholism, tobacco use, and drug use also have been found to significantly increase a person's cancer risk.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PROVIDENCE:

Section 1. Definitions

- (a) *Alcohol* means an alcoholic beverage, including but not limited to beer, wine, liqueurs, spirits, and other distilled and fermented beverages.
- (b) *Controlled Substance* means an illegal drug or prescribed medication.
- (c) *Firefighter* means a Class B member employed by the Providence Fire Department.
- (d) *Health and Wellness Program* means a program established to improve and promote the health and wellness of firefighters by requiring annual physical examinations and annual health and wellness evaluations administered by a professional.
- (e) *Illegal Drug* means any drug which is unlawful to distribute or possess including but not limited to cocaine, ecstasy, heroin, marijuana, and methamphetamine.
- (f) *Physical Examination* means an exam performed by a licensed physician that includes a cancer screening as part of the standard medical examination.

(g) *Tobacco* means any tobacco product, including but not limited to cigarettes, cigars, chewing tobacco, smokeless tobacco, and snuff. Page 2

Section 2. There shall exist a presumption that a firefighter employed by the City of Providence who suffers from cancer including, but not limited to, cancer of the hematological system, lungs, lymphatic system, or skin, resulting in total or partial disability, developed the cancer during the course and scope of employment with the City of Providence as a firefighter, if the following requirements are met and maintained:

- (a) Prior to entering service with the City of Providence Fire Department as a firefighter, the individual shall submit to a physical examination by a physician engaged by the director of human resources or the fire department that fails to reveal evidence of cancer.
- (b) The individual shall submit to annual physical exams administered by a physician engaged by the director of human resources or the fire department, the results of which shall be sent to the human resources department and added to the individual's personnel file maintained within the fire department.
- (c) The individual must have been employed by the City of Providence for one (1) or more years as a firefighter before being diagnosed with cancer.
- (d) The individual, while employed as a firefighter by the City of Providence, must have responded on the scene to fires, emergencies or hazardous materials incidents involving the release of radiation or a known or suspected carcinogen as defined by the International Agency for Research on Cancer.
- (e) Upon application for disability benefits in accordance with Section 17-189, subsection 5, "Accidental disability retirement," the individual's cancer must be diagnosed and confirmed by three (3) licensed and practicing oncologists engaged by the director of human resources, with the following stipulations:
 - 1) The cancer must be diagnosed while the individual is employed by the City of Providence as a firefighter.
 - 2) If the individual has retired or otherwise ceased employment with the City of Providence as a firefighter, the cancer must be diagnosed within three (3) years of the last date on which the individual actively served as a firefighter for the City of Providence.

Section 3. Notwithstanding any other law, the presumption established in Section 2 shall not apply if:

- (a) The firefighter uses or has ever used tobacco, illegal drugs, or controlled substances in a manner other than prescribed by a medical professional, with the following exception:

If the firefighter was hired prior to the effective date of this ordinance and has used any of the substances as described in Section 3 (a) prior to the effective date of this ordinance. However, this exception shall not apply if said firefighter, subsequent to the effective date of this ordinance, uses any of the substances as described in Section 3 (a).

- (b) The firefighter declines to participate in any health and wellness program developed by the fire department, with the following stipulations:
- 1) Whether the fire department's health and wellness program is mandatory or voluntary, only firefighters who participate in the program shall be eligible for the presumption defined in this ordinance; and
 - 2) Notwithstanding participation in an established fire department health and wellness program, only firefighters who adhere to the annual physical examination requirement as proscribed in Section 2 (b) shall be eligible for the presumption defined in this ordinance.
- (c) The type of cancer for which benefits or compensation is sought is known to be caused by the abuse of alcohol and the physicians diagnosing the cancer are of the opinion that abuse of alcohol by the firefighter was a contributing factor in the manifestation of the malignancy.
- (d) The firefighter, during the course of employment, volunteer, or recreational activities outside the Providence Fire Department, has been exposed or continues to be exposed on a regular basis to heat, smoke, radiation, or a known or suspected carcinogen as identified by the International Agency for Research on Cancer, with the following exceptions:
- 1) This subsection shall not apply to firefighters hired prior to the effective date of this ordinance if the firefighter ceases employment, volunteer or recreational activities as described in Section 3 (d), subsequent to adoption of this ordinance.
 - 2) Firefighters who served or are currently serving in any branch of the United States Armed Forces.

Section 4. The City of Providence shall have the power to:

- (a) Rebut the presumption established in Section 2 with evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure while employed as a firefighter by the City of Providence is not reasonably linked to the disabling cancer.
- (b) Rescind the benefits granted under this ordinance to any individuals who fail to annually provide certification of their continued disability from a physician engaged by the director of human resources, in accordance with Section 17-189, subsection 7 of the Code of Ordinances, "Re-examination of members retired on account of disability."


Section 5. Any firefighter submitting an application to the City of Providence Retirement Board for an accidental disability retirement under this ordinance shall also submit an affidavit stating that the firefighter has complied with the provisions of this ordinance.

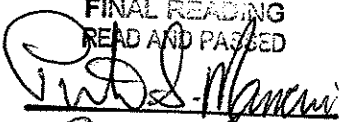
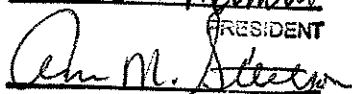
Section 6. Notwithstanding anything herein to the contrary, any firefighter who is found to be disabled by reason of cancer according to the provisions of this ordinance shall be entitled to an accidental disability pension.

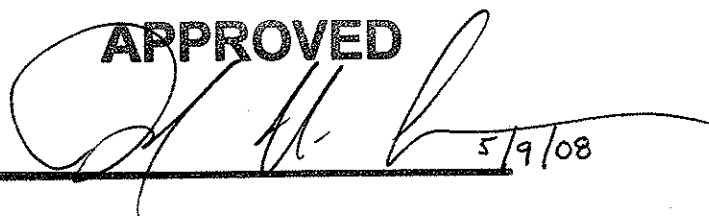
Section 7. Firefighters applying for an accidental disability pension under the provisions of this ordinance shall not be required to:

- (a) Certify the definite time, place, and conditions of such duty performed by said member resulting in such alleged disability;
- (b) Provide that such alleged disability is not the result of age or length of service; or
- (c) File their application for an accidental disability pension within any time frame, other than that defined in Section 2 (e) 2.

Section 8. This ordinance shall take effect upon passage.

IN CITY COUNCIL
APR 17 2008
FIRST READING
READ AND PASSED
 CLERK

IN CITY COUNCIL
MAY 1 2008
FINAL READING
READ AND PASSED
 PRESIDENT
 CLERK

APPROVED

5/9/08
MAYOR