

St. Clair County Employees' Retirement System



Adopted: January 1, 1964

Amendments: January 1, 1972
January 1, 1979
January 1, 1990
January 1, 1992
August 25, 2004
October 29, 2014
September 1, 2018
September 19, 2024

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RETIREMENT SYSTEM RESTATED ORDINANCE**

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PREAMBLE

The conditions of this retirement plan are subject to and controlled by Federal and State law. The St. Clair County Board of Commissioners may make modifications unilaterally or through collective bargaining consistent with federal and state laws. An employee should refer to their labor contract, personnel policies and/or retirement booklet for specific benefit descriptions. In the event of a conflict, the collective bargaining agreement takes precedence.

AN ORDINANCE AMENDING AND RESTATING THE ST. CLAIR COUNTY EMPLOYEES' RETIREMENT SYSTEM ORDINANCE TO INCORPORATE ACCUMULATED CHANGES, REMOVE OBSOLETE MATERIAL, AND TO CONFORM TO APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ST. CLAIR:

THAT THE ST. CLAIR COUNTY EMPLOYEES' RETIREMENT SYSTEM ORDINANCE IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:

ARTICLE I

Retirement System Effective Date; Continuation; Purpose.

Section 1.1. The St. Clair County Employees' Retirement System, under the authority of Section 12a of Act No.156, of the Public Acts of 1851, as added by Act No. 249 of the Public Acts of 1943, as amended, is continued for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries.

Union Contracts may alter benefits.

Plan Closure to Newly Hired Employees

Section 1.2 Effective January 1, 2009, the defined benefit plan of the Retirement System was closed to all newly hired employees for all benefit groups of the Retirement System except for those employees of bargaining units that were at such time subject to Michigan Public Act 312 of 1969. The exact date and terms of the defined benefit plan closures for each employee and benefit group are determined and controlled by applicable collective bargaining agreements and County policies.

Short Title; Application; Effective Date of Restatement.

Section 1.3. (a) This ordinance may be cited as the St. Clair County Retirement Ordinance.

(b) This restatement will apply to individuals employed by the county on and after the effective date of the restatement. The retirement rights of an individual whose county employment terminated before the effective date of this restatement will be governed by the provisions of the retirement system ordinance in effect on the date the individual last terminated county employment.

(c) This ordinance shall become effective immediately upon final passage by the Board of Commissioners of the County of St. Clair on September 1, 2018.

Financial Benefits; Annual Funding.

- Section 1.4. (a) The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation, thereof, which shall not be diminished or impaired thereby.
- (b) Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

ARTICLE II

Definitions.

- Section 2.1. As used in this ordinance:

- (a) "Accumulated member contributions" means the balance in a member's individual account in the reserve for member contributions.
- (b) "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement system.
- (c) "Compensation" means the salary or wages paid an employee for personal services rendered the county while a member of the retirement system. Salary and wages shall include: longevity pay; cost of living allowance; overtime pay; shift differentials, pay for periods of absence from work by reason of vacation, holiday, and sickness; premium pay for educational achievements; severance and/or vacation pay-off; deferred compensation amounts under deferred compensation programs recognized by the Board of Trustees. Compensation shall not include any remuneration or reimbursement not specifically stated to be included, such as: allowances for clothing, equipment cleaning and travel; reimbursement of expenses; bonuses, payments in consideration of unused sick leave; fringe benefit and any amount applicable to periods of employment other than the time period used to determine final average compensation.
- (d) "County" means St. Clair County and shall include the St. Clair County Road Commission and St. Clair County Mental Health Authority.
- (e) "Insurable Interest" means that a named beneficiary has a real financial interest in another person's continued life and will suffer a real financial loss in the event of their death. Immediate family members that are considered to have an insurable interest are spouse, children, siblings, parent, grandparent or grandchild. For the consideration of any person who is not immediate family but who actually rely on the individual for at least fifty percent of their direct financial support, an Affidavit Affirming Existence of Insurance Interest may be completed and submitted to the St. Clair County Board of Trustees for consideration.
- (f) "Final average compensation" means the average of the annual compensations paid a member during any five years of credited service producing the highest average, contained within the ten years of credited service immediately preceding the member's last termination of employment with the county, if the member has at least five years of

credited service. Final average compensation means the aggregate amount of compensation paid a member divided by the member's years and fractions of a year of credited service if the member has less than five years of credited service. Certain specified bargaining units within the Sheriff Department have their final average compensation based on the average of the highest three of the last ten years of service

(g) "Pension" means a series of equal monthly payments by the retirement system. Payment may be for a temporary period or throughout the future life of a retired member or beneficiary.

(h) "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement system.

(i) "Service" means personal service rendered the county while a member of the retirement system and qualifying military service pursuant to Article IV and any service credited by specific Board resolution consistent with applicable law.

ARTICLE III

Included Positions.

Section 3.1. Included positions are:

The County Board of Commissioners, the Board of County Road Commissioners, the Family Independence Agency Board and an individual who is employed by the County, its offices or departments, in a permanent position shall be a member of the retirement system unless employed in an excluded position enumerated in Article III. For purposes of this section, a permanent position is defined as a position normally requiring 1000 hours or more per calendar year. In case of doubt, the Board of Trustees shall decide who is a member.

Excluded Positions.

Section 3.2. Excluded positions are:

(a) Positions which are compensated on a basis not subject to the withholding of federal income taxes or FICA taxes by the county or to existing fringe benefits provided by the county.

(b) Any position held by a retired member pursuant to Section 6.6.

(c) Members of boards and commissions paid exclusively on a per diem basis.

(d) Any position held by a person who is included by law in any other pension or retirement system by reason of the compensation paid by the county, except the Federal Old Age, Survivors and Disability Insurance program.

(e) Temporary positions.

(f) Part-time employees. For purposes of this section, a part-time employee is an employee who is employed in a position normally requiring less than 1000 hours per calendar year.

(g) Any persons engaged for special services on a contractual or fee basis, where they are not recipient of the standard existing fringe benefits provided by the county.

Termination of Membership

Section 3.3. An individual shall cease to be a member of the retirement system upon termination of employment as provided for membership in Section 3.1 above or upon becoming employed in an excluded position. Upon re-employment by the county in an included position entitling the employee to membership, the individual shall again become a member.

Section 3.4. A member who ceases to be a member for a reason other than retirement or death shall be a vested former member if the member has 8 or more years of credited service, and the individual's accumulated member contribution has not been refunded under provisions of Section 11.6.

ARTICLE IV

Credited Service; Earning of.

Section 4.1. Service rendered by a member shall be credited to the member's individual credited service account in accordance with rules the Board of Trustees shall prescribe. Service shall be credited to the nearest 1/12 year. A member in a position designated by the employer as a position normally requiring 1000 hours or more in a calendar year but less than 1950 hours in a calendar year shall receive credit for a fraction of a year. The fraction shall be equal to the number of hours worked during the calendar year divided by the number of full-time hours for the calendar year. In no case shall:

- (a) More than one year of credited service be credited on account of all service rendered by a member in any one calendar year.
- (b) Less than ten days of service in a calendar month be credited as a month of service.

Credited Service; Forfeiture of.

Section 4.2. Credited service shall be forfeited if an individual ceases to be a member and does not qualify as a vested former member. Credited service shall be forfeited if an individual, including a vested former member, receives a refund of accumulated member contributions.

Credited Service; Reinstatement of.

Section 4.3. A member may have forfeited credited service attributable to service rendered during a period in which the member was required to contribute to the retirement system restored upon satisfaction of each of the following conditions:

- (a) The member acquires 2 years of credited service after returning to membership;
- (b) The retirement system is paid the total amount of funds previously withdrawn by the member plus compound interest at the rate determined by the Board of Trustees from the dates of withdrawal to the dates of repayment;
- (c) The member to purchase credit for the service shall have a window period of one (1) year from the date they achieve two (2) years of credited service, as provided in subsection (a), to make the required repayment contribution.

Military Service; (Intervening) Conditions for Credited Service.

Section 4.4. (a) A member who enters any armed service of the United States shall be entitled to credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

(1) The member entered the armed service before June 1, 1980 or entered during a time of war or emergency condition on or after June 1, 1980;

(2) The individual is re-employed by the county within one year from and after the date of termination of active duty;

(3) The individual becomes a member and pays the retirement system the total amount of accumulated member contributions previously withdrawn, plus compound interest from the dates of withdrawal to the dates of repayment;

(4) The member has accumulated at least 8 years of credited service subject to applicable statutes;

(5) The member pays the retirement system 5% of the member's annual full-time rate of compensation at the time of payment multiplied by the period of service being purchased;

(6) Credited service shall not be granted for periods of military service which are or could be used for obtaining or increasing a benefit from another retirement system;

(7) No more than 5 years of credited service shall be granted on account of all military service of the member.

(b) The credit service for military service under subsection (a) above shall not be considered actual years of credited service for eligibility of health benefits under Article X.

Military Service; (Non-Intervening) Conditions for Credited Service.

Section 4.5. (a) A member who has served in any armed service of the United States shall be entitled to credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

(1) The member has at least 8 years of credited service, not including any credited service acquired for intervening military service under the provisions of Section 4.4;

(2) The member pays the retirement system 5% of the member's annual, full-time rate of compensation at time of payment multiplied by the period of service being purchased;

(3) Armed service credited a member under this paragraph shall not exceed the smaller of 2 years and the difference between 5 years and the intervening armed service credited the member under Section 4.4;

(4) Credited service shall not be granted for periods of military service that are or could be used for obtaining or increasing a benefit from another retirement system;

(5) The member entered the armed service before June 1, 1980 or entered during a time of war or emergency condition on or after June 1, 1980;

(b) In the case of a death occurring on or after January 1, 2007, a member on a leave of absence to perform military service with reemployment rights described in Code Section 414(u) where the member cannot return to employment on account of his or her death, the beneficiary of the member shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the member died as an active employee, in accordance with Code Section 401(a)37.

(c) The credited service for military service under subsection (a) above shall not be considered actual years of credited service for eligibility of health benefits under Article X.

Reciprocal Retirement System.

Section 4.6. The retirement system is a reciprocal retirement system under the provisions of Act 88, Public Acts of 1961 of the State of Michigan, as amended.

ARTICLE V

Benefit Groups; Composition of.

Section 5.1. The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates.

(a) Benefit Group General. All members not included in another benefit group.

(b) Benefit Group Sheriff Department. All members employed in the Sheriff Department in the classification of Correction Officer, Communications Officer, Deputy, Detective, Youth Service Detective, Corporal, Sergeant, Lieutenant, and Captain.

(c) Benefit Group Mental Health Authority

(d) Benefit Group Road Commissions

Benefit Groups; Effect on Retirement Eligibility

Section 5.2. Benefit eligibility conditions shall be those applicable to the member's benefit group at time of termination of membership.

Benefit Groups; Effect on Pension Account.

Section 5.3. Pension amounts shall be separately determined for each benefit group for which the member has credited service, using retirement system provisions in effect at the time of termination of membership, provided no accrued and vested benefits of members shall be diminished or decreased thereby. The amount of a pension under optional form of payment SL (sec. 6.4) is equal to the sum of separate amounts determined in accordance with the benefit formula applicable to each benefit group under which the retiring individual has earned credited service. The amount of pension attributable to credited service under a particular benefit group is equal to a fraction of the amount of pension determined as if the individual's total credited service in force was under the benefit group. The numerator of the fraction is the individual's credited service under the benefit group. The denominator of the fraction is the individual's total credited service.

ARTICLE VI

Normal Retirement; Conditions for.

Section 6.1. An individual may retire upon satisfaction of each of the following requirements:

- (a) A written application for retirement, in the form prescribed by the Board of Trustees, has been filed with the retirement system.
- (b) Membership is terminated immediately prior to effective date of retirement.
- (c) The individual meets the applicable age and/or service requirements for normal retirement.

Normal Retirement; Age and Service Requirements.

Section 6.2. The age and/or service requirements for normal retirement are:

- (a) Benefit Group General. The individual has attained age 55 years and has 25 or more years of credited service; or the individual has attained age 60 years and has 8 or more years of credited service.
- (b) Benefit Group Sheriff Department as defined in Section 5.1 (b). The individual has 25 or more continuous years of credited service; or the individual has attained age 60 years and has 8 or more years of credited service, or has attained age 55 and has 25 or more years of credited service.
- (c) Benefit Groups 80 Rule. Benefit Groups as approved by the St. Clair County Board of Commissioners. A member shall be eligible for early retirement when the combination of years and months of actual service and age equal eighty (80) years, provided the member shall also have completed twenty-five (25) years of actual service. Years of actual service shall mean that period of time employed and contributing to the St. Clair County Employees' Retirement Plan and excluding, by way of example, reciprocity through other retirement plans or the purchase of military service time. Healthcare will be provided if these requirements are met.
- (d) Benefit Group Mental Health Authority. The individual has attained age fifty-five (55) years and has twenty-five (25) or more years of credited service; or the individual

has attained age sixty (60) years and has eight (8) or more years of service; or the individual has attained a combination of years and months of actual service and age equal to eighty (80) years, provided the individual has also completed twenty-five (25) years of actual service. Healthcare will be provided if these requirements are met.

Upon normal retirement as provided in this section, an individual shall be paid a pension computed according to section 6.4.

Normal Retirement; Vested Terminated Members

- Section 6.3. (a) A vested former member may retire upon attainment of age 55 if the vested former member has 25 or more years of credited service, or upon attainment of age 60 if the vested former member has fewer than 25 years of credited service.
- (b) Such a person shall not receive service credit for the period of his absence from county employment, nor shall he or his beneficiary be entitled to any benefits not provided herein.
- (c) Upon retirement, as provided in this section, a vested former member shall be paid a pension computed according to the provisions of Section 6.4 in effect on the date the employee ceased to be a member.

Normal Retirement Pension; Amount.

- Section 6.4. The applicable benefit formulas under form of payment SL (Straight Life) are as follows:
- (a) Final Average Compensation as defined under Section 2.1 (e) multiplied by:
- (b) Original Plan. A retiring individual subject to the original plan shall be entitled to two percent (.02) of final average compensation multiplied by years of credited service.
- The maximum amount of a pension is sixty-four percent (64%) of an individual’s final average compensation
- (c) Modified Plan. A retiring individual subject to the modified plan shall be entitled to final average compensation multiplied by years of credited service in accordance with the following schedule:

Years of service	Percentage	Annual Application
1 through 10	1.75%	Accumulative
11 through 19	2.00%	Accumulative
20 through 24	2.00%	Retroactive to first year
25 plus years	2.40%	Retroactive to first year

Upon attaining the twentieth (20) year, the multiplier shall be retroactive to the first year.

The multiplier maximum shall not exceed seventy-five (75) percent.

Modified Plan Maximum Plan Payout Percentages Based on Bargaining Units
I. Maximum final average compensation at 69.6% at 29 years of service.

II. Maximum final average compensation at 75% at 31 years 3 months of service.

(d) If the member or vested terminated member has credited service with more than one benefit group, the pension amount shall be computed in accordance with the provisions in Section 5.3.

REFER TO YOUR LAST DATE OF HIRE, UNION CONTRACT OR BOARD OF COMMISSIONERS RESOLUTION TO DETERMINE APPROPRIATE PLAN.

Age 65 Plus Check

Section 6.5. Age 65+ Check - Effective January 1, 1998.

(a) A retired member who attains or has attained the age of 65 shall, in December of each year, receive a payment equal to \$14.00 for each complete calendar month in that year during which the retired member was 65 or more years of age and at retirement had less than 20 years of service. This payment shall be known as the Age 65+ Check.

(b) A retired member who attains or has attained the age of 65 shall, in December of each year, receive a payment equal to \$16.00 for each complete calendar month in that year during which the retired member was 65 or more years of age and at retirement had more than 20 years of service. This payment shall be known as the Age 65+ Check.

(c) If a retired member should die after attaining age 65 but before either the initial age 65+ Check or any subsequent Age 65+ Check is issued, a check will be issued to the retired member's estate equal to \$14.00 or \$16.00 (whichever is appropriated) for each complete calendar month prior to retired member's death and subsequent to either his initial qualification or, if that initial qualification was in a prior calendar year, January 1st of the year in which death occurred. Payments shall not be pro rated for any period of time less than a calendar month.

Re-employment by County; Appointment; Election; Effect on Pension Payment

Section 6.6. Beginning December 31, 1991, if a retired member becomes re-employed, appointed or elected to a position with the county that is normally covered by the retirement system and is then receiving retirement benefits of any nature from the retirement system, the following conditions apply:

(a) Payment of the pension or retirement benefit to the retiree shall be suspended if the retiree is employed by the county from which the retiree retired and the retiree does not meet the requirements of subdivision (b). Suspension of the payment of the pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retiree is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retiree shall not be a member of the plan during the period of employment.

(b) Payment of the pension or retirement benefit to the retiree shall continue without change in amount or conditions by reason of employment by the county from which the retiree retired if all of the following requirements are met:

(i) The retiree meets one of the following requirements:

(A) For a retiree, employed by the county for not more than 1,000 hours in any twelve month period.

(B) For a retiree who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retiree's retirement allowance effective date.

(C) For a retiree who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retiree retired for a term of office that begins after the retiree's retirement allowance effective date.

(D) For a retiree who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retiree retired for a term of office that begins not less than 2 years after the retiree's retirement allowance effective date.

(ii) The retiree is not eligible for any benefits from the county other than those required by law or otherwise provided to the retiree by virtue of his or her being a retiree.

(iii) The retiree is not a member of the plan during the period of re-employment, does not receive additional retirement credits during the period of re-employment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

(c) Payment of the pension or retirement benefit to the retiree shall continue without change in amount or conditions by reason of the employment if the retiree becomes employed by a county other than the county from which the retiree retired. For the purposes of membership and potential benefit entitlement under the plan of the other county, the retiree shall be considered in the same manner as an individual with no previous record of employment by that county.

ARTICLE VII

Pension Payment Options

Section 7.1. A member may elect to have pension payments made under any one of the following forms of payment and name a survivor beneficiary. The election and naming of survivor beneficiary must be made on a form furnished by and filed with the retirement system prior to the date the first pension payment is made. An election of form of payment may not be changed on or after the date the first pension payment is made. A named survivor beneficiary may not be changed on or after the date the first pension payment is made if form of payment A, B, C or D is elected. A named survivor beneficiary may be changed or may be more than one person only if form of payment SL is elected. A named survivor beneficiary must have an insurable interest in the life of the member or vested former member at the time of naming. Payment shall be made under form of payment SL if there is not a timely election of another form of payment. The amount of pension under forms of payment A, B, C and D shall have the same

actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment SL.

Form of Payment SL - Straight Life Pension. The retired member is paid a pension for life under form of payment SL. Upon the death of the retired member, no continuing pension, fringe, or medical insurance benefits will be provided to the surviving beneficiary.

Form of Payment A - Life Payments With Full Continuation to Survivor Beneficiary. The retired member is paid a reduced pension for life under form of payment A. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid the full amount of reduced pension until death.

Form of Payment B – Life Payments with One-Half Continuation to Survivor Beneficiary. The retired member is paid a reduced pension for life under form of payment B. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid one-half the amount of reduced pension until death.

Form of Payment C - Life Payments with Full Continuation to Survivor Beneficiary with Pop-Up. The retired member is paid a reduced pension for life under form of payment C. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid the full amount of reduced pension until death. Should the survivor beneficiary predecease the retired member, the retired member's pension shall be re-computed (pop-up) to a straight life pension (form of payment SL).

Form of Payment D - Life Payments with One-Half Continuation to Survivor Beneficiary with Pop-Up. The retired member is paid a reduced pension for life under form of payment D. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid one-half the amount of reduced pension until death. Should the survivor beneficiary predecease the retired member, the retired member's pension shall be re-computed (pop-up) to a straight life pension (form of payment SL).

Form of Payment E – Life Payments with Ten Year Certain. The retired member is paid a reduced pension for life under form of payment E. Upon the death of the retired member, during the lifetime of the named survivor beneficiary, the named survivor beneficiary shall be paid a commuted lump sum balance of the 120 monthly pension payments. No continuing pension, fringe or medical insurance benefits will be provided to the surviving beneficiary. If the named survivor beneficiary pre-deceased the retired member, the estate of the retired member shall be paid the commuted lump sum balance of the 120 monthly pension payments, if the retired member had received fewer than 120 monthly pension payments.

ARTICLE VIII

Disability Retirement; Conditions for.

Section 8.1. The Board of Trustees may retire a member who becomes incapacitated for continued employment by the county if each of the following conditions are met:

- (a) Application for disability retirement is filed with the retirement system by either the member or the county, while the member is in the employment of the county.
- (b) The member has ten or more years of credited service.

- (c) The member undergoes all medical examinations and tests ordered by the retirement system, and releases to the retirement system all medical reports and records requested by the retirement system.
- (d) The medical committee reports that
 - (i) the member is mentally or physically totally incapacitated for any continued employment by the county,
 - (ii) the incapacity is likely to be permanent, and
 - (iii) the member should be retired. The effective date of a disability retirement shall not predate (i) the date of disability, or (ii) the date the member ceases to be paid by the county.
- (e) For each determination of disability of a member, a medical committee shall be appointed. The medical committee shall be composed of one physician named by the Board of Trustees and one physician named by the member. If the medical committee can not agree on the status of the member, a third physician, named by the first two physicians, shall be added to the medical committee and the majority opinion of the medical committee shall prevail.

Disability Retirement Pension; Amount; Form of Payment.

Section 8.2. The amount of a disability pension shall be computed according to Article VI. In no case shall a disability pension be less than the sum of 10% of the first \$4,800 of the member's final average compensation plus 15% of the portion, if any, of the member's final average compensation in excess of \$4,800. The disability retired member shall have the right to elect a form of payment provided in Section 7.1.

Disability Retirement; Special Provisions if Duty Incurred.

Section 8.3. The following exceptions to the provisions of Section 8.1 and 8.2 shall apply if the Board of Trustees finds that the member's disability is the direct and proximate result of the member's performance of duty as an employee of the county, and if the member is in receipt of worker's compensation on account of the disability arising out of and in the course of county employment:

- (a) The requirement of ten years of credited service shall be waived.
- (b) Upon termination of the worker's compensation period, the disability pension shall be recomputed by increasing the member's credited service for the statutory period for payment of the worker's compensation.
- (c) A member of benefit group Sheriff Deputy shall be eligible for a disability pension under the following provisions:
 - (i) the disability shall be duty related
 - (ii) compensation shall be based on 50% of compensation at the time of disability with 10 years of service
 - (iii) should the employee be eligible for worker's compensation and/or Social Security, disability compensation shall be offset.

Disability Retirement Pension; Limitation on Amount.

Section 8.4. (a) The provisions of this section shall apply during the period, if any, between the effective date of a disability pension and the date the disability retired member attains age 60 years. Application of the limitation shall be to the amount of pension under form of payment SL. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.

(b) The amount of a disability pension shall not exceed the difference between one hundred percent of the disability retired member's final average compensation and the amount of the disability retired member's income.

(c) A disability retired member's income is the annualized sum of the following amounts:

- (1) Remuneration for personal services rendered in any gainful employment.
- (2) Worker's compensation weekly benefits, redemption's, and settlements, on account of the same disability for which retired. Worker's compensation benefits for bona fide medical expenses, as determined by the Board of Trustees, shall not be considered income.
- (3) Payments from any program of salary continuance, sickness and accident insurance, disability benefits, or program of similar purpose, financed in whole or in part by the county.
- (4) Unemployment insurance or similar payments by reason of the member's county employment.

(d) The retirement system shall periodically request substantiated income information from retired member's subject to this section. Failure to provide the requested information within ninety (90) days of the request shall cause suspension of payment of the pension until the information is received.

Disability Retirement Pension; Continuation Subject to Re-examination; Suspension/Termination of Pension.

Section 8.5. (a) At least once each year during the first 5 years following a member's retirement for disability, and at least once in every 3 year period thereafter, the retirement system may require a disability retired member to undergo periodic medical or other re-evaluation if the individual has not attained age sixty years. If the disability retired member refuses to submit to reevaluation, pension payments may be suspended by the Board of Trustees. If the refusal continues for one year, the Board of Trustees may revoke the disability retired member's rights in and to the disability pension. A disability pension shall be terminated if the medical advisor selected by the Board of Trustees reports that the disability retired member is no longer mentally or physically totally incapacitated for any continued employment of the county and the Board of Trustees concurs with the report. The Board may resolve differences of opinion under this section by the appointment of a new medical committee, whose majority decision should be final and binding on all parties, (See Section 8.1 (e)).

(b) The membership of status of a terminated disability retired member who is returned to county employment shall be governed by the provisions of Article III. Actual credited service at time of disability retirement shall be restored upon again acquiring membership. Credited service shall not be granted for the period of disability retirement

unless the member was in receipt of worker's compensation on account of a disability arising out of and in the course of county employment.

(c) A terminated disability retired member who does not re-acquire membership and restoration of credited service shall have actual credited service at time of disability retirement restored if such restoration enables the individual to become a vested former member.

ARTICLE IX

Survivor Pension; Conditions for Automatic Pension to Spouse.

Section 9.1. A pension shall be paid for life to the surviving spouse of a deceased member if each of the following conditions are met:

- (a) The member has 10 or more years of credited service;
- (b) The member was married to the surviving spouse at time of death;
- (c) The member died while an employee of the county;
- (d) No qualified domestic relations court orders to the contrary are in effect.

Survivor Pension; Amount of Automatic Pension to Spouse or Surviving Eligible Children.

Section 9.2. (a) The amount of an automatic pension payable to the spouse shall be computed as if the deceased member has retired the day preceding death under the normal retirement provisions (Article VI) and elected form of payment A, and nominated the said spouse as beneficiary (Section 7.1). Upon the death of the spouse, the pension shall terminate.

(b) If the deceased member does not leave a spouse, or if the spouse dies subsequent to the member's death, and the member leaves an unmarried child or children under age 18 years, each such child shall receive an equal share of 50% of the pension. A child's pension shall terminate upon the child's adoption, marriage, attainment of age 18 years, or death, whichever occurs first. Upon termination of a child's pension, it shall be divided into equal shares and added to the pensions being paid the deceased member's other surviving eligible children, if any. A child's benefit will continue after the child attains age 18 for as long as the Board of Trustees determines that the child is totally physically or mentally disabled.

Survivor Pension; No Automatic Pension if Election Made Under Section 9.4.

Section 9.3. No pension payments shall be made under the provisions of Sections 9.1 and 9.2 if any pension is or will be paid under the provisions of Section 9.4.

Survivor Pension; Elective Beneficiary; Conditions for Coverage.

Section 9.4. (a) A member may name a contingent survivor beneficiary for the exclusive purpose of being paid a pension under the provisions of this section. The naming of a contingent survivor beneficiary shall be made on a form provided by and filed with the retirement system.

(b) A Pension shall be paid to the named contingent survivor beneficiary, if each of the following conditions are met:

- (1) The member dies while an employee of the county.
- (2) The member, at time of death, has twenty-five or more years of credited service; or, is age fifty years or older and has fifteen or more years of credited service.
- (3) The named contingent survivor beneficiary is found by the Board of Trustees to have been dependent upon the deceased member for at least fifty percent of the individual's financial support.

Survivor Pension; Elective Beneficiary; Amount of Pension.

Section 9.5. The amount of pension paid to the elected beneficiary shall be computed as if the deceased member had retired under the normal retirement provisions (Article VI) the day preceding death, elected form of payment A, and named the elected beneficiary as survivor beneficiary. The pension shall terminate upon the death of the elected beneficiary.

ARTICLE X

Medical Insurance.

Section 10.1. Each retired member and beneficiary shall be provided coverage under a group medical insurance or pre-payment plan participated in by the county if the member meets the applicable requirements stated in section 10.2. The retired member's or beneficiary's qualified dependents shall be provided with medical insurance if the retired member or beneficiary is being provided medical insurance and the qualified dependents meet the requirements of section 10.4(d). The levels of coverage shall be as shown in section 10.3. The coverage shall be subject to the limitations stated in section 10.4. Qualifying members and beneficiaries are provided retiree medical benefits in accordance with the provisions herein, the applicable health plan documents as approved or amended by the St. Clair County Board of Commissioners. Retiree medical benefits are not administered by the Board of Trustees and are not payable from the Retirement System.

Medical Insurance; Conditions for.

Section 10.2. The requirements for retired member medical insurance are:

ORIGINAL PLAN:

(a) Benefit Group General. The retired member or beneficiary is receiving a pension from this retirement system and has attained age fifty-five years. The age fifty-five requirement shall not apply if the retired member or beneficiary is totally physically or mentally disabled, or if the beneficiary has not yet attained age eighteen years.

(b) Benefit Group Sheriff Department. The retired member or beneficiary is receiving a pension from this retirement system and the retired member has attained age fifty years. The age fifty requirement shall not apply if the retired member or beneficiary is totally physically or mentally disabled, or if the beneficiary has not yet attained age eighteen years.

MODIFIED PLAN:

(a) Members in the Modified Plan shall be eligible for health care only upon attaining twenty (20) actual years of credited service (i.e. no military time or reciprocity).

Medical Insurance; Coverage Provided.

Section 10.3. The medical insurance provided under this Ordinance shall be determined by the Board of Commissioners as may be amended from time to time by Resolution.

(a) Community Blue Plan 4, which shall include a prescription drug rider with a three-tiered system of co-pays, pursuant to this Ordinance by the retired member, as follows:

(i) For annual household incomes of \$24,999 or less (with 20 or more years of service), a \$10/20/40 co-pay. If less than 20 years of service, a \$10/40/80 co-pay.

(ii) For annual pension of \$25,000 or more, a \$10/40/80 co-pay.

(iii) Annual household income shall mean any and all income, whether taxable or not, received by a retired member and/or their spouse residing in the same household.

(b) Dental coverage, pursuant to the dental plan commonly referred to as the 50/50/50 plan.

Medical Insurance; Restrictions.

Section 10.4. The applicable retired member medical insurance shall be provided subject to the following restrictions:

(a) The retired member or beneficiary must apply for Medicare (or any other government sponsored program) when eligible. Upon qualification for such program, the retired member or beneficiary shall be provided coverage that is complementary to Medicare (or other government sponsored program). Insurance riders provided to other retired members shall also be provided on a complementary basis to retired members who have qualified for Medicare or other such program.

(b) There shall be a coordination of benefits with any other health insurance held by the retired member or beneficiary or the qualified dependents. In such coordination, the county's medical coverage shall be considered the secondary insurance.

(c) Retirees that have a spouse working for or retired from the County or County agency, shall not be eligible for dual County health insurance, dental or other insurance coverages as both a sponsor and a dependent for any insurance coverage. The County shall in no instance be required to provide dual coverage.

(d) The retired member or beneficiary and the retired member's qualified dependents, if any, shall not be eligible for the medical insurance during any period when the retired member or beneficiary is employed and covered by such employer's health insurance program.

(e) The only persons covered by the retired member medical insurance as the retired member's or beneficiary's qualified dependents are the person to whom the retired member was married on the member's date of retirement and the children of the retired member or beneficiary until they attain age 18 years. The age 18 restriction shall be extended so long as the child is in school, but not beyond attainment of age 22 years. Subject to the other provisions of this section, the retired member's and beneficiary's qualified dependents shall be eligible for medical insurance as long as the retired member or beneficiary is alive and receiving pension payments, and after the retired member's death while the qualified dependent is receiving pension payments from this retirement system.

(f) The Board's and the Retirement System's obligation with regard to retiree health benefits was solely to invest retiree health assets until they were exhausted and to make disbursements from those retiree health assets for the retiree health benefits for qualifying retirees and beneficiaries until those retiree health assets were exhausted. Those retiree health assets were exhausted as of 09/30/2017.

ARTICLE XI

Guaranteed Minimum Aggregate Payout.

Section 11.1. If all pension payments permanently terminate before there has been paid an aggregate amount equal to the retired member's, deceased member's, or deceased vested former members accumulated member contributions at time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension payments made shall be paid to such individual or individuals as the former member may have named on a form provided by and filed with the retirement system. If no such named individual survives, the difference shall be paid to the legal representative of the last to survive of an individual who was being paid a pension or the named individuals.

Death Benefit.

Section 11.2. Each retired member shall be covered by a death benefit in the amount of \$3,500, payable to the retired member's estate or named beneficiary.

Pension; Payment of.

Section 11.3. All payments from the retirement system shall be made by the County Treasurer or as permitted by applicable law. Payments shall be made upon written authority, signed by two persons designated by the Board of Trustees. Written authority to make payments shall only be executed based upon a specific or continuing resolution adopted by the Board.

Pensions; Commencement Duration, and Change.

Section 11.4. (a) A normal or disability pension shall commence the first day of the calendar month next following the member's or vested former member's date of retirement. A pre-retirement survivor pension shall commence the first day of the calendar month next following the month in which occurs the death causing payment of the pension. A post-retirement survivor pension shall commence the first day of the calendar month next following the death causing payment of pension.

(b) Pensions are paid in twelve equal installments on the first of each month.

(c) Termination of payment of a pension shall occur at the end of the calendar month in which occurred the event causing termination. Payment shall be made for the full month of termination.

(d) A change in the amount of a pension shall occur the first day of the calendar month next following the date of the event causing the change.

Member Contributions; Amounts.

Section 11.5. Member contributions to the retirement system of five percent of annual compensation shall be deducted from each member's paychecks.

Member Contributions, Refunds.

Section 11.6. (a) An individual's accumulated member contributions shall be refunded to the individual if the following conditions are met:

- (1) Membership in the retirement system has been terminated for at least ten days; or, the individual has been laid off for at least thirty days.
- (2) The individual has not met the applicable age and service conditions for normal retirement (section 6.2).
- (3) The individual makes application for the refund on a form provided by and filed with the retirement system.

(b) If an individual dies and no pension becomes or will become payable on account of the death, the individual's accumulated member contributions shall be refunded in accordance with the deceased individual's instructions made on a form provided by and filed with the retirement system. If there be no such instructions or if the individuals who are to be paid the refund no longer live, the accumulated member contributions shall be refunded to the legal representative of the deceased individual.

(c) Payments of refunds of accumulated contributions, as provided for in the ordinance, may be made in monthly installments according to such rules and regulations as the Board of Trustees shall from time to time adopt.

(d) Except as otherwise provided in this ordinance, after three years from the date an employee ceases to be a member, any balance of accumulated contributions standing to the member's credit, in the reserve for accumulated member contributions unclaimed by the member or the member's legal representative, shall be transferred to the reserve for undistributed investment income.

Denial of Claim for Benefits; Appeal to Board of Trustees:

Any denial of claim for benefits shall be made by Board of Trustee Resolution.

Section 11.7. A benefit claimant shall be notified in writing, within thirty days, of a denial of a claim for benefits. The notification shall contain the basis for denial. The benefit claimant may appeal the denial

and request a hearing before the Board of Trustees. The appeal shall be in writing and filed with the retirement system, within ninety days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The Board of Trustees shall schedule a hearing of the appeal within sixty days of receipt of the request for appeal.

ARTICLE XII

Board of Trustees; Authority and Responsibility.

Section 12.1. The administration, management, and responsibility for the proper operation of the retirement system, and for interpreting and making effective the provisions of the retirement ordinance are vested in a Board of Trustees, consistent with Article IX, Section 24 of the State of Michigan Constitution and P.A. 314 of 1965 as amended and other applicable law.

Board of Trustees; Composition of.

Section 12.2. The Board of Trustees shall consist of the following nine individuals:

- (a) The chairperson of the Board of County Commissioners by virtue of that office. By written communication directed to the Board of Trustees, the chairperson may designate another County Commissioner or the County Administrator/Controller to serve in the chairperson's place for one-year terms.
- (b) The chairperson of the County Road Commission by virtue of that office. By written communication directed to the Board of Trustees, the chairperson may designate another County Road Commissioner to serve in the chairperson's place for one-year terms.
- (c) A member of the Board of County Commissioners or the County Administrator/Controller to be selected by and to serve at the pleasure of the Board of County Commissioners to serve for one-year terms.
- (d) A citizen, who is an elector of St. Clair County who is not eligible for membership in the retirement system, and who does not hold any other office or appointment with the county, to be selected by the chairperson of the Board of Commissioners and approved by the Board of County Commissioners.
- (e) A member of the retirement system who is in the employ of the County Road Commission, to be elected by the members who are in the employ of the County Road Commission.
- (f) A member of the retirement system who is in the employ of the Mental Health Authority, to be elected by the members who are in the employ of the Mental Health Authority.
- (g) Two members of the retirement system who are not in the employ of the County Road Commission, or the Mental Health Authority to be elected by the members of the retirement system who are not in the employ of the County Road Commission or the Mental Health Authority. The two trustees shall be from different county departments.
- (h) A "Retired Member" defined as an individual who is being paid a pension on account of the individual's membership in the retirement system, to be elected by the retired

members, under the same provisions as the County Road Commission employee representative, Mental Health Authority employee representative and the other two employee members representatives are elected, under Article XII, Section 12.2 and Section 12.3.

(i) The Board of Trustees shall establish rules and regulations for elections required by paragraphs (e) through (h). The rules and regulations governing the election of employee members of the Board of Trustees are as follows:

1. The Secretary of the Board shall prepare a master list showing the name of each employee member eligible to vote at the election, and each employee member shall be given an identification number.

2. The County Clerk shall cause to be posted in each department or branch thereof whose employees are members of the Retirement System, a notice of election. Such notice shall be posted at least thirty (30) days prior to the date of election.

3. Nomination petitions of candidates shall be filed at least fifteen (15) days prior to the date of election, and bear the names of at least 5% of the members of the group from which the Board member is to be elected. Petitions shall be filed with the County Clerk who shall check the names on each petition with the master list, and shall certify to the County Election Commission the names of those eligible to appear on the election ballot.

4. The County Election Commission shall cause to be prepared a ballot showing the names of the candidates whose petitions have been properly filed, and shall cause to be made and delivered to each voting member one ballot and one return envelope addressed to the County Clerk with the word "Ballot" and the member assigned number marked on the upper left hand corner.

Ballot shall be returned to the County Clerk either by mail or delivered in person prior to four o'clock P.M. of the day set for such election.

Upon receipt of such ballot, the county Clerk shall compare such number with the polling list and, if they agree, he shall eliminate the member's number and shall deposit such ballot in a ballot box without removing the ballot from the envelope.

Ballots shall be immediately turned over to the custody of the County Election Commission who shall, on the day following the election, count such ballots and report the results of the election to the County Clerk who shall make a record thereof and notify the successful candidates. Should no more than one (1) candidate file a nomination petition in any one Department, then such candidate shall be declared elected as a Trustee by the County Election Commission and no election would be necessary.

5. The election shall be held under the provisions of section 12.3(a) on the third Tuesday in June.

6. The successful candidates for the employee Representation on the Board of Trustees shall take office on July 1st, immediately following the election.

7. Nominating petitions shall be obtained at the office of the County Clerk and may be circulated either by the candidate or some other member of the Retirement System on behalf of a candidate.

Board of Trustees; Term of Office; Oath of Office; Vacancies.

Section 12.3. (a) The term of office of the member elected trustees shall be three years beginning on the July 1st, next following the election. The term of office of the citizen trustee shall be three years.

(b) Each trustee shall, prior to taking office, take an oath of office administered by the County Clerk.

(c) A vacancy shall occur on the Board of Trustees if a member elected trustee ceases to be a member, or becomes employed in the county department of the other member elected trustee. A vacancy shall occur on the Board of Trustees if a trustee resigns. A vacancy shall occur on the Board of Trustees if a trustee, other than a member of the Board of County Commissioners, fails to attend three consecutive meetings unless excused for cause by the trustees attending the meetings. A vacancy shall be filled within sixty days, for the un-expired term, in the same manner as the position was previously filled.

Board of Trustees Meeting; Quorum; Record of Proceedings.

Section 12.4. The Board of Trustees shall hold monthly meetings, and shall designate the time and place thereof. All meetings of the Board shall be public. Notice of the meetings will be posted in the County Building prior to the meeting date. Five trustees shall constitute a quorum at any meeting of the Board of Trustees. At least five concurring votes shall be required for a valid action by the Board of Trustees. At least five concurring votes shall be required for a valid action by the Board of Trustees. The Board of Trustees shall keep a written record of its proceedings.

Board of Trustees; Officers; Services.

Section 12.5. The Board of Trustees shall elect from its membership, a chairperson and a vice chairperson at the first regular meeting in July of each year. The County Administrator/Controller shall be the secretary to the Board of Trustees. The County Treasurer shall be the treasurer of the retirement system. The treasurer shall be custodian of the assets of the retirement system, except as to such assets as the Board of Trustees may from time to time place in the custody of a custodial bank selected by the Board of Trustees. The Board of Trustees shall be represented by County Corporation Counsel. If specialized counsel is required, the Board of Trustees may employ outside specialized counsel with the advice of County Corporation Counsel. The Board of Trustees shall designate an actuary who shall advise the Board on the actuarial operation of the retirement system. Actuary shall mean a member of the American Academy of Actuaries or an individual who has demonstrated the educational background necessary to effectively render actuarial advice to the retirement system, and who has at least five years of relevant pension actuarial experience. A partnership or corporation may be designated an actuary if the duties of actuary are performed by or under the direct supervision of an individual who meets the preceding requirements. The Board of Trustees is authorized and empowered to employ such professional

and other services as it required for the proper discharge of its responsibilities. The Board of Trustees may utilize the services of county employees if made available.

Board of Trustees; Reports.

Section 12.6. The Board of Trustees shall prepare an annual report for each fiscal year. The annual report shall contain information about the financial, actuarial and other activities of the retirement system during the fiscal year. A copy of the annual report shall be furnished the Board of County Commissioners at a regular session each year. The Board of Trustees shall furnish the Board of County Commissioners such other information about the retirement system as the Board of County Commissioners may from time to time request.

A concise statement of assets, liabilities, income and disbursements of the retirement system shall be made available to the membership of the system annually.

Board of Trustees; Investment Authority and Restrictions.

Section 12.7. The Board of Trustees are the trustees of the monies and assets of the retirement system. The Board of Trustees has the authority and power to invest and re-invest the monies and assets of the retirement system subject to all terms, conditions, limitations and restrictions imposed by the State of Michigan on the investments of public employee retirement systems. The Board of Trustees may employ investment counsel to advise the Board in the making and disposition of investments.

In exercising its discretionary authority with respect to the management of the monies and assets of the retirement system, the Board of Trustees shall exercise the care, skill, prudence, and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives, notwithstanding any of the provisions herein, the provisions of P.A. 314 of 1965, as amended, are hereby incorporated by reference and made a part of the plan and are controlling.

Board of Trustees; Use of Monies and Assets; Prohibited Actions.

Section 12.8. (a) All monies and assets of the retirement system shall be held and invested for the sole purpose of meeting the legitimate obligations of the retirement system, and shall be used for no other purpose.

(b) Members of the Board of Trustees and its employees are prohibited from:

- (1) Having a beneficial interest, direct or indirect, in an investment of the retirement system.
- (2) Borrowing money or assets of the retirement system.
- (3) Receiving any pay or emolument from any individual or organization, other than compensation for personal services or reimbursement of authorized expenses paid by the retirement system and providing services to the retirement system.

Board of Trustees; Compensation.

Section 12.9. The trustees shall receive the same remuneration for attendance at meetings of the Board of Trustees, as is allowed members of the Board of Commissioners, provided that the chairperson shall receive annual remuneration of not less than \$360. Board members who are regular County employees meeting during their normal county workday will not be provided per diem.

Board of Trustees; Experience Tables and Regular Interest.

Section 12.10. (a) The Board of Trustees shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest as are necessary in the operation of the retirement system on an actuarial basis.

(b) For purposes of determining a benefit which is actuarially equivalent to any other benefit, the actuarial reserve required to provide the benefit must be equal to the actuarial reserve required to provide such other benefit computed on the basis of a consistent set of actuarial assumptions as approved by the Board of Trustees. A change of assumptions will not affect any benefit for which payments have already started.

ARTICLE XIII

Financial Objective of the Retirement System; County Contributions.

Section 13.1. (a) The financial objective of the retirement system is to receive contributions each fiscal year which are sufficient to (i) fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year, and (ii) fund the un-funded actuarial cost of benefits likely to be paid on account of credited service earned by members prior to the fiscal year over a period of not more than forty years. Contribution requirements shall be determined by annual actuarial valuations using a generally recognized level percent of payroll actuarial cost method consistent with applicable constitutional and statutory requirements.

(b) The cost of pension or retirement benefits for a county employee under this section may be paid from the same fund from which the employee receives compensation, and the County Board of Commissioners may appropriate the necessary funds to carry out the purposes of this section. If a county establishes a plan by which the county pays pension or retirement benefits to an employee pursuant to this section, the county shall, in accordance with provisions for pension or retirement benefits which shall be incorporated in the plan, establish and maintain reserves on an actuarial basis in the manner provided in this subsection sufficient to finance the pension and retirement and death benefit liabilities under the plan, and sufficient to pay the pension and retirement and death benefits as they become due. A county that has adopted a retirement plan under this section, and has established reserves on an actuarial basis shall maintain them as provided in this subsection. The reserves shall be determined by an actuarial valuation and established and maintained by yearly appropriations by the county and contributions by employees. The reserves shall be established, maintained, and funded to cover the pension and other benefits provided for in the plan in the same manner and within the same limits as to time as is provided for Benefit Program B in the municipal employees' retirement system described in Section 14 of the Municipal Employees Retirement Act, Act No. 427 of the Public Acts of 1984, being section 38.1514 of the Michigan Compiled Laws. These reserves are trust funds and shall not be used for any other purpose than the payment of pension, retirement, and other benefits and refunds of employee's contributions in accordance with the plan established in a county. An employee's

contributions shall be kept and accumulated in a separate fund, and used only for the payment of annuities and refunds to employees. This subsection shall not apply to a county that adopted a retirement plan under this section and had not established reserves on an actuarial basis before October 11, 1947.

Reserve for Accumulated Member Contributions.

Section 13.2. (a) The reserve for accumulated member contributions is the account in which is accumulated the contributions deducted from the compensation of members, or otherwise paid to the retirement system by the member or on the member's behalf, and which shall be charged with refunds of accumulated member contributions and transfers of accumulated member contributions as provided in this resolution. Continuation of employment by the member shall constitute consent and agreement to the deductions of the applicable member contribution. Payment of compensation less the deduction shall be full and complete discharge of all claims and demands for compensation for personal service rendered the county.

(b) The county shall cause the applicable member contributions to be deducted from the compensation of each member. The deducted member contributions shall be paid to the retirement system within five working days and shall be credited to the members' individual sub-accounts.

(c) A member's accumulated contributions shall be transferred from the reserve for accumulated member contributions to the reserve for pension payments if a pension becomes payable on account of the member's retirement or death.

Reserve for Pension Payments

Section 13.3. (a) The reserve for pension payments is the account that is charged with all pension payments and refunds of accumulated member contributions that have been transferred to this account. If a disability pension is terminated and the individual again becomes a member or becomes a vested former member, any excess of the accumulated member contributions transferred to this account as a result of the disability retirement over the aggregate amount of pension paid shall be transferred to the reserve member contributions.

(b) Each year following receipt of the report of the annual actuarial valuation, the balance in the reserve for pension payments shall be set equal to the actuarial present value of pensions being paid retired members and beneficiaries by a transfer to or from the reserve for employer contributions. The pending transfer shall be taken into account by the actuary when making the actuarial valuation.

Reserve for Employer Contributions.

Section 13.4. The reserve for employer contributions is the account to which is credited County, County Road Commission and Mental Health Authority contributions, and from which shall be made transfers to the reserve for pension payments and the reserve for undistributed investment income.

Assets not Segregated.

Section 13.5. The descriptions of the reserve accounts shall be interpreted to refer to the account records of the retirement system, and not to the segregation of monies or assets by reserve account.

Interest Credit to Reserve Accounts.

Section 13.6. (a) The board of Trustees shall, at least annually, credit interest on the individual balances in the reserve for accumulated member contributions, and on the balances in the reserve for pension payments and the reserve for employer contributions. The amounts of interest so credited shall be charges to the reserve for undistributed investment income.

(b) The Board of Trustees shall determine the rate or rates of interest to be used for crediting of interest.

ARTICLE XIV

Assignments Prohibited.

Section 14.1. The right of an individual to a pension, to a refund of accumulated member contributions, the pension itself, or any other right accrued or accruing to any individual, and the monies and assets of the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law, except an Eligible Domestic Relations Order (EDRO), as specified in Act 46 of Public Acts of 1991, and shall be unassignable except as otherwise specifically provided herein.

Subrogation; Right of Setoff.

Section 14.2. (a) If an individual becomes entitled to a pension or other benefit payable by the retirement system as a result of an accident of injury caused by the act of a third party, the county shall be subrogated to the rights of the individual against the third party to the extent of County financed benefits which the retirement system pays or becomes liable to pay.

(b) The retirement system shall have the right of setoff to recover overpayments made by the retirement system, and to satisfy any claim arising from embezzlement or fraud committed by a member, retired member, vested former member, beneficiary, or other individual having a claim to benefits.

Correction of Errors.

Section 14.3. The retirement system shall correct errors in the records of the retirement system. The retirement system shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

Internal Revenue Code Qualification.

Section 14.4. (a) The county intends the retirement system to be a qualified pension plan under section 401 of the Internal Revenue Code, as amended, or successor provisions of law, and that

the trust be an exempt organization under section 501 of the Internal Revenue Code. The Board of Trustees may adopt such additional provisions to the retirement system as are necessary to fulfill this intent. The Board is responsible for applying for qualified plan determination letter(s) from the Internal Revenue Service.

(b) Prohibition against reversion. The pension plan and trust have been created for the exclusive benefit of the members and beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the pension system. No part of the principal and income of any of the funds of the plan and trust shall revert to or be returned to the county prior to the satisfaction of all liabilities hereunder to all members, beneficiaries, and anyone claiming by or through them.

(c) Actuarial Valuation Assumptions. The Actuarial Valuation Assumptions may be changed by the Board of Trustees after report from the actuary.

(d) Termination or Partial Termination. In the event of termination or partial termination of this plan, a member's interest under the plan as of such date is non-forfeitable to the extent funded in conformity with section 411 (d)(3) of the Code and Regulations. Section 1.411 (d) – 2, and any other applicable Internal Revenue Code sections.

(e) Merger, Consolidation, or Transfer. In conformity with Section 414(1) of the Internal Revenue Code, in the case of any transfer of assets or liabilities of this plan to any other plan, each plan participant would (if the plan then terminated) receive a benefit immediately after the transfer that is equal to or greater than the benefit the participant would have been entitled to receive immediately before the transfer (if the plan had then terminated).

(f) Limitations of Benefits. The plan cannot exceed the benefit limitations as currently set forth in Section 415 of the Internal Revenue Code.

(g) Distributions. Distributions from the Plan will comply with the requirements of Internal Revenue Code 401 (a)(9) and the regulations there-under, including requirements regarding the beginning date for distributions and the period over which a member's interest in the retirement system will be distributed.

A member's interest in the trust must begin to be distributed by the later of (i) April 1 of the calendar year following the calendar year that the employee attains the applicable age pursuant to IRC 401 (a)(9), or (ii) April 1 of the calendar year the member retires. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of IRC 401 (a) (9) in accordance with the regulations under IRC 401 (a) (9), notwithstanding any provision in the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under 401 (a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(1) Effective date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

- (2) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the Plan.
- (3) Requirements of Treasury Regulations Incorporated. All distributions required under this section shall be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.
- (4) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (c), distributions may be made under a designation made on or before January 1, 1984 in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to sections 242 (b)(2) of TEFRA.

TIME AND MANNER OF DISTRIBUTION

- (5) Required Beginning Date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.
- (6) Death of Member Before Distributions Begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (i) If the member's surviving spouse is the member's sole designated beneficiary, then, except as provided in the Plan, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained the applicable age pursuant to IRC 401(a), if later.
 - (ii) If the members surviving spouse is not the member's sole designated beneficiary, then, except as provided in the Plan, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
 - (iii) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
 - (iv) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this paragraph (6) will apply, other than paragraph (6)(i), as if the surviving spouse were the member

For purposes of paragraph (6) and IRC 401 paragraphs (13), (14) and (15), distributions are considered to begin on the member's required beginning date (or if paragraph (6)(iv) applies, the date distributions are required to begin to the surviving spouse under paragraph (6)(i). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to

the surviving spouse under paragraph (6)(i), the date distributions are considered to begin is the date distributions actually commence.

- (7) Form of Distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (8) through (13) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401 (a)(9) of the IRC and the Treasury regulations. Any part of the member's interest which is in the form of an individual account described in section 414(k) of the IRD will be distributed in a manner satisfying the requirements of section 401(a)(9) of the IRC and the Treasury regulations that apply to individual accounts.

Determination of Amount to be Distributed Each Year.

- (8) General Annuity Requirements. If the member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in IRC 401 paragraphs (13) through (15);

(iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.

(h) Eligible Rollover Distributions. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this section.

1. Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint life (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under IRC 401 (a)(9). For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC 408 (a) or (b), or to a qualified plan described in IRC 401 (a) or 403 (b) that agrees to

separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

2. Eligible retirement plan. An eligible retirement plan is an individual retirement account described in IRC 408 (a), an individual retirement annuity described in IRC 408 (a), an annuity plan described in IRC 403 (a), an annuity contract described in IRC 403 (b), and eligible plan under IRC 457 which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred in such plan or a qualified trust described in IRC 401 (a), that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

3. Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the surviving spouse.

4. Direct rollover. A direct rollover is a payment by the Retirement System to the eligible retirement plan specified by the distributee.

(i) Maximum Annual Earnings. For Plan years beginning on or after January 1, 1989, and before July 1, 1996, the annual compensation of each Participant taken into account for determining all benefits provided under the Plan for any determination period shall not include any amounts in excess of the annual compensation limit (originally 200,000) provided for in IRC 401 (a) (17) prior to the Omnibus Budget Reconciliation Act of 1993 (OBRA '93"), and adjusted for inflation in the manner provided by IRC 401 (a) (17). For Plan years beginning on or after July 1, 1996, the annual compensation of each employee taken into account shall not exceed the annual compensation limit provided for in IRC 401 (a)(17), as amended by the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") (\$200,000 in 2002). This limit may be adjusted as required by federal law for qualified government plans, and shall be further adjusted for inflation in the manner provided by IRC 401 (a)(17). Annual compensation means compensation during the plan year or such other consecutive 12 month period over which compensation is otherwise determined under the plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

(j) Forfeitures. Upon a member's termination date, the value of any forfeitable accrued benefit shall be forfeited by the member as of the termination date. The value of such forfeitures shall be used to reduce the employer's future contributions under the Plan in accordance with IRC 401 (a)(8). No forfeitures under the Plan shall be applied to increase the benefits that any member or beneficiary would otherwise receive at any time prior to the time when the Plan may be terminated. If a member whose employment has terminated does not retain a vested benefit under the Plan, he/she shall no longer be a member or retain or earned credited service under the Plan unless and until he/she again becomes an employee.

(k) Military Service. Notwithstanding any provision of the Plan to the contrary, contributions benefits and service credit with respect to qualified military service will be provided in accordance with IRC 414(u) and Regulations.

(l) Vesting. Pursuant to IRC 411 (e) as in effect in 1974, a member shall be 100% vested in his/her accrued benefit when he or she attains Normal Retirement Age.

(m) Plan Year. The plan year shall be the 12 consecutive month period commencing on January 1, and each anniversary thereafter.

Severability.

Section 14.5. If any section or part of a section of this ordinance is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections of the ordinance or the ordinance in its entirety.

Fraud Penalty.

Section 14.6. Whoever, with intent to deceive, shall make any statement or report under this ordinance which is untrue, or shall falsify or permit to be falsified any record or records of the retirement system, or who shall otherwise violate the provisions of this ordinance, or as it may from time to time be amended, with intent to deceive, shall be fined not to exceed \$500.00, or shall be imprisoned not to exceed ninety days, or both, in the discretion of the court, together with payment of costs of prosecution.

Repeal.

Section 14.7. All ordinances or other provisions of law inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Approval by:
S.C.C. Board of Commissioners

