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From the Director of Retirement Plan Services, Milwaukee County Department of Human Resources, clarifying the Milwaukee County Code of General Ordinances regarding eligibility for normal pension benefits, deferred vested pension benefits, survivor benefits, eligibility for contribution refunds, and adopting State presumptions for disability benefits and requesting authorization to amend Chapters 201.24(2.19), (3.11), (3.5), (4.1), (4.2), (4.3), (4.5), (4.6), (5.16), (6.1), (6.3), (6.4), (7.1), (11.7) and creating a new Chapter 201.24(2.24) of the Milwaukee County Code of General Ordinances to reflect these changes, by recommending adoption of the following:

A REVISED RESOLUTION/ORDINANCE

WHEREAS, Milwaukee County (the County) sponsors the Employees' Retirement System of the County of Milwaukee (ERS), a defined benefit plan, for the exclusive benefit of its employees and beneficiaries; and

WHEREAS, ERS is a tax-qualified retirement plan that must adhere to the Internal Revenue Service requirements for defined benefit plans, including that ERS be administered in accordance with its written plan document; and

WHEREAS, Retirement Plan Services has identified a number of areas where the Milwaukee County Code of General Ordinances (the Code) could be amended to help clarify eligibility for benefits arising from normal retirement, benefits arising from deferred vested retirement, eligibility for survivor benefits, and eligibility for a refund of contributions; and

WHEREAS, the Pension Board is requesting that the Milwaukee County Board of Supervisors (County Board) consider extending the time period within which a member may request a refund of the member's employee contributions; and

WHEREAS, by the Code, members must currently request a refund within 180 days of termination, which can lead to nonvested members receiving no refund and no benefit from ERS; and

WHEREAS, the Pension Board hears multiple appeals each year dealing with the refund period, and a five-year refund period would significantly reduce the number of appeals; and

WHEREAS, the State of Wisconsin (the State) previously adopted certain presumptions related to accidental disability benefits and death benefits, as well as a different standard for mental injuries where the member is applying for an accidental disability benefits; and

WHEREAS, these State laws apply to ERS, and should be reflected in the Ordinances; and

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WHEREAS, retired members receiving monthly benefit payments from ERS and retiree health insurance provided by the County may voluntarily elect to withhold a post-tax portion of each monthly benefit payment to pay health care premiums; and

WHEREAS, the withholding of health care premiums should be excluded from the anti-alienation requirements of Section 201.24(11.7) of the Code; and

WHEREAS, the County Board desires to amend the Code to clarify these areas of eligibility; and

WHEREAS, the Committee on Personnel, at its meeting of December 5, 2023, recommended adoption of File No. 23-1016 (vote 4-0; 1 abstention); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Sections 201.24(2.19), (3.11), (3.5), (4.1), (4.2), (4.3), (4.5), (4.6), (5.16), (6.1), (6.3), (6.4), (7.1), (11.7) and creates a new Chapter 201.24(2.24) of the Milwaukee County Code of General Ordinances by adoption of the following:

AN ORDINANCE

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

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

2.19 - Retirement.

- (1)** Retirement shall mean termination of employment and subsequent commencement of benefits after a member has fulfilled all requirements for a pension under the Ordinances and Rules, including submission of a completed retirement application to RPS as described in Ordinance section 4.6.
- (2)** For all new applications filed on or after July 1, 2019, all retirements, including disability retirements, as well as any other benefit enhancements, such as those conferred under section 201.24(5.16) and related ERS ordinances and rules, a member's retirement effective date shall only commence on the first day of the month immediately following a member's last day of employment (or authorized leave of absence, if later), and a be on the first day of the month following the month the member fulfills all requirements to retire, including termination of employment and submission of an application to RPS. Any retirement or annuity benefit payable to a member or beneficiary shall

91 terminate upon the last day of the month of the date of death of the retiree
92 or beneficiary under the applicable option.

93
94 **SECTION 2.** A new Section 201.24(2.24) of the Milwaukee County Code of General
95 Ordinances is hereby created as follows:

96
97 **2.24.- Active Service.**

98
99 **The term “active service” shall mean current employment with Milwaukee County**
100 **as an employee in an ERS-covered position.**

101
102 **SECTION 3.** Section 201.24(3.11)(6) of the General Ordinances of Milwaukee County
103 is hereby amended as follows:

104
105 3.11.- Employe contribution.

106
107 (6) *Refund of accumulated contributions.*

108
109 (a) **Refund Deadline.** Refunds of all accumulated contributions made under this
110 section 3.11, ~~with interest at the rate of five (5) percent per annum~~, shall be
111 made on the same conditions and under the same circumstances as refunds
112 under section 3.5, but may only be paid in the form of a lump sum payment.
113 ~~Interest at the rate of five (5) percent per annum will accrue until the~~
114 ~~earlier of: (1) the date a refund is paid; or (2) 180 days after termination of~~
115 ~~employment.~~

116
117 Any refund of accumulated contributions must be requested within ~~one~~
118 ~~hundred eighty (180) days~~ **five (5) years** after termination of county
119 employment. The Retirement Office shall send an employe who terminates
120 employment a written notice of the refund option via U.S. mail, or an equivalent
121 service, to the member's address on file with the system.

122
123 **(b) Notice Requirement.** If a member does not receive written notice of the refund
124 option, then the Pension Board, or the Retirement Office as delegated by the
125 Pension Board, may allow the individual to receive a refund of accumulated
126 contributions later than the refund period ~~of this in~~ section 3.11 **(a) above**. A
127 determination that notice was not received can be based on the Retirement
128 Office and/or Pension Board finding that notice was either not sent by the
129 Retirement Office or not received by the member. The member shall have the
130 burden of proving notice was not received, and the Pension Board or
131 Retirement Office shall have the sole and exclusive authority to determine
132

133 whether the individual received written notice. The appeal rules of the Pension
134 Board shall apply to refund requests under this paragraph.

135
136 **(c) All Contributions Refunded.** If a member requests and receives a refund of
137 accumulated contributions under this section and section 3.5, the member shall
138 receive a refund of all amounts included in ~~his or her~~ **the member's**
139 membership account at that time.

140
141 **(b) (d) Termination of ERS Service.** Members receiving a refund or on whose
142 behalf a refund is paid under this subsection shall cease to be a member of the
143 employes' retirement system and shall have no further right to any benefit
144 under this plan.

145
146 **(c) (e) Application.** The provisions of section 11.1 shall not apply to accumulated
147 contributions withdrawn by members under this section.

148
149 **SECTION 4.** Section 201.24(3.5) of the of the General Ordinances of Milwaukee
150 County is hereby amended as follows:

151
152 3.5. - Refunds upon severance or death.

153
154 Notwithstanding the following, a member **or beneficiary** shall not be eligible to
155 receive a refund of the portion of **his the member's** membership account attributable to
156 accumulated contributions contributed under section 3.11 if the member's employment
157 was terminated due to fault or delinquency on the member's part under section 4.5 or if
158 the member or a beneficiary of the member is eligible, at the time the request for a
159 refund is made, for the present receipt of any monthly annuity benefit under sections
160 4.1, 4.5, 6.1, 6.2, 6.4, **or 7.1 or 7.2** of the chapter 201.24 of the ordinances. However, a
161 member whose employment terminated after reaching normal retirement age, who is
162 eligible for the present receipt of a benefit, whose pension benefit, as calculated
163 pursuant Ordinance section 201.24(4.1) or (4.5), is below one-hundred (\$100) per
164 month, and who so elected at the time of retirement (or who so elects for retirements
165 after May 1, 2020), may receive a refund of the member's membership account instead
166 of receiving an annuity.

167
168 Upon termination of employment, for reason other than death or retirement, a
169 member shall be entitled to receive a refund of the balance as of the date of termination
170 of **his the member's** membership account ~~and his savings account, plus interest~~
171 **(as described in Rule 403) through the date of disbursement, plus applicable**
172 **interest as set forth in section 3.11(a).** However, if a member who is eligible for a
173 deferred vested pension withdraws **his the member's** membership account, ~~the~~
174 **member** shall forfeit all rights to a deferred vested pension. If a member requests,
175 under this paragraph, a refund of assets in ~~his or her~~ **the member's** membership
176 account related to contributions made pursuant to sections 3.11 or 3.3, the member
177 shall receive a refund of all assets contained in ~~his or her~~ **the member's** membership
178

179 account at that time, with interest as provided above in section 3.11(a), provided that
180 the request is made within the time limits contained in section 3.11.

181

182 Upon termination of employment by reason of a member's death or upon the
183 death of a member who is eligible for a deferred vested pension, the member's
184 beneficiary shall be paid in lump sum the balance, plus interest (as described in Rule
185 403) through the date of disbursement, of ~~his~~ the membership account and ~~his~~
186 ~~savings account as well as~~ any applicable benefit under Ordinance section
187 201.24(6.3), provided that if a joint and survivor option under section VII is effective or a
188 survivorship benefit under section VI (excluding section 6.3) is payable, the membership
189 account shall not be paid to the beneficiary.

190

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

193

194 (a) ~~Lump sum payment.~~

195

196 (b) ~~Life annuity with full cash refund or on a term certain basis.~~

197

198 (c) ~~Installments of a designated amount or over a designated period of~~
199 ~~time.~~

200

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

205

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

208

209 4.1. - Normal retirement.

210

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

213

214 i) the member has submitted a completed retirement application to
215 RPS as described in Ordinance section 4.6; and

216

217 ii) the member has attained one of the following:

218

219 (A) age fifty-five (55) ~~and has completed with~~ thirty (30) years of
220 service,

221

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

223

224 (C) ~~Sworn law enforcement officers shall be eligible to retire at if~~
the member is a sworn law enforcement officer, age fifty-seven

225 (57) regardless of their number of years of service, or ~~at~~ age fifty-
226 five (55) with at least fifteen (15) years of ~~creditable pension~~
227 service.
228

229 **In order to be eligible for a normal retirement benefit under Sections 4.1(1)**
230 **or (2) the member must submit an application to retire on or before the date**
231 **of the member's termination of employment with the County. However, a**
232 **member may submit a completed application up to one calendar (1) day**
233 **after the date of the member's termination, and ERS shall treat the**
234 **application as if it was received on the date of termination. A member who**
235 **is a County employee at the time of retirement but not employed in an ERS-**
236 **covered position may still retire under Section 4.1(1) if the member**
237 **otherwise meets the requirements.**
238

239 (2) Rule of 75.
240

241 **Members in active service as defined in Ordinance section 201.24(2.24) at**
242 **the time of retirement may be eligible for the Rule of 75 if they meet one of**
243 **the following requirements:**
244

245 (a) A member who, on September 29, 2011, is employed and is not
246 covered by the terms of a collective bargaining agreement, and
247 whose initial membership in the retirement system under section
248 201.24 began prior to January 1, 2006, and who retires on and
249 after September 1, 1993, shall be eligible for a normal pension
250 when the age of the member when added to **his the member's**
251 **years of service equals seventy-five (75)**, but this provision shall
252 not apply to any member eligible under section 4.5 nor to any
253 nonrepresented deputy sheriff who was hired as a deputy sheriff
254 after December 31, 1993 and whose appointment to a
255 nonrepresented position was first effective after June 30, 2009,
256 nor to a member who was formerly a represented correction
257 officer who was hired as a correction officer after December 31,
258 1993 and who was appointed to a nonrepresented position
259 effective after May 1, 2011.
260

261 (b) A member who, on September 29, 2011, is employed and is
262 covered by the terms of a collective bargaining agreement with the
263 American Federation of State, County and Municipal Employees
264 District Council 48, or with the Technicians, Engineers and
265 Architects of Milwaukee County, or with the International
266 Association of Machinists and Aerospace Workers, and whose
267 initial membership date is prior to January 1, 1994, shall be
268 eligible for a normal pension when the age of the member when
269 added to **his the member's** years of service equals seventy-five
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- (75), but this provision shall not apply to any member eligible under section 4.5.
- (c) A member who, on December 31, 2012, is employed and is covered by the terms of a collective bargaining agreement with the Federation of Nurses and Health Professionals, 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.
- (d) A member who, on September 29, 2011, is employed and is covered by the terms of a collective bargaining agreement with the Association of Milwaukee County Attorneys, and whose initial 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

317 equals seventy-five (75), but this provision shall not apply to any
318 member eligible under section 4.5.

319
320 **SECTION 6.** Section 201.24(4.2) of the General Ordinances of Milwaukee County is
321 hereby amended as follows:

322
323 4.2. - Early retirement.
324
325 A member shall be eligible for an early normal retirement pension if ~~his~~ the member
326 meets the following requirements:

- 327
- 328 **1) The member's** employment is terminated on or after ~~his~~ the member's
329 55th birthday; ~~provided he has~~
 - 330
 - 331 **2) The member must submit a retirement application to RPS on or**
332 **before termination of employment; and**
 - 333
 - 334 **3) The member must have** completed fifteen (15) or more years of ERS
335 service ~~but the amount thereof~~ at the time of application.
 - 336

337 The pension of any member who retires under this Section 4.2 shall be reduced as
338 provided in Section 5.2.

339
340 A member who is a County employee at the time of retirement but not employed
341 in an ERS-covered position may still retire under this Section 4.2 if the member
342 otherwise meets the requirements. Notwithstanding subsection (2) above, a
343 member may submit a completed application up to one (1) calendar day after the
344 date of the member's termination, and ERS shall treat the application as if it was
345 received on the date of termination.

346
347 **SECTION 7.** Section 201.24(4.3) of the General Ordinances of Milwaukee County is
348 hereby amended as follows:

349
350 4.3. - Accidental disability retirement.

351
352 **1) General Requirements.** A member shall be eligible for an accidental disability
353 pension if his employment is terminated prior to his normal retirement age by reason
354 of total and permanent incapacity for any duty as the natural and proximate result of
355 one of the following:

- 356
- 357 **a) an accident occurring at some definite time and place while in the**
358 **actual performance of duty; or**
 - 359
 - 360 **b) for the members meeting the requirements, one of the**
361 **impairments or diseases listed in Section 3 below.**
 - 362

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

365
366 Disability shall be considered total and permanent if the medical board, after a
367 medical examination of such member, shall certify that such member is mentally
368 or physically incapacitated to perform any job that the member is reasonably
369 suited for by means of education, training or experience. Disability must be as a
370 result of such service accident or disease (as described in Section 3 below)
371 and such incapacity is likely to be permanent.

372
373 A member shall not be entitled to both an accidental disability pension and ordinary
374 disability pension.

375
376 **2) Mental Injuries. In accordance with s. 59.88, Wis. Stats., if a member's**
377 **accidental disability application is based on a mental injury, an**
378 **accidental disability pension will only be granted under this section if:**

379
380 **(a) The mental injury resulted from a situation of greater**
381 **dimensions than the day-to-day mental stresses and tensions**
382 **and post-traumatic stress that all similarly situated employees**
383 **must experience as part of the employment; and**

384
385 **(b) The member's employer certifies that the mental injury is a**
386 **duty-related injury.**

387
388 **3) Disability Presumptions for Certain Safety Workers. In reviewing a**
389 **member's disability retirement application for benefits under this**
390 **section, the Pension Board will take into account the assumptions**
391 **provided below to the extent the member satisfies the applicable**
392 **requirements.**

393
394 **(a) Heart or Respiratory Impairment or Disease. As provided by s.**
395 **891.45, Wis. Stats., a County fire fighter, defined as any person**
396 **employed by the County whose duties primarily include active**
397 **fire suppression or prevention, shall be entitled to a**
398 **presumption that the fire fighter's impairment or disease was**
399 **caused by employment if:**

400
401 **i.) at the time of the filing of the application for disability**
402 **benefits, the individual has served a total of 5 years as a**
403 **state, County or municipal fire fighter (must be certified by**
404 **the employer);**

405
406 **ii.) a qualifying medical examination given prior to the time of**
407 **the individual becoming a fire fighter showed no evidence**
408 **of heart or respiratory impairment or disease; and**

409 iii.) the member's disability is found to be caused by heart or
410 respiratory impairment or disease.

411 iv.)
412 (b) Infectious Disease.

413
414 i.) Definitions.

415 A. "Correctional Officer" means any person employed by the
416 County as a guard or officer whose principal duties are the
417 supervision and discipline of inmates.

418 B. "Emergency Medical Service Provider" means a person
419 employed by the County as an emergency medical
420 technician or first responder.

421 C. "Fire Fighter" means any person employed by the County
422 whose duties primarily include active fire suppression or
423 prevention.

424 D. "Law Enforcement Officer" means any person employed by
425 the County for the purpose of detecting and preventing
426 crime and enforcing laws or ordinances, who is authorized
427 to make arrests for violations of the laws or ordinances
428 which the individual is employed to enforce.

429 E. "Infectious Disease" means the human immunodeficiency
430 virus, acquired immunodeficiency syndrome, tuberculosis,
431 hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria,
432 meningococcal meningitis, methicillin-resistant
433 staphylococcus aureus, and severe acute respiratory
434 syndrome.

435 ii.) Presumption. As provided by s. 891.453, Wis. Stats., a
436 Correctional Officer, Emergency Medical Services Provider, Fire
437 Fighter or Law Enforcement Officer shall be entitled to a
438 presumption that the member's Infectious Disease was caused
439 by his or her employment if:

440 A. a qualifying medical examination given prior to the time of
441 the member becoming a Correctional Officer, an Emergency
442 Medical Service Provider, a Fire Fighter, or a Law
443 Enforcement Officer showed no evidence of an Infectious
444 Disease; and

445 B. the member's disability is found to be caused by the
446 Infectious Disease.

447
448 (c) Cancer. As provided by s. 891.455, Wis. Stats., a fire fighter, defined
449 as any County employee whose duties primarily include active fire
450 suppression or prevention, is entitled to a presumption that the
451 member's cancer was caused by his or her employment if:

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- i.) at the time of filing of the application, the fire fighter has served a total of 10 years as a fire fighter for the County, State or Wisconsin municipality (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 cancer; and
- iii.) the disability is found to be caused by cancer.

This presumption shall only apply to cancers affecting the skin, breasts, central nervous system or lymphatic, digestive, 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 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.

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- (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 employe who was a member of the employe'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 employes 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, if as described in Ordinance Section 201.24(4.6),~~ has been submitted to RPS.

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

551

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

557

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

559

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

562

563 4.6. - Distribution requirements.

564

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

571

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

575

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

580

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

585

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

587

588 (b) The member terminates employment.

589 Notwithstanding the preceding, regardless of whether a member files an
590 application for benefits, in all events, payments shall commence no later than the
591 member's ~~r~~Required ~~b~~Beginning ~~d~~Date ~~which is the April 1 following the~~
592 ~~calendar year in which the member attains age seventy and one-half (70~~
593 ~~1/2)~~; Required Beginning Date means the April 1 of the calendar year
594 following the calendar year in which the member attains the applicable age
595 as defined in Code section 401(a)(9)(C)(v) or, if later, the calendar year in
596 which the member retires.

597
598 All distributions made under sections (4.6) and (4.7) shall ~~be determined and~~
599 ~~made in accordance with~~ conform to a reasonable and good faith
600 interpretation of Internal Revenue Code section 401(a)(9) and corresponding
601 Treasury regulations as applicable to governmental plans. Notwithstanding
602 the other provisions of this section 4.6 and section 4.7, distributions may be
603 made under a designation made before January 1, 1984, in accordance with
604 section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and
605 the provisions of ordinance section 201.24(4.8) that relate to section 242(b)(2) of
606 TEFRA.

607
608 **SECTION 10.** Section 201.24(5.16) of the General Ordinances of Milwaukee County is
609 hereby amended as follows:

610
611 5.16. - Back drop pension benefit.

- 612
613 (1) The provisions of this section shall apply to ~~any~~ member in active service
614 eligible for a Normal Retirement benefit under Ordinance section
615 201.24(4.1) and whose application to retire is filed and effective after
616 January 1, 2001, but shall not apply to any member of the retirement
617 system who:
618
619 (a) is an elected official, or who was in a position that was not in a
620 certified collective bargaining unit on June 29, 2011, and who
621 began membership in said system on or after March 15, 2002,
622
623 (b) was in a position in a certified collective bargaining unit represented
624 by the American Federation of State, County and Municipal
625 Workers on June 29, 2011 and who began membership on or after
626 February 1, 2007,
627
628 (c) was in a position in a certified collective bargaining unit represented
629 by the Milwaukee Building and Construction Trades Council on
630 June 29, 2011 and who began membership on or after February
631 21, 2006,
632
633 (d) was in a position in a certified collective bargaining unit represented
634 by the Association of Milwaukee County Attorneys on June 29,

- 635 2011 and who began membership on or after January 1, 2006,
636
637 (e) was in a position in a certified collective bargaining unit represented
638 by the International Association of Machinists or by the
639 Technicians, Engineers and Architects of Milwaukee County on
640 June 29, 2011 and who began membership on or after November
641 4, 2005,
642
643 (f) was in a position in a certified collective bargaining unit represented
644 by the Federation of Nurses and Health Professionals on June 29,
645 2011 and who began membership on or after December 16, 2005,
646
647 (g) was in a position in a certified collective bargaining unit represented
648 by the Milwaukee County Firefighters Association on June 29, 2011
649 and who began membership on or after June 19, 2007,
650
651 (h) was formerly a represented deputy sheriff and who was appointed
652 to a non-represented position effective after June 30, 2009,
653
654 (i) is eligible for a deferred pension benefit under section 201.24(4.5)
655 or a disability pension benefit under sections 201.24(5.3), (5.31) or
656 (5.4), ~~or~~
657
658 (j) is an elected official whose membership began prior to March 15,
659 2002, if such elected official consents irrevocably in writing filed
660 with the system to waive the right to elect to receive a "back drop"
661 pension benefit; or
662
663 **(k) who is employed by the County in a non-ERS covered position**
664 **at the time the individual terminates County employment.**
665

666 **SECTION 11.** Section 201.24(6.1) of the General Ordinances of Milwaukee County is
667 hereby amended as follows:
668

669 6.1. - Accidental death benefit for deputy sheriffs.
670

671 If the death of a member who is a deputy sheriff occurs in active service as
672 the natural and proximate result of an accident occurring at some definite time
673 and place while the member was in the actual performance of duty, **or for**
674 **members meeting the requirements, due to the contraction of a disease as**
675 **provided in Ordinance section 201.24(4.3)(3)(b),** as determined by the board
676 on the basis of acceptable evidence presented to it, the board shall grant a
677 survivorship pension **in accordance with this section. The survivorship**
678 **pension shall** equal to fifty (50) percent of the final average salary of such
679 deceased member **and be payable:**
680

- 681 (a) To a surviving spouse for life ~~or until remarriage~~.
 682
 683 (b) If there be no surviving spouse, or if the surviving spouse dies ~~or~~
 684 ~~remarries~~ before every child of such deceased member attains the
 685 age of eighteen (18) years, then to ~~his~~ the member's child(ren) under
 686 said age divided in such manner as the board in its discretion shall
 687 determine, to continue as a joint and survivor pension until every such
 688 child dies or attains said age; or
 689
 690 (c) If there be no surviving spouse or child under the age of eighteen (18)
 691 years surviving such deceased member, then to ~~his~~ the member's
 692 dependent father or mother, as the deceased member shall have
 693 nominated by written designation duly acknowledged and filed with the
 694 board; or if there be no such nomination, then to ~~his~~ the member's
 695 dependent father or to ~~his~~ the member's dependent mother as the
 696 board in its discretion shall direct, to continue for life.
 697 (d) The monthly benefit payable hereunder to a spouse or child shall at no
 698 time be less than the amount of the monthly benefit to which they
 699 would have been entitled under section 6.2 if death had not occurred
 700 in performance of duty.
 701

702 If a benefit is payable under this Section 6.1, no Protective Survivorship Option shall be
 703 payable to any beneficiary under Ordinance section 201.24(7.1)(3).
 704

705 **SECTION 12.** Section 201.24(6.3) of the General Ordinances of Milwaukee County is
 706 hereby amended as follows:
 707

708 6.3. - Lump sum benefit upon death.
 709

710 Upon the receipt of proper proofs of the death of a member in active
 711 service, if such member has completed one (1) or more years of creditable
 712 service, and no survivors' benefits are payable under sections 6.1, 6.2, 6.4 or 7.1,
 713 there shall be paid a lump sum benefit of one-half (1/2) the final average salary of
 714 such deceased member, but not to exceed two thousand dollars (\$2,000.00).
 715 The member may designate as beneficiary a trustee(s) named or to be named by
 716 will.
 717

718 **SECTION 13.** Section 201.24(6.4) of the General Ordinances of Milwaukee County is
 719 hereby amended as follows:
 720

721 6.4. - Survivor pensions for members other than deputy sheriffs.
 722

723 In the event of the death of a member in active service prior to satisfying the
 724 applicable age and service eligibility conditions for a normal pension (as described in
 725 Ordinance section 4.1) and after completing at least one (1) year of service, ~~his~~ the
 726 member's surviving dependent spouse or child shall receive a survivor pension: **I**

727 **commencing on the first day of the month following the month RPS receives a**
728 **completed application for such benefits along with proof of eligibility.**

729
730 **For deaths occurring on or after the effective date of the passage of this**
731 **Ordinance, the pension to a dependent spouse shall be payable for life ~~or until~~**
732 **remarriage. ~~T and~~ the pension to a child shall be payable until the child reaches age**
733 **eighteen (18) ~~or marries, or until attainment of~~ age twenty-two (22) ~~while not~~**
734 **married and a full-time student in attendance at an educational institution**
735 **including periods of nonattendance not in excess of four (4) months and in**
736 **accordance with such rules and regulations as may be established by the board**
737 **from time to time.**

738
739 A dependent spouse is a spouse of a member:

- 740
741 (a) Who ~~is over~~ **has attained** age sixty (60) or who is under age sixty
742 (60) and has a child who is eligible for a pension hereunder.
743
744 (b) Who was married to the member at least one (1) year prior to ~~his~~
745 **the member's** death.
746

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

760
761 The monthly pension payable to an eligible child shall be equal to ten (10)
762 percent of the rate of monthly salary of the member paid by the county for the year of
763 ~~his~~ **the member's** death less social security benefits payable to the child under the
764 federal social security law, provided that if there are more than five (5) eligible children,
765 the children's pension shall be reduced pro rata so that the total of the dependent
766 spouse's pension and the pensions payable to the children, when added to monthly
767 survivors benefits payable to them from federal social security, does not exceed ninety
768 (90) percent of the rate of monthly salary of the member paid by the county. The social
769 security laws in effect as of the date of death of the member shall be used in
770 determining the social security benefits payable to the surviving spouse and children.
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~~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 (50%) percent 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).

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~~(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. Sections 201.24(11.7) of the General Ordinances of the 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

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(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

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.

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12/05/23
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