

CHAPTER 15

PENSION PLAN

1500. Pension Plan History and Purpose.

Effective April 1, 1967, Jackson County, Missouri (hereinafter referred to as the "Employer") adopted the Jackson County, Missouri Employees' Pension Plan and Trust, (the plan provisions of which are hereinafter referred to as the "Prior Plan") for the benefit of its eligible employees. Effective January 1, 1977, the Employer amended and restated the Prior Plan and Trust into two (2) separate documents. The plan was amended and restated in its entirety as the Jackson County, Missouri Revised Pension Plan. The purpose of this Plan continues to be to provide for the retirement of Employees of the Employer who become Members of the Plan, benefits for Totally and Permanently Disabled Members, and Death Benefits for Spouses and Beneficiaries of deceased Members, but limited to those who qualify herein in accordance with the terms and conditions hereinafter set forth. (Ord. 1353, Eff. 08/01/85)

1501. Effective Date.

Effective August 1, 1985, the Employer amended and restated the Prior Plan and Trust into Chapter 15, Jackson County Code, the terms of which are hereinafter stated. (Ord. 1353, Eff. 08/01/85)

1502. Pension Plan, Title.

This Plan shall be known as the Jackson County, Missouri Revised Pension Plan (hereinafter referred to as the "Plan" or the "Revised Plan"). (Ord. 1353, Eff. 08/01/85)

1503. Pension Plan, Definitions.

As used herein, the following words and phrases shall have the meanings specified below, unless a different meaning is plainly required by the context, viz.: (Ord. 1353, Eff. 08/01/85; Ord. 3515, 08/05/04; Ord. 4083, Eff. 02/17/09)

1503.1 Accrued Benefit.

The term "Accrued Benefit" shall mean the Monthly Pension Income that a Member has "accrued" as of any date payable in the basic form commencing on his Normal Retirement Date. The "Accrued Benefit" as of any date shall be equal to the amount calculated under section 1512., but only to the extent that the Member is Vested. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.2 Actuarial Equivalent.

The term "Actuarial Equivalent" shall mean a benefit of equivalent value, as certified by the Actuary, computed on the basis of the following actuarial assumptions.

(Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 07/01/99; Ord. 4083, Eff. 02/17/09)

Interest - Seven percent (7%) per annum, compounded annually. (Ord. 4083, Eff. 02/17/09)

Mortality - The 1983 Group Annuity Mortality Table blended 50% for males and 50% for females. (Ord. 2322, Eff. 09/29/94; Ord. 3515, 07/01/99; Ord. 4083, Eff. 02/17/09)

1503.3 Actuarial Value.

The term "Actuarial Value" shall mean the single sum value, as certified by the Actuary, of any income benefit, computed on the basis of the following actuarial assumptions. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 07/01/99; Ord. 4083, Eff. 02/17/09)

Interest - Seven percent (7%) per annum, compounded annually. (Ord. 4083, Eff. 02/17/09)

Mortality - The 1983 Group Annuity Mortality Table blended 50% for males and 50% for females. (Ord. 2322, Eff. 09/29/94; Ord. 3515, 07/01/99; Ord. 4083, 02/17/09)

1503.4 Actuary.

The term "Actuary" shall mean a Fellow of the Society of Actuaries or a firm of actuaries at least one of whose members is a Fellow of the Society of Actuaries who has been so enrolled. The "Actuary" shall be designated by the Board. (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

1503.5 Anniversary Date.

The term "Anniversary Date" shall mean each January 1st. (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

1503.6 Annual Additions.

The term "Annual Additions" shall mean the sum of the following amounts credited to a Member's account for the limitation year:

- (a) Employer contributions;
- (b) Employee contributions;
- (c) forfeitures;

(d) amounts allocated after March 31, 1984, to an individual medical account that is part of a pension or annuity plan maintained by the Employer are treated as Annual Additions to a defined contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund are treated as Annual Additions to a defined contribution plan; and

(e) allocations under a simplified employee pension. (Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.7 Annual Benefit.

The term "Annual Benefit" shall mean a retirement benefit under the Plan which is payable annually in the form of a straight life annuity. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of sections 1519 through 1521. The interest rate assumption used to determine actuarial equivalence will be the greater of the interest rate specified in subsection 1503.2 of this Plan or 5 percent. The Annual Benefit does not include any benefits attributable to Employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer. No actuarial adjustment to the benefit is required for (a) the value of a qualified joint and survivor annuity, (b) the value of benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (c) the value of post-retirement cost-of-living increases made in accordance with section 415(d) of the Code and section 1.415-3(c)(2)(iii) of the Income Tax Regulations. (Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.8 Attained Age.

The term "Attained Age" shall mean, unless clearly indicated to the contrary, the age of an Employee or Member as of his last birthday. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, 02/17/09)

1503.9 Average Monthly Earnings.

The term "Average Monthly Earnings" shall mean the highest average of Monthly Earnings as determined for any thirty-six (36) consecutive months of credited service for the Employer as an Employee during the one hundred twenty (120) months prior to the Member's Disability Retirement Date, Early Retirement Date, Normal Retirement Date, or termination date. (Ord. 1353, Eff. 08/01/85; Ord. 1849, 7/31/90; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff 02/17/09)

1503.10 Beneficiary.

The term "Beneficiary" shall mean any person or persons (or a trust) designated by a Member in such form and manner as the Board may prescribe to receive a Death Benefit, in the form specified in Sections 1511.1, 1511.2, 1511.3, or 1511.4 payable hereunder if such person or persons survive the Member. Any designation under Sections 1511.1 and 1511.2 may be revoked at any time in similar manner and form. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.11 Board of Trustees.

The term "Board of Trustees" or "Board" means the Board of Trustees established pursuant to section 1540 of this chapter. (Ord. 4083, Eff. 02/17/09)

1503.12 Code.

The term "Code" shall mean the Internal Revenue Code of 1986, as amended. (Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 08/05/04; Ord. 4083, Eff. 02/17/09)

1503.13 Compensation.

The term "Compensation" shall mean wages, as defined in Code section 3401(a), and all other payments of Compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under sections 6041(d) and 6051(a)(3) of the Code. Compensation must be determined without regard to any rules under Code section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code section 3401(a)(2)). (Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 08/05/04; Ord. 4083, Eff. 02/17/09)

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of section 1519 through 1521, Compensation for a Limitation Year is the Compensation actually paid or made available during such Limitation Year. (Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.14 Credited Service.

The term "Credited Service" shall mean the number of years and months of employment for which a Member is given credit for the purpose of calculating his Monthly Retirement Income or Spouse Death Benefit under this Plan. As of any date, "Credited Service" shall be equal to the sum of the years and months calculated under subsections (a), (b) and (e) hereof, subject to the provisions of subsections (c) or (d) hereof, if applicable. (Ord. 1353, Eff. 08/01/85; Ord. 2170,

Eff. 12/28/92; Ord. 2322, Eff. 09/29/94; Ord. 3617, Eff. 04/05/05; Ord. 4083, Eff. 02/17/09)

1. For any period of employment prior to January 1, 1967, three-fourths (3/4) of the number of years and completed months of the Member's continuous employment for the Employer as an Employee from his last date of hire as an Employee to December 31, 1966. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

2. For any period of employment after December 31, 1966, the number of years and completed months of the Member's continuous employment for the Employer as an Employee from the later of (i) January 1, 1967, and (ii) his last date of hire as an Employee to the date of his termination of employment. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09; Ord. 4083, Eff. 02/17/09)

3. For the purposes of this Plan the following periods of employment shall be considered "continuous employment" but shall not be recognized as Credited Service: (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

(i) a break in continuity of employment of not more than two (2) years; provided the Employee returns to work for at least twelve (12) months; (Ord. 4083, Eff. 02/17/09)

(ii) any period of employment during which the Employee was not compensated by the Employer, except that any such period during which an employee was absent on approved leave without Compensation while serving on active military duty in Operation Desert Storm, or between September 11, 2001 and December 31, 2006, shall be recognized as Credited Service; (Ord. 3617, 04/05/05 Ord. 4083, Eff. 02/17/09)

(iii) any period of employment excluded pursuant to section 1506 hereof; (Ord. 4083, Eff. 02/17/09)

(iv) any period of employment prior to January 1, 1977, during which the Employee was eligible to participate in the Prior Plan but refused to make the Employee contributions required thereunder; (Ord. 4083, Eff. 02/17/09)

(v) a break in the continuity of employment prior to April 1, 1967, of more than two (2) years; provided: (Ord. 4083, Eff. 02/17/09)

(A) the Employee was employed by the Employer as an Employee on April 1, 1967; and (Ord. 4083, Eff. 02/17/09)

(B) the Employee completes twenty-five (25) years of employment as an Employee by his Normal Retirement Date (including for this purpose any break in the continuity of employment occurring prior to April 1, 1967). (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

(vi) a break in the continuity of employment of more than two (2) years; provided: (Ord. 4083, Eff. 02/17/09)

(A) the reemployed Employee terminated Vested in the plan, or is a Retired Member of the Plan, or had completed fifteen (15) years of service during his prior employment; and, (Ord. 2748, Eff. 10/30/97; Ord. 4083, Eff. 02/17/09)

(B) the Employee accrues sufficient Service during his period of reemployment to become Vested in the Plan. (Ord. 1849, Eff. 07/31/90; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

4. Notwithstanding any other provision contained in this section, no Member shall receive credit for any period of employment by the Jackson County Law Library, Inc., prior to January 1, 1993. (Ord. 2170, Eff. 12/28/92; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

5. Notwithstanding any other provision contained in this section, any Member who is employed on October 1, 2004, and is vested or becomes vested on or after that date shall receive Credited Service for period of Employment with the Employer for which the Member has not previously received Credited Service. (Ord. 3617, 04/05/05; Ord. 4083, Eff. 02/17/09)

1503.15 Current Accrued Benefit.

The term "Current Accrued Benefit" shall mean a Member's Accrued Benefit under the Plan, determined as if the Member had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an Annual Benefit within the meaning of section 415(b)(2) of the Code. In determining the amount of a Member's Current Accrued Benefit, the following shall be disregarded: (Ord. 4083, Eff. 02/17/09)

- (i) any change in the terms and conditions of the Plan after May 5, 1986; and (Ord. 4083, Eff. 02/17/09)
- (ii) any cost of living adjustments occurring after May 5, 1986. (Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.16 Custodian.

The term "Custodian" means the person or organization approved as custodian of the Fund pursuant to section 1561.3 of this chapter. (Ord. 4083, Eff. 02/17/09)

1503.17 Death Benefit.

The term "Death Benefit" shall mean any benefit paid to a Spouse, Domestic Partner, or Beneficiary at the death of a Member, Disabled Member, or Retired Member, as provided under the terms of the Plan. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09; Ord. 4289, Eff. 02/23/11)

1503.18 Defined Benefit Dollar Limitation.

The term "Defined Benefit Dollar Limitation" shall mean \$160,000. Such limitation will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415(d) of the Code in such manner as the Secretary shall prescribe. The new limitation will apply to Limitation Years ending with or within the calendar year of the date of the adjustment. (Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 01/01/02; Ord. 4083, Eff. 02/17/09)

1503.19 Direct Rollover.

The term "Direct Rollover" shall mean a payment by the Plan to an Eligible Retirement Plan specified by a Distributee. (Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.20 Disability Retirement Date.

The term "Disability Retirement Date" shall mean the date a Disabled Member becomes eligible for immediate disability payments hereunder. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.21 Disabled Member.

The term "Disabled Member" shall mean any Member who has Vested in the Plan and who becomes Totally and Permanently Disabled while in the employ of Employer. (Ord. 1353, Eff. 08/01/85; Ord. 2019, Eff. 08/29/91; Ord. 2133, Eff. 09/01/92; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.22 Distributee.

The term "Distributee" shall include an Employee or former Employee, or the Employee's or former Employee's surviving spouse. Effective January 1, 2010, a Distributee includes an Employee's or former Employee's designated Beneficiary, subject to the limitations described in Section 1503.26. (Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 01/01/02; Ord. 4083, Eff. 02/17/09; Ord. 4289, Eff. 02/23/11)

1503.23 Domestic Partner.

The term "Domestic Partner" shall mean an adult, unrelated by blood, with whom an unmarried or separated Member has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses. In determining whether a person meets this definition, reference may be made to the current "Jackson County Domestic Partner Statement and Policy," issued and maintained by the Jackson County Department of Human Resources. (Ord. 4289, Eff. 02/23/11)

1503.24 Early Retirement Date.

The term "Early Retirement Date" shall mean the first day of the month that the Member has directed pension payments to begin, if that date is prior to the Normal Retirement Date. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 4083, Eff. 02/17/09)

1503.25 Elected Official.

The term "Elected Official" shall mean the County Executive, Prosecuting Attorney, Sheriff, and each member of the County Legislature, without regard to whether such official was initially elected or appointed to office. (Ord. 3432, Eff. 01/01/02; Ord. 4083, Eff. 02/17/09)

1503.26 Eligible Retirement Plan.

The term "Eligible Retirement Plan" shall mean an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code or a qualified trust described in section 401(a) of the Code, an annuity contract described in Section 403(b) of the Code, and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, which agrees to separately account for amounts transferred into such from this Plan, that accepts the Distributee's Eligible Rollover Distribution. Effective for distributions made after December 31, 2007, an Eligible Retirement Plan shall also include a Roth IRA described in Code Section 408 or 408A. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 3515, Eff. 01/01/02; Ord. 4083, Eff. 02/17/09; Ord.4289, Eff. 02/23/11)

1503.27 Eligible Rollover Distribution.

The term "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and any distribution which is made upon hardship of the Employee. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 3515, Eff. 08/05/04; Ord. 4083, Eff. 02/17/09)

1503.28 Employee.

The term "Employee shall mean any current or future full-time Employee of the Employer who is paid, in whole or in part, by the Employer including any Employee holding elective or appointive office, but shall not include:

- (a) any person holding an honorary or unpaid office;
- (b) any person employed or retained exclusively on a fee, commission or per diem basis;
- (c) any Employee whose employment is seasonal or temporary;
- (d) any Employee whose customary employment is for not more than twenty (20) hours a week or not more than five (5) months in any calendar year;
- (e) circuit judges, associate circuit judges, court reporters, and Employees of the Circuit Court of Jackson County, Missouri, whose compensation is paid by the State of Missouri; or
- (f) any Employee who is covered by another retirement plan to which the Employer makes contributions (other than the Federal Social Security system).

Notwithstanding the above, the term "Employee" shall also include any current or future full-time Employee of the Little Blue Valley Sewer District, the Kansas City Board of Election Commissioners, the Jackson County Board of Election Commissioners, the Jackson County Sports Complex Authority, the Jackson County law Library,

Inc., effective June 1, 1990, Employees of the Eastern Jackson County Multi-Jurisdictional Anti-Drug Tax Force and, effective January 1, 2004, the Prosecuting Attorney of Jackson County. (Ord. 1353, Eff. 08/01/85; Ord. 1834, Eff. 06/29/90; Ord. 2019, Eff. 08/29/91; Ord. 2170, 12/28/92; Ord. 2278, Eff. 04/04/94; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.29 Employer.

The term "Employer" shall mean Jackson County, Missouri; provided, however, that for purposes of sections 1503.6, 1503.7, 1503.13, 1503.18, 1503.19, 1503.33, 1503.34, and 1519. through 1521., such term shall mean Jackson County, Missouri, and all members of a controlled group of corporations (as defined in section 414(b) of the Code, as modified by section 415(h)), all commonly controlled trades or businesses (as defined in Code section 414(c) as modified by Code section 415(h)), or affiliated service groups (as defined in Code section 414(m)) of which Jackson County is a part, and any other entity required to be aggregated with Jackson County pursuant to section 414(o) of the Code. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.30 Fund.

The Term "Fund" shall mean such contributions with respect to the Plan as shall from time to time be made by the Employer and Members to the Board, and all income and profits thereon and accruals thereto, which assets, payments, and accrual are herein referred to as the "Fund." The Fund shall be deemed to form part of the Plan and any all rights or benefits which may accrue to any person under the Plan shall be subject to all the terms and provisions of the Fund as hereafter provided or as my be amended from time to time. (Ord. 4083, Eff. 02/17/09)

1503.31 Investment Manager.

The term "Investment Manager" shall mean a person, firm, or corporation appointed by the Board to manage (including the power to acquire or dispose of all or one of more portions of the Fund), which person, firm, or corporation shall: (Ord 4083, Eff. 02/17/09)

- (a) Be (i) registered as an investment adviser under the Investment Advisers Act of 1940; or (b) a bank as defined in the Investment Advisers Act of 1940; or (ii) an insurance company qualified to manage (including the power to acquire or dispose of) all or one or more portions of the Fund under the laws of more than one state; and (Ord. 4083, Eff. 02/17/09)

(b) Acknowledge in writing to the Board that he or it is a fiduciary with respect to the Plan. (Ord 4083, Eff. 02/17/09)

1503.32 Highest Average Compensation.

The term "Highest Average Compensation" shall mean the average compensation for the period of the three consecutive calendar years during which the Member had the greatest aggregate compensation from the Employer. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09; Ord. 4289, Eff. 02/23/11)

1503.33 Late Retirement Date.

The term "Late Retirement Date" shall mean the first day of any month subsequent to the Member's Normal Retirement Date next following the day the Member terminates employment with the Employer for any reason other than death. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.34 Limitation Year.

The term "Limitation Year" shall mean a calendar year. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.35 Maximum Permissible Amount.

- (a) The term "Maximum Permissible Amount" means the Defined Benefit Dollar Limitation. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 3515, Eff. 01/01/95; Ord. 4083, Eff. 02/17/09)
- (b) If the Member has less than 10 years of participation with the Employer, the Defined Benefit Dollar Limitation is reduced by one-tenth for each year of participation (or part thereof) less than ten. If the Member has less than ten years of service with the Employer, the Compensation limitation is reduced by one-tenth for each year of service (or part thereof) less than ten. The adjustments of this paragraph (b) shall be applied in the denominator of the Defined Benefit Fraction based upon years of service. Years of service shall include future years occurring before the Member's Normal Retirement Date. Such future years shall include the year in which the Member reaches the Normal Retirement Date, only if it can be

reasonably anticipated that the Member will receive a year of service for such year. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

- (c) If the Annual Benefit of a Member commences before the Member's attainment of age 62, but on or after age 55, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at age 62; provided, however, that the Annual Benefit shall not be reduced below \$75,000. To determine actuarial equivalence, the interest rate assumption used is the greater of the rate specified in section 1503.2 of the Plan or 5 percent. Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this paragraph (c) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)
- (d) If the Annual Benefit of a Member commences before the Member's attainment of age 55, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at age 62; provided, however, that such benefit shall not be reduced below the Actuarial Equivalent of an Annual Benefit of \$75,000, beginning at age 55. To determine actuarial equivalence, the interest rate assumption used is the greater of the rate specified in section 1503.2 of the Plan or 5 percent. Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this paragraph (d) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)
- (e) If the annual benefit of a Member commences after the Member attains age 65, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at the Member's attainment of age 65. To determine actuarial equivalence, the interest rate assumption used is the lesser of the rate specified in section 1503.2 of the Plan or 5 percent. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord.

4083, Eff. 02/17/09)

1503.36 Member.

The term "Member" shall mean any Employee of the Employer who has become a Member as provided in section 1504 of this chapter. (Ord. 1353, Eff. 08/01/85; Ord. 2133, Eff. 09/17/92; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.37 Monthly Earnings.

The term "Monthly Earnings" shall mean the Member's regular monthly cash compensation from the Employer including overtime pay, but excluding fees, commissions, travel or automobile allowances, expense reimbursement and any other forms of extraordinary compensation. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.38 Monthly Pension Income.

The term "Monthly Pension Income" shall mean the monthly income due a Retired Member which shall commence as of his Disability, Early, Normal or Late Retirement Date, or the date specified in section 1530 of this chapter and continue for the period indicated in sections 1510 through 1518. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.39 Normal Retirement Date.

The term "Normal Retirement Date" shall mean the earlier date of: a.) the first day of the month next following the month during which the sum of the Member's age in years and Credited Service first equals eighty (80) years, but not earlier than the first day of the month next following the Member's fifty-fifth (55th) birthday; or b.) the first day of the month next following the Member's sixty-fifth (65th) birthday, provided that no Member who is not also an Employee shall have a Normal Retirement Date earlier than the date specified in 1503.44(b)(v)(B) of this subsection. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 2770, Eff. 12/16/97; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.40 Plan Administrator.

The term "Plan Administrator" shall mean the person appointed by the Board to administer the Plan under section 1541.2 of this chapter. (Ord. 4083, Eff. 02/17/09)

1503.41 Plan Year.

The term "Plan Year" shall mean a twelve (12) month period beginning on the

first day of January and ending on the last day of December in the same calendar year. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.42 Prior Plan.

The term "Prior Plan" shall mean Jackson County, Missouri Employees' Pension Plan as constituted on December 31, 1976. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.43 Projected Annual Benefit.

The term "Projected Annual Benefit" shall mean the Annual Benefit to which the Member would be entitled under the terms of the Plan assuming: (Ord. 4083, Eff. 02/17/09)

- (a) the Member will continue employment until age 65 (or current age, if later), and (Ord. 4083, Eff. 02/17/09)
- (b) the Member's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.44 Retired Member.

The term "Retired Member" shall mean any Member of the Plan who has qualified for retirement and who is receiving a Monthly Pension Income by direction of the Pension Plan Administration Committee. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.45 Service.

The term "Service" shall mean the number of years for which a Member is given credit for the purpose of determining his eligibility for benefits under the Plan. As of any date, Service shall be equal to the sum of the years of employment calculated under subsection (a), subject to the provisions of subsection (b), if applicable. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

- (a) The number of years and completed months of the Member's continuous employment for the Employer as an Employee from his date of hire as an Employee to the date of his termination of employment. (Ord. 4083, Eff. 02/17/09)

(b) For the purposes of this Plan the following periods of employment shall be considered "continuous employment" but shall not be recognized as Service: (Ord. 4083, Eff. 02/17/09)

(i) a break in the continuity of employment of not more than two (2) years, provided the Employee returns to work for at least twelve (12) months; (Ord. 2019, Eff. 08/29/91; Ord. 4083, Eff. 02/17/09)

(ii) any period of employment during which the Employee was not compensated by the Employer, except that any such period which an employee was on approved leave without compensation while serving on active military duty in the Persian Gulf in Operation Desert Storm shall be recognized as Service; (Ord. 1930, Eff. 02/21/91; Ord. 4083, Eff. 02/17/09)

(iii) any period of employment excluded pursuant to the provisions of section 1506 of this chapter; (Ord. 4083, Eff. 02/17/09)

(iv) any period prior to January 1, 1977, during which the Employee was eligible to participate in the Prior Plan but refused to make the Employee contributions thereunder; (Ord. 4083, Eff. 02/17/09)

(v) a break in the continuity of employment prior to April 1, 1967, of more than two (2) years; provided: (Ord. 4083, Eff. 02/17/09)

(A) the Employee was employed by the Employer as an Employee on April 1, 1967; and (Ord. 4083, Eff. 02/17/09)

(B) the Employee completes twenty-five (25) years of employment as an Employee by his Normal Retirement Date (including for this purpose any break in the continuity of employment occurring prior to April 1, 1967). (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

(vi) a break in the continuity of employment of more than two (2) years; provided: (Ord. 4083, Eff. 02/17/09)

(A) the reemployed Employee terminated Vested in the Plan, or is a Retired Member of the Plan, and; (Ord. 4083, Eff. 02/17/09)

(B) the Employee accrues sufficient Service during his period of reemployment to become Vested in the Plan.

(Ord. 1849, Eff. 07/31/90; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.46 Spouse.

The term "Spouse" shall mean the legally married husband or wife of the Member at the date benefits commence to the Member under the Plan or at the Member's date of death. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.47 Total and Permanent Disability.

The term "Total and Permanent Disability" or "Totally and Permanently Disabled" shall mean a physical or mental condition arising after the original date of employment of the Member and at a time when the Member is in the employ of the Employer which totally and permanently prevents the Member from engaging in any occupation or employment for remuneration or profit, except for the purpose of rehabilitation not incompatible with a finding of Total and Permanent Disability. The determination as to whether a Member is Totally and Permanently Disabled shall be made solely on evidence that the Member is eligible for disability benefits under the Social Security Act in effect at the date of disability. (Ord. 1353, Eff. 08/01/85; Ord. 2133, Eff. 09/17/92; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.48 Vested.

The term "Vested" shall mean that if an Employee has completed at least five years Service he shall have a nonforfeitable right to 100 percent of the Employee's Accrued Benefit or a Vested benefit of 100 percent. An Employee with less than five years Service shall have a 0% vested benefit; provided, however, that a Member shall have a 100% vested benefit upon attaining age sixty-five (65) (if employed by the Employer on or after that date). (Ord. 1676, Eff. 07/13/88; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

The Vested percentage shall be multiplied times the amount calculated in section 1512.1 or 1512.2. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

Except as otherwise specifically provided herein, any amendment of the Plan by the Employer, including any amendment of the Plan's provisions regarding vesting, shall apply only to an Employee whose employment with the Employer terminates on or after the effective date of the amendment. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.49 Year of Participation.

A Member shall be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (1) The Member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (2) the Member is included as a Member under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the amount of benefit accrual service credited to the Member for such accrual computation period. A Member who is Permanently and Totally Disabled within the meaning of section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Member to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any 12-month period. (Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1503.50 Construction.

Any words herein used in the masculine shall be read and construed in the feminine where they would so apply. Words in the singular shall be read and construed as though used in the plural in all cases where they would so apply. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

MEMBERSHIP IN THE PENSION PLAN

1504. Pension Plan Membership.

Each Employee who was a participant in the Prior Plan as of December 31, 1976, shall become a Member of this Plan as of January 1, 1977, without further action on his part. On any Anniversary Date, beginning with January 1, 1977, an Employee who is not yet a Member but whose original date of employment as an Employee is at least one (1) year prior to said Anniversary Date shall become a Member on that Anniversary Date. A terminated Member who later resumes his employment with the Employer as an Employee shall become a Member on the Anniversary Date coincident with or immediately following his reemployment date. Each Employee shall be furnished a summary of the Plan when he becomes a Member. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03)

1505. Employee Contributions.

No employee contributions shall be required or permitted under this Plan, except as

provided in Section 1505.1. The participant contributions under the Prior Plan, together with the interest accumulated thereon, have been distributed to all the participants in the Prior Plan who were employed by the Employer as an Employee on December 31, 1976. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03)

1505.1 Employee Contributions by Elected Officials.

Effective January 1, 2004, each Elected Official shall be required to contribute to the Plan four percent (4%) of such Elected Official's Compensation (hereinafter referred to as "Employee Contributions"). The Employer shall, solely for the purpose of compliance with Section 414(h) of the Code, pick-up the Employee Contributions required by this Section and the contributions so picked-up shall be treated as employer contributions in determining tax treatment under the Code and any applicable state tax code. The Elected Official shall have no option to receive the contributed amounts directly instead of having them paid by the Employer to the Plan. Any Elected Official who terminates employment before becoming Vested in the Plan will receive, within 90 days of termination, a lump-sum refund of all Employee Contributions previously made under this section 1505.1, plus interest at five percent (5%) compounded annually. If, at the time benefit payments commence, the difference in the actuarial present value of the benefit under sections 1512.3 and 1512.1 is less than such Elected Official's total Employee Contributions plus interest at five percent (5%) compounded annually thereon, the Elected Official shall receive a lump-sum refund of Employee Contributions (and interest, if applicable) equal to the shortfall, if any. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03)

1506. Former Participant.

If a former participant in the Prior Plan (who was not employed by the Employer as an Employee on December 31, 1976) is reemployed, any accumulated participant contributions held in the Trust Fund on his behalf under the terms of the Prior Plan shall remain in the Trust Fund and not be distributed to him. If such a reemployed Member has received a distribution of his accumulated participant contributions under the Prior Plan, his period of employment prior to reemployment shall not be recognized for the purposes of this Plan as Service or Credited Service unless (i) he was reemployed within two (2) years of his termination date and (ii) repaid the distribution he received within one (1) year of his reemployment plus interest at five percent (5%) per annum from the date of payment to the date of repayment. (Ord. 1353, Eff. 08/01/85)

1507. Member Ceases to Be an Employee.

If a Member hereunder ceases to be an Employee (as defined in Section 1503.14) due to a change in employment status, while remaining an Employee of the Employer, he shall for the purpose of this Plan be deemed to have terminated employment as of the

date that he ceased to be employed by the Employer as an Employee. (Ord. 1353, Eff. 08/01/85)

1508. Member Bound By Terms of Plan.

Upon becoming a Member, a Member shall be bound then and thereafter by the terms of this Plan and the Trust Agreement, including all amendments made in the manner herein authorized. (Ord. 1353, Eff. 08/01/85)

1509. Terminated Employee.

A terminated Employee is a Member of the Plan if he has a vested interest in the Plan. (Ord. 1353, Eff. 08/01/85)

MONTHLY PENSION INCOME

1510. Pension Income, Restrictions.

Monthly Pension Income payable under the terms of Sections 1510 through 1518 shall be subject to the restrictions and limitations of Sections 1570 through 1574, 1580 through 1583, and 1588 through 1596 and shall be paid upon the authorization of the Pension Plan Administration Committee. Neither the Employer, the Pension Plan Administration Committee nor the Trustee shall be under any obligation to pay any Monthly Pension Income other than from the Trust Fund. (Ord. 1353, Eff. 08/01/85)

1511. Pension Income, Basic Form.

The basic form of Monthly Pension Income (to which the formula indicated in Section 1512 applies) shall be a monthly income commencing on the Member's Disability, Early, Normal or Late Retirement Date or the date specified in Section 1530 and continuing for his lifetime thereafter, with sixty (60) payments guaranteed. Prior to his Disability, Early, Normal or Late Retirement Date, or the date specified in Section 1530, the Member may elect, in a written application provided by the Pension Plan Administration Committee, and subject to the Committee's approval, to receive his Monthly Pension Income in one of the alternative forms listed below; provided, however, that in the case of a Disabled Member whose Disability Retirement Date is prior to the date such Disabled Member attains age 55, the Disability Payments provided for in section 1515 shall be paid in the basic form provided for in this section 1511 and shall not be paid in any of the alternative forms specified in subsections 1511.1 and 1511.2. Each of the alternative forms shall be the Actuarial Equivalent of the Monthly Pension Income payable under the basic form and shall commence as of the Member's Disability, Early, Normal, or Late Retirement Date or the date specified in section 1530. Notwithstanding the foregoing provisions of this section 1511, a Disabled Member whose Disability Retirement Date precedes such Disabled Member's attainment of age 55 and who is receiving Disability Payments in the basic form, may elect, not later than 60 days after attaining age 55, in a written application provided by the Pension Plan Administration Committee, and subject to the Committee's approval, to receive his remaining Monthly

Pension Income in one of the alternative forms listed below. Such alternative form shall be the Actuarial Equivalent of the Monthly Pension Income then being received by the Disabled Member. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 2342, Eff. 11/23/94; Ord. 4289, Eff. 02/23/11)

1511. A monthly income payable for the Member's lifetime with one hundred and twenty (120) payments guaranteed (an alternative form). (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94; Ord. 2342, Eff. 11/13/94; Ord. 4289, Eff. 02/23/11)

1511.2 A monthly income payable for the lifetime of the Member and continuing thereafter in the same monthly amount to a Beneficiary designated in writing by the Member (an alternative form). Should the Beneficiary named by the Member die prior to the Member's Disability, Early, Normal or Late Retirement Date or prior to the date specified in Section 1530, the election shall be void and Monthly Pension Income shall be paid under the basic form. Should the Beneficiary die after Monthly Pension Income has commenced to the Member, no alternative Beneficiary can be named. (Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 07/31/90; Ord. 2322, Eff. 09/29/94; Ord. 2342, Eff. 11/23/94; Ord. 4289, Eff. 02/23/11)

1511.3 If the Member's designated Beneficiary is other than his Spouse or Domestic Partner, the Actuarial Value of the benefits payable to the Member shall be more than fifty percent (50%) of the Actuarial Value of the benefits payable to the Member and his Beneficiary or survivor. (Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 07/31/90; Ord. 2322, Eff. 09/29/94; ord. 2342, Eff. 11/23/94; Ord. 4289, Eff. 02/23/11)

1511.4 Contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code, notwithstanding any contrary provision set forth herein. (Ord. 3515, Eff. 12/12/94; Ord. 4289, Eff. 02/23/11)

1512. Pension Income, Calculations.

When a Member lives to his Normal Retirement Date, he shall be entitled to retire and receive a Monthly Pension Income in an amount calculated by the Actuary and certified to the Trustee by the Pension Plan Administration Committee. For Members other than Elected Officials, the Monthly Pension Income under the basic form and payable on his Normal Retirement Date shall be the amount calculated under section 1512.1, but in no event less than the amount calculated under section 1512.2. For Elected Officials, the Monthly Pension Income under the basic form and payable on his Normal Retirement Date shall be the greater of the amount provided in the above sentence or the amount provided in section 1512.3.(Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 7/31/90; Ord. 3432,

Eff. 11/05/03)

1512.1 1.5% Per Year.

An amount equal to one and one-half percent (1.5%) for each year of Credited Service times the Member's Average Monthly Earnings, but in no event less than fifty dollars (\$50.00). (Ord. 1849, Eff. 7/31/90; Ord. 3432, Eff. 11/05/03)

1512.2 If a Member was a participant in the Prior Plan on December 31, 1976, an amount equal to five-sixths (5/6) percent of the Member's "average monthly earnings" (as hereinafter defined) up to five hundred fifty dollars (\$550.00) plus one and two-thirds (1-2/3) percent of his "average monthly earnings" in excess of five hundred fifty dollars (\$550.00), such sum multiplied by the Member's years of Credited Service. For the purpose of this section 1512.2, "average monthly earnings" shall be calculated in the same manner as Average Monthly Earnings assuming the Member's aggregate Monthly Earnings for calendar year 1976 divided by twelve (12) (or by the number of months during which the Member received compensation from the Employer in 1976, if less) continued, without increase, until his Normal Retirement Date or earlier date of severance of employment. (Ord. 1353, Eff. 08/01/85; 1849, Eff. 7/31/90; Ord. 3432, Eff. 11/05/03)

1512.3 Formula for Elected Officials.

An amount equal to four and one-sixth percent (4.167%) of such Elected Official's "compensation" (as hereinafter defined) for each year of Credited Service up to 12 years, plus five percent (5%) of such Elected Official's "compensation" for each year of credited service from 12 to 16 years. In addition, the Elected Official will also receive two hundred dollars (\$200) per month as a health insurance supplement. For purposes of this section 1512.3, the Elected Official's "compensation" will be equal to the monthly compensation of the incumbent of the same office that the Elected Official last held, at the time of the Elected Official's receipt of his first payment under this section. For purposes of this section 1512.3, Credited Service shall only constitute that period of employment after December 31, 2003, unless such Elected Official has purchased additional Credited Service pursuant to section 1523. Any retirement benefit provided by this section will be reduced (i.e., offset) by any retirement benefits payable under another public pension plan to the extent that such benefits are attributable to service with the Employer. However, no offset will effect the Elected Official's right to the \$200 health insurance supplement under this section. (Ord. 3432, Eff. 11/05/03)

1513. Pension Income, Effect of Late Retirement.

If a Member remains in the employ of the Employer after his Normal Retirement Date, no Monthly Pension Income shall be paid until the Member's Late Retirement Date

except as provided in section 1516. At the Member's Late Retirement Date he shall thereupon be entitled to receive a Monthly Pension Income that shall be an amount computed under section 1512, based upon the Member's Credited Service and Average Monthly Earnings, or in the case of an Elected Official, that Elected Official's "compensation" up to his Late Retirement Date. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03)

1514. Pension Income, Effect of Early Retirement.

A Member whose Attained Age is at least fifty-five (55) and who is Vested may, upon written application, retire as of an Early Retirement Date. Commencing at his Early Retirement Date, such Member is entitled to a reduced Monthly Pension Income which is equal to his Accrued Benefit as of his Early Retirement Date, reduced by one two hundred fortieth (1/240th) each month by which his Early Retirement Date precedes his Normal Retirement Date. (Ord. 1353, Eff. 08/01/85)

1515. Pension Income If Disabled.

When a Member who has Vested in the Plan shall be determined to be Totally and Permanently Disabled by the Pension Plan Administration Committee, such Disabled Member shall be entitled to receive Disability Payments as hereinafter provided. Such Disabled Member shall be entitled to a Monthly Pension Income equal to his Accrued Benefit, without actuarial reduction, commencing as of the first day of the month next following the date of his entitlement to his Social Security disability benefits. If the Disabled Member recovers prior to his Normal Retirement Date (by ceasing to be eligible for continued entitlement to Social Security disability benefits), the Pension Plan Administration Committee shall direct the Trustee to immediately discontinue the Disability Payments. If the Disabled Member returns to the employ of the Employer as an Employee within a reasonable period of time after recovery, he shall on actual return again become an active Member with Service and Credited Service prior to his disability being recognized for all purposes under this Plan. If the former Disabled Member does not return to the employ of the Employer as an Employee within a reasonable period of time after recovery, he shall be deemed terminated as of his Disability Retirement Date, and the benefits, if any, to which he is entitled under the Plan shall be reduced by the Actuarial Value of Disability Payments actually received. (Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 7/31/90)

1516. Pension Income, Effect of Reemployment.

If a Retired Member is reemployed by the Employer as an Employee as defined in section 1503.26, his Monthly Pension Income payments shall be suspended during any such period of reemployment. If a Retired Member is reemployed by the Employer and is not an Employee as defined in section 1503.26, his Monthly Pension Income payments shall be suspended if the Employee receives payments from the Employer equal to the maximum amount allowed for the retention of Social Security benefits for

individuals at age 65. The Monthly Pension Income payments will be suspended until the amount of the suspended payments equals the amount of payments received in excess of the amount of Social Security benefits allowed at age 65. A reemployed Retired Member shall accrue additional benefits during such period of reemployment the same as any rehired employee. (Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 7/31/90; Ord. 2019, Eff. 08/29/91)

1517. Pension Plan, Retirement Prior to 1977.

The provisions of this Plan shall not apply to any participant in the Prior Plan who reached his Normal Retirement Date and retired under the Prior Plan before January 1, 1977. This Plan shall also have no application to any participant in the Prior Plan who terminated employment for any reason prior to January 1, 1977, unless the former participant is reemployed by the Employer as an Employee and again becomes a Member of this Plan. Otherwise, the terms of the Prior Plan as constituted on the date of the Member's termination of employment shall apply. (Ord. 1353, Eff. 08/01/85)

1518. Pension Income, Vestment Required.

No one shall receive paid benefits under this Plan unless they are Vested. (Ord. 1353, Eff. 08/01/85)

1519. Maximum Benefit.

This section, except for subsection 1519.3, applies regardless of whether any Member is or has ever been a participant in another qualified plan maintained by the Employer. If any Member is or has ever been a Member in another qualified plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined in section 415(l)(2) of the Code, maintained by the Employer, or a simplified employee pension, as defined in section 408(k) of the Code, maintained by the Employer, that provides an annual addition as defined in subsection 1522.1, section 1520 is also applicable to that Member's benefits. (Ord. 2322, Eff. 09/29/94)

1519.1 The Annual Benefit otherwise payable to a Member at any time will not exceed the Maximum Permissible Amount. If the benefit the Member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Amount the rate of accrual will be reduced so that the Annual Benefit will equal the Maximum Permissible Amount. (Ord. 2322, Eff. 09/29/94)

1519.2 If a Member has made nondeductible employee contributions under the terms of this Plan, the amount of such contributions is treated as an Annual Addition to a qualified defined contribution plan, for purposes of subsections 1519.1 and 1520.2. (Ord. 2322, Eff. 09/29/94)

1519.3 The limitation in subsection 1519.1 is deemed satisfied if the Annual Benefit payable to a Member is not more than \$1,000 multiplied by the Member's number of years of service or parts thereof (not to exceed 10) with the Employer, and the Employer has not at any time maintained a defined contribution plan, a welfare benefit plan, or an individual medical account in which such Member participated. (Ord. 2322, Eff. 09/29/94)

1520. More Than One Plan.

This section applies if any Member is covered, or has ever been covered, by another plan maintained by the Employer, including a qualified plan, a welfare benefit fund, or an individual medical account, or a simplified employee pension that provides an Annual Addition. (Ord. 2322, Eff. 09/29/94)

1520.1 If a Member is, or has ever been, covered under more than one defined benefit plan maintained by the Employer, the sum of the Member's Annual Benefits from all such plans may not exceed the Maximum Permissible Amount. The limitation on benefits from more than one defined benefit plan maintained by the Employer shall be satisfied by a pro rata reduction (if necessary) in the Member's benefits under the defined benefit plans maintained by the Employer. (Ord. 2322, Eff. 09/29/94)

1520.2 RESERVED. (Ord. 3515, Eff. 08/05/04)

1521. Participants on First Day of 1987 Limitation Year.

In the case of an individual who was a participant in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of the limitations of sections 1519 through 1521 shall not cause the Maximum Permissible Amount for such individual under all such defined benefit plans to be less than the individual's Current Accrued Benefit. The preceding sentence applies only if such defined benefit plans met the requirements of section 415 of the Code, for all Limitation Years beginning before January 1, 1987. (Ord. 2322, Eff. 09/29/94)

1522. Eligible Rollover Contributions.

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 plan administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. (Ord. 2322, Eff. 09/29/94; Ord. 3515, Eff. 01/01/02)

1523. Purchase of Prior Service Credit.

(a) Those Elected Officials who are in office as of August 31, 2006, may make

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a one-time irrevocable election to purchase Credited Service for purposes of calculating the Elected Official's Monthly Pension Income under section 1512.3, under the circumstances, terms and conditions provided in this section. The purchase of Credited Service may be made with either pre-tax contributions, such as rollover contributions or plan-to-plan transfers from other retirement arrangements qualified under sections 401(a), 403(a), 403(b), 457(b) or 408 of the Internal Revenue Code, or with after-tax amounts. Any Elected Official who elects to purchase Credited Service under this section may elect to purchase prior service with the employer. The election must be made no later than September 30, 2006, and must be effected by paying to the Plan the amount the Elected Official would have contributed under section 1505.1 had such member been an employee for the number of years for which the member is purchasing credit, and had the Elected Official's compensation during such period been the same as the Elected Official's annual salary as of August 31, 2006. However, the amount paid to purchase additional credit will not exceed the actuarial value of the credit being purchased, as calculated by the Plan's Actuary. Payment of the amount calculated under this section must be made by the Elected Official in a single payment (or rollover or transfer) no later than December 31, 2006. (Ord. 3432, Eff. 11/05/03; Ord. 3617, Eff. 04/05/05; Ord. 3799, Eff. 08/23/06)

- (b) Any Elected Official may make a one-time election to purchase additional Credited Service made available by Section 1503.13(e). Such purchase must be in accordance with the general provisions of this Section 1523, except that payment of the amount calculated under this subsection 1523(a) must be made no later than December 31, 2005. (Ord. 3617, Eff. 04/05/05)

1524. Mandatory Distributions.

Effective January 1, 2006, in the event of a mandatory distribution greater than \$1,000 is made in accordance with the provisions of the Plan providing for an automatic distribution to a Member without the Member's consent, if the Member does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Member in a direct rollover (in accordance with the direct rollover provisions of the Plan) or to receive the distribution directly, then the Trustee shall pay the distribution in a direct rollover to an individual retirement plan designated by the Trustee. (Ord. 3788, Eff. 08/01/06)

1525. - 1529. RESERVED

PENSION PLAN, OTHER BENEFITS

1530. Pension Plan, Effect of Termination.

When the employment of a Member shall be terminated for any reason other than death or retirement (including Early Retirement and Disability Retirement), either voluntarily or involuntarily, such Member shall cease to be an active Member of the Plan. If the Member has not Vested in the Plan, no benefits shall be payable under this Plan. If the Member has Vested in the Plan, he shall (subject to the limitations and restrictions of Section 1570 through 1574, 1580 through 1583, and 1588 through 1596) be entitled at his Normal Retirement Date to receive a Monthly Pension Income equal to one hundred (100) percent of his Accrued Benefit. (Ord. 1353, Eff. 08/01/85)

1530.1 In lieu of the Monthly Pension Income payable at his Normal Retirement Date provided above, a terminated Member who has Vested in the Plan at the time of his termination of employment shall be entitled at any time after reaching Attained Age fifty-five (55) to elect the immediate commencement of benefits hereunder. Commencing on the first day of the month coincident with or immediately following such election, the terminated Member shall be entitled to a reduced Monthly Pension Income which shall be equal to the Monthly Pension Income payable at his Normal Retirement Date provided above, reduced by one two hundred fortieth (1/240) for each month by which the commencement date of his benefits under this Section 1530 precedes his Normal Retirement Date. Subject to the provisions of Section 1511, at any time prior to the commencement of his Monthly Pension Income, a terminated Member may elect to receive his benefits in an Actuarially Equivalent alternate form. (Ord. 1353, Eff. 08/01/85)

1530.2 In the event a terminated Member dies prior to the commencement of benefits, no benefits whatsoever shall be payable under this Plan. (Ord. 1353, Eff. 08/01/85)

1531. RESERVED (Ord. 2639, Eff. 03/13/97)

1532. Death, Effect.

Except as specifically provided in §1533. of this chapter, if any active Member should die being Vested in the Plan, a lump sum Death Benefit equal to the deceased Member's Current Accrued Benefit at the time of death shall be payable: (i) to the deceased Member's surviving Spouse or Domestic Partner, if any; (ii) if the deceased Member is not survived by a Spouse or Domestic Partner, to such other survivor as the deceased Member has designated; or (iii) if the deceased Member has made no such designation, to the deceased Member's estate. (Ord. 2503, Eff. 01/09/96; Ord. 2639, Eff. 03/13/97; Ord. 4289, Eff. 02/23/11)

1533. Death After Age 55 With Spouse or Domestic Partner, Effect.

If any active Member should die (i) after reaching Attained Age fifty-five, (ii) being Vested in the Plan, and (iii) be survived by a Spouse or Domestic Partner, that Spouse or Domestic Partner shall be entitled to a Death Benefit. No Death Benefit shall be payable if the Member is not survived by a Spouse or Domestic Partner. Such Death Benefit shall be a monthly income, payable for the life of the Spouse or Domestic Partner equal to the benefit that would have been payable to such Spouse or Domestic Partner if the Member had retired on the day before the date of death and elected the form of payments specified in Section 1511.2 with 100% of the reduced benefits continued to the Member's Spouse or Domestic Partner for lifetime. Such Spouse or Domestic Partner Death Benefit payments shall commence on the first day of the month next following the Member's date of death. Notwithstanding the above, if a Member had reached the Member's Normal Retirement Date and had made a written election as to the form of benefit payments pursuant to Section 1511, then, upon the Member's death prior to the commencement of benefits, any Death Benefit shall be payable in accordance with such written election. (Ord. 1353, Eff. 08/01/85; Ord. 1849, Eff. 7/31/90; Ord. 2503, Eff. 01/09/96; Ord. 2639, Eff. 03/13/97; Ord. 4289, Eff. 02/23/11)

1534. Death of Retired or Disabled Member, Effect.

When a Retired or Disabled Member who, in either event, is receiving benefits in the form specified in Section 1511.2 hereunder shall die, his Beneficiary shall be entitled to any benefits due under the elected alternate form of payment of his Monthly Pension Income. Should the period of guaranteed payments be exhausted at the death of the Retired or Disabled Member, no Death Benefits shall be payable. If a Death Benefit is payable under any alternative form, the Pension Plan Administration Committee may, in its discretion, direct the Trustee to pay the Beneficiary the Actuarial Value of the outstanding benefits in a single sum. (Ord. 1353, Eff. 08/01/85; Ord. 2503, Eff. 01/09/96)

1535. Death of Designated Beneficiary, Effect.

If a Death Benefit arising under Section 1511.1 or 1511.2 is payable under Sections 1530-1534, and the designated Beneficiary has predeceased the deceased Member, the Death Benefit shall be paid to the contingent Beneficiary. If neither the Beneficiary nor the contingent Beneficiary is living at the time of the death of the Member, the Pension Plan Administration Committee shall direct the Trustee to pay the Death Benefit in a single sum to the estate of the deceased Member. If the Beneficiary or contingent Beneficiary is living at the death of the Member, but such person dies prior to receiving the entire Death Benefit, the remaining portion of such Death Benefit shall be paid in a single sum to the estate of such deceased Beneficiary or contingent Beneficiary. (Ord. 1353, Eff. 08/01/85; Ord. 2503, Eff. 01/09/96)

1536. Cost-of Living Adjustment.

Only in the case of members who terminate after July 30, 1990 and are vested or are eligible for immediate retirement benefits, a cost-of-living adjustment is authorized under

these conditions:

(i) The Pension Plan Administration Committee before June 1 of each year shall determine the annual adjustment if any. The adjustment shall apply to retirement benefits being paid on behalf of eligible members including beneficiaries.

(ii) The amount of the adjustment shall not exceed one and one-half percent (1.5%) and may be either zero percent (0%) or one and one-half percent (1.5%). (Ord. 2770, Eff. 12/16/97)

(iii) The Pension Plan Administration Committee shall use a guide for setting the amount of the cost-of-living adjustment, the amount of increases given to Jackson County merit employees for the previous year, the Consumer Price Index (CPI), and any other measure the Committee deems appropriate for measuring cost-of-living increases.

(iv) Cost-of-living adjustments, if any, shall apply to the July 1 pension payments. (Ord. 1849, Eff. 7/31/90; Ord. 2503, Eff. 01/09/96)

1537. - 1539. RESERVED

1540. Pension Plan Board of Trustees, Composition and Appointment.

There is hereby established a Board of Trustees which shall be composed of eleven person and who shall be responsible for the governance and management of the Plan. (Ord. 4083, Eff. 02/17/09)

1540.1 Composition.

The composition and membership of the Board of Trustees shall be established as follows. (Ord. 4083, Eff. 02/17/09)

(a) Employer's Chief Administrative Officer, while holding said office; (Ord. 4083, Eff. 02/17/09)

(b) Employer's Director of Human Resources, while holding said office; (Ord. 4083, Eff. 02/17/09)

(c) Nine (9) members appointed by the County Executive, subject to the disapproval of the County Legislature, as follows: (Ord. 4083, Eff. 02/17/09)

(i) one (1) active Member of the Plan employed by the Circuit Court of Jackson County; (Ord. 4083, Eff. 02/17/09)

((ii) one (1) active Member of the Plan from the bargaining unit within the Office of the Prosecuting Attorney and with which the Office of the Prosecuting Attorney has a valid Memorandum of Understanding, whose initial term will be no more than two years and any and all subsequent terms for the initial appointee or his successor shall be for no more than four years or the term of the Memorandum of Understanding, whichever is less; (Ord. 4083, Eff. 02/17/09)

(iii) two (2) other active Members of the Plan, but not more than one from any one department; (Ord. 4083, Eff. 02/17/09)

(iv) four (4) independent business executives with special consideration to be given to those with investment experience; and (Ord. 4083, Eff. 02/17/09)

(v) one (1) labor leader or union representative affiliated with a labor organization or union with which the Employer has a current Memorandum of Understanding. (Ord. 4083, Eff. 02/17/09)

After the initial terms of office provided for in Section B of Ordinance 4083., each member of the Board shall serve a term of four years, except as otherwise provided in this section.* If a vacancy occurs in the office of a member of the Board, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (Ord. 4083, Eff. 02/17/09)

1540.2 Officers.

The Board shall elect a Chairperson, Vice Chairperson, Secretary, and any other officers it deems necessary, from its members, by majority vote. (Ord. 4083, Eff. 02/17/09)

1540.3 Notification.

The Employer will notify the Actuary of the names of the members of the Board of Trustees and of any changes in the membership of the Board that may take place from time to time. (Ord. 4083, Eff. 02/17/09)

* Revisor's addition pursuant to section 142.4f of this code.

1540.4 Board of Trustees, Dismissal With Cause.

The Employer by action of the County Executive may dismiss any member of the Board of Trustees at any time with cause. No compensation shall be paid members of the Board of Trustees from the Fund for services on such Board. However, Board members who are also County employees shall not suffer any loss of pay for time spent in fulfillment of their duties as Board members. (Ord. 4083, Eff. 02/17/09)

1541. Board of Trustees, Governance Duties.

The Board of Trustees is responsible for the overall governance of the Pension Plan, including all administrative, operational, and investment functions. The Board shall have all the powers and duties that are necessary and proper to enable it to fully and effectively carry out its responsibilities. (Ord. 4083, Eff. 02/17/09)

1541.1 Quorum and Meetings.

Six (6) members of the Board at any time in office shall constitute a quorum for the transaction of business. Each member shall be entitled to one vote. All resolutions and other actions taken by the Board at any meeting shall be by a vote of the majority of those present at any such meeting. The Board shall hold meetings upon such time(s) as it from time to time determines, provided such meetings shall be held at least once in each calendar quarter. The Board shall publish a schedule of such meetings, which shall be open to the public unless the subject matter of such meetings permits such meetings to be closed pursuant to state law. Five (5) members of the Board may call for a special meeting upon five (5) days' written notice. (Ord. 4083, Eff. 02/17/09)

1541.2 Recording of Proceedings.

The Board shall cause to be kept a record of all of its proceedings and such records and other data as may be necessary for the administration of the Plan. (Ord. 4083, Eff. 02/17/09)

1541.3 Custodian of the Fund.

The Board shall direct the Custodian, if any, with respect to the distribution and disbursement from the Fund. (Ord. 4083, Eff. 02/17/09)

1541.4 Experts.

The Board may engage and retain, as may be reasonable and necessary, experts, advisors, and consultants to provide advice and counsel in matters relating to the Plan. Actuary, investment consultant, investment manager, custodian, and legal counsel are specific examples of technical advisors the Board may typically employ. (Ord. 4083, Eff. 02/17/09)

1541.5 Rulemaking.

Subject to the limitations of the Plan, the Board may establish rules for the transaction of its business and for the governance of the Plan. Without limiting the generality of the preceding sentence, it is specifically provided that the Board shall set forth in writing, available for inspection by any interested party, the procedures to be followed in presenting claims for benefits under the Plan. (Ord. 4083, Eff. 02/17/09)

1541.6 Employer's Records, Reliance Upon.

The Board shall rely on the records of the Employer, as certified to it, with respect to any and all factual matters dealing with the employment of an Employee or Member. In case of any factual dispute hereunder, the Board shall resolve such dispute giving due weight to all available evidence. The Board shall interpret the Plan and shall determine all questions arising in the administration, interpretation, and application of the Plan. All such determinations shall be final, conclusive, and binding except to the extent they are appealed under the claims procedure inspection 1543 of this chapter. (Ord. 4083, Eff. 02/17/09)

1541.7 Budget.

The Board will pay, or cause to be paid, from the Fund, all the expenses of administering the Plan and the Fund. On or before October 1 of each year, the Board shall submit to the County Executive its budget for the administrative expenses of the Plan for the following year, for inclusion in the County Executive's recommended annual County budget. The term "administrative expenses" generally refers to funds paid out by the Board for any purpose other than as benefits to Plan Members. It includes all professional and consultants' fees and expenses (including the fees of investment consultants), but does not include commissions or fees paid to investment managers. Administrative expenses shall not exceed .25% of the Fund's assets on an annual basis, except upon recommendation of the Board and approval by the County Legislature. (Ord. 4083, Eff. 02/17/09; Ord. 4261, Eff. 11/1/10)

1541.8 Staff Support.

The Human Resources Department and the Financing and Purchasing Department shall provide administrative and staff support as requested by the Board, and approved by the respective department directors. Furthermore, the Board may, in its discretion, delegate some or all of its responsibilities under section 1542. to one employee of the Employer designated to serve as the Plan Administrator. (Ord. 4083, Eff. 02/17/09)

1541.9 Compliance with State Law.

At all times, members of the Board of Trustees shall comply with the reporting, training, and all other applicable provisions of chapter 105, RSMo. (Ord. 4083, Eff. 02/17/09)

1541.10 Compensation.

Board members shall serve without compensation to their Board service. However, Board members who are also Employees shall not suffer any loss of compensation for time spent in fulfillment of their duties as Board members. (Ord.4083, Eff. 02/17/09)

1541.11 Indemnification.

The provisions of chapter 16 of this code shall apply to the Board Members and the Plan Administrator. (Ord. 4083, Eff. 02/17/09)

1542. Board of Trustees, Administrative Duties.

The Board shall administer the Plan through its authorized officers in a uniform and nondiscretionary manner. The Board shall administer the Plan in accordance with its terms and it shall have all powers necessary to carry out the provision of the Plan (except such powers as are reserved by the Plan or by law to the Employer), whether or not such powers are specifically enumerated herein, but not inconsistent with any of the express terms and conditions of the Plan. Notwithstanding the foregoing, the Employer shall have the absolute and sole right to determine and make appropriations for funding contributions to the Plan and the Board's powers and rights under the Plan shall be limited to investment, custodial, and administrative functions. (Ord. 4083, Eff. 02/17/09)

1542.1 Determine Benefits Eligibility.

The Board, in its discretion, is authorized to determine eligibility for benefits under the Plan and construe the Plan's terms. The Board shall approve all applications for Plan benefits. (Ord. 4083, Eff. 02/17/09)

1542.2 Plan, General Management.

Without limiting the generality of the foregoing, the Board shall have the general management of the Plan and, subject to the powers specifically reserved herein and inherent to the Employer, the sole, final absolute right to reconcile any inconsistency in the Plan, to interpret and construe the provisions of the Plan in all particulars, in such manner and to such extent as it deems proper, and to take all action and make all decisions and determinations under the Plan and/or in connection with its administration, interpretation, and application. (Ord. 4083, Eff. 02/17/09)

1542.3 Construction by Board, Binding.

Any interpretation or construction placed upon any term or provision of the Plan by the Board, any decision of the Board with regard to the eligibility of an Employee to become a Member, the right of a Member, a Former Member, or the Beneficiaries, or any person, any reconciliation or inconsistency in the Plan made by the Board or any other action, determination, or decision whatsoever taken by the Board shall be final, conclusive, and binding upon all persons and parties interested in or concerned with the Plan, including but not by way of limitation, the Employees, Members, Former Members, and Beneficiaries, subject, however, to review in the Circuit Court of the Jackson County, Missouri, pursuant to administrative procedures established by Missouri State law. (Ord. 4083, Eff. 02/17/09)

1542.4 No Personal Interest.

No Board member shall act or vote in any case in which his or her individual right or claim to any benefit is particularly involved. (Ord. 4083, Eff. 02/17/09)

1543. Claim Procedures.

1543.1 Filing Claims.

Claims for benefits under the Plan shall be filed with the Plan Administrator on forms supplied by the Plan Administrator. Notice of the Plan Administrator's determination shall be furnished the claimant with sixty (60) days of the receipt of the claim, unless special circumstances require an extension of time. In such case, the Plan Administrator may extend the period for not in excess of an additional sixty (60) day period. Such notice shall indicate the special circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a final decision. The claimant shall be given written notice of the Plan Administrator's determination. If the claim is denied in whole or in part, the notice of the denial shall set forth in a manner calculated to be understood by the claimant, the following: (Ord. 4083, Eff. 02/17/09)

- (i) The specific reason or reasons for such denial; (Ord. 4083, Eff. 02/17/09)
- (ii) Specific reference to pertinent Plan provisions on which such denial is based; (Ord. 4083, Eff. 02/17/09)
- (iii) A description of any additional material or information necessary for the claimant to perfect the claim and an

explanation of why such material or information is necessary;
and (Ord. 4083, Eff. 02/17/09)

- (iv) Appropriate information as to the steps to be taken if the claimant desires to request a review of the determination by the Board. (Ord. 4083, Eff. 02/17/09)

If the determination of the Plan Administrator is not furnished to the claimant with the time permitted herein, the claim shall be deemed denied. (Ord. 4083, Eff. 02/17/09)

1543.2 Review of Denied Claims.

A claimant whose claim is denied, in whole or in part, may submit a written request to the Board for a review of its determination within sixty days after the receipt by the claimant of written notification of the denial of the claim. Such claimant, or his or her duly authorized representative, shall be given the opportunity to review pertinent documents and submit issues and comments in writing. A claimant shall have the right to a hearing before the full Board regarding his or her claim and to be represented by his duly authorized representative in such hearing. A decision on review shall be made within sixty days after the receipt of the request for review unless special circumstances require an extension of time. In such case, the Board may extend the period for not in excess of an additional sixty days, provided that the claimant is given written notice of the extension of time within the original sixty day period. The claimant shall be given written notice of the decision on review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include: (Ord. 4083, Eff. 02/17/09)

- (i) Specific reason or reasons for the decision; and (Ord. 4083, Eff. 02/17/09)
- (ii) Specific references to the pertinent Plan provisions on which the decision is based. (Ord. 4083, Eff. 02/17/09)

1543.3 Notices.

If the decision on review is not furnished to the claimant in writing within the time permitted herein, the claim shall be deemed denied on the review. The Board shall maintain minutes of any meeting denying a claim for benefits and of any review thereof and copies thereof shall be made available to the claimant upon written request. (Ord. 4083, Eff. 02/17/09)

1543.4 Rules for Hearings.

Any notice, claim for benefit or request as provided hereunder shall be sent in accordance with the provisions of section 1597. of this chapter. Any notice, claim for benefit, or request as provided hereunder shall be deemed to be given when mailed in accordance with the provisions of section 1597. (Ord. 4083, Eff. 02/17/09)

1544. – 1545. Repealed. (Ord. 4083, Eff. 02/17/09)

1546. Written Certification Required.

The Secretary of the Board shall certify to the Board in writing the payments to be made from the Fund to Members who qualify for such payments hereunder. Written certification to the Board shall specify the name of the Member, his address, his Social Security number, and the amount and form of such payments. (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

1547. Non Discrimination Required.

Neither the Pension Plan Administration Committee nor the Employer shall take any action with respect to any of the benefits provided hereunder or otherwise in pursuance of the powers conferred herein upon the Pension Plan Administration Committee or reserved by the Employer which would be discriminatory in favor of Members or Employees who are elected officials or highly compensated employees or which would result in benefiting one Member, or group of Members, at the expense of another, or in the application of different rules to substantially similar sets of facts. (Ord. 1353, Eff. 08/01/85)

1548 - 1549. RESERVED

1550. Contributions by the Employer.

It is the intention of the Employer, but it does not guarantee to do so, to deposit in the Fund not less frequently than annually, the funds actuarially necessary to provide the benefits under the Plan at the contribution rate specified in the Fund's annual actuarial report. The Employer shall deposit the Employee Contributions as described in section 1505.1 no less frequently than annually. (Ord. 1353, Eff. 08/01/85; Ord. 3432, Eff. 11/05/03; Ord. 4083, Eff. 02/17/09)

1551. Repealed. (Ord. 4083, Eff. 02/17/09)

1552. Actuary, Duties.

The Actuary shall perform an annual actuarial valuation of the Plan and Trust Fund and shall certify to the Employer in writing the results of the valuation. The Actuary in his actuarial valuation shall apply all gains arising in the operation of the Plan, including but not necessarily limited to gains resulting from termination of employment of

members prior to qualifying for benefits hereunder, to reduce the contributions of the Employer pursuant to the funding method and actuarial tables the in use. In addition, an actuarial experience study shall be conducted at least every five years and an actuarial audit, performed by an independent actuary, shall be conducted at least every ten years. (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

1553. - 1559. RESERVED

1560. Repealed. (Ord. 4083, Eff. 02/17/09)

1561. Fund.

The Fund shall be received, held in Trust, and disbursed by the Board in accordance with the provisions set forth in this Plan. No part of the Fund shall be used for or diverted to purposes other than for the exclusive benefit of Members, Retired Members, Disabled Members, Spouses and Beneficiaries under this Plan, prior to the satisfaction of all liabilities hereunder with respect to them. No person shall have any interest in or right to the Fund or any part thereof, except as specifically provided for in this Plan. (Ord. 1353, Eff. 08/01/85; Ord. 4083, Eff. 02/17/09)

1561.1 Fund Deemed Part of Plan.

The Fund shall consist of such contributions with respect to the Plan as shall from time to time be made by the Employer and Members to the Board, and all income and profits thereon and accruals thereto, which assets, payments and accruals are herein referred to as the "Fund." The Fund shall be deemed to form part of the Plan and any and all rights or benefits which may accrue to any person under this Plan shall be subject to all the terms and provisions of the Fund as hereafter provided or as may be amended from time to time. (Ord. 4083, Eff. 02/17/09)

1561.2 Power and Authority of Board Relative to Fund.

Except as otherwise herein specifically provided or under the law of the State of Missouri, the Board shall in general have the power and authority to do and perform, in the same manner and to the same extent as an individual might or could do with his or her own property, any and all acts and things in relation to the Fund which in its judgment are necessary or appropriate for the management, investment and distribution of the Fund. (Ord. 4083, Eff. 02/17/09)

1561.3 Custodian.

The Board may appoint a Custodian to hold cash, securities, and other assets of the Fund, subject to the control and direction of the Board, and to apply the income and principal thereof in accordance with the directions of the Board for the purpose of paying, in accordance with the Plan, retirement and other

benefits to Members of the Plan and their Beneficiaries entitled thereto, and the administrative expenses of the Plan, as hereinafter provided. (Ord. 4083, Eff. 02/17/09)

- (a) Any Custodian shall have custody of the Fund to the extent of cash, securities and assets of the Fund transferred to it and collect all interest due and other income thereon. (Ord., 4083, Eff. 02/17/09)
- (b) As prescribed by said Board, any Custodian shall keep separate books and complete accounts of the Fund, and its books and accounts shall always be subject to public inspection. (Ord. 4083, Eff. 02/17/09)
- (c) The Custodian shall be bonded, as required by the Board. (Ord. 4083, Eff. 02/17/09)
- (d) Upon its resignation or removal by the Board, the custodian shall deliver to its successor all unexpended cash, securities, books, records and other assets which may have come into its possession as Custodian of the Fund. (Ord. 4083, Eff. 02/17/09)
- (e) Any Custodian shall make disbursements from the Fund to such persons, at such times and in such amounts as the Board shall direct in writing. A Custodian shall be fully protected in making such disbursements from the Fund from time to time upon such written directions of the Board and shall be charged with no responsibility whatever respecting the application of such disbursements. (Ord. 4083, Eff. 02/17/09)

1561.4. Investment Manager.

(a) In the event the Board, in its discretion, appoints one (1) or more Investments Managers to manage (including the power to acquire or dispose of) all, or one (1) or more portions, of the Fund, all or, as the case may be, any portion of the Fund under the management of an Investment Manager shall be hereafter referred to as "directed fund." (Ord. 4083, Eff. 02/17/09)

(b) Upon appointment of an Investment Manager, the Board shall give notice to the Custodian, if any, certifying (i) the name and address of the Investment Manager; (ii) that said Investment Manager is an "investment manager" as such term is defined in Section 3(38) of the Employee

Retirement Income Security Act of 1974, as now or hereafter amended from time to time, and has acknowledged in writing that it is a fiduciary with respect to the Plan; and (iii) the assets of the Fund to be allocated the directed fund over which such Investment Manager shall have responsibility. (Ord. 4083, Eff. 02/17/09)

(c) Upon the termination of the appointment of an Investment Manager (whether by expiration of the term of its appointment, removal, or resignation or otherwise), the Board shall give notice to any Custodian of such termination. (Ord. 4083, Eff. 02/17/09)

(d) Unless a Custodian shall receive notice that another Investment Manager has been appointed to replace the Investment Manager whose appointment was terminated, the directed fund over which the Investment Manager whose appointment was terminated had responsibility shall cease being a directed fund. (Ord. 4083, Eff. 02/17/09)

(i) A Custodian shall not be liable for any losses to the Fund from assets acquired, held, or transferred by an Investment Manager. (Ord. 4083, Eff. 02/17/09)

(e) Each Investment Manger shall have exclusive authority to manage (including the power to acquire or dispose of assets) the directed fund which is its responsibility, except that the Board or a Custodian may invest and reinvest cash of a directed fund for a short term. (Ord. 4083, Eff. 02/17/09)

1561.5 Investments by Board or Custodian.

For this purpose, the Board or a Custodian may, in its sole discretion, invest such cash in savings accounts and certificates of deposit with any financial institution and purchase, hold and sell United States Treasury bills, commercial paper, bankers' acceptances and similar investments including individual or participating interests therein and in commingled or collective funds composed of such investments. (Ord. 4083, Eff. 02/17/09)

(a) Each Investment Manager shall furnish the Board and any Custodian from time to time with the names and signatures of those persons authorized to direct the Board and Custodian on its behalf. (Ord. 4083, Eff. 02/17/09)

(b) The Board and any custodian may request that all direction of an Investment Man ager be in writing and, if the Board or Custodian shall so

request, the Board or Custodian shall assume no liability hereunder for failure to act pursuant to directions from the Investment Manager unless and until the Board or Custodian shall receive directions in writing. (Ord. 4083, Eff. 02/17/09)

1561.6 Purchase and Sales, Settlement.

The Board or a Custodian shall settle purchases and sales of assets of a directed fund upon the direction of the Investment Manager responsible for such directed fund. (Ord. 4083, Eff. 02/17/09)

1561.7 Orders, Investment Manager May Issue.

An Investment Manager may issue orders for the purchases or sales of securities directly to a broker or dealer. (Ord. 4083, Eff. 02/17/09)

(a) Written notification of the execution of each such order shall be given promptly to the Board or Custodian by the Investment Manager and the execution of each such order shall be confirmed by the broker to the Investment Manager and to the Board or Custodian. (Ord. 4083, Eff. 02/17/09)

(b) Such notification shall be authority to the Board or Custodian to receive securities purchased against payment therefore and to deliver securities sold against receipt of the proceeds therefrom, as the case may be. (Ord. 4083, Eff. 02/17/09)

1561.8 Board and Custodian, No Duty to Review.

The Board or Custodian shall be under no duty or obligation to review or to question any direction of an Investment Manager or to review the securities or other property held in any directed fund with respect to prudence, proper diversification of Trust funds, or compliance with any limitation on an Investment Manager's authority whatsoever. (Ord. 4083, Eff. 02/17/09)

1561.9 Board and Custodian Not Liable.

Neither the Board or Custodian shall be liable for the acts or omissions of any Investment Manager unless the Board or Custodian knowingly participates in or knowingly undertakes to conceal an act or omission of such Investment Manager, knowing such act or omission constitutes a breach of fiduciary responsibility of the Investment Manager. (Ord. 4083, Eff. 02/17/09)

1561.10 No Inference of Participation by Board.

The performance by the Board or Custodian of trades, custody, reporting, recording, and bookkeeping with respect to a directed fund shall not be deemed

to give rise to any participation or knowledge on the part of the Board or Custodian. (Ord. 4083, Eff. 02/17/09)

1561.11 Board and Custodian, Duty to Notify.

If the Board or Custodian has other knowledge of a breach committed by the Investment Manager, it shall notify the Board and County Legislature which shall assume responsibility to remedy such breach. (Ord. 4083, Eff. 02/17/09)

1562. – 1563 Repealed. (Ord. 4083, Eff. 02/17/09)

1564 - 1569. RESERVED

RESERVATION OF RIGHTS BY THE EMPLOYER AND LIMITATIONS ON RIGHTS OF MEMBERS

1570. Pension Plan Not a Contractual Obligation.

Although it is the intention of the Employer that this Plan shall be continued and contributions made regularly each year, this Plan is entirely voluntary on the part of the Employer and the continuance of the Plan and the payments thereunder are not assumed as a contractual obligation of the Employer. The Employer does not guarantee or promise to pay or cause to be paid any of the benefits provided by this Plan. (Ord. 1353, Eff. 08/01/85)

1571. Employer Has Sole Discretion.

The Employer specifically reserves the right, in its sole and uncontrolled discretion and by official and authorized act, to modify, suspend, in whole or in part, at any time or from time to time, and for any period or periods, or to discontinue at any time, the contributions specified in Section 1550 of this chapter. (Former reference to “Section VII of this Plan” changed to “Section 1550. of this chapter” by the Revisor pursuant to section 142.4. f., for ease of reference). (Ord. 1353, Eff. 08/01/85)

1572. Pension Plan, Not Consideration.

This Plan shall not be deemed to be a consideration or an inducement for the employment of any Member or Employee. Nothing contained in this Plan shall be deemed to give any Member or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Member or Employee at any time regardless of the effect which such discharge shall have upon him as a Member of the Plan. (Ord. 1353, Eff. 08/01/85)

1573. Benefits, Non Assignable.

None of the benefits under the Plan are subject to the claims of creditors of Members, Retired Members, Disabled Members or their Beneficiaries and will not be subject to

attachment, garnishment or any other legal process. Neither a Member, a Retired Member, a Disabled Member, a Beneficiary, nor a Spouse or Domestic Partner may assign, sell, borrow on or otherwise encumber any of his beneficial interest in this Plan and the Trust Fund nor shall any such benefits be in any manner liable for or subject to the deeds, contracts, liabilities, engagements, or torts of any Member, Retired Member, Disabled Member, Beneficiary, or Spouse. (Ord. 1353, Eff. 08/01/85; Ord. 4289, Eff. 02/23/11)

1574. Pension Plan, Amendments.

The Employer reserves the right at any time and from time to time, without consent of Members, active or retired, Spouses, Beneficiaries or any person or persons claiming through them, by action of the County Legislature to modify or amend, in whole or in part, any or all of the provisions of the Plan; provided that no such modification or amendment shall make it possible for any part of the assets of the Plan to be used for or diverted to purposes other than for the exclusive benefit of Members, Disabled Members and Retired Members and their Spouses and Beneficiaries under the Plan, prior to the satisfaction of all liabilities with respect to such Members, Disabled Members and Retired Members and their Spouses and Beneficiaries under the Plan. (Ord. 1353, Eff. 08/01/85)

1575. - 1579. RESERVED

PERMANENT OR TEMPORARY DISCONTINUANCE OF PLAN

1580. Pension Plan, Power to Discontinue.

The Employer, by action of the County Legislature, may suspend payments to the Trust Fund for any year and may terminate this Plan at any time. (Ord. 1353, Eff. 08/01/85)

1581. Pension Plan, Effect of Discontinuance.

If the Employer terminates this Plan or permanently suspends contributions, the Pension Plan Administration Committee shall direct the Actuary to compute the value of the Trust Fund held for the benefit of Members, Retired Members, vested terminated Members, Disabled Member, Spouses, and Beneficiaries otherwise eligible to receive benefits hereunder. The Pension Plan Administration Committee, based upon the certification of the Actuary, shall apportion the amount so valued to all such Members, Retired Members, vested terminated Members, Disabled Members and/or their Beneficiaries and Spouses in shares as determined in Section 1582. The Plan shall be deemed to have been terminated upon a permanent discontinuance or suspension of contributions. Upon either full or partial termination of the Plan an affected Member's Accrued Benefit at the date of termination shall become fully Vested and nonforfeitable to the extent funded. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94)

1582. Trust Fund, Order of Precedence.

The value of the Trust Fund remaining after providing for the expenses of administration of the Plan and Trust to the extent sufficient shall be allocated for the purpose of paying Monthly Pension Income, Disability Payments and Death Benefits under the terms of this Plan in the following order of precedence: (Ord. 1353, Eff. 08/01/85)

1582.1 To provide for the distribution of the accumulated participant contributions held in the Trust Fund for any participants in the Prior Plan who were not employed by the Employer as an Employee on December 31, 1976. Such allocation shall be reduced by any amounts paid previously to or on behalf of the participants under the terms of the Prior Plan or this Plan and the amounts allocated and funded under subsequent subsections of this Section 1582. (Ord. 1353, Eff. 08/01/85)

1582.2 To provide Monthly Pension Income to Retired Members, Disability Payments to Disabled Members and Death Benefits to Beneficiaries receiving such income or payments under this Plan prior to its termination, without reference to the order in which they first qualified for such benefits. (Ord. 1353, Eff. 08/01/85)

1582.3 To provide immediate Monthly Pension Income under the terms of this Plan, as if it were in effect, to Members who have reached their Normal Retirement Date (including terminated Members entitled to a Monthly Pension Income on reaching their Normal Retirement Date), Disability Payments to Members qualifying for such payments on date of termination and Death Benefits to Beneficiaries qualified for such income or payments, but not yet receiving them as of date of termination, without reference to the order in which they first qualified for such benefits. (Ord. 1353, Eff. 08/01/85)

1582.4 To provide Monthly Pension Income at Normal Retirement Date under the terms of this Plan as if it were in effect to Members who have fulfilled the requirements of Sections 1530 through 1534 to be eligible for a termination benefit, whether or not they have actually terminated, without reference to the order in which they shall reach Normal Retirement Date. The amount of such Monthly Pension Income shall be equal to the Member's Accrued Benefit as of the date of termination. (Ord. 1353, Eff. 08/01/85)

1582.5 To provide Monthly Pension Income at Normal Retirement Date, equal to the Member's Accrued Benefit, to all other Members of the Plan not eligible for benefits under any other part of this Section 1582, without reference to the order in which they shall reach Normal Retirement Date. (Ord. 1353, Eff. 08/01/85)

The allocation of the Trust Fund in accordance with Section 1582 shall be based on the method of payment of Monthly Pension Income, Disability Payments or Death Benefits specified in the Plan. In the event that the Trust Fund assets on or after the date of termination are insufficient to fund all benefits within any class, the benefits of all higher order of precedence shall be funded, the benefits of all lower order of precedence shall be unfunded, and the assets remaining shall be allocated proportionately among Members of that class on the basis of the Actuarial Value of their Accrued Benefits (Ord. 1353, Eff. 08/01/85).

1583. On Discontinuance, Assets May Continue in Trust, or Be Distributed.

The application of the Trust Fund as set out in Section 1582 shall be calculated by the Actuary and certified to the Employer by the Pension Plan Administration Committee as of the date on which the Plan terminated. When the calculations have been completed, the interest of each Member, vested terminated Member, Retired Member, Disabled Member, Spouse, and Beneficiary may continue to be held in the Trust Fund pursuant to the terms of Section 1582 hereof, or, at the direction of the Employer, the Trust Fund may be liquidated and each of their interests distributed to them in the form of annuity contracts, annuity payments, installments or in a lump sum as determined by the Employer; provided, however, that any funds remaining after the satisfaction of all liabilities to Members, vested terminated Members, Retired Members, Disabled Members, Spouses, and Beneficiaries under this Plan due to erroneous actuarial computations shall be returned to the Employer. (Ord. 1353, Eff. 08/01/85)

1584. - RESERVED

ACTUARY

1585. Actuary, Duties.

The Actuary shall make all actuarial calculations and perform all duties required of him hereunder. In making an actuarial valuation of the Plan and Trust Fund from time to time, the Actuary may rely upon the written statement of the Trustee concerning the assets in the Trust Fund and shall not be required to make any independent calculations with respect thereto. The Actuary shall certify to the Employer in writing the results of the calculations required of him and the Employer may rely thereon. (Ord. 1353, Eff. 08/01/85; Ord. 2322, Eff. 09/29/94)

1586. Employer Furnishes Information to Actuary.

The Employer shall furnish the Actuary such information on Employees, payrolls, and other related data as the Actuary may require from time to time. (Ord. 1353, Eff. 08/01/85)

1587. Actuary May Rely.

The Actuary may rely upon any information furnished him by the Employer, Trustee or

the Pension Plan Administration Committee. (Ord. 1353, Eff. 08/01/85)

MISCELLANEOUS

1588. Repealed. (Ord. 4083, Eff. 02/17/09)

1589. Headings Ignored.

Any headings or subheadings in this Plan are inserted for convenience of reference only and are to be ignored in the construction of any provisions hereof. (Ord. 1353, Eff. 08/01/85)

1590. Missouri Law.

This Plan shall be construed in accordance with the laws of the State of Missouri. (Ord. 1353, Eff. 08/01/85)

1591. Minor or Incompetent Beneficiary.

In making any distribution to or for the benefit of any minor or incompetent Beneficiary, the Trustee, in its sole, absolute and uncontrolled discretion, may, but need not, make such distribution to a legal or natural guardian of such incompetent, and any such guardian shall have full authority and discretion to expend such distribution for the use and benefit of such minor or incompetent. The receipt of such guardian shall be a complete discharge to the Trustee, without any responsibility on its part or on the part of the Pension Plan Administration Committee to see to the application thereof. (Ord. 1353, Eff. 08/01/85)

1592. Executed Copy of Plan.

An executed copy of this Plan shall be furnished the Actuary and the Trustee. (Ord. 1353, Eff. 08/01/85)

1593. Severability Clause.

In case any provision of this Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not effect the remaining parts of this Plan and this Plan shall be construed and enforced as if such illegal and invalid provisions had never been inserted herein. (Ord. 1353, Eff. 08/01/85)

1594. Misstatement of Fact.

A misstatement in the age, sex, length of "continuous employment", Service or Credited Service, date of employment or birth, or compensation of a Member, or any other such matter, shall be corrected when it becomes known that any such misstatement of fact has occurred. (Ord. 1353, Eff. 08/01/85)

1595. Corpus or Income of Trust.

The Employer shall be entitled to no part of the corpus or income of the Trust Fund and no part thereof shall be used for or diverted to purposes other than for the exclusive benefit of the Members and Beneficiaries hereunder, except as provided in Section 1583 herein at the time of termination of the Plan. (Ord. 1353, Eff. 08/01/85)

1596. Pension Plan, Merger or Consolidation.

In the case of any merger or consolidation with or transfer of assets or liabilities of the Plan to any other plan, such merger, transfer or consolidation shall by its terms provide that each Member of the Plan would, if the Plan then terminated, receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer if this Plan had then terminated. (Ord. 1353, Eff. 08/01/85)

1597. Requirements of Due Notice.

Any notice, request, direction, or approval required or permitted to be given hereunder shall be deemed to have been duly given or made only: (Ord. 4083, Eff. 02/17/09)

(a) If to a person, upon personal delivery thereof to such person or upon the mailing of the same by United States certified or registered mail, postage fully prepaid, and duly addressed to such person at the last address of such person appearing upon the records of the Employer. (Ord. 4083, Eff. 02/17/09)

(b) If to the Employer, upon personal delivery thereof to the Plan Administrator of the Board, or upon mailing the same by United States certified or registered mail, postage fully prepaid, and duly addressed to the Employer at its principal place of business (or such other address as the County Legislature may hereafter designate by notice to the Board). (Ord. 4083, Eff. 02/17/09)

(c) If to the Plan Administrator of the board, upon personal delivery thereof to the Plan Administrator of the board, or upon mailing a copy of the same by United States certified or registered mail, postage fully prepaid, and duly addressed to the Plan Administrator of the Board of the address of the Employer (or such other address as the County Legislature may hereafter designate by notice to the Board). (Ord. 4083, Eff. 02/17/09)

(d) if to the Board, upon personal delivery thereof to the chairman of the Board, or upon mailing the same by United States certified or registered mail, postage fully prepaid, and duly addressed to such person at the address shown on the records (Ord. 4083, Eff. 02/17/09)