

INSTRUCTION SHEET ADDITIONS TO MILWAUKEE CITY CHARTER

SUMMARY

This supplement incorporates changes to the Milwaukee City Charter enacted by the following Common Council file:

150113 A substitute charter ordinance relating to the employees' retirement system's compliance with Internal Revenue Code provisions.

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove <u>old</u> MEMO (Suppl. #173)				i-ii v-vi	i-ii v-vi
36-02.5	cr	150113	8/19/2015	306a-306b	306a-306b
36-05-1-j	rc	150113	8/19/2015	319-322	319-322d
36-05-12	cr	150113	8/19/2015	339-342	339-342b
36-09-8	cr	150113	8/19/2015	353-366	353-366
36-10-2-b-3	rc	150113	8/19/2015	"	"

For subscription, distribution or insertion questions contact the Legislative Reference Bureau, Code Section, (414) 286-3905.

For questions concerning the content of the Milwaukee Code or Ordinances contact the Legislative Reference Bureau, Research Section, (414) 286-2297.

Abbreviations:

am=amended
cr=created

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

CITY OFFICIALS

2012 to 2016

Mayor
Tom Barrett

Council President
Michael J. Murphy

The Common Council
(By Aldermanic District)

1. Ashanti Hamilton
2. Joe Davis, Sr.
3. Nik Kovac
4. Robert J. Bauman
5. James A. Bohl, Jr.
6. Milele A. Coggs
7. Willie C. Wade
8. Robert G. Donovan

9. Robert W. Puente
10. Michael Murphy
11. Vacant
12. Jose G. Perez
13. Terry L. Witkowski
14. Tony Zielinski
15. Russell W. Stamper, II

City Clerk: Jim Owczarski
Deputy: Rebecca N. Grill

City Attorney
Grant F. Langley

City Comptroller
Martin Matson

City Treasurer
Spencer Coggs

Municipal Judges

Branch 1
Valarie Hill

Branch 2
Derek Mosley

Branch 3
Phil Chavez

FORWARD

The Milwaukee City Charter is a compilation of laws affecting the City of Milwaukee adopted by the Wisconsin Legislature and the Milwaukee Common Council. It contains the original 1874 charter and all amendments to it subsequently adopted. It also contains session laws adopted by the Legislature which affect the city but are not printed in the Wisconsin Statutes.

In 1984, the Charter was printed in its current format of an updatable looseleaf. A number of session laws contained in the previous (1977) edition of the Charter were removed because of actions by the State Legislative either repealing them or incorporating them into the printed Wisconsin Statutes. A list of those removed and where they are located in the statutes is contained in Appendix I.

As changes are made to this Charter by the Common Council, replacement pages will be issued, along with specific instructions regarding pages to be removed or inserted.

Richard G. Pfaff, Manager
Legislative Reference Bureau
March, 2014

The numbering system for the Milwaukee City Charter and Code of Ordinances is patterned on that used for the Wisconsin Statutes (except for the use of dashes in place of parentheses) and is as follows:

Chapter	-	Section	-	Subsection	-	Paragraph	-	Subdivision	-	Subparagraph
70	-	10	-	3	-	a	-	4	-	b

If there are questions regarding the numbering system, or the correct method of citation, please contact the Legislative Reference Bureau.

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through June 2, 2015.

Revised 6/2/2015
Suppl. #174

1971. Sub. 32 rn. to 31 File #950869, October 17, 1995; eff. January 2, 1996. Sub. 31 rc. File #041179, Feb. 1, 2005; eff. April 19, 2005.)

36-02.5. Tax Code Compliance. The following are effective January 1, 2002:

1. The retirement system is established as a qualified defined benefit plan, pursuant to ss. 401(a) and 414(d) of the Internal Revenue Code and other applicable provisions of the Internal Revenue Code, as well as applicable U.S. treasury regulations and other guidance.

2. The assets of the retirement system shall never inure to the benefit of the city or any city agency, and shall be held for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan.

3. A member shall be 100% vested in his or her retirement benefit upon attaining eligibility for a retirement benefit.

4. A member shall be 100% vested at all times in a benefit determined under this chapter attributable to the member's accumulated contributions paid by the member under this chapter.

5. In the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the retirement system, the accrued benefits of the affected members under this chapter shall be 100% vested and nonforfeitable to the extent funded and required by federal law.

6. In conformity with s. 401(a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members shall not be used to pay benefit increases. The forfeitures shall be used to reduce employer contributions. (36-02.5 cr. File #150113, June 2, 2015; Eff. August 18, 2015.)

36-03. Membership. 1. ELIGIBILITY. The following shall be eligible to membership in the system:

a. Any employe who is entitled to and who elected membership at the time of the creation of the retirement system, or (Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)

b. Any person who becomes an employe after January 1, 1938, and who is eligible under the provisions of this act and who shall satisfy the following conditions:

b-1. Who is a full time employe; or

b-2. Who is a part-time employe who is eligible for membership under rules and regulations adopted by the board; or

b-3. Elected officials who have evidenced their intention to join the system.

[NOTE: Notwithstanding the provisions of subd. 1, any employe of the city or a city agency as defined in s. 36-02, who became eligible for membership in the employes' retirement system as a result of part-time employment in calendar years prior to 1988, but was not enrolled as a member of the employes' retirement system during such years may file a written election not to become a member of the employes' retirement system within 60 days after February 8, 1990. Such election shall be on a form approved by the annuity and pension board and shall constitute a waiver of all present and prospective benefits which would otherwise inure to the employe by virtue of his or her membership in the employes' retirement system. If such employe becomes a member by virtue of service from and after January 1, 1988, such employe shall not be given prior service credit or service as an employe prior to January 1, 1988. (File #881377, Nov. 17, 1989; eff. Feb. 8, 1990.)

36-03-2 Employees' Retirement System

2. WAIVER OF MEMBERSHIP. Any person who filed with the board a written election not to become a member which shall constitute a waiver of all present and prospective benefits which would otherwise inure to him by his participation in the system, may later become a member provided he passes such medical examination as the board may require. If such employe becomes a member within one year after the effective date of establishment of the retirement system, he shall be eligible for prior service credit, but if he does not become a member within such period, he shall not be eligible for prior service credit.

3. DENIAL OF MEMBERSHIP. The board may, in its discretion, admit to membership any employe or class of employes whose compensation is only partly paid by the city or who are serving on a temporary basis, which the board considers eligible under the provisions of this act.

4. REPORT OF CITY OFFICIALS. It shall be the duty of the head of each department or agency of the city government employing persons who are members or are entitled to become members to submit to the board such statements as the board shall require, of the name, title, compensation, duties, date of birth and length of service of each such person employed by such department or agency.

5. TERMINATION OF MEMBERSHIP. Should any member in a period of 10 consecutive years after last becoming a member be absent from service a total of more than 5 years, except as provided in ss. 36-04-1-b and 36-05-6-b-2 and 6 c and d, or should he become a beneficiary as a result of his contributions under this act or die, or should he withdraw his accumulated contributions, he shall thereupon cease to be a member. (*Sub. 5 rc. Ch. Ord. 332, File #67-355-a, July 25, 1967. Sub. 5-b rp. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

6. WHO NOT TO BECOME MEMBERS. The following shall not be eligible for membership in the retirement system:

a. Persons who are actively employed as a teacher and eligible to contribute to the teacher retirement system.

b. Persons who are employed by the city as school crossing guards.

c. Persons who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this act.

d. Part time employes, except those eligible under rules and regulations promulgated by the board.

e. No disability beneficiary restored to active service prior to October 17, 1992 after attaining the minimum service retirement age shall become a member of this system.

f. Persons who are employed by the city as police aides on or after October 3, 2011.

percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's death and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of the survivor allowance at the date of death. If a member, who retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension, and died following retirement, but prior to October 1, 1995, the surviving spouse under such option shall be eligible for a catch-up adjustment to their survivor allowance payable with the first installment next following January 1, 1996 in a percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's retirement and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of the spouse survivor allowance at the time of the member's retirement. If a member, retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension and dies while eligible for catch-up under subpar. a, the surviving spouse under such option shall have the member's catch-up included in the member's allowance in calculating the spouse survivor allowance expressed as a percentage of the member's allowance.

i-2-a. Members who retired prior to January 1, 1993 on a service retirement allowance under par. b or f and members who retired on a duty disability allowance and converted to a service retirement allowance under sub. 3-b or 3-c-3 prior to January 1, 1993 shall be eligible for a pension escalator to their service retirement allowance of up to 2% effective with the installment next following the later of the 8th annual anniversary of service retirement or January 1, 1996 and an additional pension escalator of up to 2% in each successive year effective on each subsequent anniversary of the first adjustment. The first escalator shall be computed on the service

retirement allowance as previously adjusted under subd. 1-a. Each successive escalator shall be computed on the service retirement allowance as previously escalated. The payment of each pension escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. Beneficiaries other than spouses receiving survivor benefits or protective survivor benefits under sub. 7-b-2 shall not be eligible for benefits under this subparagraph. If a member, who elected a spouse survivor option and retired prior to January 1, 1993 on a service retirement allowance under par. b or f, dies, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their survivor allowance of up to 2% effective with the installment next following the later of the 8th anniversary of the member's service retirement or January 1, 1996. If a member elected a protective survivor option and died prior to January 1, 1993 while in active service, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their spouse survivor allowance of up to 2% effective with the installment next following the later of the eighth anniversary of the member's death or January 1, 1996. A spouse receiving a spouse survivor pension escalator shall be eligible for an additional escalator of up to 2% in each successive year effective on each subsequent anniversary of the first escalator to the spouse survivor allowance. The first escalator shall be calculated on the spouse survivor allowance as previously adjusted under this subd. Each successive escalator to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously escalated. The payment of each escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. After January 1, 2000 this subpar. shall not apply to members, retired members or spouse survivors (if the member or retired member is deceased) who participate in the combined fund and spouse survivors of members and retired members who participate in the combined fund.

36-05-1-j Employees' Retirement System

i-2.b. Effective January 1, 2000, the annual escalator payable under par. h-5-a shall be extended to a general city employe, fireman or policeman, retired on a service retirement allowance under par. b, d-3 or f, a general city employe, a fireman or policeman, retired on a duty disability retirement allowance who converted to a service retirement allowance or a general city employe, a fireman or policeman, separated from service who retired on a deferred retirement allowance under sub. 6-b-2, d-2 or e or an immediate allowance under sub. 6-b-3 or c and their spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member is a general city employe retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 2000 or a fireman or policeman retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 1993. If a member eligible for an escalator under this subpar. was eligible for an annual escalator under subpar. a prior to January 1, 2000, the annual escalator payable under this subpar. shall be effective upon the anniversary of the escalator payable under subpar. a if such anniversary is different from the anniversary of the installment next following service retirement. If a member referred to above retires on a duty disability retirement allowance and converts to a service retirement allowance the conversion date shall be used for purposes of determining both the eligibility and the percentage increase of the annual escalator to which the member or spouse survivor is eligible. Effective January 1, 2000, the annual escalator payable under par. h-6 shall be extended to a fireman and policeman who retired on a duty disability retirement allowance of 75% of current salary for their position under sub. 3-c-1-a between October 17, 1992 and December 31, 1994 if he or she is eligible to elect between a service retirement allowance and a duty disability allowance under sub. 3-c-f effective with the installment next following one year after eligibility for an election to convert to a service retirement. Effective January 1, 2000 the annual escalator payable under par. h-6 shall be extended to a fireman or policeman who

separated from service between January 1, 1993 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-b-2 or 6-d-2 or separated from service between January 1, 1995 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-e or separated from service between January 1, 1993 and December 31, 1999 and retired on an immediate allowance under sub. 6-b-3 or c and his or her spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member separated from service prior to January 1, 2000. If a member who is eligible for an increase under this subpar. dies on or after January 1, 2000 his or her spouse's proportionate share of spouse survivor allowance shall be computed based on the amount of the deceased member's allowance including increases at the date of death and the spouse survivor shall be eligible for an annual escalator to his or her spouse survivor allowance at the same time and in the same percentages as the deceased member would have received had the deceased member continued to live. (*Par. i cr. File #942016, July 14, 1995; eff. Sept. 27, 1995. Par. i-1-0 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-1-a and b csrn. to i-1-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-a and b csra. to i-2-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-b cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-b am. File #121701, May 21, 2013; eff. Aug. 10, 2013.*)

j. Internal Revenue Code. In this paragraph, for purposes of testing under s. 415 of the Internal Revenue Code, the limitation year shall be the calendar year.

j-1. Requirements. Notwithstanding any other provisions of the retirement system to the contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of s. 415 of the Internal Revenue Code for a qualified pension plan.

j-2. Participation in Other Qualified Plans: Aggregation of Limits.

j-2-a. The s. 415(b) of the Internal Revenue Code limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in s. 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one plan.

j-2-b. The s. 415(c) of the Internal Revenue Code limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in s. 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one plan.

j-3. Basic 415(b) Limitation.

j-3-a. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in s. 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in s. 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in s. 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the retirement system. In no event shall a member's annual benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to s. 415(d) of the Internal Revenue Code and the regulations thereunder.

j-3-b. For purposes of s. 415(b) of the Internal Revenue Code, "annual benefit" means a benefit payable annually in the form of a straight life annuity, with no ancillary benefits, without regard to the benefit attributable to after-tax employee contributions, except pursuant to s. 415(n) of the Internal Revenue Code, and to rollover contributions as defined in s. 415(b)(2)(A) of the Internal Revenue Code. The "benefit attributable" shall be determined in accordance with U.S. treasury regulations.

j-3-c. The annual pension benefit payable to a member who has a freeze date specified in this paragraph shall not be less than the member's old law benefit. A member's old law benefit shall be the benefit the member was entitled to as of December 31, 1994 (the "freeze date") determined without regard to any changes in the terms and conditions of the retirement system after December 8, 1994.

j-4. Adjustments to Basic 415(b) Limitation for Form of Benefit.

j-4-a. If the benefit under the plan is other than the form specified in par. j-3, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in U.S. treasury regulations.

j-4-b. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subpar. a is applied by either reducing the s. 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount, determined using the assumptions specified in U.S. treasury regulation s. 1.415(b)-1(c)(2)(ii), that takes into account the additional benefits under the form of benefit as follows:

j-4-b-1 For a benefit paid in a form to which s. 417(e)(3) of the Internal Revenue Code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

j-4-b-1-a. The annual amount of the straight life annuity, if any, payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

j-4-b-1-b. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption, or the applicable statutory interest assumption; and

j-4-b-1-b-1. For years prior to January 1, 2009, the applicable mortality tables described in U.S. treasury regulation s. 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

Employees' Retirement System 36-05-1-j-5

j-4-b-1-b-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code); or

j-4-b-2. For a benefit paid in a form to which s. 417(e)(3) of the Internal Revenue Code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

j-4-b-2-a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience; or

j-4-b-2-b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption, or the applicable statutory interest assumption; and

j-4-b-2-b-1. For years prior to January 1, 2009, the applicable mortality tables for the distribution under U.S. treasury regulation s. 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

j-4-b-2-b-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code); or

j-4-b-2-c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit computed under U.S. treasury regulation s. 1.417(e)-1(d)(3); and

j-4-b-2-c-1. or years prior to January 1, 2009, the applicable mortality tables for the distribution under U.S. treasury regulation s. 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); and

j-4-b-2-c-2. For years after December 31, 2008, the applicable mortality tables described in s. 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing s. 417(e)(3)(B) of the Internal Revenue Code), divided by 1.05.

j-4-c. The actuary may adjust the 415(b) of the Internal Revenue Code limit at the annuity starting date in accordance with subpar. b-1 and 2.

j-5. Benefits For Which No Adjustment of the 415(b) Limit is Required.

For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:

j-5-a. Any ancillary benefit which is not directly related to retirement income benefits.

j-5-b. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

j-5-c. Any other benefit not required under s. 415(b)(2) of the Internal Revenue Code and U.S. treasury regulations thereunder to be taken into account for purposes of the limitation of s. 415(b)(1) of the Internal Revenue Code.

j-6. Other Adjustments in 415(b) Limitation.

j-6-a. If the member's retirement benefits become payable before age 62, the limit prescribed by this paragraph shall be reduced in accordance with U.S. treasury regulations pursuant to the provisions of s. 415(b) of the Internal Revenue Code, so that such limit, as so reduced, equals an annual straight life benefit, when such retirement income benefit begins, which is equivalent to a \$160,000, as adjusted, annual benefit beginning at age 62.

j-6-b. If the member's benefit is based on at least 15 years of service as a full-time employe of any police or fire department or on 15 years of military service, the adjustments provided for in subpar. a shall not apply.

j-6-c. The reductions provided for in subpar. a shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

j-7. Less than 10 Years of Participation or Service Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than 10 years of participation shall be the

amount determined under subd. 3, as adjusted under subd. 4 or subd. 6, multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is 10. The limit under subd. 8 concerning the \$10,000 limit shall be similarly reduced for any member who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subdivision cannot reduce the maximum benefit below 10% of the limit determined without regard to this subdivision. The reduction provided for in this subdivision shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

j-8. \$10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the s. 415 of the Internal Revenue Code limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

j-9. Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the limits under s. 415(b) of the Internal Revenue Code (the "Limit") to a member with no lump sum benefit, all of the following shall apply:

j-9-a. A member's applicable Limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any cost-of-living adjustments under pars. h and i.

j-9-b. To the extent that the member's annual benefit equals or exceeds the Limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than the Limit. Thereafter, in any subsequent limitation year, a member's annual benefit, including any cost-of-living increases under pars. h and i, shall be tested under the then-

applicable benefit Limit, including any adjustment to the s. 415(b)(1)(A) of the Internal Revenue Code dollar limit under s. 415(d) of the Internal Revenue Code, and the regulations thereunder.

j-10. Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit shall be applied taking into consideration cost-of-living increases as required by s. 415(b) of the Internal Revenue Code and applicable U.S. treasury regulations.

j-11. Repayments of Cashouts. Any repayment of contributions, including interest, to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system, a retirement system sponsored by the state of Wisconsin or by a unit of local government in the state of Wisconsin shall not be taken into account for purposes of s. 415 of the Internal Revenue Code, in accordance with applicable U.S. treasury regulations.

j-12. Reduction of Benefits Priority. Reduction of benefits or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrators of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrators for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plans and the plan administrators of all other plans covering such member.

j-13. Section 415(c) Limitations on Contributions and Other Additions.

36-05-1-j-13-a Employees' Retirement System

j-13-a. For purposes of this subdivision, effective January 1, 2002, unless otherwise provided, after-tax member contributions or other annual additions with respect to a member may not exceed the lesser of either:

j-13-a-1. \$40,000, as adjusted pursuant to s. 415(d) of the Internal Revenue Code; or

j-13-a-2. 100% of the member's compensation.

j-13-b. Annual additions are defined to mean the sum, for any year, of employer and member contributions to a defined contribution plan, post-tax member contributions to a defined benefit plan, except for purposes of service purchases, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and without regard to employe contributions to a simplified employe pension which are excludable from gross income under s. 408(k)(6) of the Internal Revenue Code and to picked-up employe contributions that are paid to a defined benefit plan. The compensation limit referred to in subpar. a-2 shall not apply to any contribution for medical benefits, within the meaning of s. 419A(f)(2) of the Internal Revenue Code, after separation from service which is treated as an annual addition.

j-13-c. For purposes of applying s. 415(c) of the Internal Revenue Code and for no other purpose, the definition of "compensation", where applicable, shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by U.S. treasury regulation s. 1.415(c)-2, or successor regulation. However, member contributions picked up under s. 414(h) of the Internal Revenue Code shall not be treated as compensation.

j-13-d. "Compensation" shall be defined as wages within the meaning of s. 3401(a) of the Internal Revenue Code and all other payments of compensation to an employe by an employer for which the employer is required to furnish the employe a written statement under ss. 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code, and shall be determined without regard to any rules under s. 3401(a) of the Internal Revenue Code 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 s. 3401(a)(2) of the Internal Revenue Code. However, the following adjustments shall also apply:

j-13-d-1. For limitation years beginning on and after January 1, 2002, "compensation" shall also include amounts that would otherwise be included in compensation but for an election under ss. 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. "Compensation" shall also include any elective amounts that are not includible in the gross income of the member by reason of s. 132(f)(4) of the Internal Revenue Code.

j-13-d-2. For limitation years beginning on and after January 1, 2009, "compensation" for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if any of the following are true:

j-13-d-2-a. The payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours, such as overtime or shift differential, commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

j-13-d-2-b. The payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

j-13-d-2-c. Payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

j-13-d-3. Any payments not described in subpar. d-2 are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service, within the

meaning of s. 414(u)(1) of the Internal Revenue Code, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

j-13-d-4. An employe who is in qualified military service, within the meaning of s. 414(u)(1) of the Internal Revenue Code, shall be treated as receiving compensation from the employer during such period of qualified military service equal to whichever of the following is applicable:

j-13-d-4-a. The compensation the employe would have received during such period if the employe were not in qualified military service, determined based on the rate of pay the employe would have received from the employer but for the absence during the period of qualified military service; or

j-13-d-4-b. If the compensation the employe would have received during such period was not reasonably certain, the employe's average compensation from the employer during the 12-month period immediately preceding the qualified military service, or, if shorter, the period of employment immediately preceding the qualified military service.

j-13-d-5. Back pay, within the meaning of U.S. treasury regulation s. 1.415(c)-2(g)(8), shall be treated as "compensation" for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

j-13-e. If the annual additions for any member for a plan year exceed the limitation under s. 415(c) of the Internal Revenue Code, the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System or similar Internal Revenue Service correction program.

j-13-f. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subdivision shall not exceed the annual limit under s. 401(a)(17) of the Internal Revenue Code.

(Par. j cr. File #060488, Sept. 26, 2006; eff. Dec. 12, 2006. Par. j rc. File #150113; June 2, 2015; eff. August 18, 2015.)

2. ORDINARY DISABILITY RETIREMENT ALLOWANCE. a. Years of Service. a-1. Upon the application for ordinary disability retirement made by a member in active service, or the head of the department or agency employing him where such member is prevented from filing because he is incapacitated, and who has had 10 or more years of creditable service such member may be retired by the board not less than 30 and not more than 90 days next following the date of filing such application for an ordinary disability retirement allowance, provided the medical council, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. *(Subd. 1 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

a-2. If, however, such member has less than 10 years of creditable service, he may apply for disability retirement allowance, but such allowance shall be limited in the duration of its payment to a period of time equal to 1/4 of the entire period of service rendered by such member. If a member granted a limited disability retirement allowance under this subsection is not restored to active service, there shall be refunded to him at the time of the termination of his retirement allowance a lump sum equal in amount to the difference between the amount of his accumulated contributions at the time of his retirement and the sum of the payments actually made to him during his disability retirement which is the actuarial equivalent of his accumulated contributions, conditioned as provided in sub. 6-a. *(Subd. 2 am Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

a-3. Any pre-existing physical condition as determined from a medical examination conducted for the city in connection with the employment of a member shall be deemed a bar to coverage of any disability benefits under this act as a direct or indirect result of such disability. *(Subd. 3 cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

a-4. A fireman whose duty it is to provide emergency medical services and who was enrolled as a fireman on June 1, 1989, shall continue to be eligible for an ordinary disability retirement allowance under pars. a and b for a period of 5 years from the date of enrollment as a fireman and shall have all service in a position whose duty it is to provide emergency medical services included for the purpose of computation of creditable service under this par. and the computation of the entire period of service under par. b. (*Subd. 4 cr. File #890598, July 25, 1989; eff. Oct. 14, 1989.*)

b. Disability Allowance. The ordinary disability retirement allowance shall consist of 90% of the service retirement allowance based on the creditable service to the time of disability, with a minimum allowance of 25% of his final average salary, provided that no retirement allowance shall exceed 90% of the allowance the member would receive were his service continued to the minimum service retirement age. (*Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

c. Firemen and Policemen. Firemen and policemen shall be entitled to ordinary disability benefits as stated hereafter:

c-1. Firemen and policemen who are retired on ordinary disability prior to January 1, 1971, shall be entitled to benefits provided in pars. a and b.

c-2. Firemen and policemen hired before January 1, 1971, but who were in active service on or after January 1, 1971, shall select either the benefits provided in pars. a and b, or the benefits provided under subd. 3.

c-3. The minimum ordinary disability retirement allowance shall consist of an amount equal to 25% of the member's final average salary provided he or she has 5 years of service

as a fireman or policeman; for each year of service in excess of 5 years of such service as a fireman or policeman, he shall receive an additional 2% of his or her final average salary. The maximum ordinary disability retirement allowance which shall be payable to any fireman or policeman member on ordinary disability under this subsection shall be limited to 50% of such member's final average salary. Firemen or policemen shall receive a pro rata retirement allowance based upon this formula for service for any period less than a full year. (*Subd. 3 am. File #020471, July 16, 2002; eff. Oct. 1, 2002.*)

c-4. Firemen and policemen hired after January 1, 1971, shall be entitled to the benefits provided in subd. 3 and shall be entitled to no other selection. (*Subd. 4 cr. Ch. Ord. 394, File #72-1435, Nov. 14, 1972.*)

d. Death Prior to Retirement. In the event a policeman or general city employe who applies for an ordinary disability retirement allowance on or after January 1, 1985 or a fireman who applies for an ordinary disability retirement allowance on or after March 1, 1985, dies prior to retirement but after selecting an option under sub. 7, the application shall continue to be processed as though such member shall have continued to live and if such application is approved, the election of an optional benefit shall become effective on the date of the member's death. This paragraph shall not apply in the event of accidental death benefits payable under sub. 5. (*Par. d cr. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.*)

e. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5-a shall be extended to a general city employe who was enrolled as a member of the retirement system prior to January 1, 2014 and retires, or is retired before January 1, 2000 on an ordinary

a. The bonus for spouse survivors (under a protective survivorship option) shall be 8.6% of the accrued annual spouse survivor allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for an accidental death surviving spouse beneficiary shall be 8.6% of the accrued annual accidental death benefit allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are eligible to convert to a service retirement allowance shall be 8.6% of their accrued service retirement allowance (without adjustment for cost of living) at a conversion age multiplied by the appropriate factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are ineligible for conversion shall be 8.6% of the annual service retirement allowance at age 63 (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. If a member retired on a disability retirement allowance who is ineligible for conversion to a service retirement allowance is older than age 63 as of January 1, 2000 the bonus shall be 8.6% of the member's disability retirement allowance payable for the year immediately prior to January 1, 2000 multiplied by the appropriate factor as set forth in par. a. This par. shall not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-b-3, 6-c or 6-d-2.

c. **Military Service Credit Bonus.** Each member who served and was honorably discharged from the military service prior to first being enrolled in the retirement system and who retired on a service retirement allowance prior to January 1, 2000 shall be eligible for a military service credit bonus if he or she is a participant in the combined fund and is ineligible for military service credit under s. 36-04-1-c. The bonus shall be computed by multiplying the sum of \$1,000,000 by a fraction, the numerator of which is the member's eligible active military service credit and the denominator of which is the total eligible active military service credit of all retirees eligible under this paragraph. Military

service shall have the same meaning as under sec. 36-04-1-c. To be eligible for inclusion in the calculation a period of active service must be a period of not less than 90 consecutive days spent in active military service. One year of military service shall be credited for 3 years of eligible military service, however, the maximum military service credit taken into account for purposes of calculating this bonus shall not exceed one year. The maximum military service credit bonus shall not exceed the amount of the full monthly installment payable for the month immediately prior to January 1, 2000 or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000. The retirement system shall determine the appropriate military documentation for crediting such military service. In order to be eligible for a military service credit bonus, each retired member must apply to the retirement system no later than 6 months following a final and binding determination by a court of competent jurisdiction that this ordinance is legal and enforceable **[reference is to charter ordinance file number 000792, passed Oct. 10, 2000, eff. Jan. 19, 2001].**

d. **Retiree Special Bonus.** Every retiree, spouse survivor and accidental death beneficiary who participates in the combined fund and who is receiving a retirement allowance or accidental death benefit as of January 1, 2000 shall be eligible to receive a lump sum payment. The bonus shall be paid as soon as administratively feasible after January 1, 2000 and shall be equal to the full monthly installment payable for the month immediately prior to January 1, 2000, or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000, multiplied by the following multiplier factor:

36-05-12 Employees' Retirement System

Status at Retirement or Death	Year of Retirement or Death	Multiplier
General City	1997-1999	2
	1996	3
	1995	4
	1994	5
	1993	6½
	1992 and prior	8
Firemen and Policemen	all years	8

If a retiree or spouse survivor eligible to receive a lump sum payment under this par. has received an overpayment of catch-up or COLA payable under s. 36-05-1-i in 1996 or 1997, then, in lieu of the repayment of such overpayment through an adjustment of future benefit payments prescribed in this section, such retiree or spouse survivor shall repay all or a portion of such overpayment by offsetting dollar for dollar the lump sum payable under this section by the amount of the overpayment or 3 times the monthly installment identified in this section whichever is less. If a retiree who died prior to January 1, 2000, elected a spouse survivor who is eligible to receive a lump sum payable under this section the overpayment to such retiree in an amount not to exceed the lesser of the amount of overpayment to such retiree or 3 monthly installment identified in this section (excluding overpayments) payable to the retiree immediately prior to his or her death, shall be set off dollar for dollar against the lump sum payable to the spouse survivor under this section. If the amount of the overpayment exceeds the amount of the dollar for dollar set off applied under this section the excess of the amount of the overpayment over the amount set off shall become an obligation of, and paid from, the combined fund. If a retiree died prior to January 1, 2000, and either did not elect a spouse survivor who is eligible to receive a lump sum payable under this section or elected a spouse survivor who predeceased the retiree the amount of the overpayment to such retiree shall become an obligation of, and paid from, the combined fund. Notwithstanding the foregoing,

the amount set off against the spouse survivor on account of overpayments received by the deceased member, the spouse survivor, or both, shall not exceed 3 times the full monthly installment payable to the spouse survivor for the month immediately prior to January 1, 2000 or if no full monthly installment was payable for the month immediately prior to January 1, 2000, the first full monthly installment payable after January 1, 2000.

e. Designated Beneficiary. A participant in the combined fund eligible to receive a lump sum bonus payment under this subsection shall be permitted to elect a designated beneficiary to receive such payment in lieu of the participant's estate, if the participant dies prior to the payment being made. (*Sub. 11 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 11 am. File #00484, July 11, 2000; eff. Jan. 19, 2001. Sub. 11-b am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-c am. File # 00792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-d am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub 11-e cr. File # 020891, Oct. 15, 2002; eff. Jan 2, 2003.*)

12. HEART ACT AND CODE SECTIONS 401(a)(37) AND 414(u).

a. Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service are governed by s. 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act of 1994.

b. Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in ch. 43 of title 38, United States Code, to the extent required by s. 401(a)(37) of the Internal Revenue Code, survivors of a member in a state or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's

period of qualified military service shall be counted for vesting purposes. This shall not include eligibility for a benefit under sub. 5.

c. Beginning January 1, 2009, to the extent required by s. 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments, as defined under s. 3401(h)(2) of the Internal Revenue Code, from an employer shall be treated as employed by that employer, and the differential wage payments shall be treated as compensation for purposes of applying the limits on annual additions under s. 415(c) of the Internal Revenue Code. This provision shall be applied to all similarly-situated individuals in a reasonably equivalent manner. (Sub. 12 cr. File #150113, June 2, 2015; eff. August 18, 2015.)

36-055. Election of Survivorship Benefits.

1. FIREMEN TO MAKE WRITTEN REQUEST. A member who is a fireman as defined in s. 36-02 and who was employed as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, but was not eligible for survivorship benefits under s. 36-05-8, as amended, may within 30 days following July 21, 1975 but not later than such date, make and execute an irrevocable written election to be covered by the survivorship benefits provided for under such section, said election shall be in writing on a form prescribed for such purposes by the annuity and pension board and be signed by the employe.

2. CONTRIBUTION. Upon receipt of the properly executed election for eligibility for survivorship benefits under s. 36-05-08 by the board within the time prescribed and upon the employe and the city each contributing \$530.70 to the firemen and policemen's survivorship fund, the employe eligible to make such election shall be entitled to survivorship benefits under s. 36-05-8, as amended, in the same amounts and under the same conditions as firemen currently eligible for such benefits. The \$530.70 payment herein required may be paid in not more than 52 installments to be determined by the annuity and pension board prior to filing of application for eligibility hereunder.

3. SURVIVOR. The survivor of a member of the employees' retirement system who was a fireman as defined in s. 36-02 employed by the city as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, and who died between July 28, 1974, and the effective date of this section [July 21, 1975] but not later than such date, without being eligible for survivorship benefits under s. 36-05-8, as amended, may make a written election within 30 days following the effective date of this section to receive the survivorship benefits provided for by s. 36-05-8, as amended. Such benefits shall be payable retroactively to the date of death in the same amount and under the same conditions as for survivors of firemen currently eligible for such benefits upon the city and the survivor each contributing the sum of \$504.43 to the firemen and policemen's survivorship fund. Said election shall be in writing on a form prescribed for such purpose by the annuity and pension board and be signed by the survivor. The \$504.43 payment herein required may be paid in not more than 12 monthly installments to be determined by the annuity and pension board, within 30 days following July 21, 1975. (*Section 36-055 cr. Ch. Ord. 419, File #75-68, May 6, 1975; eff. July 21, 1975.*)

36-06. Coordinated Plan. 1. ESTABLISHED. A coordinated plan is established within the present retirement system as of January 1, 1958, which shall be governed by the provisions of the employees' retirement act, except as hereinafter provided, and which shall provide for participation in old age, survivors, disability and health insurance benefits derived under the social security act. (Sub. 1 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)

2. MEMBERSHIP. Membership in the coordinated plan shall include those members of the employees' retirement system who elect such coverage and are covered by the provisions of the social security act. Such coordinated plan members shall consist of all future employes who shall enter upon membership of the retirement system on and after January 1, 1958, the effective date of the social security agreement extending coverage under the social security act to members of the retirement system, except employes in positions to which such coverage is not extended. (*Sub. 2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

36-06-4 Employees' Retirement System

4. CONTRACTUAL RIGHTS MAINTAINED. The contractual rights which are vested and provided for under the employees' retirement act, including the provision therein with respect to deferred pay, shall in all respects apply and be in effect with respect to the coordinated plan. None of such rights shall be disturbed or impaired, except that contributions required of the employe and employer to such coordinated plan may be adjusted in accordance with the provisions of the coordinated plan, and a deduction in benefits or allowances granted under the employees' retirement act subsequent to the effective date of the coordinated plan may be made in order to carry out the provisions of such coordinated plan. The benefits or allowances under the coordinated plan may be subsequently amended only in the particulars required because of amendments to the social security act, it being expressly understood that a participating employe in such coordinated plan shall in no manner whatsoever, except as provided in this subsection at the time of its enactment, have his rights, benefits or privileges cancelled, impaired or abrogated; and any employe eligible to participate in such coordinated plan shall have a vested right upon a contractual basis to obtain the rights, benefits and privileges which are accorded and granted by the employees' retirement act under the coordinated plan. Such rights, benefits and privileges herein referred to and existing upon a contractual and vested basis are predicated upon a consideration for services rendered and to be rendered by such employe and deferred pay as provided in s. 36-13-4; and as a consideration of the employment, such benefits, rights and privileges shall neither be abrogated nor impaired, except only as is required by virtue of amendments to the social security act which affect the provisions of the coordinated plan. Contractual rights hereunder shall be applicable also to any member who entered the system after January 1, 1958. (*Sub. 4 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

5. PROVISIONS OF COORDINATED PLAN DETAILED. a. Benefits. The benefits of the coordinated plan shall be those set forth in s. 36-05 with the following exceptions:

a-1. Optional benefits. Any optional benefit payable prior to the payment of a social security benefit shall be based on the actuarial equivalent of the retirement allowance otherwise payable, taking into account the reduction in the retirement allowance after the social security benefit becomes payable.

a-2. Adjustment of retirement allowances for social security benefits. Until the effective date of any service retirement, any coordinated plan member may elect to convert the allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that, with his social security benefit he will receive, so far as possible, approximately the same amount per year before and after the commencement of such benefit. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

b. Contributions. b-1. Coordinated plan members' contributions. The contributions required of the coordinated plan member shall be those set forth in s. 36-08-7. This section shall be operative with the first pay period for 1969. (*Subd. 1 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*)

b-2. Employer's contribution under coordinated plan. The contributions required by the employer under the coordinated plan may be adjusted as is required under s. 36-08-6. (*Subd. 2 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*)

b-3. Retroactive taxes under federal insurance contributions act. The proper cityofficers and the annuity and pension board are authorized to pay from the annuity savings fund an amount equal to the taxes under the federal insurance contributions act payable by a coordinated plan member for the period beginning January 1, 1956, to the date of transfer. Such amount shall be deducted from the amount credited to such member in the annuity savings fund and the execution of the consent agreement as hereinafter provided for shall evidence authority granted by such member for such deduction. (*Subd. 3 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

6. CONSENT AGREEMENT. Members of the employees' retirement system who elect to participate under the coordinated plan shall execute a consent agreement. (Sub. 6 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)

7. AUTHORITY TO ACT UNDER COORDINATED PLAN AGREEMENT. The common council may by resolution within the limitation provided for in this subsection authorize the manner and method of making deductions from wages and for making payments and designate the officer or officers of the city who shall be required to make such deductions and payments. (Sub. 7 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.)

9. LIMITATIONS OF PAYMENT UNDER COORDINATED PLAN. In applying the provisions of this section relating to the coordinated plan, it is expressly provided that no member participating in the coordinated plan and who shall retire during the period from June 29, 1975 to December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 82% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits, paid to him or her, not including social security benefits paid in respect of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 82% of his or her final average salary. It is expressly provided, however, that additional contributions made by an employe who shall retire after June 29, 1975 under s. 36-08-7-f shall be excluded in determining the 82% limitation provided for herein. It is further expressly provided that no member participating in the coordinated plan and who shall retire from and after December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 85% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits paid to him or her, not including social security benefits paid in respect

of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 85% of his or her final average salary. It is expressly provided, however, that additional contributions made by an employe who shall retire after December 28, 1975, under s. 36-08-7-f shall be excluded in determining the 85% limitation provided for herein. Commencing with duty disability payments occurring on or after January 1, 1995, in applying the provisions of this subsection the maximum duty disability allowance payable to a member participating in the coordinated plan under s. 36-05-3 together with the member's social security benefit shall be limited to an aggregate sum of 100% of the member's final average salary, provided the disability pension is not fixed. (Sub. 9 am. Ch. Ord. 423, File #74-675-d, July 15, 1975. Sub. 9 am. File #940937, Oct. 18, 1994; eff. Jan. 3, 1995.)

10. CONSTRUCTION AND APPLICATION OF COORDINATED PLAN PROVISIONS.

a. The provisions of this section shall be construed and applied in such a manner so that the same shall be consistent with and in conformity to the provisions of the federal laws and regulations relating to Title II of Federal Old Age, Survivors, and Disability and Health Insurance Benefits act, and the effective date referred to shall be deemed to be January 1, 1958 the date when an agreement extending coverage under the social security act to members of the employees' retirement system was executed. (*Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

c. In construing or applying the provisions of this section referring to the attainment of age 65 for social security benefits or allowances, such age shall apply except, however, that if the social security act is amended to provide for a different age for eligibility for full benefits or allowances, then such age for eligibility for full benefits as provided for in the social security act as amended shall be applicable in applying provisions of the coordinated plan.

36- Employees' Retirement System

[This page blank]

d-2. **Diversification.** The board and person under contract to the employees' retirement system to invest and manage trust assets shall diversify the investment of the trust unless the board reasonably determines that because of the special circumstances, the purposes of the trust are better served without diversifying.

d-3. **Loyalty.** The board and a person under contract with the employees' retirement system to invest and manage trust assets shall invest and manage the trust assets solely in the interests of the beneficiaries.

d-4. **Investment Costs.** In investing and managing trust assets, the board and a person under contract to the employees' retirement system to invest and manage trust assets may only incur costs that are appropriate and reasonable in relation to the assets for the purposes of the trust and the skills of the trustee.

d-5. **Delegation.** The board has a duty to personally perform the responsibilities of trusteeship except as those responsibilities are by this section delegated to others or except as a prudent person might delegate those responsibilities to others. In deciding whether and to whom and in what manner to delegate fiduciary authority in the administration of the trust and thereafter supervising agents, the board is under a duty to the beneficiaries to exercise fiduciary discretion and to act as a prudent person would in similar circumstances. In performing a delegated function, a person under contract to the employees' retirement system to invest or manage funds owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation. The board shall not be liable to the beneficiaries or to the trust for the decisions or actions of a person to whom a function was delegated provided that the board shall have used reasonable care, skill and caution in selecting the person; establishing the scope and terms of the delegation consistent with the purposes and terms of the trust; and periodically reviewing the person's actions in order to monitor performance in compliance with the terms of delegation.

d-6. **Reviewing Compliance.** Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of the decision or action and not by hindsight.

d-7. The text and comments to the Uniform Prudent Investor Act promulgated by the National Conference of Commissioners on Uniform State Laws (1994) and the Restatement

of Trusts 3d: Prudent Investor Rule (1992) are interpretive of the provisions of this par.

d-8. Nothing in this par. prevents the board and the employees' retirement system from requiring indemnification or insurance from a contractor, nor does anything in this par. preclude the board and the employees' retirement system from obtaining indemnification or insurance for their activities.

2. TRANSFERS OF PROPERTY; REINVESTMENT OF FUNDS. The board shall have full power to make all transfers and conveyances of any securities or property in which it may from time to time invest and reinvest the several funds of the system or any part thereof, and no purchaser or purchasers shall be responsible for the application of the purchase money or other avails received by or for said board.

3. INTEREST. The board annually shall credit regular interest to the members' accounts and on the mean amount for the preceding year in each of the other funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the board from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid by the city and city agencies, and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the city and city agencies except for the firemen and policemen's survivorship fund. Regular interest shall mean such rate, compounded annually, as shall be determined by the board on the basis of interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future such rate to be limited to a minimum of 3% and a maximum of 4%.

4. INTEREST IN OR USE OF FUND. Except as herein provided no member of the board and no employe of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the board. No member of the board or employe thereof shall directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are authorized by the board; nor shall any member or employe of the board become an endorser or surety or

36-09-5 Employees' Retirement System

In any manner an obligor for moneys loaned by or borrowed from the board.

5. EFFECTIVE DATE. Wherever used in this act the term "effective date of the retirement system" shall be construed to mean January 1, 1938, and the term "effective date of the act" shall refer to the effective date when the legislature made such provision effective in the event of legislation enacted by the Wisconsin legislature, and in the event of a charter ordinance the effective date when such amendment came into effect as a result of common council enactment of the charter ordinance.

6. POWERS AND PRIVILEGES OF RETIREMENT SYSTEM. The retirement system shall have all of the powers and privileges of a corporation, as enumerated in chs. 180 and 182, Wis. Stats., including the power to contract with its members, and shall be known as the "employees' retirement system of the City of Milwaukee," and by such name shall all of its business be transacted. All of its funds shall be invested, or held in the name of the employees' retirement system, except that investment in loans, securities or other investments may be in the name of or transferred to nominees of one or more banks or trust companies under a custodial agreement between the board and each such bank or trust company. The custodial agreement may provide that loans, securities or other investments in the name of or transferred to nominees of one or more banks or trust companies may be loaned by the custodian with suitable collateral in an amount not less than 102% of market value. All its cash and securities and other property shall be held in trust for the purpose for which received. Revenue from security lending shall be used to offset custodial fees and any excess revenue from security lending shall be deposited in the expense fund established under s. 36-08-3. Any incorrect spelling of name of the system shall not be deemed to invalidate any document or affect any transaction of the system and for purposes of action under this act shall be without consequence or effect.

7. LIMITATIONS. All funds of the system shall be invested prudently and in accordance with the requirements of the law and of this act and no funds whatsoever of the pension system may be either pledged, deposited, or used in any form or in any manner whatsoever to provide either credits or support or act as deposit for or be used as collateral for any banking, financing, borrowing or other

related transaction whatsoever. The board may contract for investment or custodial services or both with a state investment board or with a nationally recognized banking or investment institution. It is intended that this provision shall be given its most liberal construction which will prevent and preclude the use of funds for the purposes heretofore enumerated. This provision is deemed to be contractual and a vested right of each and every member and beneficiary of the system.

8. COMPLIANCE FOR GROUP TRUST PARTICIPATION. a. The board may, unless restricted by law, transfer all or any portion of the assets of the retirement system to a collective or common group trust, as permitted under Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 ,or subsequent guidance, that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under s. 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under s. 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of s. 457(b) of the Internal Revenue Code, and governmental plans under s. 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance company that is treated as a trust under s. 401(f) or s. 457(g)(3) of the Internal Revenue Code.

b. Any collective or common group trust to which assets of the retirement system are transferred pursuant to par. a shall be adopted by the board as part of the retirement system by executing appropriate participation, adoption agreements, or trust agreements with the group trust's trustee.

c. The separate account maintained by the group trust for the retirement system pursuant to par. a shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the retirement system.

d. For purposes of valuation, the value of the separate account maintained by the group trust for the retirement system shall be the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

(S. 36-09 am. Ch. Ord. 332, File #67-355-a, July 25, 1967. 36-09-0 am. Ch. Ord. 368, File #70-2757, April 13, 1971. 36-09-1 rc. Ch. Ord. 448, File #77-152, July 26, 1977. 36-09-1-0 am. File #912350, April 15, 1992; eff. July 9, 1992. 36-09-1-a am. File #891732, Jan. 16, 1990; eff. April 4, 1990. 36-09-1-a am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-c am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-d cr. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-3 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-09-6 am. Ch. Ord. 537, File #83-2361, June 12, 1984. 36-09-6 am. File #930242, July 6, 1993; eff. Sept. 21, 1993. 36-09-7 cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969. 36-09-8 cr., File #150113, June 2, 2015; eff. August 18, 2015.)

36-10. Exemption from Taxation, Execution and Assignment. 1. All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county, or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained, or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand, or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made for the payment of insurance premiums. The exemption from taxation contained herein shall not apply with respect to any tax on income.

2. a. Notwithstanding sub. 1, and for purposes of compliance with section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit an election by a distributee, as defined in par. b, to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

b. For purposes of this subsection:
 b-1. "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

b-2. "Distributee" means a member. It also includes the member's surviving spouse. Effective January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

b-3. "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

b-3-a. Effective January 1, 2002, an individual retirement account described in s. 408(a) of the Internal Revenue Code.

b-3-b. Effective January 1, 2002, an individual retirement annuity described in s. 408(b) of the Internal Revenue Code.

b-3-c. Effective January 1, 2002, an annuity plan described in s. 403(a) of the Internal Revenue Code.

b-3-d. A qualified trust described in s. 401(a) of the Internal Revenue Code.

b-3-e. Effective January 1, 2002, an annuity contract described in s. 403(b) of the Internal Revenue Code.

b-3-f. Effective January 1, 2002, a plan eligible under s. 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system.

b-3-g. Effective January 1, 2008, a Roth IRA described in s. 408A of the Internal Revenue Code.

b-4. "Eligible rollover distribution" means 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 the life expectancy) of the distributee or the joint

36-10-3 Employees' Retirement System

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 Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of section 415 of the Internal Revenue Code or any distribution that is reasonably expected to total less than \$200 during the year. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse. Also effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:

b-4-a. To an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

b-4-b. On or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code or to an annuity contract described in section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

b-4-c. On or after January 1, 2008, to a Roth IRA described in section 408A of the Internal Revenue Code.

3. If on or after March 28, 2005, the retirement system provides for mandatory distribution of eligible rollover distributions with a present value greater than \$1,000, and if a member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly, the system will

pay the distribution in a direct rollover to an individual retirement plan designated by the board of trustees in accordance with section 401(a)(31)(B) of the Internal Revenue Code and IRS Notice 2005-5.

4. Notwithstanding sub. 1., a beneficiary who is a public safety officer as defined in s. 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968, has separated from service with all participating employers due to disability or the attainment of normal retirement age and is entitled to a service retirement allowance or a disability retirement allowance, may elect that an amount be deducted from his or her benefit payments to pay the premiums for coverage of the beneficiary, the beneficiary's spouse or the beneficiary's dependents (as defined in s. 152 of the Internal Revenue Code) under an accident or health insurance plan or qualified long-term care insurance contract (as defined in s. 7702B(b) of the Internal Revenue Code). The employees' retirement system shall pay any amounts withheld from a beneficiary's benefit payments under this subsection directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract under such plan or contract. The beneficiary shall designate the annual amount to be deducted from his or her benefit payments, which amount shall not exceed the lesser of either \$3,000, reduced by any amounts deducted from the beneficiary's benefit for this purpose under any other eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code, or the amount required to pay such premiums. Elections pursuant to this subsection shall be made in a time, manner, and subject to any limitations established by the annuity and pension board and may only be changed in accordance with rules established by the board. (S. 36-10 cr. File #67-355-a, July 25, 1967; 36-10 rn. 36-10-1, File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-3 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-3 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-2 am. File #051174, Jan. 18, 2006; eff. April 5, 2006. 36-10-4 cr. File #061555, April 17, 2007; eff. July 3, 2007. 36-10-4 am. File #070201, May 30, 2007; eff. Aug. 15, 2007. 36-10-2 am. File #091068, Dec. 22, 2009; eff. March 10, 2010. 36-10-2 & 3 rc File #111058, Dec. 20, 2011; eff. March 13, 2012. 36-10-2-b-3 rc File #150113, June 6, 2015; eff. August 18, 2015.)

36-11. Protection Against Fraud and Elimination of Errors. 1. PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and shall be punishable therefore under the laws of the state of Wisconsin.

2. ELIMINATION OF ERRORS. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, the board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (s. 36-11 am. Ch. Ord. 332 File #67-355-a, July 25, 1967. s. 36-11 rc. File #020065, May 14, 2002; eff. July 31, 2002.)

36-12. Limitations on Payment of Benefit. Any amounts which may be paid or payable under the provisions of any state worker's compensation, or similar law, to a member or to the dependents of a member on account of any disability shall be offset against and payment in lieu of any benefits payable out of funds provided by the city under the provisions of this act on account of the same disability. Within 30 days of notification by the board, any member may elect to offset the full amount of a lump sum award of amounts payable in fulfillment of the obligation to offset amounts payable. In case the present value of the total commuted benefits under said worker's compensation or similar law is less than the reserve on the benefits otherwise payable from funds provided by the city under this act, then the present value of the commuted payments shall be deducted from the reserve and such benefits as may be provided by the reserve so reduced shall be payable under the provisions of this act. Upon recommendation of the actuary, the board may approve separate tables for purposes of computing present values under this section. The board may permit a member whose retirement allowance is being offset by amounts payable to satisfy the offset with a lump sum payment, provided that any costs of the actuary in calculating the amount of the lump sum

payment are paid by the member. Within 30 days of notification by the board, any member who received an award of amounts payable on or before January 1, 1995 shall have the option of electing to pay the present value of such award or of electing to have the offset recalculated using separate tables developed for this purpose. Notwithstanding the foregoing, amounts paid or payable as social security disability benefits shall not be offset against the benefits payable by the city under the provisions of this act on account of the same disability to members in the coordinated plan. (S. 36-12 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-12 am. File #941597, Feb. 14, 1995; eff. May 2, 1995. 36-12 am. File #950767, Oct. 17, 1995; eff. Jan. 2, 1996. 36-12 am. File #121025, Nov. 27, 2012; eff. Feb. 12, 2013.)

36-13. Contractual Benefits; Miscellaneous Provisions. 1. LEGISLATIVE POLICY. Employees have been attracted to and have remained in the public service in cities of the first class despite the prevailing higher wages in other employments because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in the retirement system to which they have been admitted as contributing members. The purpose of this act is to strengthen the public service in cities of the first class by establishing the security of such retirement and death benefits.

2. CONTRACTS TO ASSURE BENEFITS. The benefits of members, whether employes in service or retired as beneficiaries, and of beneficiaries of deceased members in the retirement system created by chapter 396, laws of 1937, as amended, shall be assured by benefit contracts as herein provided.

a. Every such member and beneficiary shall be deemed to have accepted the provisions of this act and shall thereby have a benefit contract in said retirement system of which he is such member or beneficiary as of July 30, 1947, unless, within period of 30 days thereafter, he files with the board administering the system a written notice electing that this subsection shall not apply to him. The annuities and all other benefits in the amounts and upon the terms and conditions and in all other respects as provided under this act and as amended shall be obligations of such benefit contract on the part of the city and of the board administering the system and each member and beneficiary having such a benefit contract shall

36-13-2-b Employees' Retirement System

have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation or by any other means without his consent.

b. The board administering the system may issue to each member and beneficiary who shall have a benefit contract under this act a written or printed contract but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued.

c. Any person who shall become a member of this retirement system after July 30, 1947, except persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, and persons who shall become members of this retirement system on or after August 1, 1985, as a result of being employed as policemen, shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of commencement of his membership and as subsequently amended. Every person who shall become a member of this retirement system on or after March 1, 1985, as a result of being employed as a fireman, and every person who shall become a member of this retirement system on or after August 1, 1985, as a result of being employed as a policeman shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of the commencement of his membership. (*Par. c am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. c am. Ch. Ord. 565, File #86-1820, Feb. 24, 1987; eff. May 11, 1987.*)

d. Contributions which are made to this fund under this act by the city or by an agency which is covered by this act, as contributions for members of this system shall not in any manner whatsoever affect, alter or impair any member's rights, benefits, or allowances, to which such member under this act is or may be entitled; neither shall the fact that such contributions are made, grant or confer upon such city or agency covered by this act,

any additional rights, interest or authority in such contributions so made or in the management or supervision of this system or in the fund thereof. Contractual and vested rights, benefits or allowances which either have been or are declared and expressed in this act continue without impairment or reduction in any manner whatsoever, and such rights, benefits or allowances shall not be or are not in any manner affected, modified or diminished as a result of such contributions made by the city or an agency covered by this act; nor can such rights, benefits or allowances be altered, modified or impaired so that any diminution occurs in any member's rights, benefits or allowances. (*Par. d cr. Ch. Ord. 370, File #74-239, May 24, 1971.*)

e. No rights, benefits or allowances whatsoever created under or pursuant to the provisions of the employees' retirement act or as amended heretofore or hereafter, nor creditable, nor prior service, nor credits granted, either recognized or allowed to such member, or retired member or beneficiary, nor any rights or benefits allowed or allowances granted by virtue of any minimum or maximum retirement provisions or requirements, nor any minimum or maximum retirement provisions of this act shall in any manner whatsoever, or in any form, either be altered, modified, reduced, changed, cancelled, revoked or impaired, now or hereafter to the disadvantage or loss of such member or retired member or beneficiary as to his pension rights, payments or retirement allowances, and no action shall be taken nor provision enacted which in any manner diminishes, reduces or denies to such member or retired member or beneficiary any of his or her retirement allowances, benefits or rights derived from or under any section of this act or rule promulgated by the board as authorized by this act or as heretofore provided. No application nor interpretation of the provisions of this act or rule of the board shall be either effected, instituted or promulgated retroactively or applied in such a manner as to such member, retired member or beneficiary so that it results in any form, in the diminution, loss or partial loss or reduction of any credit, benefit or retirement allowance to which such person was or is entitled because of prior interpretation or application of the provisions of this act or rule whether general or specific. The protection, safeguarding and the security of the rights, benefits and allowances expressed in this subsection are and shall be

deemed fully vested, contractual and binding upon the employer and guaranteed by it. No act, action or delinquency of a member of this system shall in any manner defeat or prevent him or his beneficiary from receiving the full benefits or allowances to which he was entitled up to the time of the occurrence of such act, action or delinquency and any provision of this act which is in conflict therewith is deemed superseded and repealed and to be without force and effect. This paragraph shall not apply to persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, or persons who become members of this retirement system on or after August 1, 1985, as a result of being employed as a policeman. (Par. e am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. e am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.)

f. Any provision of ch. 36 notwithstanding, the granting of a benefit to any member, retired member, survivor or beneficiary participating in the retirement system to the exclusion of a member, retired member, survivor or beneficiary participating in the combined fund shall not be deemed in violation of the rights of such other member, retired member, survivor or beneficiary participating in the combined fund who is not granted such benefit, even if funded by the existing assets of the retirement system and/or future earnings. (Par f. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)

g. Every member, retired member, survivor and beneficiary who participates in the combined fund shall have a vested and contractual right to the benefits in the amount and on the terms and conditions as provided in the law on the date the combined fund is created. (Par g. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)

h. Notwithstanding any other provision of this chapter, the contractual rights of members enrolled on or after November 23, 2011, shall be governed by this paragraph. The right of the city on its own behalf, or on behalf of a city agency, to amend or repeal all or part of this chapter by enactment of ordinance is reserved to the city and the city agency. Members shall have no right to further accrual of benefits or rights for service rendered after the effective date of any ordinance repealing or altering the ordinance that authorizes the benefit

or right. Benefits accrued and rights earned by a member under this chapter for service rendered prior to the effective date of any ordinance shall be due as a contractual and vested right and shall not be abrogated or altered by any subsequent legislation. No alteration of an ordinance shall abrogate any rights or benefits earned but not exercised before the effective date of an ordinance altering or abrogating the right or benefit. This paragraph shall not apply to members of a certified collective bargaining unit with a labor contract while it is in force and in effect that contains provisions inconsistent with this paragraph. (Par h. cr. File #110348, Sept. 20, 2011; eff. Dec. 7, 2011.)

4. GUARANTY AND SUPERVISION.

a. The creation and maintenance of reserves in the retirement fund, the maintenance of annuity reserves and pension reserves as provided for, and regular interest creditable as provided for to the various funds, shall be mandatory and shall be obligations of the city and city agencies whose employes are under this act. (Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)

b. The payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act shall be deemed deferred pay of such member, and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act and all expenses in connection with the administration and operation of the retirement system are made obligations of the city and city agencies.

c. The legal title to the funds created by this act shall be in the retirement system and shall be held by it in trust for the purposes for which they were contributed under this act and no amendment to the act shall reduce the benefits of any member below those which can be provided by the reserves of the system held in his account, nor shall the reserves held in his account, nor shall the reserves held on account of any member be diluted by the addition of new members or annuitants receiving benefits of any members.

36-13-5 Employees' Retirement System

d. The various funds of the employees' retirement system shall be subject to periodic audit examination, and each 5 years there shall be valuation of the system by the board's actuary as provided in s. 36-15-14. (Par. d am. Ch. Ord. 372, File #71-797, July 30, 1971. Par. d am. File #100788, Nov. 23, 2010; eff. Feb. 10, 2011.)

5. TRANSFER AND CREDITS.

a. Creditable Service. Any person who is a member of either the county or city of Milwaukee retirement system who within 60 days after termination of employment transfers from employment in either the county or city, as the case may be, without receiving any withdrawal benefits from either the city or county retirement system, shall be entitled to receive a service retirement allowance which shall be computed in the following manner, except as otherwise noted in pars. b and c: (Par. a-0 am. Ch. Ord. 553, File #85-643, July 30, 1985; eff. Oct. 15, 1985. Par. a-0 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 18, 1986. Par. a-0 am. File #892334, April 9, 1990; eff. June 26, 1990.)

a-1. The formula of the retirement system to which he has transferred in effect at the time of his retirement shall be used.

a-2. The final average salary of such person in the retirement system to which he has transferred shall be the base to which is applied the formula.

a-3. The aggregate creditable service including all service credit shall be the number of years or fraction of years of such service allowable under the respective provisions of both the county or city retirement system, as the case may be, together with the years of service or part thereof in the retirement system to which such person transferred.

a-4. The retirement system from which such person transferred shall contribute toward the service retirement allowance computed as hereinbefore set forth as follows: Such contribution shall be prorated on the basis of the total service earned by virtue of the service in the system from which the member transferred to the total service as provided for in subd. 3. (Subd. 4 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 8, 1986.)

a-5. In the event an entire department or a substantial number of employees in a department are transferred from city to county, or vice versa, then under such circumstances the method of contribution by the retirement system from which such employe transferred shall be handled at the time of transfer on a

basis satisfactory to both systems and the method of contribution by the respective pension systems may be altered in that event, but this shall not affect the other provisions hereof.

b. Transfer From County. Any person who is transferred from the county system to the city system under this section and whose retirement occurs within 5 years of the date of transfer shall receive an allowance on account of his service prior to the date of transfer which shall not be greater than the allowance he would have received on account of his service to the date of transfer if he had remained a member of the system from which he transferred. He shall also be entitled to and receive an allowance on account of his service subsequent to such transfer. (Par. b am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)

c. Transfer To County. When any person who has been a member of the city system transfers to the county system and at the time of such transfer to that system, such member has less than one year of creditable service, his membership in the city system shall be terminated as of the date of transfer, and there shall be refunded to such person all sums contributed by him to the fund during the period of time he was in active city service.

d. Payments and Accounts. The liability of the city system for such credits and payments because of former members of the city system who shall have become members of the county system shall be taken into account by the board in its valuations and determinations of contributions to be made to the funds of the city system.

e. Transfer of Credits. Whenever any city employe who is a member of this system or any other system to which the city is a contributor desires to change his city employment, and such city employment is approved by the proper city officers, the credits which such person has accrued from the pension system from which he is transferring shall be transferred in full to this system, and such person shall be granted under this system credits in the same manner as if he had been a member of this system from the inception of his city service. An actuarial determination shall be made of any deficiency of credits, and the city and the employe shall be required to contribute to this system any difference in amount which shall be found by the actuarial determination to be required in order to make such person's account actuarially sound.

f. Termination of Membership. Any time after December 1, 1961, when an employe of the city, who is also a member of this system, transfers to employment in the county or becomes a member of the employes' retirement system of Milwaukee county because of court reorganization as provided for by state act, he may withdraw his contributions from this system provided that such member shall execute a waiver and release and such other forms as shall be determined by the board, and, following the return of contributions to such employe, his membership shall be terminated and such employe shall have no right or interest whatsoever in any pension, annuity or benefit of the system nor any other right or privilege whatsoever as a result of his membership in this system. Such election shall also terminate any right or interest of such member to any transfer by the city or by this system of accruals, credits, rights or benefits to any other retirement system, and such employe shall be deemed to waive any rights as to membership or restoration thereof in this system for the period of time prior to refund of his contributions.

g. Any member of the city or county employes' retirement system, who separated from service after having elected deferred retirement benefits, who thereafter became a member under the other system within 60 days of separation from the first system and who separated from the other system without having first received benefits from the first system, shall have service under both systems included for purposes of determining final average salary for retirement allowance purposes under each system and shall have creditable service under the first system included in determining whether the vesting requirements for retirement purposes of the other system have been met. This paragraph shall be the exclusive reciprocity for all members separating from the first system on or after June 1, 1991. (*Par. g cr. File #911897, passed Feb. 11, 1992. This file provided that par. g would become effective when Milwaukee county passed an ordinance identical in all respects to par. g. On June 27, 1995, the common council passed File #950326, effective Sept. 13, 1995, which repealed the contingency placed on par. g with respect to Milwaukee county action.*)

h. When Member of State Retirement System. Whenever the state of Wisconsin retirement system certifies that a member of this retirement system has service credit as a member of the retirement system of the State of Wisconsin, he shall receive credit therefor in computing his retirement allowance at a specific rate of 1.6% of his final average salary for each year or part thereof. The retirement allowance upon his retirement under the provisions of this act shall be reduced by the maximum amount which such member is entitled to receive as a retirement allowance from the state retirement system. If the member is not entitled to receive a retirement allowance from the state retirement system because of an election he has made on or after March 11, 1977, his retirement allowance shall nevertheless be reduced by the maximum amount to which he would have been entitled from the state retirement system had such election not been made. (*Par. g am. Ch. Ord. 439, File #76-164, Dec. 23, 1976. Par. g rn. to h, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.*)

i. Applicability. The board shall adopt rules for the application of par. g respecting treatment of interrupted service, computation of offset and service credit not in excess of creditable service in this system. (*Par. h cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969. Par. h rn. to i, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.*)

6. GUARDIAN FOR MEMBER. Whenever a guardian has been appointed for a member by a court of record and a certified copy of the order appointing the guardian has been filed with the secretary of the board, such guardian may file an application for retirement and also elect the option and may designate the beneficiary when authorized by such court so to do.

7. DEATH BENEFIT PAYMENTS TO BENEFICIARIES RESIDING IN FOREIGN COUNTRIES. In the event that a member designates a beneficiary who is both a resident and a citizen of a foreign country to receive a death benefit and contributions made by such member, the board shall determine whether such benefit shall be paid to the beneficiary or instead be made payable to the estate of such deceased member. No death benefit shall be payable on account of the death of such

36-14 Employees' Retirement System

member and only the member's contributions shall be paid to the beneficiary or the estate of the member, unless the board shall determine otherwise. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

36-14. Home Rule. For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension, annuity and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this act are matters of local affair and government and shall not be construed as an enactment of statewide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this act in the manner prescribed by s. 66.0101, Wis. Stats., provided that no such amendment or alteration shall modify the annuities, benefits or other rights of any persons who are members of the system prior to the effective date of such amendment or alteration. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

36-15. Administration. 1. ANNUITY AND PENSION BOARD. a. Retirement System and Group Life Insurance. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in an annuity and pension board which shall be organized immediately after the first 4 members provided for in this section have qualified and taken the oath of office. In addition to all other duties and responsibilities assigned to the board by the provisions of the employees' retirement act, the board shall be responsible for administering the city's group life insurance program, retiree health benefits and retiree dental COBRA benefits as provided for in ordinance adopted by the common council. (Par. a am. File #990253, June 2, 1999; eff. Aug. 18, 1999.)

b. Emergency Powers. It is expressly provided that in the event of a national emergency declared by the president of the United States or a national emergency resulting from aerial attack on the area surrounding or on the city of Milwaukee, and a quorum of the board is not available to direct activities of the board, or no member of the board is available or present to authorize continuation of the board's

operations, including maintaining and safeguarding of records, receipts and disbursements, expenditure of funds, and safeguarding of investments and securities, then in such event the secretary of the board shall have full authority to discharge the duties and responsibilities of such board, as is provided for in this act, and shall be further empowered to bind the board; provided further, that in the event the secretary of the board is incapacitated, then the assistant secretary shall function in his stead and in the manner hereinbefore provided. However, any vacancies on the board shall be filled as soon as possible.

c. Firemen's Pension Fund of the Former Town of Lake. At any time after May 12, 1964, when the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake certifies to the city clerk of Milwaukee that less than 3 active members remain in such fund, all of the duties and responsibilities devolving upon the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake shall be transferred to and assumed by the annuity and pension board of the employees' retirement system. In the event that such transfer occurs as herein provided for all funds of the city of Milwaukee firemen pension fund of the former Town of Lake shall at the effective date of transfer be turned over to the annuity and pension board of the employees' retirement system. Such funds so transferred shall be maintained separately and apart from any other funds under the direction, supervision and control of the annuity and pension board of the employees' retirement system and shall be used solely for the purposes of administering the city of Milwaukee firemen's pension fund of the former Town of Lake as provided for by law. Payments out of such fund shall be made upon direction of the annuity and pension board of the employees' retirement system. All receipts of such fund shall be under the supervision, direction and control of the annuity and pension board of the employees' retirement system, it being the intent of this subsection that whatever duties and responsibilities relating to the administration of the fund of the city of Milwaukee firemen's pension fund of the former Town of Lake are to be assumed and performed by the annuity and pension board of the employees' retirement system from and after the transfer of such fund.

d. The annuity and pension board is authorized to perform administrative work necessary to implement the provisions of s. 34-06, provided it is compensated by the city for the actual cost of the work performed.

(Par. d cr. File #041513, March 16, 2005; eff. May 31, 2005.)

e. **Policemen's Annuity and Benefit Fund.**

e-1. The annuity and pension board is authorized to exercise all powers and duties vested in the policemen's annuity and benefit fund board of trustees by ch. 35.

e-2. The annuity and pension board is authorized to invest the assets of the policemen's annuity and benefit fund provided it accounts for the assets separately from the assets of the combined fund.

e-3. All cost and expenses incurred by the annuity and pension board to manage, administer, or operate the policemen's annuity and benefit fund shall be paid by the city of Milwaukee.

e-4. The city of Milwaukee shall indemnify and hold harmless the board members, officers, directors and employes of the annuity and pension board and the employes' retirement system from any liability, damages, or injury arising out of the management, administration, investment or operation of the policemen's annuity and benefit fund.

e-5. The annuity and pension board annually shall obtain a report from the policemen's annuity and benefit fund's actuary on the funded status of the fund. If the fund achieves an actuarially funded status of 105%, then any funds in excess of those required to maintain the 105% actuarially funded status shall be paid to the remaining beneficiaries in equal amounts, as determined by the policemen's annuity and benefit fund's actuary, in the form of increased annuity payments.

e-6. The annuity and pension board annually shall conduct a meeting, or direct its staff to conduct a meeting, to report on the status of the fund and answer any inquiries of retirees or widows. The annuity and pension board shall give all retirees and widows at least 30 days' notice of the time and location of the meeting. *(Par. e cr. File #050744, Oct. 18, 2005; eff. Jan. 3, 2006.)*

2. MEMBERSHIP. The membership of the board shall consist of the following:

a-1. Three members to be appointed by the president of the common council subject to the confirmation of such common council for a term of 4 years.

a-2. Commencing in 1997, when terms expire for members appointed by the common council president, members shall be appointed for terms expiring the 3rd Tuesday of April 2000. Thereafter the common council president shall appoint members for a term of 2 years within 60 days of the commencement of a new common council term, and then within 60 days following 2 years of the commencement of a common council term. If a vacancy occurs in a board position, the president shall appoint within 60 days after the vacancy occurs.

a-3. Three members to be appointed by the mayor subject to the confirmation of the common council. For members appointed by the mayor in 2014, they shall be appointed for terms expiring on the 3rd Tuesday of April, 2016. Thereafter, the mayor shall appoint, within 60 days of the commencement of the mayor's regular term of office, members for a term of 2 years to the board. If a vacancy occurs in a board position, the mayor shall appoint a member within 60 days after the vacancy occurs.

b. The city comptroller ex-officio.

c. Three employe members who shall be members of the retirement system and who shall be elected by the members of the retirement system for a term of 4 years according to such rules and regulations as the board shall adopt to govern such election. Notwithstanding the foregoing, the employe members shall consist of one policeman in active service, one fireman in active service, and one general city employe in active service, which shall be determined in the following manner:

c-1. For the member term that expires on December 31, 2014, or at the date the position is vacated, if earlier, a fireman in active service shall be elected to the member position and only a member who is a fireman in active service shall be allowed to vote for this member position.

36-15-3 Employees' Retirement System

c-2. For the member term that expires on December 31, 2016, or at the date the position is vacated, if earlier, a general city employe in active service shall be elected to the member position and only a member who is a general city employe in active service shall be allowed to vote for this member position.

c-3. For the member term that expires on December 31, 2017, or at the date the position is vacated, if earlier, a policeman in active service shall be elected to the member position and only a member who is a policeman in active service shall be allowed to vote for this member position.

d. One member to be elected by the vote of persons who had been members but who have retired from the retirement system and receive a retirement allowance, to serve for a term of 4 years. The election of such person shall be conducted in the same manner as is the election of an employe member under par. c except, however, that only retirees as herein described shall be allowed to vote in such election. Nothing herein contained shall preclude any member elected to the board from succeeding himself or herself. *(Sub. 2 am. Ch. Ord. 486, File #79-869-a, Mar. 13, 1980. Sub. 2-a ra. to 2-a-1 File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-a-2 cr. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-c am. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-d am. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub 2-a-3 cr. File #131162, Dec. 17, 2013; eff. March 10, 2014. Sub 2-c-0 am. File #131162, Dec. 17, 2013; eff. March 10, 2014. Sub 2-c-1 to 3 cr. File #131162, Dec. 17, 2013; eff. March 10, 2014.)*

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

4. OATH OF OFFICE. Each member of the board shall, within 10 days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system.

5. DECISION VOTE. Each member of the board shall be entitled to one vote in the board. A majority of members present shall be necessary for a decision by the members of the board at any meeting of the board. (Sub. 5, am. Ch. Ord. 544, File #84-1168, Dec. 11, 1984.)

6. RULES AND REGULATIONS. Subject to the limitations of this act and with the advice of the city attorney the board shall, from time to time, establish rules and regulations for the administration of the funds created by this act, for the transaction of its business and in order to carry out the provisions of this act. All rules and regulations promulgated by the board shall be filed with the city clerk within 30 days after they have been approved by the board and revocation of such rules or amendments thereto shall be filed in the same manner.

7. OFFICERS AND EMPLOYES; EXPENSES. The board shall elect from its membership a chairman and vice chairman and shall by a majority vote of all its members appoint a secretary, who may be, but need not be, one of its members. It shall appoint an executive director and shall engage such actuarial and other service as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve. *(Sub. 7 rn. to 7-0, File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

a. It shall be the duty of the secretary and executive director of the retirement system to maintain records respecting the amount of system funds invested in common stocks and preferred stocks and such secretary and executive director shall function under direction of the annuity and pension board and shall be appointed by such board under civil service procedure with civil service status; the incumbent secretary and executive director shall have civil service status with the enactment of this section. In the event of a vacancy in the office of secretary and executive director, such office shall be filled by the board under civil service procedures and thereafter such secretary and executive director shall have civil service status, subject to the rules and

regulations thereof. An executive director hired pursuant to an exemption granted by the board of city service commissioners shall continue to serve unless dismissal is approved by 8 board members voting in open session. (*Par. a cr. File #950077, July 14, 1995; eff. Sept. 27, 1995. Par. a am. File #131162, Dec. 17, 2013; eff. March 10, 2014.*)

b. The assistant secretary and executive director shall fulfill the duties of the secretary and executive director in his or her absence for any reason, and in the event a vacancy shall occur in the office of assistant secretary and executive director the position shall be filled by the board under civil service procedures, and he or she shall have civil service status under the rules and regulations applicable thereto. (*Par. b cr. File #950077, July 14, 1995; eff. Sept. 27, 1995.*)

8. DATA REQUIRED. The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system.

9. RECORDS. The board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the assets of the system and the financial condition of the system as disclosed by an actuarial valuation of the retirement system. The board shall by resolution determine which of its records are obsolete or no longer required and direct the secretary of such board to destroy those records; provided, however, that no records shall be destroyed unless the secretary shall certify that it is no longer required in the conduct of the board's business or essential to the safeguarding of records with respect to members' or retired members' rights or benefits, and provided further that in no event shall any record be destroyed until it has been in existence for more than 7 years.

10. LEGAL ADVISOR. The city attorney shall be the legal advisor of the board.

11. CUSTODIAN OF FUNDS. The city treasurer shall be the custodian of the several funds of the retirement system and shall give up such bond for the proper performance of his duties as is required by the board. All payments from said funds shall be made by him only upon vouchers signed by 2 persons designated by the

board. A duly attested copy of a resolution of the board designating such persons and bearing on its face specimen signatures of such person shall be filed with the treasurer as his authority for making payments upon such vouchers. No payment shall be made unless it has been authorized by the board. Nothing contained herein shall preclude the board from providing for custody by an appropriate entity of its funds and securities in the manner in which it deems prudent. (*Sub. 11 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

12. MEDICAL COUNCIL. The board shall designate a medical council to be composed of 3 physicians. If required, other physicians may be employed to report on special cases. The medical council shall arrange for and pass upon all medical examinations required by the retirement system, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board its conclusion and recommendations upon all the matters referred to it. Nothing contained in this subsection shall prevent the making of a certification by the medical panel of physicians of either the fire department or police department with respect to the operation of s. 36-05-3-c.

13. ACTUARY. The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

14. PERIODIC VALUATIONS; TABLES AND RATES THEREON. At least once in each 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the results of such investigation and valuation, the board shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary. (*Sub. 14 rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

15. ANNUAL VALUATIONS. a. On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system. This annual valuation shall comply with Actuarial Standards of Practice and shall contain a certification from the board's actuary to that effect. For the purposes of the annual valuation, the actuary shall employ the projected unit credit actuarial cost method. (*Par. a ra. File #091274, Mar. 2, 2010; eff. May 18, 2010.*)

b. Beginning with the valuation that determines employer contributions due and payable January 31, 2011, the actuary shall employ a 5-year asset smoothing period and an asset valuation corridor that allows for a variation between the market value and actuarial value of assets of 20%. The actuary shall calculate amortization of unfunded liability based on a level percentage of payroll amortization. The actuary shall apply a closed amortization method to a 24-year amortization period, until the amortization period is reduced to the expected future working lifetime of the active population, calculated separately for police, fire and general city members. Beginning with the valuation that determines employer contributions due and payable January 31, 2011, the board shall provide a copy of the final annual valuation, as certified by the board, to the mayor and the common council no later than August 15. No changes shall be made to this paragraph without an affirmative vote of the board of at least 6 of its members, and written certification from the board's actuary that such changes comply with Actuarial Standards of Practice. (*Par. b cr. File #091274, Mar. 2, 2010; eff. May 18, 2010. Par. b am. File #131162 Dec. 17, 2013; eff. March 10, 2014.*)

16. EXECUTION OF DOCUMENTS. Whenever any document, record or paper requires the signatures of either the chairman of the board or the secretary or both, or the vice chairman in the absence of the chairman, such officers may execute the aforesaid documents on behalf of the board and the employees' retirement system by identifying themselves in the case of the chairman or vice chairman of the board as president or vice president of the employees' retirement system and in the instance of the secretary of the board as secretary of the

employees' retirement system, and the executions made with that identification shall in all respects be deemed the execution for and on behalf of the board and of the employees' retirement system.

17. CONTRACT FOR FUND ADMINISTRATION. The board is authorized notwithstanding any other provision to the contrary, to enter into contracts with established trust companies who have been engaged in such trust business extensively for at least 25 years continuously or other similar established companies able to demonstrate sufficient fiscal experience and expertise and administrative capacity to undertake operations, investments and custody of pension and retirement funds and to exercise a trustee relationship over the fund so as to accept total responsibility, obligation, administration, investment and custodial services and serve as trustee of this fund. When such services are contracted for as provided for herein, members of the board shall be thereupon released from their obligations or liability under this act with respect to all functions, duties, responsibilities and obligations which are undertaken by contract by such trust entity. The provisions of this subsection are vested and contractual as to members and beneficiaries of this fund. Contracts entered into pursuant to this subsection shall neither be impaired, abrogated or suspended during their duration by any collateral, indirect or direct procedures or actions and the rights herein provided for which are designated to protect the members and the beneficiaries of the fund and the integrity of such fund are in all respects vested, contractual and binding and shall not be altered, modified or impaired by subsequent action. (*Sub. 17 cr. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

18. REVIEW. Any person, aggrieved within the meaning of ch. 68, Wis. Stats., by a determination of the board reviewable under ch. 68, Wis. Stats., may have such determination reviewed in accordance with the procedures established under ss. 68.08 to 68.13, Wis. Stats. (*Sub. 18 cr. Ch. Ord. 478, File #78-2302, Oct. 23, 1979.*)

[Pages 367 to 446 are blank]