

ARLINGTON COUNTY CODE

Chapter 46

ARLINGTON COUNTY EMPLOYEES' SUPPLEMENTAL RETIREMENT SYSTEM--II

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ARTICLE I.**IN GENERAL****§ 46-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Accumulated contributions” means the sum of all amounts deducted or picked-up from the compensation of a member and credited to his individual account in the members' contribution account, and any other amounts he shall have contributed, or transferred thereto, including any amount credited as provided in § 46-35.C.

“Actuarial equivalent” means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.

“Actuary” means a person who is a member of the American Academy of Actuaries who is enrolled by the Joint Board for the Enrollment of Actuaries established pursuant to 29 U.S.C.A. § 1242, Employee Retirement Income Security Act of 1974.

“Average final compensation” means average annual creditable compensation of a member during the three (3) highest twelve (12) month periods of compensation paid to a member.

“Base compensation” means the hourly wage as specified in the County pay schedule multiplied by the hours worked in the employees normal work schedule. Base compensation includes acting pay but excludes overtime, special pay, pay in lieu of sick leave, bonus pay and other similar special pay.

“Beneficiary” means any person in receipt of a pension or other benefits as provided by the System.

“Board” means the Board of Trustees of the System.

“County Manager” means the County Manager or his designee.

“Creditable compensation” means the full compensation, including pickup contributions and any elective employer contributions under the flexible benefits plan, payable annually to an employee in his capacity as such, excluding accumulated sick leave paid to the member at his termination from County service. Effective January 4, 2009 creditable compensation means full compensation excluding all premium pays (except holiday premium) as defined in Administrative Regulation 2.12, all overtime pays (except the portion of overtime paid at the employee's base hourly rate as defined in Administrative Regulation 2.12 for hours worked to complete their regular annual work schedule.), imputed earnings, benefit subsidies and/or stipends, severance and settlement pay, and clothing allowances. Effective January 1, 2009, creditable compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code. Other provisions notwithstanding, except in the case of an employee who first became a member before July 1, 1996, annual creditable compensation shall not exceed the amount established pursuant to Internal Revenue Code § 401(a)(17) as indexed annually.

“Creditable service” means membership service plus prior service credit.

“Deferred Retirement Option Program” (DROP) means the Program described in § 46-64.

“Deputy Sheriff” means the person holding the office of Sheriff, if they elect to participate, and all Deputy Sheriffs.

“Defined benefit plan” means the plan described in Article VIII.

“Defined contribution plan” means the plan described in Article IX.

“Employee” means any person regularly employed on or after February 8, 1981, in rendering service to the County Board, School Board, or an official elected by the people whose compensation is fully or partially paid directly or indirectly by the County except any person on a part-time, seasonal, or temporary employment status, and except, those persons working less than thirty (30) hours per week; however, a member whose hours are reduced below the minimum (thirty (30) hours) by the employer may continue to earn pro rata membership credit.

“Employer” means the County Board, the County School Board, and any authority in the County having the power to appoint an employee to office or employment paid directly or indirectly by the County, and the Board of Trustees of the System.

“Expense rate” means the expected administrative costs to administer the plan expressed as a percentage of payroll.

“Fiscal year” means each twelve (12) month period ending June thirtieth.

“General Member” means a member who is employed by the employer not as a Public Safety Member.

“Medical advisor” means the physician provided for by § 46-21.

“Member” means any person included in the membership of the System as provided in § 46-27 who has not ceased to be a member as provided in § 46-28.

“Membership service” means service as a member for which credit is allowable as provided in § 46-29.

“Normal cost” means the actuarially determined amount under the aggregate accrual modification of the entry age normal funding method needed to fund for one (1) plan year the retirement benefits of the plan.

“Normal retirement age” means the date of attainment of age sixty-two (62) of a General Member or age fifty-two (52) of a Public Safety Member.

“Normal retirement date” means the date of attainment of age sixty-two (62) with the completion of five (5) years of service of a member who is not a police officer, firefighter, or deputy sheriff, and the date of attainment of age fifty-two (52) with the completion of five (5) years of service of a member who is a police officer, firefighter, or deputy sheriff.

“Part-time employee” means any person working less than forty (40) hours per week, having permanent status or in a probationary period for such status, who is:

- (1) Rendering service to the County Board in a budgeted position;
- (2) An employee of a constitutional officer in a budgeted position; or
- (3) A trades and maintenance employee of the School Board paid from a regular position controlled account.

“Party in interest” means:

- (1) A fiduciary (including, but not limited to, any administrator, officer, trustee, or custodian), counsel, or employee of the System);
- (2) A person, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization providing services to the System;
- (3) An employer, any of whose employees are covered by the System;

- (4) An employee organization, any of whose members are covered by the System;
- (5) A spouse, ancestor, lineal descendant or spouse of a lineal descendant of any individual described in subparagraphs (1), (2), or (3).

“Public Safety Member” means a member who is employed by the employer as a police officer, firefighter, deputy sheriff or sheriff.

“Retiree” means any prior member or beneficiary who is receiving a retirement payment, or has elected to receive a deferred vested retirement allowance.

“Retirement allowance” means the retirement payments to which a member is entitled.

“Service” means service as an employee for which compensation is paid by the employer, periods of time while on military leave, not to exceed five (5) cumulative years, or an approved leave of absence.

“Statement of retirement policies and principles” means a statement adopted by the County Board which contains a description of the objectives and policies of the System concerning retirement benefits, benefit levels, funding and investments.

“System” means the Arlington County Employees' Supplemental Retirement System--II.

“V.R.S.” means the Virginia Retirement System established pursuant to § 51.1-124.1 et seq., Code of Virginia, 1950, as amended.

(2-8-81; Ord. No. 84-38, 12-23-84; Ord. No. 86-14, 6-14-86; Ord. No. 87-24, 9-26-87; Ord. No. 96-13, 6-29-96; Ord. No. 00-34, 11-1-00; Ord. No. 01-20, 11-17-01; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 09-27, 11-17-09; Ord. No. 11-06, 5-14-11, Ord. No. 12-01, 1-21-12; Ord. No. 12-13, 9-15-12)

§ 46-2. Arlington County Employees' Supplemental Retirement System--II Established.

There is hereby established the Arlington County Employees' Supplemental Retirement System--II which is hereby established for all employees hired on or after February 8, 1981. The System may transact business as the Arlington County Employees Retirement System. The System is intended to satisfy Internal Revenue Code §§ 401(a) and 414(d) requirements for qualified governmental pension plans and is maintained for the exclusive benefit of participants and beneficiaries.

(2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 02-15, 6-22-02; Ord. No. 13-08, 10-19-13)

§ 46-3. Duties of Employers.

Employers shall keep such records and furnish such information as the Board or County Manager may require in the discharge of their duties. Upon employment of a member, the employer shall inform the member of his duties and obligations in connection with the System as a condition of employment.

(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-4. Effect of Acceptance of Employment.

Upon acceptance of employment, every employee who qualifies to be a member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his compensation required by this chapter, and to all other provisions thereof.

(2-8-81; Ord. No. 84-38, 12-23-84)

§ 46-5. Fraud and Deceit.

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record

of the System, in any attempt to defraud the System shall be guilty of a misdemeanor, and shall be punished accordingly.
(2-8-81)

§ 46-6. Assignments.

The right of any member to a retirement allowance, to the return of accumulated contributions, or any other right or moneys accrued or accruing to any person under the provisions of this chapter shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever, and shall be unassignable except that a member may, upon leaving employment and withdrawal of accumulated contributions, assign and make payable his contributions, or any portion thereof, to the County, or its units and organizations operated for the benefit of the employees.
(2-8-81; Ord. No. 84-38, 12-23-84)

§ 46-7. Correction of Errors in Payments.

Should any member or beneficiary receiving benefits from the System receive more or less than he would have been entitled to receive had the records been correct, the County Manager shall correct such error and shall, as far as practicable, authorize adjustment of the payments including future payments in such a manner that the benefit to which the member or beneficiary was correctly entitled shall be paid. When any member or beneficiary receives less than he or she was entitled to receive, the Board may pay interest on the unpaid balance owed to the member or beneficiary at a rate to be determined by the Board provided that any error in payment was discovered after January 1, 2001.
(2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 00-33, 12-18-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-8. Rights of Participating Members.

Membership in the System does not convey the right to be retained in service, nor any right or claim to any assets of the System unless such right has specifically accrued under the provisions of this System.
(2-8-81)

§ 46-9. Amendments.

The County Board may amend this chapter at any time. No amendment may be adopted by the County Board unless and until it is accompanied by an actuarial report prepared by an actuary selected by the Board of Trustees which report shall describe the effect of the amendment on the System. No amendment which requires an additional contribution to the System shall be adopted unless the additional contribution is provided. Any changes adopted on or after February 8, 1981, shall be accompanied by appropriate changes in the "Statement of Retirement Policies and Principles" adopted by the County Board.
(2-8-81; Ord. No. 00-34, 11-1-00)

ARTICLE II.

ADMINISTRATION

§ 46-10. Board of Trustees and County Board--Powers and Duties.

The responsibilities regarding sound management and investment of the System's funds are hereby vested in the Board of Trustees of the System. The responsibility for setting the size and type of benefits rests with the Arlington County Board, which shall be responsible for paying the costs of any actuarial studies relating to the size and type of benefits.
(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-11. Same--Accountability.

The Board of Trustees shall be accountable to the County Board.

(2-8-81)

§ 46-12. Same--Composition; Organization and Terms of Office.

A. The Board shall consist of seven (7) trustees as follows: Three (3) trustees appointed by the County Board; one (1) trustee appointed by the County Manager; one (1) trustee who is an active employee and member of the Arlington County Retirement System elected by police officers, firefighters and deputy sheriffs; one (1) trustee who is currently receiving retirement benefits from the Arlington County Retirement System elected by the retired members.; and one (1) trustee who is an active employee and member of the Arlington County Retirement System elected by employees not represented by another elected trustee. The election of the trustees by the employees of the County and retirees shall be conducted under procedural rules approved by the County Manager. Notwithstanding the above, the County Manager may forego an election of trustee or substitute if only one (1) eligible person is nominated by the employees for an office pursuant to procedures adopted by the County Manager. The person nominated shall be deemed elected. If no eligible employee or retiree is nominated, the County Manager shall appoint an eligible employee or retiree to serve as a trustee, as applicable.

B. The term of office of the trustees shall be four (4) years, except that when the Board of Trustees shall be so created and constituted, the trustee to be appointed by the County Manager and the trustee to be elected by police officers, firefighters and deputy sheriffs shall be appointed or elected for an initial two-year term. Subsequent terms of such trustees shall be for four (4) years. Terms shall date from the effective date of this article. If an elected trustee or a substitute trustee elected after November 1, 2000 to represent police officers, firefighters, deputy sheriffs or other employees ceases to be an active employee and member of the Arlington County Retirement System, that trustee shall forfeit the office.

C. When such Board shall be so created and constituted it shall at its first meeting, and annually thereafter, elect one (1) of its members as president, one (1) as vice-president, one (1) as secretary, and appoint a treasurer, who may or may not be a trustee.

D. There shall be elected one (1) substitute trustee, who is an active employee and member of the Arlington County Retirement System, for each trustee who is elected by the police officers, firefighters and deputy sheriffs; and one (1) substitute trustee elected by other employees; and one (1) substitute trustee who is currently receiving retirement benefits from the Arlington County Retirement System elected by retirees of the System. Each person so elected must be a member of the group the person is elected to represent. Each substitute trustee shall serve in the absence of the trustee and shall be authorized to act on all matters in which the trustee may act. Each substitute trustee's term of office shall coincide with the term of office of the trustee for whom he is a substitute. If the trustee for whom he is a substitute resigns or otherwise vacates the position, the substitute trustee shall become a trustee and an election shall be conducted for a new substitute trustee. No eligible person can be nominated for both a trustee and a substitute trustee simultaneously.

E. The successors to the trustees and the substitute trustees shall be selected thirty (30) days before the expiration of the term of office. For trustees or substitute trustees elected or appointed after February 2009, their terms of office will end on January 31. The successors shall take office during the regularly scheduled February Board meeting.

F. Each member of the Board shall be entitled to one (1) vote. Four (4) trustees shall constitute a quorum provided that no decision of the trustees shall be effective unless four (4) trustees have voted in favor of such decision.

G. If it is determined by an affirmative vote of six (6) Board members that a member of the Board or substitute trustee is guilty of malfeasance or misfeasance in office or of being absent from monthly Board meetings more than three (3) times in a calendar year, the Board of Trustees may recommend to the County Board that a trustee be removed from the Board. If removal of the Board member is approved by the County Board, the position will be filled pursuant to § 46-12.

(2-8-81; Ord. No. 82-2, 2-1-82; Ord. No. 00-33, 12-18-00; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 07-17, 12-15-07)

§ 46-13. Same--Vacancies.

If a vacancy occurs in the office of a trustee of the Board or a substitute trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
(2-8-81)

§ 46-14. Same--Compensation.

Members of the Board of Trustees shall serve without compensation.
(2-8-81)

§ 46-15. Same--Rules and Regulations.

Subject to the limitations of this chapter, the Board may from time to time establish such rules and regulations for the transaction of its business, copies of which shall be made available to anyone upon request. A copy of the rules and regulations shall be available for inspection at the Central Public Library.
(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-16. Same--Employment of Staff.

The Board may employ staff and pay out of the System fund for all services as shall be required.
(2-8-81; Ord. No. 12-13, 9-15-12)

§ 46-17. Same--Data.

The Board and the County Manager shall keep in convenient form such data as shall be necessary to perform the actuarial evaluations required by this chapter.
(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-18. Same--Proceedings; Financial Condition of System.

The Board shall keep minutes of all its proceedings, which shall be open to public inspection. It shall submit annually to the County Board and School Board an independent audit report prepared in accordance with generally accepted accounting principles showing the fiscal transactions of the System for the preceding fiscal year and the amount of accumulated cash and securities of the System, and a report to disclose the financial and latest actuarial status of the System. Such report shall include an analysis of the investment return of the System and any investment transaction made in connection with a party in interest, the number and type of benefit entitlements, the composition and payroll of active and required participants, and at least once in each three (3) year period, a projection of benefit disbursements and resources available to meet such disbursement. A copy of this report shall be available for inspection at the Office of the Board of Trustees and at the Central Public Library and a summary of this report shall be distributed to the members of the System.
(2-8-81)

§ 46-19. Same--Actuarial Investigation and Valuation.

At least once each five (5) year period, the Board shall cause an actuarial study to be made of all the experience of the System. At least once in each two (2) year period, the Board shall cause an actuarial valuation to be made. After an actuarial valuation is completed, the County Board shall revise the rates of employee contributions, including pickup contributions and employer contributions, to the extent necessary to maintain the soundness of the System.
(2-8-81; Ord. No. 84-38, 12-23-84; Ord. No. 87-29, 12-12-87)

§ 46-20. Same--Legal Advisor.

The County Attorney shall be the legal advisor of the Board.
(2-8-81)

§ 46-21. Medical Advisor.

The County Manager shall designate a physician who shall be known as the "medical advisor." The medical advisor shall conduct medical examinations required under the provisions of this chapter and shall investigate all medically relevant statements and certificates by or on behalf of a member in connection with application for disability retirement. The medical advisor shall report in writing to the County Manager his or her conclusions and recommendations upon all matters referred to the medical advisor. The medical advisor may have other physicians conduct any medical examinations under this chapter or consult with any other physician he or she deems appropriate. It shall be the responsibility of each applicant to provide the medical advisor with all records and releases the medical advisor deems appropriate to carry out the advisor's responsibilities under this chapter.

In the event of an application for any disability retirement, the applicant must provide all relevant medical records for submission to the medical advisor.

(2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

ARTICLE III.**MANAGEMENT OF FUNDS****§ 46-22. Investment and Reinvestment of Assets.**

Except as otherwise provided under § 46-60 and any trusts or plans established thereto, the members of the Board shall be the trustees of all assets of the System. The assets to be administered by the Board shall include all cash securities and other property which shall have been heretofore accumulated by the predecessor trustees on behalf of members of the Arlington County Employees' Supplemental Retirement System--I (Chapter 21) and the Arlington County School Board Employees' Supplemental Retirement System (Chapter 35) and all assets that accumulate to the System. All assets shall be administered as a common fund to meet the obligations of the Arlington County Employees' Supplemental Retirement System--I (Chapter 21), the Arlington County School Board Employees' Supplemental Retirement System (Chapter 35) and those of the System.

The Board, in its discretion, may take the necessary steps to establish a trust for the administration of the assets of the System. The Board shall invest the assets of the System with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board may employ an investment advisor or advisors to invest and reinvest assets of the System in accordance with the provisions of this chapter and regulations established by the Board.

(2-8-81; 2-21-81; 4-25-81; Ord. No. 00-34, 11-1-00; Ord. No. 01-10, 11-17-01; Ord. No. 05-10, 7-12-05)

§ 46-23. Types of Investments.

The assets of the System shall be invested and reinvested pursuant to a statement of investment policy adopted by the Board and in accordance with § 21-23. The Board shall diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly not prudent to do so.

(2-8-81; Ord. No. 92-8, 4-6-92; Ord. No. 05-10, 7-12-05)

§ 46-24. Cash Deposits.

For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available such minimum cash balances as are necessary.

(2-8-81)

§ 46-25. Powers and Duties of Treasurer of Board; Bond; Warrants.

A. Except as provided in paragraph B, the Treasurer of the Board shall be the custodian of all of its funds and securities. He shall give bond, payable to the Board, in such amounts and with such surety as the Board

requires, conditioned upon the faithful performance of his duties and the proper accounting of all funds and securities coming into his hands, the cost of the bond to be paid out of funds of the System. He shall deposit all moneys in the name of the Board and disburse the same only on warrants signed by such person as is designated for the purpose by the Board or the County Manager, as appropriate. No warrant shall be signed unless it has previously been authorized by the Board, on either blanket approval by class of expenditure or approval by specific item, which authorization shall be recorded on the records of the Board.

B. The Board may designate one (1) or more banks or trust companies to act as custodian of its funds and securities. In such event, registered securities in the custody of such custodian may be registered in the name of the nominee of such custodian, or a nominee of Depository Trust Company in the case of securities eligible for such registration. In the event a bank or trust company is designated to act as custodian for all or part of its funds and securities, the Treasurer shall have no further powers, duties, or responsibilities for the funds or securities so designated.

(2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-26. Personal Interest of Board Members and Employees.

No Board member or Board employee shall have any direct or indirect personal interest in the gains or profits of any investments made by the Board other than as a member of the System. No member or employee of the Board shall, directly or indirectly, for himself or as an agent in any manner use the funds of the System, except to make disbursements as are authorized by the Board, or the payment of benefits.

(Ord. No. 04-26, 11-16-04, effective 12-12-04)

ARTICLE IV.

MEMBERSHIP IN THE SYSTEM

§ 46-27. Eligibility Requirements.

A. Except for employees who are covered by § 46-44.H, elected members of the County Board, and persons appointed as County Manager who elect not to become members within sixty (60) days after appointment, employees of the County Board hired after February 8, 1981, who have not reached normal retirement age (age sixty-two (62)), or in the case of police officers, firefighters, and deputy sheriffs, age fifty-two (52) as of the first day of employment, and all employees of the School Board hired after February 8, 1981, and before July 1, 2001, who have not reached normal retirement age (age sixty-two (62)) are members of the System. Notwithstanding the foregoing, the following employee groups who have entered into an agreement for inclusion in a deferred compensation plan when the agreement prohibits inclusion in any other retirement system established by the County, pursuant Virginia Code 51.1-800(D) shall have access to benefits under Article IX only:

(1) Employees hired after January 12, 2012 in the Management Accountability Program, as defined in Administrative Regulation 2.7, or

(2) Former members of the System retired under §21-41, §21-43, §21-45, §35-36, §35-38, §46-37, §46-39, or §46-41 who are re-employed by the County after January 12, 2012. Notwithstanding the foregoing, there shall be no age restrictions on membership for persons hired on or after January 1, 1991. Employees who did not meet the eligibility requirements related to age at the time of hire shall have the option to join the System and elect to purchase service credit for service back to January 1, 1991. Such election must be made by December, 1991.

B. Subsection A includes all officials elected by the people who are paid directly or indirectly by the County, provided they elect to become members within sixty (60) days after assuming office. Notwithstanding the foregoing, any such official otherwise eligible for membership may elect to become a member and may buy service credit for any part of the period under which they held office.

C. All applicants for employment in a uniformed public safety position, a position that has a high degree of physical and/or psychological demands, or other position as determined by the County Manager, or designee, must consent to a pre-employment physical examination by the County physician or some other clinician authorized by the Board of Trustees before such employee may be accepted into membership. Any such employee with a specific

disability at the time of his employment shall be advised, in writing, that he waives his right to any claim for accumulated service-connected disability based upon such pre-employment disability or aggravation thereof, upon his entrance into the Retirement System. Any such employee with a pre-employment disability shall be eligible for a service-connected disability allowance only if the Board finds that such employee would have been entitled to a service-connected disability allowance notwithstanding the pre-employment disability. For purposes of this section, disability shall mean any medical or psychological condition which may increase the likelihood of injury, illness or disability related to or arising out of the condition.

(2-8-81; Ord. No. 82-34, § 1, 8-7-82; Ord. No. 90-36, 1-1-91; Ord. No. 91-13, 4-30-91; Ord. No. 00-33, 12-18-00; Ord. No. 00-34, 11-1-00; Ord. No. 01-10, 4-21-01; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 09-27, 11-17-09; Ord. No. 10-23, 12-11-10; Ord. No. 12-01, 1-21-12; Ord. No. 12-13, 9-15-12)

§ 46-28. Cessation of Membership.

The membership of any person in the System shall cease:

A. If he ceases to be an employee for a period of five (5) years, unless he has elected to receive a deferred vested retirement allowance as provided in § 46-44.B.

B. Upon separation and withdrawal of his accumulated contributions.

C. Upon retirement.

D. Upon death.

(2-8-81)

ARTICLE V.

CREDITABLE SERVICE

§ 46-29. Creditable Service.

Creditable service at retirement on which the retirement allowance is based shall consist of:

A. Membership service credit.

B. Prior service credit.

(2-8-81)

§ 46-30. Year of Service.

The County Manager shall determine by appropriate rules and regulations what periods of service in any year qualify as periods of creditable service, but in no case shall it allow credit for more than one (1) year of service rendered in any period of twelve (12) consecutive months.

(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-31. Membership Service Credit.

A. Each member shall receive membership service credit for all service rendered while a member of the System after he becomes a member, or after he last became a member in the event of a break in his membership, and for the period he is on service-connected disability retirement. Each member shall receive membership service credit for military leave, provided that he returns to work in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) under conditions other than dishonorable discharge. This membership service credit will be applicable to any active duty military absences for reasons other than training and will not exceed a cumulative total of five (5) years. Notwithstanding any other provision in this chapter to the contrary, contributions, benefits and creditable service with respect to qualified military service will be provided in accordance with Internal Revenue Code § 414(u), effective October 13, 1996 or any other applicable law.

B. An employee who becomes a member after re-employment and after having withdrawn the accumulated contributions contributed during his prior membership may re-establish his membership service credit for the period of his prior membership as follows:

1. If such employee were a former member of this System, by repayment to the System of the amount of his withdrawn accumulated contributions, with interest at the rate of six percent (6%) per annum from the date of withdrawal, which shall be a lump sum payment.
2. If such employee were a former member of the Arlington County Employees' Supplemental Retirement System (Chapter 21) or the Arlington County School Board Employees' Supplemental Retirement System (Chapter 35), by contributing to this System the applicable employee contribution based upon the employee's compensation during the credit period sought and the contribution rate in effect for this System, with interest at the rate of six percent (6%) per annum from the date of withdrawal, which shall be a lump sum payment.
3. An official purchasing service pursuant to § 46-27.B shall pay their contributions plus interest at the rate of six percent (6%) per annum for each full calendar year in which the contributions were not assets of the fund. The payment shall be made in a lump sum.

C. At the time of retirement, an employee hired prior to January 1, 2001, may elect to convert an unlimited amount of unused sick leave to service credit, in lieu of any cash payment provided by the County for accumulated sick leave. This conversion is not available when retirement is deferred pursuant to § 46-44.B. Employees hired after January 1, 2001, may only receive service credit for accumulated sick leave.

D. No School Board employee, except for employees who elected to remain in the System beyond September 1, 2001, shall accrue membership service beyond September 1, 2001. (2-8-81; Ord. No. 84-38, 12-23-84; Ord. No. 00-34, 11-1-00; Ord. No. 01-10, 4-21-01; Ord. No. 02-26, 12-7-02; Ord. No. 04-16, 6-26-04, effective 7-1-04; Ord. No. 09-27, 11-17-09, Ord. No 12-01, 1-21-12)

ARTICLE VI.

CONTRIBUTIONS

§ 46-32. Member Contributions.

A. Each member, who is not a member of the Virginia Retirement System (V.R.S.) and who is not a police officer, firefighter or deputy sheriff shall contribute for each pay period for which he receives compensation four percent (4%) of: (1) his creditable compensation, (2) any accrued and unused vacation, and (3) any earned and unused compensatory time paid at employment termination until such time as the County Board, pursuant to § 46-19, shall revise the rate of member contributions. Each member who is a police officer, firefighter or deputy sheriff, during years of service until the pay period ending January 3, 2009 shall contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, as then defined, and for all years of service commencing with the first pay period beginning January 4, 2009 shall contribute for each pay period for which he receives compensation, seven and a half percent (7.5%) of his creditable compensation, any accrued and unused vacation, and any earned and unused compensatory time paid at employment termination until such time as the County Board, pursuant to § 46-19, shall revise the rate of member contributions subsequent to December 23, 1984, employers who have elected to participate in the employer pick-up program shall pick-up all employee contributions required herein.

All employee contributions will cease upon attainment of thirty (30) years of creditable service.

B. There shall be deducted or picked-up from the salary of each member for each payroll period, the contribution payable to each member as provided in this section. Such deduction or pick-up shall be transmitted to the System each month.

C. The County Manager shall certify to the proper authority or officer responsible for preparing the payroll and he shall cause to be deducted or picked-up from the compensation of each member the proper contribution rate as determined by the County Board for each such member. All changes in creditable compensation shall be effective as of the date such change is made by the employer.

D. The County Board may change the rate of the contributions of a member or classification of members provided in § 46-32.A, as a part of a compensation plan.

E. Each employer shall be responsible for the employer contribution to V.R.S. and each employee who is a member of the V.R.S. shall be responsible for the employee contribution to the V.R.S.

F. The contributions required to be made under the provisions of § 46-32.A and § 46-32.B with respect to services rendered by an active member on or after December 23, 1984, shall be picked-up by the employer, in lieu of contributions by the employee, provided the employer has elected to participate in the employer pick-up program. The employee shall not have the option of choosing to receive pick-up contributions amounts directly instead of having them paid by the employer to the System. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to 26 U.S.C. § 414(h)(2). For all other purposes, under this chapter and otherwise, such pick-up contributions shall be treated in the same manner and to the same extent as contributions made by a member prior to December 23, 1984.

G. A member, who is a member of the V.R.S., may purchase membership credit for leave, provided he is receiving credit for such leave under the V.R.S., by contributing the employer's normal cost in effect as of the date of purchase multiplied by the employee's current compensation multiplied by the years of service credit sought. (2-8-81; 8-22-81; Ord. No. 84-38, 12-23-84; Ord. No. 89-15, 7-1-89; Ord. No. 00-34, 11-1-00; Ord. No. 03-14, 6-14-03; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 12-13, 9-15-12)

§ 46-33. Employer Contributions.

A. Each employer shall contribute a percentage of the members' creditable compensation, any accrued and unused vacation, and any earned and unused compensatory time paid at employment termination as determined by the County Board. In the event that an employer does not pay the established contribution, the Board shall take appropriate action to secure payment.

B. The annual employer contribution rate for this chapter, Chapter 21, and Chapter 35 shall be fixed as equal to the employer normal cost plus an expense rate plus any amortization charges from subsection C below, if the System's funding ratio (actuarial value of assets divided by actuarial accrued liability) remains within a corridor, the lower measurement of which is one hundred percent (100%) and the upper measurement of which is one hundred and twenty percent (120%). The employer normal cost and actuarial accrued liability are to be measured using the method recommended by an actuary and approved by the Retirement Board.

In the fiscal year commencing June 30, 1986, the employer shall transmit to the System on January 15, 1987, a sum equal to one-half (1/2) the actual annual contribution for the first six (6) months of the fiscal year. On May 15, 1987, the employer shall transmit to the system a sum equal to one-quarter (1/4) the actual annual contribution for the third quarter of the fiscal year. On August 15, 1987, the employer shall transmit to the System a sum equal to one-quarter (1/4) the actual annual contribution for the fourth quarter of the fiscal year commencing June 30, 1986. The August 15 transmittal shall be adjusted to reflect the full annual contribution due based on actual payroll and any actuarial estimate of loss of income by reason of timing of payments.

On October 15 of each subsequent fiscal year, the employer shall transmit to the System a sum equal to one-quarter (1/4) the actual annual contribution for the first quarter of the fiscal year. On January 15 of each fiscal year, the employer shall transmit to the System a sum equal to one-quarter (1/4) the actual annual contribution for the second quarter of the fiscal year. On May 15 of each fiscal year, the employer shall transmit to the System a sum equal to one-quarter (1/4) the actual annual contribution for the third quarter of the fiscal year. On August 15 of the succeeding fiscal year, the employer shall transmit to the System a sum equal to one-quarter (1/4) the actual annual contribution for the fourth quarter of the previous fiscal year. The August 15 transmittal shall be adjusted to reflect the full annual

contribution due based on actual payroll.

C. In the event of an ordinance change that affects benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change. If the ordinance change increases benefits, the employer contribution rate shall also be increased effective with the July 1 coincident with or next following the date of adoption of the ordinance change by a twenty (20) year amortization of any increase in actuarial liability as a result of the change; however, should the funding ratio exceed one hundred and twenty percent (120%) at any point after the effective date of the benefit change, this amortization payment will cease.

D. To the extent that the System's funding ratio exceeds one hundred and twenty percent (120%), a credit shall be established equal to the amount of assets in excess of one hundred and twenty (120%) of the actuarial accrued liability. The employer contribution shall be reduced by a fifteen (15) year amortization of this credit, to be paid until the funding ratio re-enters the corridor at which time it will cease.

E. To the extent that the System's funding ratio is lower than one hundred percent (100%), a charge shall be established equal to the difference (not less than zero (0)) between the actuarial accrued liability less the assets less the present value of any remaining amortization from subsection C above. The employer contribution shall be increased by a fifteen (15) year amortization of this charge, to be paid until the funding ratio re-enters the corridor at which time it will cease.

F. The contribution rate shall not increase nor decrease by more than two percent (2%) of payroll, plus any change due to subsection C above, over the previous years' contribution rate.

G. The employer contribution rate will not be less than three and one-half percent (3.5%) of payroll.

H. The County, being entitled to reimbursement from the Commonwealth of Virginia of a portion of the employer contributions on account of the County Treasurer, Attorney for the Commonwealth, Commissioner of the Revenue, Clerk of the Court, Sheriff and their employees, as provided under § 51.1-806 of the Code of Virginia, shall submit to the Virginia Retirement System Board, biennially, actuarial information as required, which shall provide the basis for such reimbursement.

I. Any forfeiture arising from severance of employment or death shall be used to reduce the employer contribution under the plan.

J. Notwithstanding anything in this chapter to the contrary, the amount of annual additions of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of such section applicable to governmental plans, as defined for purposes of such section. For purposes of this section, annual additions shall have the meaning set forth in Internal Revenue Code § 415(c). If the member's annual additions for any limitation year (as defined for purposes of such section) would exceed such maximum permissible amount, the amount contributed or allocated shall be reduced so that the annual additions for such limitation year will equal such maximum permissible amount and in accordance with Revenue Procedure 2008-50 and subsequent updates. All defined contribution plans maintained by Arlington County will be combined for purposes of Internal Revenue Code § 415(c).
(2-8-81; Ord. No. 84-38, 12-23-84; Ord. No. 86-33, 1-1-87; Ord. No. 00-34, 11-1-00; Ord. No. 05-10, 7-12-05; Ord. No. 11-06, 5-14-11; Ord. No. 12-13, 9-15-12; Ord. No. 13-08; 10-19-13; Ord. No. 17-11, 9-16-17)

ARTICLE VII.

ASSETS OF SYSTEM

§ 46-34. Assets to be Credited to One of Two Accounts.

All assets of the defined benefit System shall be credited, according to the purpose for which they are held, to one (1) of two (2) accounts, namely, "The Members' Contribution Account," and "The Retirement Allowance Account."

(2-8-81; Ord. No. 00-34, 11-1-00)

§ 46-35. Members' Contribution Account.

A. The members' contribution account shall be the account to which all members' contributions, pick-up contributions, and interest thereon shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

B. Each member's contributions and pick-up contributions to the System provided for in § 46-32 shall be credited to the individual account of that member.

C. Each individual account of the members' contribution account shall be credited with interest at a rate set annually by the Board of Trustees based upon the interest earned by the System's assets during the preceding year, provided that such interest shall not exceed six percent (6%); and provided further that interest shall accrue on any such amounts beginning at the end of the calendar year in which each such amount was contributed or picked up; and further provided that interest shall not be accredited or accumulated to the individual accounts of persons who have ceased to be members as defined in §46-28.

D. Notwithstanding anything in this chapter to the contrary, the amount of annual additions of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of such section applicable to governmental plans, as defined for purposes of such section. If the member's annual additions for any limitation year (as defined for purposed of such section) would exceed such maximum permissible amount, the amount contributed or allocated shall be reduced so that the annual additions for such limitation year will equal such maximum permissible amount.

E. Upon the retirement of a member, his accumulated contributions shall be transferred from the Members' Contribution Account to the Retirement Allowance Account. A member retiring under provisions of § 46-39 or § 46-41 whose contributions have been transferred to the retirement allowance account and who subsequently becomes an employee of the County shall contribute to his Members' Contribution Account on the same basis as any other member as provided in § 46-47.A.

(2-8-81; Ord. No. 84-38, 12-23-84; Ord. No. 00-34, 11-1-00; Ord. No. 13-08, 10-19-13)

§ 46-36. Retirement Allowance Account.

A. The Retirement Allowance Account shall be the account in which all employer contributions shall be accumulated, in which amounts transferred from the Members' Contribution Account shall be placed, and to which all income from the invested assets of the System shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.

B. The amount of interest allowances provided for in § 46-35.C shall be transferred each year from the Retirement Allowance Account to the Members' Contribution Account.

C. Notwithstanding anything in this chapter to the contrary, the amount of annual additions of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of such section applicable to governmental plans, as defined for purposes of such section. If the member's annual additions for any limitation year (as defined for purpose of such section) would exceed such maximum permissible amount, the amount contributed or allocated shall be reduced so that the annual additions for such limitation year will equal such maximum permissible amount.

(2-8-81)

ARTICLE VIII.

RETIREMENT BENEFITS

§ 46-37. Service Retirement.

A. *Normal retirement.* Any member who has attained the minimum age and completed the years of service for each member's job classification described in subsection 1 or 2 below may retire or elect to participate in the DROP upon written notification to the County Manager setting forth at what date the retirement or DROP election is to be effective provided that such effective date shall be after the member's last day of service but shall not be more than ninety (90) days subsequent to the filing of the notice.

1. A police officer, firefighter or deputy sheriff may retire or elect to participate in the DROP at the earlier of:
 - a. Age fifty-two (52) with five (5) years of completed service;
 - b. After twenty-five (25) years of completed service.
2. Any member who is not a police officer, firefighter or deputy sheriff may retire or elect to participate in the DROP at the earlier of either:
 - a. Age sixty-two (62) with five (5) years of completed service;
 - b. Any time where years of service, when added to age, equal at least eighty (80);
 - c. After thirty (30) years of completed creditable service.

B. *Early retirement.* Any member in service who has attained the minimum age and completed the years of service for such member's job classification as provided in subsection 1 or 2 below may retire upon written notification to the County Manager setting forth at what date the retirement is to be effective provided that such effective date shall be after the member's last day of service but shall not be more than ninety (90) days subsequent to the filing of the notice.

1. A police officer, firefighter or deputy sheriff may retire at age forty-two (42) if he has completed five (5) years of service.
2. A member who is not a police officer, firefighter or deputy sheriff may retire at the earlier of either:
 - a. Age fifty-five (55) with five (5) years of completed service;
 - b. Age fifty-four (54) with seventeen (17) years of completed service;
 - c. Age fifty-three (53) with nineteen (19) years of completed service;
 - d. Age fifty-two (52) with twenty-one (21) years of completed service;
 - e. Age fifty-one (51) with twenty-three (23) years of completed service;
 - f. Age fifty (50) with twenty-five (25) years of completed service.

C. *Service retirement – special conditions.* The County Manager may, once every fiscal year for a period of time not to exceed sixty (60) days, offer to: (i) general employees whose age plus service equals or exceeds seventy-eight (78), and (ii) public safety employees who are fifty (50) or more years old and have completed five (5) years of service or have completed twenty-three (23) years of service, regardless of age, service credit for an additional one (1) year of service and/or an additional one (1) year of age, provided the employee submits an application for retirement within the timeframe prescribed by the County Manager.

D. *Voluntary Retirement Incentive Program (FY18 VRIP).*

1. *Eligibility.* Notwithstanding any provision of this Chapter to the contrary, any member who meets the following criteria and voluntarily agrees to cease their employment pursuant to this FY18 VRIP shall be entitled

to retire in accordance with the program established hereunder:

- a. As of January 1, 2018, the member is actively at work as noted in the County's payroll system (including persons on authorized leave such as military, vacation, family or medical leave or sick leave) as an employee;
- b. The member:
 - i. in the case of a general member, will have either: a projected age of at least sixty (60) and projected creditable service of at least five (5) years on July 1, 2018 or will have projected creditable service plus projected age which combined will total 78 on July 1, 2018, or
 - ii. in the case police officer, firefighter or deputy sheriff, will have either: a projected age of at least fifty (50) with projected creditable service of at least five (5) years on July 1, 2018 or will have projected creditable service of at least twenty-three (23) years on July 1, 2018;
- c. The member declines to participate in the Deferred Retirement Option Program (DROP);
- d. The member executes a general release at such time and in such form (including, but not limited to, an age discrimination release), as provided by the County Manager. Such general release form shall be presented in a uniform and non-discriminatory basis and in manner required to obtain valid age claim release;
- e. The member does not revoke such release;
- f. The member retires no later than April 14, 2018.

2. *Benefit.* Computation of the Service Retirement Allowance to which a member retiring under the FY18 VRIP established by this section shall in all respects conform to the provisions of this Chapter, except such member shall be deemed to have one (1) additional year of creditable service and one (1) additional year of age included in their retirement eligibility calculation, as defined in §46-37.

3. *Re-employment.* Any eligible member who elects to retire under the FY18 VRIP shall be ineligible for rehire by the County as a temporary, limited term or seasonal employee, or as a consultant, for a period of six (6) months from the date of retirement and shall also be ineligible to be rehired as a permanent employee for one (1) year after the date of retirement under the FY18 VRIP program.

The County Manager may do so only after the Manager determines that there is a business necessity to reduce the workforce for budgetary reasons.

(2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 01-20, 11-17-01; Ord. No. 02-15, 6-22-02; Ord. No. 03-14, 6-14-03; Ord. No. 04-16, 6-26-04; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 09-27, 11-17-09, Ord. No. 12-01, 1-21-12; Ord. No. 17-15, 12-19-17)

§ 46-38. Service Retirement Allowance; Bridge Allowance.

A. Upon service retirement prior to January 4, 2009, a member who is a General Member shall receive an annual retirement allowance payable monthly to him for life which shall be equal to one and one-half percent (1.5%) of the member's average final compensation using creditable compensation as defined prior to January 4, 2009, multiplied by the number of years of his creditable service, not to exceed thirty (30) years.

Upon service retirement or upon entering the DROP on or after January 4, 2009, a member who is a General Member shall irrevocably elect to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

- (1) one and seven-tenths percent (1.7%) of the member's average final compensation using creditable compensation as defined effective January 4, 2009 multiplied by the number of years of his creditable service; or
- (2) their retirement allowance calculated as if they had ceased employment on January 3, 2009 for all years of creditable service up to January 3, 2009 plus a retirement allowance calculated by years of creditable service attained after January 4, 2009 multiplied by one and seven-tenths percent (1.7%) of average final compensation using creditable compensation as defined as of January 4, 2009.

Upon service retirement after January 3, 2009, General Members who are vested as of April 19, 2008 may irrevocably elect to receive an annual retirement allowance payable monthly to him for life which shall be calculated by one of the above two formulas or equal to one and one-half percent (1.5%) of the member's average final compensation calculated on January 3, 2009 multiplied by the total number of years of his creditable service.

Upon service retirement prior to January 4, 2009, a member who is a Public Safety Member shall receive an annual retirement allowance payable monthly to him for life which shall be equal to one and one-half percent (1.5%) of the member's average final compensation multiplied by the number of years of his creditable service from the first through the tenth year of service plus one and seven-tenths percent (1.7%) of the member's average final compensation multiplied by the number of years of his creditable service from the eleventh through the twentieth year of service plus two percent (2%) of the member's average final compensation multiplied by the number of years of his creditable service from the twenty-first through the thirtieth year of service. Average final compensation shall be calculated using compensation as defined prior to January 4, 2009.

Upon service retirement or upon entering the DROP on or after January 4, 2009, a member who is a Public Safety Member, shall irrevocably elect to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

- (1) two and one-half percent (2.5%) of the member's average final compensation using creditable compensation as defined effective January 4, 2009 multiplied by the number of years of his creditable service up to the pay period ending January 3, 2009, plus two and seven-tenths percent (2.7%) of the member's average final compensation and using creditable compensation as defined effective January 4, 2009 multiplied by the number of years of his creditable service commencing after January 3, 2009; or
- (2) their retirement allowance calculated as if they had ceased employment on January 3, 2009 for all years of creditable service up to January 3, 2009 plus a retirement allowance as calculated for years of creditable service attained on or after January 4, 2009 using two and seven-tenths percent (2.7%) of final average compensation and using creditable compensation as defined as of January 4, 2009. The retirement allowance calculated as if they had ceased employment on January 3, 2009 shall include the annual bridge allowance defined in the paragraph below, while eligible to receive the bridge allowance.

Upon service retirement after January 3, 2009, Public Safety Members who are vested as of April 19, 2008 may irrevocably elect to receive an annual retirement allowance payable monthly to him for life which shall be calculated by one of the above two formulas or equal to one and one-half percent (1.5%) of the member's average final compensation as calculated on January 3, 2009 multiplied by the number of years of his creditable service from the first through the tenth year of service plus one and seven-tenths percent (1.7%) of the member's average final compensation as calculated on January 3, 2009 multiplied by the number of years of his creditable service from the eleventh through the twentieth year of service plus two percent (2%) of the member's average final compensation as calculated on January 3, 2009 multiplied by the number of years of his creditable service from the twenty-first through the thirtieth year of service. If utilizing the latter monthly allowance calculation, the bridge benefit described below will be the difference in annual retirement allowance between that above formula and two percent (2%) of the member's average final compensation as of January 3, 2009 multiplied by the total number of years of service, not to exceed thirty (30) years.

Upon service retirement, a member who is a Public Safety Member shall receive an annual bridge allowance, payable monthly to him until his Social Security normal retirement age as defined as of January 1, 2001 or at the early Social Security reduced benefit age if the member elects to receive Social Security at an early age. The bridge amount will be the difference between the allowance as calculated using the retirement allowance calculation in effect prior to January 4, 2009 and an allowance which shall be equal to two percent (2%) of the member's average final compensation using creditable compensation as defined prior to January 4, 2009 multiplied by the number of years of his creditable service prior to January 4, 2009, not to exceed thirty (30) years. On or before May 1 of any year which follows the year a retiree receiving a bridge benefit attains the age of sixty-two (62), the retiree shall report any Social Security benefits received in such detail, including any and all income tax returns as may be required by the County Manager.

Upon service retirement on or after January 1, 2010, a member who has been both a General Member and a Public Safety Member of the System during their creditable service, shall have a retirement allowance payable monthly to him for life which shall be equal to the sum of the retirement allowance as calculated for Public Safety Members using their years of creditable service as a Public Safety Member plus the retirement allowance as calculated for General Members using their years of creditable service as a General Member.

The maximum amount of creditable service a member can accrue for use in calculating their retirement allowance is thirty (30) years.

B. Upon service retirement of a member prior to his normal retirement age as provided in § 46-37.B, the member shall receive an annual retirement allowance, payable monthly to him for life, which shall be equal to the amount calculated under § 46-38.A and shall be payable, at the option of the member after completing forms to notify the County of his election: (i) commencing on his early retirement date or the first of any subsequent month prior to his normal retirement age but reduced by one-half of one percent (0.5%) for each full month by which the receipt of his monthly allowance precedes the earlier of (a) his normal retirement date, or (b) the first date on which his number of years of service and his attained age would have equaled the minimum age and completed years of service requirement provided in § 46-37.A had he been continuously in service from his date of retirement until such first date; or (ii) commencing at his normal retirement date without such reduction.

C. The retirement allowance for service retirement under the provisions of § 46-38 shall be reduced by any compensation awarded to the member or retiree under the Virginia Workers' Compensation Act ("the Act"), whether such award is paid to the member or retiree in a lump sum or otherwise. Such reduction shall be made only for compensation awarded to cover any period of time for which the member or retiree is or will be receiving benefits under § 46-38. No such reduction shall be made for compensation awarded for permanent partial or permanent total loss or disfigurement, where payments are made from the schedule of payments provided for such under the Act. For purposes of this section, compensation awarded does not include reimbursement for medical expenses.

D. Any member not entering the DROP and electing a normal, early or a deferred benefit may, at the time the member chooses to begin receiving retirement benefits, elect to receive a lump sum payment equal to the lesser of ten percent (10%) of the actuarial value equivalent to that of the annual retirement allowance, including expected post-retirement supplements which may be payable pursuant to § 46-49, to which he could otherwise be entitled, as determined by the actuary, of the benefits to be paid over the member's lifetime or twenty thousand dollars (\$20,000.00). If the then current actuarial value of the benefits is less than five thousand dollars (\$5,000.00), the entire benefit may be selected as a lump sum. Should the member elect such a lump sum payment, the monthly benefit due the retiree will be reduced by an amount calculated to be equal to the actuarial equivalent of the lump sum payment. The lump sum distribution will be issued at the time of the first benefit payment.

Nothing herein shall be construed to require any person to pay back into the System any money received before the effective date of this section. No person who has begun to receive an allowance under § 46-38 before June 23, 1990, shall be subject to this reduction.

E. Nothing in the Code amendments effective January 4, 2009 will apply to or affect retirement allowance calculations pursuant to § 21-59 and § 35-43 for persons ceasing employment prior to April 19, 2008 nor shall such Code amendments affect any person receiving a retirement allowance before April 19, 2008.

(2-8-81; Ord. No. 90-12, 7-1-90; Ord. No. 93-17, 7-27-93; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 09-27, 11-17-09, Ord. No. 12-01, 1-21-12; Ord. No. 12-13, 9-15-12)

Editors Note: The provisions adopted in Ord. No. 93-17, adopted July 27, 1993, are effective retroactive to Jan. 1, 1989.

§ 46-38.1 Special Rules for the Period between April 19, 2008 and January 3, 2009.

A. When retiring pursuant to § 46-37 or exiting the DROP between April 19, 2008 and January 3, 2009, the employee will receive their retirement allowance calculated using the retirement allowance formula in effect at the time of their retirement until the January 2009 payment. In January 2009, their retirement allowance will be calculated using the formula effective January 4, 2009 using the same years of creditable service as was used at retirement or DROP entry and the retired member shall irrevocably elect, to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

1. their allowance as calculated under the formula effective on January 3, 2009; or
2. the formula effective January 4, 2009.

A change in the retirement allowance, as elected, will apply to payments January 2009 and thereafter.

B. Those retiring pursuant to § 21-42.B or ceasing employment pursuant to § 21-48.B between April 19, 2008 and January 3, 2009 and receiving a deferred allowance, shall, after January 4, 2009, irrevocably elect, to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

1. The allowance determined in accordance with the provisions of § 21-42.B; or
2. The allowance determined in accordance with the provisions of §§ 46-38.B and 46-49.B effective January 4, 2009.

C. Those ceasing employment pursuant to § 46-44.B between April 19, 2008 and January 3, 2009 will have their retirement allowance calculated using the retirement allowance formula in effect at the time of their withdrawal from employment until the January 2009 payment, if eligible to receive their allowance prior to January 2009 as outlined in § 46-44.B. In January 2009, their retirement allowance will be calculated using the formula effective January 4, 2009 using the same years of creditable service as was used at the time of their withdrawal from employment and the retired member shall irrevocably elect, to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

1. their allowance as calculated under the formula effective on January 3, 2009; or
2. the formula effective January 4, 2009.

A change in the retirement allowance, as elected, will apply to payments upon the latter of reaching eligibility to receive their allowance as outlined in § 46-44.B or January 2009 and thereafter.

D. Should any member who has completed two (2) or more years of creditable service die while in service between April 19, 2008 and January 3, 2009, the designated beneficiary as defined in § 46-44.C will receive their retirement allowance calculated as described in § 46-44.C using the retirement allowance formula in effect at the time of the employee's death until the January 2009 payment. In January 2009, their retirement allowance will be calculated using the formula effective January 4, 2009 using the same years of creditable service as was used at the time of death and the beneficiary shall irrevocably elect, to receive an annual retirement allowance payable monthly to him for life which shall be equal to either:

1. the allowance as calculated under the formula effective on January 3, 2009; or
2. the formula effective January 4, 2009.

Either allowance will be reduced pursuant to § 46-44.C.

E. For any person who is receiving a retirement allowance as of April 18, 2009, and then begins new employment with an employer between April 19, 2008 and January 3, 2009, only service after the date of new employment shall earn the multiplier effective as of January 4, 2009 and creditable service between April 19, 2008 and January 3, 2009 will earn the multiplier effective as of January 3, 2009.
(Ord. No. 08-17, 9-13-08, 1-4-09)

§ 46-39. Ordinary Disability Retirement.

A. Any member in service or on authorized leave without pay who has two (2) or more years of service and qualifies for Social Security disability retirement may, at any time before his normal retirement date, retire on account of disability as herein defined upon written application to the County Manager, made by the member or his appointing authority, setting forth the date the retirement is to become effective. Such effective date shall be after the last day of service, and provided that the medical advisor, after a medical examination of such member, has certified that (i) the member has suffered a disability, (ii) the disability has so severely disabled the member that he is mentally or physically incapacitated from performing any substantial, gainful employment, and (iii) such disability is likely to be permanent and such member should be retired. Every member granted an ordinary disability retirement shall, as a condition of receiving any benefits pursuant to § 46-40, be required to apply for and receive Social Security disability benefits.

B. *Temporary ordinary disability.* If, after receiving the member's application for ordinary disability retirement, the County Manager determines that all the requirements for ordinary disability retirement are met except that it has not been determined whether the member qualifies for Social Security disability benefits, the County Manager shall grant to the member a temporary ordinary disability retirement for either a period of time not to exceed six (6) months or until the member receives a determination from the Social Security Administration, whichever, event occurs sooner. If after this six (6) month period, the County Manager finds that the failure to receive a determination from the Social Security Administration was not in any way the fault of the member, the County Manager shall extend such member's temporary ordinary disability retirement. The case of each member retired pursuant to this subsection B shall then be reviewed by the County Manager at such time as is determined by the County Manager.
(2-8-81; Ord. No. 83-6, 2-26-83; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-39.1. Application of State Law.

The rules and regulations required by Chapter 272 of the 1975 Acts of Assembly and the applicable sections of the Code of Virginia relating to respiratory disease, hypertension or heart disease of firefighters and the hypertension or heart disease of police officers and deputy sheriffs are incorporated herein by reference; provided, however, such incorporation by reference shall continue only so long as the enabling legislation requires such rules and regulations.
(Ord. No. 00-34, 11-1-00)

§ 46-40. Ordinary Disability Allowance.

Upon retirement as provided in § 46-39, a member shall receive an annual retirement allowance equal to the amount calculated in the appropriate sections of § 46-38.A and D with no reduction for early retirement.
(2-8-81; Ord. No. 00-34, 11-1-00)

§ 46-41. Service-Connected Disability Retirement.

A. *Permanent disability.* Any member in service or on authorized leave without pay may retire on account of service-connected disability that is not due to the employee's willful misconduct if he is permanently disabled for duty, upon written application to the County Manager made by the member or his appointing authority, setting forth the date the retirement is to become effective. Such effective date shall be after the last day of service.

In the case of a member who is a member of the V.R.S., the County Manager shall accept the determination of the Medical Examining Board of the V.R.S. In all other cases, no allowance for retirement may be awarded until after the medical advisor has examined the applicant and has certified that (i) the member has suffered a permanent disability resulting from an injury or occupational disease; (ii) the disability has rendered the member mentally or physically incapacitated for the further performance of the significant duties of the classification which he held at the time of his disability; and (iii) such disability is the natural and proximate result of an accident or injury which occurred while in the actual performance of duty at some definite time or place, or such disability was the natural and proximate result of an occupational disease that was contracted as a result of exposure occasioned by employment. The medical advisor shall consider all medical information provided by the Worker's Compensation Office of the County and the Worker's Compensation treating physician and will consult the treating physician as necessary. No ordinary disease of life to which the general public is exposed outside of employment shall be the basis for retirement unless such disease is found to be compensable under workers' compensation and the County Manager finds beyond a reasonable doubt that the ordinary disease of life (i) did not result from any cause outside of employment and (ii) either:

1. Followed as an incident of an occupational disease; or
2. Resulted solely, naturally, and unavoidably from an injury which occurred while in the actual performance of the member's occupational duties at some definite time and place.

No allowance shall be awarded unless the County Manager finds that the accident or injury upon which the medical advisor based its medical certification occurred, in fact, while the applicant was in the actual performance of duty at some definite time or place or the County Manager finds that the exposure upon which the medical advisor based its medical certification was occasioned, in fact, by employment.

If the medical advisor's opinion disagrees with that of the worker's compensation treating physician opinion, the County Manager may appoint a substitute medical advisor.

The phrase "permanent disability" shall not be construed to include a medical condition which may be corrected if the member follows a reasonable medical treatment plan or reasonable medical advice.

B. *Temporary disability.* If, after conducting the examination, the medical advisor certifies that the requirements for permanent disability are met, except that it has not been determined if the disability is permanent, or if in the opinion of the physician the disability may be alleviated or eliminated if the applicant follows a reasonable medical treatment plan or reasonable medical advice, the physician shall notify the County Manager in writing of his findings, stating his reasons and recommendations. The County Manager shall direct the member to follow such a plan or advice unless it determines that the risk to the member of the plan or advice is too high or the possibility of success too low, given all the facts and circumstances, and the member shall be temporarily retired.

The case of each member retired pursuant to this subsection B shall be reviewed by the County Manager at such time as is determined by the County Manager, and if no specific time for review is determined, the member's case shall be reviewed by the County Manager within twelve (12) months from the date the temporary retirement was granted. Any person whose disability application is denied or whose temporary disability benefit is terminated, may appeal to the board pursuant to § 46-52.

Any employee with a pre-employment disability shall be eligible for a service-connected disability allowance only if the County Manager finds that such employee would have been entitled to a service-connected disability allowance notwithstanding the pre-employment disability.

(2-8-81; Ord. No. 83-6, 2-26-83; Ord. No. 94-14, 5-7-94; Ord. No. 00-34, 11-1-00; Ord. No. 03-14, 6-14-03; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-42. Service-Connected Disability Allowance.

A. Upon retirement as provided in § 46-41, a member shall receive an annual amount equal to sixty-six and two-thirds percent (66.67%) of the member's average final compensation.

B. Upon attaining normal retirement age, the retiree's service-connected disability allowance shall be equal to sixty percent (60%) of the member's average final compensation, as used in subsection A above, for police officers, firefighters or deputy sheriffs or forty-five percent (45%) of the member's average final compensation for a member who is not a police officer, firefighter or deputy sheriff. Upon receiving Social Security benefits, but no later than age sixty-five (65), this allowance reduces to fifty-two percent (52%) of the member's final average compensation for member's who are police officers, firefighters or deputy sheriffs.

C. In no event shall the service-connected disability allowance of a firefighter be an amount less than sixty-six and two-thirds percent (66.67%) of the member's average final compensation at the time of his retirement.

D. Any retirement allowance received by a member pursuant to this section shall be subject to § 46-46. (Ord. No. 90-36, 1-1-91; Ord. No. 00-34, 11-1-00; Ord. No. 02-26, 12-7-02; Ord. No. 03-14, 6-14-03; Ord. No. 06-08, 6-10-06, effective 7-1-06)

§ 46-43. Line of Duty Death Benefit.

A. *Definitions.* The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

“Base salary” means an employee's base rate of pay according to the County Board adopted pay plan, including any market adjustments under the pay plan.

“Beneficiary” means, for purposes of § 46-43, that person or persons designated by the member to receive life insurance proceeds from the life insurance policy provided or made available by the employer.

“Direct and proximate result” means that result which is the natural and probable consequence of the antecedent events.

“Line of duty” means on the job in the service of the member's employers. Line of duty does not mean going to or from work (including between any parking lot or transportation terminal and the employee's work place), going to or from meals or breaks, or time spent while "on call" or on stand-by status unless the employee is involved in a specific work-related duty during such period.

“Personal injury” means any traumatic injury as well as diseases which are caused by or result from such an injury, excluding occupational diseases and diseases of ordinary life. The term personal injury excludes any personal injury caused or contributed to by the intentional misconduct or negligence of the member or beneficiary as well as suicide. The term personal injury also excludes any injury caused or contributed to by the member's consumption of alcohol or illegal drugs.

“Traumatic injury” means a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, smoke inhalation, sharp or blunt instruments or objects, physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain. Death from heart attacks, strokes and similar diseases resulting from chronic, congenital or progressive cardiac and/or pulmonary conditions are not compensable unless a traumatic injury was a substantial factor in the death. Heart attacks and stroke shall be presumed to be caused by a traumatic injury where such heart attacks and stroke were substantially caused by arduous and strenuous physical work-related activity.

B. The beneficiary of any member who dies in the line of duty shall receive a payment of two (2) times the member's base salary at the time of death, up to a maximum of one hundred fifty thousand dollars (\$150,000.00). Such payment may be received by the beneficiary only after the payment is approved by the County Manager as set forth below. Following approval by the County Manager, the beneficiary may elect to receive the payment either in one (1) lump sum or in four (4) equal installments; the first installment to be made after approval of the application for payment by the County Manager and the remaining three (3) installments annually thereafter. In the event that there is more than one (1) beneficiary no election by beneficiaries is allowed and payment shall be of the full payment only, divided between or among the beneficiaries in the same manner which the member has designated for the life insurance policy provided by or made available by the employer.

In addition, the member's beneficiary shall receive a benefit equal to the service retirement benefit payable under § 46-38 to the member as if the member had worked thirty (30) years for the County. This benefit is payable to the member's beneficiary until the member would have reached normal retirement age. Upon reaching normal retirement age, the benefit is equal to the benefit that would be paid to the survivor had the member worked until normal retirement, retired and elected a one hundred percent (100%) joint and survivor benefit, and died immediately.

Additionally, any surviving children, or their legal guardian, shall receive undergraduate tuition assistance equal to in-state tuition, room and board at the University of Virginia until the child reaches age twenty-three (23), plus thirty-three percent (33%). This benefit is payable in an exact amount as determined by the County Manager on a semester by semester basis by submitting the appropriate documentation as determined by the County Manager.

The beneficiary(ies) may apply for payment within one hundred eighty (180) days of the member's death by making application to the County Manager. The County Manager may adopt procedures for making and evaluating applications for this benefit. The County Manager shall approve payment under this section only after finding that the member has died as the direct and proximate result of a personal injury sustained in the line of duty.

Before approving any application, the County Manager must receive a written certification from the medical advisor that the member has died as the direct and proximate result of a personal injury identified by the medical advisor and the County's legal advisor certifies that all the requirements of this section have been met.

The one hundred fifty thousand dollar (\$150,000.00) maximum established under this section shall be increased by the same amount as the annual cost of living adjustment made by the Arlington County Board for the Arlington County Employees' Pay Plan, beginning with the adjustment made effective July 1, 2004.*

The lump sum benefit payable under this section shall be reduced by any amount awarded for an accidental death occurring in the line of duty by the V.R.S., whether by an insurance policy or otherwise.

Notwithstanding any of the foregoing, where the County Manager finds that an employee's death, as the direct and proximate result of a personal injury, was intentionally caused by a third party because the third party was motivated to cause the employee's death because the employee performed a particular duty within the employee's scope of employment, such death shall be considered to have occurred in the line of duty whether or not it occurred on the job.

*Effective July 1, 2004.

(Ord. No. 90-12, 7-1-90; Ord. No. 90-36, 1-1-91; Ord. No. 00-34, 11-1-00; Ord. No. 02-26, 12-7-02; Ord. No. 04-26, 11-16-04, 12-12-04)

§ 46-44. Benefits upon Withdrawal from Employment or Death.

A. If a member has ceased to be an employee, otherwise than by death or by retirement under the provisions of this chapter prior to the completion of five (5) years of service, or if he has completed five (5) or more years of service and has not made the election provided in subsection B, he shall be paid, after demand, as soon as practicable, the total amount of his contribution account, notwithstanding amounts in excess of \$1,000.00 shall not be distributed without the employee's written consent.

B. If a member has ceased to be an employee, other than by death or by retirement, after completion of five (5) or more years of service and has not elected in writing as prescribed by the County Manager to withdraw the total amount of his contribution account, he will be eligible to receive a deferred vested retirement allowance commencing on his normal retirement date. The allowance will be the amount determined as provided in § 46-38 as of the date of his withdrawal from employment. For persons ceasing employment between April 19, 2008 and January 2, 2009, the allowance shall be calculated as provided in § 46-38.1. The allowances provided for under this § 46-44.B shall be payable for life commencing on the first day of the month coincident with or next following the later of (i) the date on which such member attains his normal retirement date, or (ii) the date on which the County Manager receives written application from such former member. This written application should be filed with the County

Manager not earlier than sixty (60) days prior to the former member's normal retirement date. If a member who has elected to remain a member pursuant to this subsection thereafter:

1. Elects to withdraw his accumulated contributions, he shall be paid the amount of his accumulated contributions.
2. Dies prior to retirement, his beneficiary shall be paid the amount of his accumulated contributions to the date of the member's death.
3. Is reemployed by any employer subject to this chapter and becomes a member of the System, he shall have reinstated his service and compensation records in effect when his service was broken.

C. Should any member who has completed two (2) or more years of creditable service die while in service, a retirement allowance shall be payable to his designated beneficiary provided such beneficiary is his spouse so long as unmarried, dependent parents or children under the age of eighteen (18). The retirement allowance shall be fifty percent (50%) of the amount determined as provided in § 46-38.A based upon the member's number of years of creditable service and average final compensation taken as of the date of his death. For any member who dies while in service between April 19, 2008 and January 3, 2009, their beneficiary's allowance will be calculated as provided in § 46-38.1. In the case of a member who dies in the line of duty and whose beneficiary(ies) receive a line of duty death benefit pursuant to § 46-43, the above service qualifications shall be waived and the retirement allowance shall be one hundred percent (100%) of the amount determined as provided in § 46-38.A as of the date of their death. In no event shall the allowance be less than five percent (5%) of the member's average final compensation. The allowance shall be payable monthly to the dependent parents or unmarried spouse for life or to the children until they reach age eighteen (18). A designated beneficiary who is entitled to a retirement allowance under provisions of this section as a result of the death of a member shall be entitled to waive his rights to such allowance by written notification to the board within ninety (90) days after the death of such member and elect to receive the amounts provided in § 46-44.D. All beneficiaries must agree to such waiver in the event that there is more than one (1) designated beneficiary. Should a designated beneficiary die, the amount of the member's accumulated contributions reduced by the amount of any retirement allowance received by the designated beneficiary pursuant to this section, shall be payable in a lump sum to a person nominated by the designated beneficiary or, in the absence thereof, to the estate of the designated beneficiary.

D. Should a member die whose beneficiary, if any, is not eligible for a retirement allowance pursuant to § 46-44.C, the amount of his accumulated contributions shall be paid in a lump sum to the designated beneficiary, or in the absence of a designated beneficiary, to his estate.

E. Should a person on retirement die, the amount of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him under any of the provisions of this chapter, shall be payable in a lump sum to a designated beneficiary or, in the absence of a designated beneficiary, to his estate.

F. Any designated beneficiary may be changed from time to time by written notice by the member, or person, signed and filed with the County Manager.

G. Should a beneficiary of a disability retirement allowance cease to receive the allowance any time prior to his normal retirement date, he will be eligible to receive a deferred vested retirement allowance commencing on his normal retirement date, as provided in § 46-44.B.

H. Should a former employee who elected to receive a deferred vested retirement allowance pursuant to § 21-48.B or § 35-40.E be reemployed, such former employee shall become a member of the Retirement System to which he was a member when he made his election and the member's service and compensation records in effect at the time service was ended shall be reinstated.

I. This section applies to distributions other than the line of duty death benefit in § 46-43 herein made on or after January 1, 1993.

1. Notwithstanding any provision of this chapter to the contrary that would otherwise limit a

distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500.00) paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. *Definitions.* The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

“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 (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Internal Revenue Code § 401(a)(9); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200.00) during a year.

“Eligible retirement plan” Any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Internal Revenue Code § 408(a), an individual retirement annuity described in Internal Revenue Code § 408(b), an annuity plan described in Internal Revenue Code § 403(a), a qualified plan described in Internal Revenue Code § 401(a), an annuity contract described in Internal Revenue Code § 403(b); an eligible deferred compensation plan described in Internal Revenue Code § 457(b) that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Internal Revenue Code § 408A, provided the eligible rollover distribution is considered a “qualified rollover contribution” under Internal Revenue Code § 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

“Distributee” includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code § 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee includes a non-spouse beneficiary of a deceased employee or former employee who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.

“Direct rollover” means a direct rollover or payment by this chapter to the eligible retirement plan specified by the distributee.

J. Notwithstanding any provision of this Chapter to the contrary, distributions to members and their beneficiaries shall be made in compliance with Internal Revenue Code § 401(a)(9) and regulations issued thereunder, including the incidental death benefit requirement of Internal Revenue Code § 401(a)(9)(G).

K. Notwithstanding anything in this Chapter to the contrary, the amount paid from the Retirement Allowance Account of a member for any limitation year for purposes of Internal Revenue Code § 415 shall not exceed the maximum permissible amount determined pursuant to the provisions of Internal Revenue Code § 415(b) applicable to governmental plans, as defined for purposes of such section. If the member's benefit for any limitation year would exceed such maximum permissible amounts, the benefit shall be reduced for such limitation year so that it will equal such maximum permissible amount.

L. Should a member reach his normal retirement date as defined in § 46-1 while an employee, the rights of the member to accrued benefits under this Chapter shall become nonforfeitable.

M. To the extent required by Section 401(a)(37) of the Internal Revenue Code for purposes of determining a member's entitlement to a death benefit under the Plan, in the event a member ceases to be an Employee in order to perform qualified military service within the meaning of section 414(u) of the Internal Revenue Code and dies on or after January 1, 2007 while performing qualified military service, the member's death shall be considered to have occurred while the member was an Employee so that his Beneficiaries are entitled to any additional benefits provided under the Plan (other than benefit accruals relating to the period of qualified military service), including without limitation any additional or enhanced vesting or death benefits, had the member resumed employment with the Employer and then terminated employment on account of death. (2-8-81; Ord. No. 84-18, 6-2-84; Ord. No. 84-38, 12-23-84; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 10-23, 12-11-10; Ord. No. 11-06, 5-14-11, Ord. No. 12-01, 1-21-12; Ord. No. 13-08, 10-19-13, Ord. No. 17-11, 9-16-17)

§ 46-45. Medical Examination of Beneficiary of Disability Retirement Allowance.

The County Manager shall require a permanent disability retiree, prior to his normal retirement date for an ordinary disability retiree and for a service-connected disability retiree, to undergo a medical examination by the medical advisor, or the County Manager's medical appointee in the case of any such retiree residing outside the area serviced by the medical advisor--once each year during the first three (3) years following retirement and once in every three (3) years thereafter for so long as the retiree continues to receive a disability retirement allowance, provided that when it appears in a particular case that the nature of the disability warrants the conclusion that it will continue substantially beyond the time of the next regular examination, the County Manager may waive the requirements that the retiree undergo the next regular examination. The County Manager shall have the authority to order, for stated reasons, a disability retiree to undergo a physical examination at any time. Upon attainment of Normal Retirement Age, medical examination will cease for an ordinary disability retiree and for a service-connected disability retiree. (2-8-81; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 12-13, 9-15-12)

§ 46-46. Reduction of Disability Allowance.

A. Whenever the County Manager ascertains that any retiree who has retired on ordinary disability pursuant to § 46-39 is, prior to his normal retirement date, engaged in a gainful occupation or work paying more than the difference between his disability allowance and his average final compensation, the County Manager shall reduce such allowance to an amount which, together with the amount earned by him, equals the amount of his average final compensation.

B. Should the medical advisor report and certify to the County Manager that any retiree who is retired on ordinary disability pursuant to § 46-39 is able to engage in a gainful occupation or work paying more than the difference between his retirement allowance and his average final compensation at retirement, and should the County Manager find that such retiree shall have refused any employment considered by the County Manager suitable to his capacity, he shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the County Manager such refusal was justified.

C. On or before May 1 of any year which follows a year in which ordinary disability benefits were paid, every ordinary disability retiree prior to the retiree's normal retirement date, shall report, in such detail, including any and all income tax returns as may be required by the County Manager, all income from wages or self-employment or both earned in the preceding year.

D. Should the medical advisor report and certify to the County Manager that any retiree who has retired on service-connected disability pursuant to § 46-41 is able to perform the significant duties of the classification held at the time of his disability, the County Manager shall terminate the disability allowance.

E. Except for an allowance received by a retiree pursuant to § 46-42.B, the retirement allowance for service-connected disability determined under the provisions of § 46-42 shall be reduced by:

1. Any compensation awarded to the retiree under the Virginia Workers' Compensation Act (for purposes of this section, compensation awarded does not include reimbursement for medical

expenses) whether such award is paid to the member in a lump sum or otherwise, except compensation awarded to cover any period of time for which the member or retiree is not receiving benefits under § 46-42 or compensation awarded for permanent partial or permanent total loss or disfigurement, where payments are made from the schedule of payments provided for such under the Act; and

2. An amount equal to any benefits paid to the member by the Virginia Retirement System.

F. Whenever the County Manager determines that a retiree's disability retirement allowance should be reduced, the amount of reduction shall be prorated over a period of twelve (12) consecutive months. Such reduction shall commence with the allowance payment for July of the year following the year in which the earnings were made.

G. Should a disability retiree fail or refuse to undergo the medical examination required by § 46-45 or refuse to submit the reports required by § 46-46.C or fail to follow the directive of the County Manager made pursuant to § 46-41.B, the retiree's retirement allowance shall be discontinued until withdrawal of such refusal. Should an ordinary disability retiree willfully file a report required by § 46-46.C which contains false information which is substantial, the County Manager shall discontinue the retiree's retirement allowance for one (1) year. (2-8-81; Ord. No. 90-36, 1-1-91; Ord. No. 93-17, 7-27-93; Ord. No. 00-34, 11-1-00; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 05-10, 7-12-05; Ord. No. 06-08, 6-10-06, effective 7-1-06)

Editors Note: The provisions adopted in Ord. No. 93-17, adopted July 27, 1993, are effective retroactive to Jan. 1, 1989.

§ 46-47. Effect on Retirement Allowance of Returning to Work.

A. Should a beneficiary retired pursuant to § 46-37.A or B return to service as an Employee of the School Board, he shall become a member of the retirement system of which he was a member when he retired and shall thereafter contribute to such retirement system. Any service on the basis of which his retirement allowance was computed shall thereafter be counted as creditable service. Upon return to service, such member's retirement allowance shall cease.

Should a beneficiary retired pursuant to §46-37 return to service as an Employee of an Employer other than the School Board, he shall have the option to: (1) become a member of the System and their retirement allowance will cease or (2) participate in the deferred compensation plan provided for in §46-27 and their retirement allowance will continue.

For any person who is receiving a retirement allowance as of April 18, 2009, and then begins new employment with an employer subsequent to January 3, 2009, only service after the date of new employment shall earn the multiplier effective as of January 4, 2009,.

B. Should a beneficiary of a disability retirement allowance return to service at any time prior to his normal retirement date, he shall become a member of the retirement system of which he was a member when retired and contributions, in accordance with § 46-32, shall resume. Any service on the basis of which his disability retirement allowance was computed shall thereafter be counted as creditable service and, in addition, the period of disability retirement shall be counted as creditable service for those on service-connected disability retirement. Upon return to service, such member's disability allowance shall cease.

C. Any excess accumulated contributions of such beneficiary over the retirement allowances received by him shall be transferred from the retirement allowance account to the member's contribution account.

D. If the amount of retirement allowances received by him exceeds his accumulated contributions, the excess allowances over accumulated contributions shall not be transferred to the contribution account. (2-8-81; Ord. No. 82-33, 8-7-82; Ord. No. 84-38, 12-23-84; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 12-13, 9-15-12)

§ 46-48. Joint and Survivorship Options.

A member may nominate a beneficiary and may elect, by written application filed with the County Manager any time prior to his normal, early, ordinary or service-connected disability retirement, a joint life and survivorship pension of actuarial value equivalent to that of the annual retirement allowance, including expected post-retirement supplements which may be payable pursuant to § 46-49, to which he could otherwise be entitled, as determined by the actuary. If a married member elects a beneficiary other than the member's spouse, then this election must have the consent, in a notarized writing, of the member's spouse at the time of application. Such joint life and survivorship benefits shall be on the basis of a lifetime annual retirement allowance to the retired member with either a like amount of pension, two-thirds (2/3) or one-half (1/2) thereof being continued to his beneficiary if said beneficiary survives him. The annual retirement allowance payable monthly shall be determined on a basis of equivalent actuarial values according to the ages, at the member's actual retirement date, of the member and his beneficiary, and shall be payable as long as either lives. The payment of any retirement allowance in an optional form shall be calculated at the member's actual retirement date using the actuarial equivalent of the normal retirement allowance payable under the System using RP-2000 Healthy Annuitant With White Collar Adjustment projected with Scale AA to 2010 for mortality rates and 7.5% interest. The Retirement Board shall have the authority to change the mortality rate and/or interest rate and such rates shall be published in the System's annual valuation and are incorporated in the Code by reference. Notwithstanding the foregoing, a non-spouse beneficiary will be subject to the appropriate benefit adjustments as outlined by regulation 6T of the Internal Revenue Code or any successor applicable regulation.

If so elected, the allowance shall be paid as long as:

A. The retired member lives, with either a like amount of pension, two-thirds (2/3) or one-half (1/2) thereof continued for as long as the beneficiary lives after the death of the retired member. The election shall become payable in accordance with the above provisions if the member dies subsequent to his normal retirement date even though prior to his actual retirement date.

B. The beneficiary lives, but upon the death of the beneficiary prior to the death of the member, the option will be canceled and the amount of the unreduced pension will become payable. No retirement allowance shall be paid to a member unless the member has stated whether or not he elects the joint and survivorship option.

C. Notwithstanding any other provision to the contrary, any retired member who elects the joint and survivorship pension option may, with the consent of the person nominated to receive the option, cancel such option. Such option may also be canceled pursuant to court order in a case in which the person nominated is a party. In the event of either cancellation, the retirement allowance paid to the member in the period after the effective date of the cancellation will be the same as if the member had not elected a joint life and survivorship pension option. (2-8-81; Ord. No. 90-12, 7-1-90; Ord. No. 00-34, 11-1-00; Ord. No. 02-26, 12-7-02; Ord. No. 04-26, 11-16-04, effective 12-12-04; Ord. No. 13-08, 10-19-13)

§ 46-49. Post-Retirement Supplements.

A. In addition to the allowances payable pursuant to this chapter, post-retirement supplements shall be payable in accordance with this section to the recipients of such allowances. Such supplements shall be subject to the same conditions of payment as are the basic allowances being supplemented. Such supplements shall be treated as retirement allowances for the purposes of §§ 46-44.E and 46-47.B.

B. The amounts of the post-retirement supplements provided hereby shall be determined as percentages of the allowances which are provided pursuant to this chapter and the V.R.S. and which are supplemented hereby. Said percentages shall be determined by reference to the increase, if any, in the United States Average Consumer Price Index (C.P.I.) for all items, as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the calendar year immediately prior to the year in which the post-retirement supplement is to be paid in accordance with the following:

For the first three percent (3%) increase in CPI	Retirement Allowance Adjustment = the increase in CPI
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For CPI increases between three percent (3%) and twelve percent (12%)	Retirement Allowance Adjustment = three percent (3%) + one half (1/2) of the increase greater than three percent (3%)
For CPI increase greater than twelve percent (12%)	Retirement Allowance Adjustment = seven and one-half percent (7.5%)

C. The amount of any post-retirement supplement shall be adjusted, after its initial determination, only in July of each year beginning with the July next following the anniversary of the actual retirement date of the retiree. (2-8-81; Ord. No. 90-36, 1-1-91; Ord. No. 91-12, 7-1-92; Ord. No. 94-15, 5-7-94; Ord. No. 00-34, 11-1-00; Ord. No. 02-26, 12-7-02)

§ 46-50. Vesting on Termination of System; Nonreversion of Funds.

Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are nonforfeitable. No portion of the assets of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries prior to the satisfaction of all liabilities with respect to members and their beneficiaries. (2-8-81)

§ 46-51. Legal Construction of Chapter 46.

The law of the State of Virginia shall govern the interpretation of Chapter 46 and the legal significance of all transactions of the Board. (2-8-81)

§ 46-52. Hearing Requirement-Benefit Reductions, Discontinuances and Disability Denial Appeals.

Whenever any provision of this chapter permits or requires the County to reduce or discontinue a retiree's retirement allowance or a member appeals the denial of their application for disability benefits, the Board shall hold a hearing on the appeal. The retiree or applicant, or his representative, shall have the right to be present and heard at such hearing. When hearing an appeal for denied disability benefits, the Board may obtain an independent medical opinion. In the event that the Board's independent medical opinion disagrees with the medical advisor's opinion, the medical opinion of the Board's physician will prevail. (2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-53. Reduction of Discontinuance of Allowance.

A. If, after conducting the hearing required by § 46-52, the Board determines that a retiree's retirement allowance should have been reduced prior to the date of such hearing, the County Manager shall reduce the retiree's future retirement allowance in an amount equal to the difference between the amount the retiree received and the amount the retiree should have received had the allowance been reduced prior to the date of the hearing until such time as the additional amount paid to the retiree has been repaid.

B. If, after conducting the hearing required by § 46-52, the Board determines that a retiree's retirement allowance should have been discontinued prior to the date of such hearing, the County Manager shall discontinue the retiree's retirement allowance and shall seek repayment from the retiree of an amount equal to the amount that was paid to the retiree from the date his allowance should have been discontinued until the date his allowance was discontinued.

C. The County Manager is authorized to enter into agreements with retirees whose retirement allowance has been reduced or discontinued pursuant to this section whereby the County Manager agrees to installment payments if in the opinion of the County Manager the facts and circumstances of the retiree's case justify such an agreement. In determining whether the facts and circumstances of a retiree's case justify such an agreement, the County Manager shall consider the amount owed, the retiree's age, ability to earn, and assets and prior experience of the member in meeting the requirements of this chapter.

Whenever the County Manager agrees to enter into such an agreement, the County Manager shall collect six percent (6%) interest per annum on the unpaid balance owed by the retiree.
(2-8-81; Ord. No. 04-26, 11-16-04, effective 12-12-04)

§ 46-54. Reduction of Allowance for Members of the V.R.S.

Members who are also members of the V.R.S. shall have the benefits they or their beneficiaries would otherwise have received from this System reduced by the member's entitlement benefit under the V.R.S. provisions.
(2-8-81; Ord. No. 00-34, 11-1-00)

§ 46-55. Social Security Option.

A member who has retired from service pursuant to § 46-37 (service retirement) may elect to receive an increased retirement allowance until his Social Security full retirement age as defined as of January 1, 2001 or at the early Social Security reduced benefit age if the member elects to receive Social Security at an early age and a decreased retirement thereafter, so that a member will receive a uniform or nearly uniform retirement allowance when the member's retirement allowance is added to the member's anticipated federal Social Security primary benefits.
(2-8-81; Ord. No 10-23, 12-11-10, Ord. No. 12-01, 1-21-12)

§ 46-56. Part-Time Employees.

A. Part-time employees hired on or after June 22, 1986, who have not reached normal retirement age shall be members of the System.

B. Part-time employees hired prior to June 22, 1986, who have not reached normal retirement age may elect to become members of the System. The election to be considered as members shall be delivered to the retirement office by the close of business on Friday, August 29, 1986. Notwithstanding the foregoing, any such part-time employee otherwise eligible for membership may elect to become a member between January 3, 2001 and January 31, 2001. No service credit shall be allowed for any service prior to such employees' election to become a member, whether purchased or not.

C. Part-time employees shall participate in the System on the same basis as other employees except for the following:

1. Credited service shall be determined by dividing the total hours credited to an employee by 2080.
2. Creditable compensation for a given year shall be determined by multiplying the full compensation payable annually to an employee by a fraction, not less than one (1), the numerator of which is 2080 and the denominator of which is the number of hours credited during such year.
3. Upon retirement as provided in § 46-41, a member shall receive an annual amount equal to fifty percent (50%) of the member's average final compensation multiplied by the member's average annual credited service.
4. Membership service credit for military leave shall be prorated based on the member's average annual credited service prior to entry into the military.
5. A part-time employee may elect to purchase membership service credit for his service after July 1, 1985.

(Ord. No. 86-14, 6-14-86; Ord. No. 90-36, 1-1-91; Ord. No. 00-33, 12-18-00; Ord. No. 00-34, 11-1-00)

§ 46-57. Continuation of Benefits for Members Who Worked At Least Thirty Hours Per Week Prior to June 22, 1986.

Notwithstanding any other provisions of this chapter, employees who worked at least thirty (30) hours per week and were members of the System prior to June 22, 1986, shall continue to receive one (1) year of creditable service for each year of service rendered and creditable compensation equal to actual compensation.
(Ord. No. 86-14, 6-14-86)

§ 46-58. Reduction of Bridge Allowance.

If a retiree who is receiving a bridge allowance as defined under § 46-38 is employed by the County in any temporary, part time or permanent capacity, the bridge allowance shall be reduced by one dollar (\$1.00) for each dollar (\$1.00) earned.
(Ord. No. 00-34, 11-1-00)

§ 46-59. Maximum Permissible Benefit.

Notwithstanding anything in this chapter to the contrary, the annual benefit otherwise payable at any time to a member under this chapter shall not exceed the maximum permissible amount determined pursuant to the provisions of Internal Revenue Code § 415 applicable to governmental plans, as defined for purposes of such section. If the benefit the member would otherwise accrue in a limitation year (as defined for purposes of such section) would produce an annual benefit in excess of such maximum permissible amount, the rate of accrual shall be reduced so that the annual benefit will equal such maximum permissible amount. The provisions of Internal Revenue Code § 415 are herein incorporated by reference.
(Ord. No. 00-34, 11-1-00; Ord. No. 13-08, 10-19-13; Ord. No. 17-11, 9-16-17)

ARTICLE IX.

DEFINED CONTRIBUTION PROGRAM

§ 46-60. Defined Contribution Program--County Employees and Officers.

There is hereby established a defined contribution retirement program for each employee who is a member of a retirement system established under either Chapter 21 or Chapter 46 of the Arlington County Code, who is an active employee on or after January 1, 2000 and who is not a member of V.R.S. or is a member of V.R.S. by virtue of having formerly served as a State health employee. The County Manager is authorized to execute all documents necessary or appropriate to establish and operate such a program including but not limited to documents establishing the plan, documents establishing applicable trusts and documents for the retention of contracted program administrators. Any documents executed by the County Manager shall be approved as to form by the County Attorney prior to execution.

The County Manager is authorized to take all actions the Manager deems necessary or appropriate to insure that the establishment and operation of the program is consistent with the applicable requirements of Internal Revenue Code § 401(a), as amended, and other applicable law including but not limited to restrictions on withdrawals from accounts established herein and establishment of rules and regulations to operate such a program.

The Retirement Board shall on September 1, 2001, or as soon as reasonably practicable thereafter, transfer additional contributions to a defined contribution retirement program established by, and administered under terms and conditions approved by designated School Board officials, for start-up accounts of all member School Board employees who are not members of the V.R.S., or who have not elected to become members of V.R.S. under Article X, as of the day of this transfer, amounts as follows:

For the first five (5) years of service, per year of service or prorated for a fraction thereof \$500.00

Plus, for the next five (5) years of service, per additional year of service or prorated for a fraction thereof . . . \$900.00

Plus, for the next ten (10) years of service, per additional year of service or prorated for a fraction thereof . . . \$700.00

Notwithstanding the above, the Retirement Board shall, in December of 2000 or as soon as reasonably practicable thereafter, transfer to the defined contribution retirement program for the start up accounts of Chapter 46 employees who are members of V.R.S. by virtue of having formerly served as State health employees, as follows:

For the first ten (10) years of service, per year of service or prorated for a fraction thereof \$100.00

Plus for the next ten (10) years of service per additional year of service or prorated for a fraction thereof . . . \$500.00

In addition to these startup contributions, the employer shall, effective January 1, 2001, at the end of each pay period, deposit an amount equal to amounts defined in the County's 401(a) Plan Document.

For all persons who are members of the retirement Systems established under Chapters 21 and 46, who are not members of V.R.S. or are members of V.R.S. by virtue of having formerly served as a State health employee and who are actively employed in service to the County, the program may provide for after-tax employee contributions to employee accounts under rules established by the County Manager. (Ord. No. 00-34, 11-1-00; Ord. No. 01-10, 4-21-01; Ord. No. 08-17, 9-13-08, effective 1-4-09)

§ 46-61. School Board Defined Contribution Start-Up Accounts.

The Retirement Board shall, in December of 2000 or as soon as reasonably practicable thereafter, transfer to a defined contribution retirement program established by, and administered under terms and conditions approved by, the designated School officials for the start up accounts of all Chapter 46 School Board employees, amounts as follows:

For the first ten (10) years of service, per year of service or prorated for a fraction thereof \$100.00

Plus for the next ten (10) years of service, per additional year of service or prorated for a fraction thereof . . . \$500.00

(Ord. No. 00-33, 12-18-00)

§ 46-62. Benefits for V.R.S. Members.

The Retirement Board shall on September 1, 2001, or as soon as reasonably practicable thereafter, transfer to a defined contribution retirement program established by and administered under terms and conditions approved by the School Board, funding for accounts of School Board employees as determined by the School Board. The funding will be equal to the present value of accrued benefits due these employees under the System, less necessary funds to preserve the rights of employees to receive any benefits accrued as of September 1, 2001, under the System. Such transfer amount shall not exceed \$3.3 million dollars and shall be determined by actuaries retained by the Retirement Board.

(Ord. No. 01-10, 4-21-01)

ARTICLE X.

ELECTION BY SCHOOL BOARD EMPLOYEES

§ 46-63. Transfer of Assets to the V.R.S.

Persons employed by the School Board as of June 1, 2001, who are not members of the V.R.S. on June 1, 2001, may elect to become members of the V.R.S. and have their membership service transferred to the V.R.S. on September 1, 2001. Such election must be made by August 1, 2001. Notwithstanding any provision to the contrary,

upon election to become members of the V.R.S., and transfer of membership service to the V.R.S., such employees shall cease to be members of the System.

The Retirement Board shall, on September 1, 2001, or as soon as reasonably practicable thereafter, transfer to the V.R.S. an amount not to exceed the actuarial liability as of September 1, 2001, as determined by the Retirement Board actuary, for all School Board employees not covered by V.R.S. as of June 1, 2001, but who have elected to become members by executing and returning to the School Board an irrevocable election to do so by August 1, 2001. If an elected is not executed and returned by August 1, 2001, the participant will remain a member of Chapter 46. (Ord. No. 01-10, 4-21-01)

ARTICLE XI.

DEFERRED RETIREMENT OPTION PLAN (DROP)

§ 46-64. Deferred Retirement Option Plan (DROP).

A. Effective January 1, 2002 there is hereby established a deferred retirement option plan for each employee who is a member of the Retirement System and an active employee of the County Board on or after January 1, 2002 or an active employee of the School Board on or after January 1, 2003. The provisions of this section are available to members who elect to participate pursuant to § 46-37.A or § 21-41.A. Effective November 1, 2003, an active employee who is a member of the retirement system pursuant to § 35-25.A may elect to participate in the provisions of this section pursuant to § 35-36.A or 35-36.C.2.

B. An eligible member may participate in the DROP only once. An eligible member must elect to participate in the DROP by filing an application with the retirement office not less than thirty (30) days prior to the date of intended participation.

C. Except as specifically provided herein, the duration of an eligible member's participation in the DROP may not exceed three (3) years.

D. If a participating DROP member's participation in the DROP is interrupted by military service, there shall be no interruption of membership in the DROP. Such a participating DROP member's retirement allowance shall continue to be paid into the participating member's DROP account while on a military service leave of absence for the balance of the elected DROP term, unless the participant elects to terminate employment with Arlington County.

1. If the member's military service leave of absence is continuous and exceeds 90 calendar days, the duration of the participant's DROP term shall be extended to a duration equal to a maximum of the sum of three (3) years plus the length of the military leave of absence (not to exceed 12 months), unless the participant elects to terminate employment with Arlington County at an earlier date.

E. If a participating DROP member's participation in the DROP is interrupted by an approved medical leave of absence, there shall be no interruption of membership in the DROP. Such a participating DROP member's retirement allowance shall continue to be paid into the participating member's DROP account while on medical leave for the balance of the elected term, unless the participant elects to terminate employment with Arlington County.

1. If the participating DROP member's medical leave of absence exceeds 90 continuous calendar days and the member is approved for the County's Disability Income Program (DIP), the duration of the participant's DROP term shall be extended to a duration equal to the sum of three (3) years plus the length of that approved medical leave (not to exceed 12 months), unless the participant elects to terminate employment with Arlington County at an earlier date.

F. Except as set forth specifically herein, election to participate in the DROP shall be deemed to be service retirement for purposes of this chapter. Upon commencement of participation in the DROP, the electing member's retirement allowance shall be paid into the member's DROP account. Contributions by the County and the

participating DROP member into the Retirement System for the participating DROP member shall cease. Contributions into the County's 457 or the School Board's 403(b) plan may continue. Contributions to the 401(a) plans shall continue.

Amounts transferred to a participating DROP member's DROP account shall not constitute annual additions under Internal Revenue Code § 415.

G. Participating DROP members' DROP accounts shall be invested in a stable value investment option and such accounts shall be credited with interest at the rate applicable for each quarter determined in accordance with the stable value investment option. Distributions from the DROP account shall be consistent with applicable tax rules and regulations.

H. The County Manager is authorized to adopt rules and regulations governing the administration of the DROP plan. Any documents executed by the County Manager shall be approved, in form, by the County Attorney prior to execution.

I. If a participating DROP member dies during the three (3) year DROP participation period (or extended period provided for herein), the participating DROP member's designated beneficiary for the DROP account shall receive payment in a manner allowed under the DROP account and subject to applicable rollover rights.

J. If a participating DROP member becomes disabled during the period of participation in the DROP the participating DROP member will receive:

For a service-connected disability, either:

1. The disability retirement benefit as if the member had never participated in the DROP, forfeiting the member's DROP account, or
2. The regular retirement benefit (calculated with years of service up to the member's DROP participation date) along with the member's DROP account balance.

For non-service-connected disability, the regular retirement benefit (calculated with years of service up to the member's DROP participation date) along with the member's DROP account balance.

K. Employees participating in the DROP remain eligible for the benefits provided under § 46-43.

L. An employee who is participating in the DROP automatically terminates active employment when participation in the DROP terminates.

M. Notwithstanding any provision of the County Code to the contrary, Constitutional Officers and their employees may participate in the DROP. Such participation shall be on the same terms and conditions as those applicable to the employees of the County Board, except that if the participating Constitutional Officer or employee fails to terminate employment by the end of the three (3) year DROP period, as required by this section, such person shall forfeit allocations to the DROP account and any earnings thereto. In the event of such forfeiture, the constitutional officer or employee shall be treated as if there was never any participation in the DROP.

N. When exiting the DROP on or after January 4, 2009, whichever is later, the employee shall have a choice of either their allowance as calculated under the formula effective until January 3, 2009 or the formula effective January 4, 2009.

(Ord. No. 01-20, 11-17-01; Ord. No. 02-26, 12-7-02; Ord. No. 03-23, 10-18-03; Ord. No. 05-10, 7-12-05; Ord. No. 08-17, 9-13-08, effective 1-4-09; Ord. No. 13-08, 10-19-13; Ord. No. 17-15, 12-19-17)