

1 FROM THE OFFICE OF GEORGE L. CHRISTENSON
2 MILWAUKEE COUNTY CLERK

3
4 County Ordinance No. 23-12
5 File No. 23-1016
6

7 AN ORDINANCE
8

9 The County Board of Supervisors of the County of Milwaukee does ordain as follows:
10

11 **SECTION 1.** Section 201.24(2.19) of the General Ordinances of Milwaukee County is
12 hereby amended as follows:
13

14 2.19 – Retirement.
15

16 (1) Retirement shall mean termination of employment ~~after a member~~
17 ~~has fulfilled and subsequent commencement of benefits after a~~
18 ~~member has fulfilled~~ all requirements for a pension under the
19 Ordinances and Rules, including submission of a completed
20 retirement application to RPS as described in Ordinance section
21 4.6.
22

23 (2) For all new applications filed on or after July 1, 2019, all retirements,
24 including disability retirements, as well as any other benefit
25 enhancements, such as those conferred under section 201.24(5.16)
26 and related ERS ordinances and rules, a member's retirement
27 effective date shall ~~only commence on the first day of the month~~
28 ~~immediately following a member's last day of employment (or~~
29 ~~authorized leave of absence, if later), and be on the first day of~~
30 the month following the month the member fulfills all
31 requirements to retire, including termination of employment and
32 submission of an application to RPS. ~~a~~Any retirement or annuity
33 benefit payable to a member or beneficiary shall terminate upon the
34 last day of the month of the date of death of the retiree or beneficiary
35 under the applicable option.
36

37 **SECTION 2.** A new Section 201.24(2.24) of the General Ordinances of Milwaukee
38 County is hereby created as follows:
39

40 **2.24. Active Service.**
41

42 The term "active service" shall mean current employment with Milwaukee County
43 as an employee in an ERS-covered position.
44

45 **SECTION 3.** Section 201.24(3.11)(6) of the General Ordinances of Milwaukee County
46 is hereby amended as follows:
47

3.11. - Employee contribution.

(6) *Refund of accumulated contributions.*

(a) **Refund Deadline.** Refunds of all accumulated contributions made under this section 3.11, ~~with interest at the rate of five (5) percent per annum~~, shall be made on the same conditions and under the same circumstances as refunds under section 3.5, but may only be paid in the form of a lump sum payment. **Interest at the rate of five (5) percent per annum will accrue until the earlier of: (1) the date a refund is paid; or (2) 180 days after termination of employment.**

Any refund of accumulated contributions must be requested within ~~one-hundred eighty (180) days~~ **five (5) years** after termination of county employment. The Retirement Office shall send an employee who terminates employment a written notice of the refund option via U.S. mail, or an equivalent service, to the member's address on file with the system.

(b) Notice Requirement. If a member does not receive written notice of the refund option, then the Pension Board, or the Retirement Office as delegated by the Pension Board, may allow the individual to receive a refund of accumulated contributions later than the refund period ~~of this in~~ section 3.11 **(a) above**. A determination that notice was not received can be based on the Retirement Office and/or Pension Board finding that notice was either not sent by the Retirement Office or not received by the member. The member shall have the burden of proving notice was not received, and the Pension Board or Retirement Office shall have the sole and exclusive authority to determine whether the individual received written notice. The appeal rules of the Pension Board shall apply to refund requests under this paragraph.

(c) All Contributions Refunded. If a member requests and receives a refund of accumulated contributions under this section and section 3.5, the member shall receive a refund of all amounts included in ~~his or her~~ **the member's** membership account at that time.

(b) (d) Termination of ERS Service. Members receiving a refund or on whose behalf a refund is paid under this subsection shall cease to be a member of the employees' retirement system and shall have no further right to any benefit under this plan.

(c) (e) Application. The provisions of section 11.1 shall not apply to accumulated contributions withdrawn by members under this section.

SECTION 4. Section 201.24(3.5) of the General Ordinances of Milwaukee County is hereby amended as follows:

93
94 3.5. - Refunds upon severance or death.
95

96 Notwithstanding the following, a member or beneficiary shall not be eligible to
97 receive a refund of the portion of ~~his the member's~~ membership account attributable to
98 accumulated contributions contributed under section 3.11 if the member's employment
99 was terminated due to fault or delinquency on the member's part under section 4.5 or if
100 the member or a beneficiary of the member is eligible, at the time the request for a
101 refund is made, for the present receipt of any monthly annuity benefit under sections
102 4.1, 4.5, 6.1, 6.2, 6.4, or 7.1 ~~or 7.2~~ of chapter 201.24 of the ordinances. Upon
103 termination of employment, for reason other than death or retirement, a member shall
104 be entitled to receive a refund of the balance as of the date of termination of his
105 membership account and his savings account, accumulated at interest as set from time
106 to time by the board. However, a member whose employment terminated after reaching
107 normal retirement age, who is eligible for the present receipt of a benefit, whose
108 pension benefit, as calculated pursuant to Ordinance section 201.24(4.1) or (4.5), is
109 below one-hundred (\$100) per month, and who so elected at the time of retirement (or
110 who so elects in accordance with section 3.11 for retirements after June 1, 2020), may
111 receive a refund of the member's membership account instead of receiving an annuity.
112

113 Upon termination of employment, for reason other than death or retirement, a
114 member shall be entitled to receive a refund of the balance as of the date of termination
115 of ~~his the member's~~ membership account ~~and his savings account, plus interest~~
116 ~~(as described in Rule 403) through the date of disbursement, plus applicable~~
117 ~~interest as set forth in section 3.11(a).~~ However, if a member who is eligible for a
118 deferred vested pension withdraws ~~his the member's~~ membership account, ~~the~~
119 ~~member~~ shall forfeit all rights to a deferred vested pension. If a member requests,
120 under this paragraph, a refund of assets in ~~his or her the member's~~ membership
121 account related to contributions made pursuant to sections 3.11 or 3.3, the member
122 shall receive a refund of all assets contained in ~~his or her the member's~~ membership
123 account at that time, with interest as provided ~~above in section 3.11(a)~~, provided that
124 the request is made within the time limits contained in section 3.11.
125

126 Upon termination of employment by reason of a member's death or upon the
127 death of a member who is eligible for a deferred vested pension, the member's
128 beneficiary shall be paid in lump sum the balance, plus interest (as described in Rule
129 403) through the date of disbursement, of ~~his the~~ membership account and ~~his-~~
130 ~~savings account as well as~~ any applicable benefit under Ordinance section
131 201.24(6.3), provided that if a joint and survivor option under section VII is effective or a
132 survivorship benefit under section VI (excluding section 6.3) is payable, the membership
133 account shall not be paid to the beneficiary.
134

135 ~~Upon retirement of a member, the balance of his savings account shall be~~
136 ~~paid in one (1) of the following forms as determined by the board:~~
137

- 138 (a) ~~Lump sum payment.~~
139
140 (b) ~~Life annuity with full cash refund or on a term certain basis.~~
141
142 (c) ~~Installments of a designated amount or over a designated~~
143 ~~period of time.~~
144

145 If under any of the above options a benefit becomes payable to some other
146 person as a result of the death of the retired member, payment shall be made to the
147 beneficiary designated by the member or, in the absence of a valid designation, than as
148 provided in section 2.16.
149

150 **SECTION 5.** Section 201.24(4.1)(1)(a) and (2) of the General Ordinances of Milwaukee
151 County is hereby amended as follows:
152

153 4.1. - Normal retirement.
154

155 (1) (a) A member shall be eligible for a normal pension if **his the member's**
156 **County** employment ~~is~~ terminated ~~on or after he~~ **the following:**
157

158 i) **the member has submitted a completed retirement application**
159 **to RPS as described in Ordinance section 4.6; and**
160

161 ii) **the member** has attained **one of the following:**
162

163 (A) age fifty-five (55) ~~and has completed with~~ thirty (30) years of
164 service,
165

166 (B) ~~or if his employment is terminated on or after he has attained~~
167 Normal Retirement Age as defined in section 2.18;
168

169 (C) ~~Sworn law enforcement officers shall be eligible to retire at if~~
170 **the member is a sworn law enforcement officer,** age fifty-seven
171 (57) regardless of their number of years of service, or ~~at~~ age fifty-
172 five (55) with at least fifteen (15) years of ~~creditable pension~~
173 service.
174

175 **In order to be eligible for a normal retirement benefit under Sections 4.1(1) or**
176 **(2) the member must submit an application to retire on or before the date of**
177 **the member's termination of employment with the County. However, a**
178 **member may submit a completed application up to one calendar business (1)**
179 **day after the date of the member's termination, and ERS shall treat the**
180 **application as if it was received on the date of termination. A member who is a**
181 **County employee at the time of retirement but not employed in an ERS-**
182 **covered position may still retire under Section 4.1(1) if the member otherwise**

183 **meets the requirements.**

184

185 (2) Rule of 75.

186

187 **Members in active service as defined in Ordinance section 201.24(2.24) at the**
188 **time of retirement may be eligible for the Rule of 75 if they meet one of the**
189 **following requirements:**

190

191 (a) A member who, on September 29, 2011, is employed and is not
192 covered by the terms of a collective bargaining agreement, and
193 whose initial membership in the retirement system under section
194 201.24 began prior to January 1, 2006, and who retires on and after
195 September 1, 1993, shall be eligible for a normal pension when the
196 age of the member when added to **his the member's** years of
197 service equals seventy-five (75), but this provision shall not apply to
198 any member eligible under section 4.5 nor to any nonrepresented
199 deputy sheriff who was hired as a deputy sheriff after December 31,
200 1993 and whose appointment to a nonrepresented position was first
201 effective after June 30, 2009, nor to a member who was formerly a
202 represented correction officer who was hired as a correction officer
203 after December 31, 1993 and who was appointed to a
204 nonrepresented position effective after May 1, 2011.

205

206 (b) A member who, on September 29, 2011, is employed and is
207 covered by the terms of a collective bargaining agreement with the
208 American Federation of State, County and Municipal Employees
209 District Council 48, or with the Technicians, Engineers and
210 Architects of Milwaukee County, or with the International
211 Association of Machinists and Aerospace Workers, and whose initial
212 membership date is prior to January 1, 1994, shall be eligible for a
213 normal pension when the age of the member when added to **his the**
214 **member's** years of service equals seventy-five (75), but this
215 provision shall not apply to any member eligible under section 4.5.

216

217 (c) A member who, on December 31, 2012, is employed and is covered
218 by the terms of a collective bargaining agreement with the
219 Federation of Nurses and Health Professionals, shall be eligible for
220 a normal pension when the age of the member when added to **his**
221 **the member's** years of service equals seventy-five (75), but this
222 provision shall not apply to any member eligible under section 4.5.

223

224 (d) A member who, on September 29, 2011, is employed and is covered
225 by the terms of a collective bargaining agreement with the
226 Association of Milwaukee County Attorneys, and whose initial
227 membership date is prior to January 1, 2006, shall be eligible for a

normal pension when the age of the member when added to ~~his the~~
member's years of service equals seventy-five (75), but this
provision shall not apply to any member eligible under section 4.5.

(e) A member who, on September 29, 2011, is employed and is
covered by the terms of a collective bargaining agreement with the
Milwaukee Building and Construction Trades Council, and whose
initial membership date is prior to February 21, 2006, shall be
eligible for a normal pension when the age of the member when
added to ~~his the member's~~ years of service equals seventy-five
(75), but this provision shall not apply to any member eligible under
section 4.5.

(f) A member who was employed and covered by the terms of a
collective bargaining agreement with the Milwaukee Deputy Sheriffs
Association on September 29, 2011, and whose initial membership
date is prior to January 1, 1994, and who is not represented by the
Milwaukee Deputy Sheriffs Association at the time of the employee's
retirement, shall be eligible for a normal pension when the age of
the member when added to ~~his the member's~~ years of service
equals seventy-five (75), but this provision shall not apply to any
member eligible under section 4.5.

(g) A member who was employed and covered by the terms of a
collective bargaining agreement with the Milwaukee County
Firefighters Association (IAFF Local 172) on September 29, 2011,
and whose initial membership date is prior to December 2, 1996,
and who is not represented by the Milwaukee County Firefighters
Association (IAFF Local 172) at the time of the employee's
retirement, shall be eligible for a normal pension when the age of
the member when added to ~~his the member's~~ years of service
equals seventy-five (75), but this provision shall not apply to any
member eligible under section 4.5.

SECTION 6. Section 201.24(4.2) of the General Ordinances of Milwaukee County is
hereby amended as follows:

4.2. - Early retirement.

A member shall be eligible for an early normal retirement pension if ~~his the~~
member meets the following requirements:

- 1) The member's employment is terminated on or after ~~his the member's~~ 55th
birthday; and provided he has

273 **2) The member must submit a retirement application to RPS on or before**
274 **termination of employment; and**

275
276 **3) The member must have,** completed fifteen (15) or more years of **ERS**
277 **service ~~but the amount thereof~~ at the time of application.**

278
279 **The pension of any member who retires under this Section 4.2** shall be reduced as
280 provided in Section 5.2.

281
282 **A member who is a County employee at the time of retirement but not employed**
283 **in an ERS-covered position may still retire under this Section 4.2 if the member**
284 **otherwise meets the requirements. Notwithstanding subsection (2) above, a**
285 **member may submit a completed application up to one (1) calendar business day**
286 **after the date of the member's termination, and ERS shall treat the application as**
287 **if it was received on the date of termination.**

288
289 **SECTION 7.** Section 201.24(4.3) of the General Ordinances of Milwaukee County is
290 hereby amended as follows:

291
292 4.3. - Accidental disability retirement.

293
294 **1) General Requirements.** A member shall be eligible for an accidental
295 disability pension if his employment is terminated prior to his normal
296 retirement age by reason of total and permanent incapacity for any duty as
297 the natural and proximate result of **one of the following:**

298
299 **a)** an accident occurring at some definite time and place while in the
300 actual performance of duty.; **or**

301
302 **b)** **for the members meeting the requirements, one of the**
303 **impairments or diseases listed in Section 3 below.**

304
305 The last payment shall be made, if disability ceases prior to his normal retirement
306 date, the first day of the month in which disability ceases.

307
308 Disability shall be considered total and permanent if the medical board, after a
309 medical examination of such member, shall certify that such member is mentally or
310 physically incapacitated to perform any job that **the member** is reasonably suited for
311 by means of education, training or experience. Disability must be as a result of such
312 service accident **or disease (as described in Section 3 below)** and such incapacity
313 is likely to be permanent.

314
315 A member shall not be entitled to both an accidental disability pension and
316 ordinary disability pension.

2) **Mental Injuries.** In accordance with s. 59.88, Wis. Stats., if a member's accidental disability application is based on a mental injury, an accidental disability pension will only be granted under this section if:

- (a) The mental injury resulted from a situation of greater dimensions than the day-to-day mental stresses and tensions and post-traumatic stress that all similarly situated employees must experience as part of the employment; and
- (b) The member's employer certifies that the mental injury is a duty-related injury.

3) **Disability Presumptions for Certain Safety Workers.** In reviewing a member's disability retirement application for benefits under this section, the Pension Board will take into account the assumptions provided below to the extent the member satisfies the applicable requirements.

(a) **Heart or Respiratory Impairment or Disease.** As provided by s. 891.45, Wis. Stats., a County fire fighter, defined as any person employed by the County whose duties primarily include active fire suppression or prevention, shall be entitled to a presumption that the fire fighter's impairment or disease was caused by employment if:

- i.) at the time of the filing of the application for disability benefits, the individual has served a total of 5 years as a state, County or municipal fire fighter (must be certified by the employer);
- ii.) a qualifying medical examination given prior to the time of the individual becoming a fire fighter showed no evidence of heart or respiratory impairment or disease; and
- iii.) the member's disability is found to be caused by heart or respiratory impairment or disease.

(b) **Infectious Disease.**

i.) **Definitions.**

- A. "Correctional Officer" means any person employed by the County as a guard or officer whose principal duties are the supervision and discipline of inmates.
- B. "Emergency Medical Service Provider" means a person employed by the County as an emergency medical technician or first responder.

- 363 C. "Fire Fighter" means any person employed by the County
364 whose duties primarily include active fire suppression or
365 prevention.
- 366 D. "Law Enforcement Officer" means any person employed by
367 the County for the purpose of detecting and preventing
368 crime and enforcing laws or ordinances, who is authorized
369 to make arrests for violations of the laws or ordinances
370 which the individual is employed to enforce.
- 371
- 372 E. "Infectious Disease" means the human immunodeficiency
373 virus, acquired immunodeficiency syndrome, tuberculosis,
374 hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria,
375 meningococcal meningitis, methicillin-resistant
376 staphylococcus aureus, and severe acute respiratory
377 syndrome.
- 378
- 379 ii.) Presumption. As provided by s. 891.453, Wis. Stats., a
380 Correctional Officer, Emergency Medical Services Provider, Fire
381 Fighter or Law Enforcement Officer shall be entitled to a
382 presumption that the member's Infectious Disease was caused
383 by his or her employment if:
- 384 A. a qualifying medical examination given prior to the time of
385 the member becoming a Correctional Officer, an Emergency
386 Medical Service Provider, a Fire Fighter, or a Law
387 Enforcement Officer showed no evidence of an Infectious
388 Disease; and
- 389 B. the member's disability is found to be caused by the
390 Infectious Disease.
- 391
- 392 (c) Cancer. As provided by s. 891.455, Wis. Stats., a fire fighter, defined
393 as any County employee whose duties primarily include active fire
394 suppression or prevention, is entitled to a presumption that the
395 member's cancer was caused by his or her employment if:
- 396
- 397 i.) at the time of filing of the application, the fire fighter has served
398 a total of 10 years as a fire fighter for the County, State or
399 Wisconsin municipality (must be certified by the employer);
- 400 ii.) a qualifying medical examination given prior to the time of the
401 individual becoming a fire fighter showed no evidence of
402 cancer; and
- 403
- 404 iii.) the disability is found to be caused by cancer.
405 This presumption shall only apply to cancers affecting the skin,
406 breasts, central nervous system or lymphatic, digestive,
407

hematological, urinary, skeletal, oral or reproductive systems.

(d) Qualifying Medical Examination. For all presumptions described above, a member may satisfy the requirements of a qualifying medical examination by providing one of the following:

i.) a copy of the qualifying medical examination given prior to the time the member entered into the covered occupation for that employer;

ii.) certification from the member's employer that there is no record of a medical examination, but there is supporting documentation that shows the member did not have the disability prior to employment; or

iii.) certification from the member's employer that there is no supporting documentation, but that the member would not have been hired unless a pre-employment examination, or other supporting documentation, showed no evidence of cancer, heart or respiratory impairment, or infectious disease.

SECTION 8. Section 201.24(4.5) of the General Ordinances of Milwaukee County is hereby amended as follows:

4.5. - Deferred vested retirement.

(1) A member shall be eligible for a deferred vested pension if ~~his the~~ member's County employment is terminated for any cause, other than fault or delinquency on ~~his the member's~~ part, prior to the member fulfilling the requirements of Normal Retirement in Ordinance section 201.24(4.1), provided that ~~the member~~ the member elects not to withdraw any part of ~~his the member's~~ membership account and that ~~his the member's~~ pension when ~~his the member's~~ qualifies for a normal retirement as defined in section 4.1 is at least ten dollars (\$10.00) per month.

(2) Notwithstanding the foregoing provisions of this section 4.5 the following vesting provisions will apply:

(a) For members whose last period of continuous membership began on or after January 1, 1971, but prior to January 1, 1982, those members shall not be eligible for a deferred vested pension if ~~his or her the member's~~ employment is terminated prior to ~~his or her the member's~~ completion of six (6) years of service.

(b) For members who first became a member of ERS on ~~and or~~ after January 1, 1982, those members shall not be eligible for a deferred

vested pension if ~~his or her the member's~~ employment is terminated prior to ~~his or her the member's~~ completion of ten (10) years of service.

- (c) Any member who attains normal retirement age as defined in Ordinance section 201.24(2.18) while in active ERS-covered County employment shall be vested and eligible for a deferred vested benefit if the member terminates County employment prior to retirement. This provision shall apply to members who previously received a benefit under this portion of the vesting schedule. For members who would have received a benefit under this vesting schedule, ERS will pay a prospective benefit to those individuals commencing with the adoption of this amendment.

- (3) Notwithstanding the foregoing provisions of this section, any nonrepresented Doyme employee who was a member of the employee's retirement system and any member who was represented by the Federation of Nurses & Health Professionals when they voluntarily resigned their employment between September 1, 1995, and December 31, 1995, at the time of, and in lieu of, a layoff from county service as a direct result of the sale/lease of John L. Doyme Hospital and employees of the School of Nursing who resign from county service in lieu of being laid off due to the closure of the School of Nursing who left county service with seven (7) or more years of service shall be vested for a deferred vested pension.

- (4) Payment of a deferred vested pension ~~shall~~ may commence as ~~of early as the first of the month following~~ the member's normal retirement date, but in no event until the first day of the month following the date a timely application ~~for the deferred vested pension is filed with the board.~~ However, as described in Ordinance Section 201.24(4.6), has been submitted to RPS.

~~if~~ a member has at least fifteen (15) years of ERS service, ~~the member~~ may ~~request the board to authorize~~ commencement ~~of his the member's~~ deferred vested pension as of ~~his the member's~~ 55th birthday, or as of any date after ~~his 55th birthday any such birthday~~, which precedes ~~his the member's~~ normal retirement date, and ~~if the board consents thereto, his pension shall commence as of the date so requested but~~ However, the deferred vested pension amount thereof shall be reduced as provided in section 5.5.

If the member is a sworn law enforcement officer at the time the member's ERS-covered employment terminates, upon timely application, the member is eligible to commence a deferred vested pension benefit upon attaining age fifty-seven (57), regardless of the number of years of service, or age fifty-five (55) with at least fifteen (15) years of ERS service.

499

500 The last payment shall be made as of the date of death of the retired member.

501

502 **SECTION 9.** Section 201.24(4.6)(1) and (2) of the General Ordinances of Milwaukee
503 County is hereby amended as follows:

504

505 4.6. - Distribution requirements.

506

507 (1) In order for a member or beneficiary to receive any pension benefit
508 or other distribution from ERS, including benefits under Ordinance
509 sections 201.24(3.5), (4.1), (4.2), (4.3), (4.4), (4.5), or Sections VI or
510 VII, a member or beneficiary shall first file with RPS the board a
511 written application therefore on a form prescribed by the board
512 approved by the Office of Corporation Counsel.

513

514 No benefit shall be payable unless and until such application is submitted and
515 no retroactive benefit commencement dates are allowed, except for the one-
516 day grace period in Sections 4.1 and 4.2.

517

518 A retirement application will remain valid for 180 days after the date of
519 submission to RPS. After 180 days, if the member has not retired or is still
520 actively working for the County in an ERS-covered position, the retirement
521 application is void.

522

523 (2) A member who files with ~~the board~~ RPS a timely completed
524 application for benefits from the system shall be entitled to have ~~his~~
525 benefits commence no later than the 60th day after the close of the
526 year in which the later of the following occurs:

527

528 (a) The member attains ~~his~~ normal retirement age; or

529

530 (b) The member terminates employment.

531

532 Notwithstanding the preceding, regardless of whether a member files an
533 application for benefits, in all events, payments shall commence no later than the
534 member's ~~Required Beginning Date, which is the April 1 following the~~
535 ~~calendar year in which the member attains age seventy and one-half (70 1/2).~~
536 Required Beginning Date means the April 1 of the calendar year following the
537 calendar year in which the member attains the applicable age as defined in
538 Code section 401(a)(9)(C)(v) or, if later, the calendar year in which the member
539 retires.

540

541 All distributions made under sections (4.6) and (4.7) shall ~~be determined and~~
542 made in accordance with conform to a reasonable and good faith interpretation
of Internal Revenue Code section 401(a)(9) and corresponding Treasury regulations

as applicable to governmental plans. Notwithstanding the other provisions of this section 4.6 and section 4.7, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of ordinance section 201.24(4.8) that relate to section 242(b)(2) of TEFRA.

SECTION 10. Section 201.24(5.16) of the General Ordinances of Milwaukee County is hereby amended as follows:

5.16. - Back drop pension benefit.

- (1) The provisions of this section shall apply to **any member in active service eligible for a Normal Retirement benefit under Ordinance section 201.24(4.1) and** whose application to retire is filed and effective after January 1, 2001, but shall not apply to any member of the retirement system who
 - (a) is an elected official, or who was in a position that was not in a certified collective bargaining unit on June 29, 2011, and who began membership in said system on or after March 15, 2002,
 - (b) was in a position in a certified collective bargaining unit represented by the American Federation of State, County and Municipal Workers on June 29, 2011 and who began membership on or after February 1, 2007,
 - (c) was in a position in a certified collective bargaining unit represented by the Milwaukee Building and Construction Trades Council on June 29, 2011 and who began membership on or after February 21, 2006,
 - (d) was in a position in a certified collective bargaining unit represented by the Association of Milwaukee County Attorneys on June 29, 2011 and who began membership on or after January 1, 2006,
 - (e) was in a position in a certified collective bargaining unit represented by the International Association of Machinists or by the Technicians, Engineers and Architects of Milwaukee County on June 29, 2011 and who began membership on or after November 4, 2005,
 - (f) was in a position in a certified collective bargaining unit represented by the Federation of Nurses and Health Professionals on June 29, 2011 and who began membership on or after December 16, 2005,
 - (g) was in a position in a certified collective bargaining unit represented by the Milwaukee County Firefighters Association on June 29, 2011

and who began membership on or after June 19, 2007,

- (h) was formerly a represented deputy sheriff and who was appointed to a non-represented position effective after June 30, 2009,
- (i) is eligible for a deferred pension benefit under section 201.24(4.5) or a disability pension benefit under sections 201.24(5.3), (5.31) or (5.4), ~~or~~
- (j) is an elected official whose membership began prior to March 15, 2002, if such elected official consents irrevocably in writing filed with the system to waive the right to elect to receive a "back drop" pension benefit.; or
- (k) who is employed by the County in a non-ERS covered position at the time the individual terminates County employment.

SECTION 11. Section 201.24(6.1) of the General Ordinances of Milwaukee County is hereby amended as follows:

6.1. - Accidental death benefit for deputy sheriffs.

If the death of a member who is a deputy sheriff occurs in active service as the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or for members meeting the requirements, due to the contraction of a disease as provided in Ordinance section 201.24(4.3)(3)(b), as determined by the board on the basis of acceptable evidence presented to it, the board shall grant a survivorship pension in accordance with this section.

The survivorship pension shall equal to fifty (50) percent of the final average salary of such deceased member and be payable:

- (a) To a surviving spouse for life ~~or until remarriage.~~
- (b) If there be no surviving spouse, or if the surviving spouse dies ~~or remarries~~ before every child of such deceased member attains the age of eighteen (18) years, then to ~~his the member's~~ child(ren) under said age divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension until every such child dies or attains said age; or
- (c) If there be no surviving spouse or child under the age of eighteen (18) years surviving such deceased member, then to ~~his the~~ member's dependent father or mother, as the deceased member

shall have nominated by written designation duly acknowledged and filed with the board; or if there be no such nomination, then to **his the member's** dependent father or to **his the member's** dependent mother as the board in its discretion shall direct, to continue for life.

- (d) The monthly benefit payable hereunder to a spouse or child shall at no time be less than the amount of the monthly benefit to which they would have been entitled under section 6.2 if death had not occurred in performance of duty.

If a benefit is payable under this Section 6.1, no Protective Survivorship Option shall be payable to any beneficiary under Ordinance section 201.24(7.1)(3).

SECTION 12. Section 201.24(6.3) of the General Ordinances of Milwaukee County is hereby amended as follows:

6.3. - Lump sum benefit upon death.

Upon the receipt of proper proofs of the death of a member **in active service**, if such member has completed one (1) or more years of creditable service, and no survivors' benefits are payable under sections 6.1, 6.2, 6.4 or 7.1, there shall be paid a lump sum benefit of one-half (1/2) the final average salary of such deceased member, but not to exceed two thousand dollars (\$2,000.00). The member may designate as beneficiary a trustee(s) named or to be named by will.

SECTION 13. Section 201.24(6.4) of the General Ordinances of Milwaukee County is hereby amended as follows:

6.4 - Survivor pensions for members other than deputy sheriffs.

In the event of the death of a member in active service prior to satisfying the applicable age and service eligibility conditions for a normal pension (as described in **Ordinance** section 4.1) and after completing at least one (1) year of service, **his the member's** surviving dependent spouse or child shall receive a survivor pension, **commencing on the first day of the month following the month RPS receives a completed application for such benefits along with proof of eligibility.**

For deaths occurring on or after the effective date of the passage of this Ordinance, the pension to a dependent spouse shall be payable for life or until remarriage, and the pension to a child shall be payable until the child reaches age eighteen (18) or marries, or until attainment of age twenty-two (22) while not married and a full-time student in attendance at an educational institution including periods of nonattendance not in excess of four (4) months and in accordance with such rules and regulations as may be established by the board from time to time.

A dependent spouse is a spouse of a member:

- (a) Who ~~is over~~ **has attained** age sixty (60) or who is under age sixty (60) and has a child who is eligible for a pension hereunder.
- (b) Who was married to the member at least one (1) year prior to ~~his the~~ **member's** death.

The monthly pension payable to a dependent spouse prior to age sixty (60) and while with a child eligible for a pension hereunder shall be forty (40) percent of the rate of monthly salary of the member paid by the county for the year of ~~his the~~ **member's** death less monthly survivors benefits payable to such spouse under the federal social security law. Commencing with **the first day of the month following receipt of an application for continued benefits, but no earlier than** the month immediately following attainment of age sixty (60), a dependent spouse shall be paid a monthly pension equal to fifty (50) percent of the normal pension which would have been payable to the member if ~~his the member's~~ service had continued to the date ~~the member~~ would have satisfied the applicable age and service eligibility conditions for a normal pension (as described in section 4.1) with the same final average salary as determined at the date of ~~his~~ death **and the same multiplier in effect at the time this survivor benefit is calculated.**

The monthly pension payable to an eligible child shall be equal to ten (10) percent of the rate of monthly salary of the member paid by the county for the year of ~~his the member's~~ death less social security benefits payable to the child under the federal social security law, provided that if there are more than five (5) eligible children, the children's pension shall be reduced pro rata so that the total of the dependent spouse's pension and the pensions payable to the children, when added to monthly survivors benefits payable to them from federal social security, does not exceed ninety (90) percent of the rate of monthly salary of the member paid by the county. The social security laws in effect as of the date of death of the member shall be used in determining the social security benefits payable to the surviving spouse and children.

~~The monthly pensions provided herein for a dependent spouse and children shall not be payable where a member has designated a beneficiary(ies) to receive in lieu of the monthly pensions a lump sum payment of the balance in his membership account plus the death benefit payable under section 6.3.~~

Notwithstanding the foregoing, no pension benefit shall be payable to a child until the first day of the month following the month RPS receives a completed benefit application. No retroactive benefits are payable. If an eligible child attains age 22 before applying for this benefit or as required under Ordinance section 201.24(4.7), instead of a pension benefit under this section, the child will receive a lump sum benefit of \$2,000 and a refund of the member's employee contributions to the extent allowable under Section 3.5.

SECTION 14. Section 201.24(7.1)(3), (4) and (5) of the General Ordinances of Milwaukee County is hereby amended as follows:

7.1. - Optional benefits.

- (3) Any member in active service who, pursuant to section 4.1 or a collective bargaining agreement, has **met the age and service requirements attained eligibility** to retire and receive a **Normal Retirement** pension may elect a protective survivorship option by selecting the one hundred (100%) or fifty percent (50%) survivor benefit in the manner hereinafter set forth, which option shall then become effective at the member's death **while in active service** with the same force and effect as if such member had retired under such option immediately prior to ~~his or her~~ death. The election of such option shall be in writing on a form **prescribed approved** by the ~~board~~ **Office of Corporation Counsel** and may be revoked at any time prior to retirement. If the designated beneficiary shall die or if the designated beneficiary is the member's spouse and a divorce is granted prior to the member's retirement, the election shall be automatically revoked. If any member eligible to elect ~~an~~ **protective survivorship** option **shall under this section** dies in active service **and while married**, without electing a one hundred (100%) survivor benefit, the member's surviving spouse shall be paid a survivorship pension equal to the amount that would have been payable if such member had retired and elected a one hundred (100%) survivor benefit immediately prior to ~~his or her~~ death.

Notwithstanding the foregoing, if a benefit is payable under Ordinance section 201.24(6.1), no Protective Survivorship Option shall be payable under this Section 7.1(3).

- ~~(4) During any month in which a survivor's pension is payable under section 6.1 or 6.4 the amount of the survivorship pension payable under this section shall be reduced by such amounts.~~

- ~~(5)~~ (4) Notwithstanding the foregoing, if a member elects a non-spouse beneficiary to receive a benefit and the benefit is subject to the Internal Revenue Code's minimum distribution incidental benefit requirements, the member will only be eligible to elect a survivor benefit in a form that does not exceed the Code requirements. If a member elects a form of benefit that does not comply with such requirements, ERS will automatically reduce the member's benefit to the highest survivor benefit option the member was eligible to elect.

SECTION 15. Section 201.24(11.7) of the General Ordinances of Milwaukee County is

hereby amended as follows:

11.7. - Exemption of funds and benefits from taxation, execution and assignment.

All moneys and assets of the retirement system and all benefits and pensions and every portion thereof, both before and after payment to any member or beneficiary, granted under the retirement system shall be exempt from any state, county, or municipal tax, and from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole and in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under the retirement system, and no member of or beneficiary under the retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise, provided, however, that the pension board may at its option and under rules and regulations promulgated by it permit retired members to assign a portion of their pension for the regular monthly payment of medical, surgical and hospital care. The exemption from taxation contained herein shall not apply with respect to any tax on income. This section shall not prohibit the forfeiture or garnishment of benefits and pensions pursuant to:

- (a) Applicable requirements of Wisconsin Statutes or Milwaukee County Ordinances;
- (b) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Internal Revenue Service; or
- (c) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Wisconsin or other state Department of Revenue.

Additionally, members receiving monthly benefit payments from ERS may voluntarily elect to withhold a post-tax portion of each monthly benefit payment to pay health care premiums for retiree health insurance provided by Milwaukee County.

SECTION 16. The provisions of this Ordinance shall become effective upon passage and publication.

**Adopted by the Milwaukee County Board of Supervisors
December 21, 2023**