

EMERGENCY

City of Cincinnati

LES

EESW

An Ordinance No. 272

- 2024

**MODIFYING** the provisions of Chapter 203, "Employees' Retirement System," of the Cincinnati Municipal Code by **AMENDING** Section 203-49, "Survivor Benefits," to implement survivor benefit changes recommended by the Cincinnati Retirement System Board.

WHEREAS, the Cincinnati Retirement System Board ("Board") desires to provide a one-time lump sum survivor benefit payment equal to two-thirds of a deceased active member's current annual rate of pay as reflected in the City's payroll system to be divided equally among the deceased active member's surviving spouse and minor children in lieu of ongoing monthly payments of survivor benefits as currently provided in Chapter 203 of the Cincinnati Municipal Code; and

WHEREAS, currently under certain circumstances a surviving spouse, any minor children, and dependent parents of a deceased active member are entitled to monthly payments, which are adjusted annually for the increase in average hourly earnings as measured by the U.S. Bureau of Labor Statistics; and

WHEREAS, following a review of the current policy related to survivor benefits, the Board has determined that a one-time lump sum payment equal to two-thirds of the deceased active member's current annual rate of pay as reflected in the City's payroll system will not result in an increase of the Cincinnati Retirement System's ("CRS") unfunded liability; and

WHEREAS, due to the administrative burden on CRS staff who must maintain records regarding the deceased active member's surviving spouse until the surviving spouse reaches eligibility age, the Board no longer wants to provide ongoing monthly payments of survivor benefits; and

WHEREAS, the Board voted to provide a one-time lump sum survivor benefit payment equal to two-thirds of the deceased active member's current annual rate of pay as reflected in the City's payroll system to be divided equally among the deceased active member's surviving spouse and minor children in lieu of ongoing payments of survivor benefits, and Chapter 203 must be revised to implement those changes; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That existing Section 203-49, "Survivor Benefits," of the Cincinnati Municipal Code is amended to read as follows:

## Sec. 203-49. Survivor Benefits.

In the event of the death of an Active Member, including a Member on leave of absence without pay for a period of not more than one year, who was a contributing Member of the Retirement System for at least 18 months prior to death and by reason of whose death no benefit is payable pursuant to Section 203-63(b), there shall be paid to, or on behalf of, such survivors who qualify under the provisions of this section the amounts hereinafter indicated, which amounts shall be in addition to the ordinary death benefit payable pursuant to Section 203-45.

- (a)(1) If an Active Member dies on or before August 31, 2024 and is survived by a spouse, such spouse shall receive a pension payment of \$157.50 per month for life or until remarriage. Such pension payment shall begin on the first day of the month next following the last day for which final compensation is paid for the services of the deceased Active Member if survivor benefits are payable pursuant to paragraph subsection (b)(1) hereof and shall continue to be paid as long as such spouse remains unmarried and survivor benefits are payable pursuant to paragraph subsection (b)(1) hereof. Effective the first of the month next following the 62nd birthday of such spouse, if the deceased Active Member had less than 15 years of Creditable Service, or effective the first of the month next following the 50th birthday of such spouse, if the deceased Active Member had 15 years of Creditable Service or more, such pension payment shall be paid irrespective of any benefits payable pursuant to paragraph subsection (b)(1) hereof. If no benefits are payable pursuant to paragraph subsection (b)(1) hereof, such spouse shall begin to receive the pension payment effective on the first day of the month following the 62nd birthday of such spouse, if the deceased Active Member had less than 15 years of Creditable Service, or effective the first of the month next following the 50th birthday of such spouse, if the deceased Active Member had 15 years of Creditable Service or more.
- (2) If an Active Member dies on or after September 1, 2024, and the Active Member is survived by a spouse, and the Active Member has no natural or adopted minor children, including natural children of the Active Member conceived prior to the Active Member's death, such surviving spouse shall receive a one-time lump sum payment equal to two-thirds of the deceased Active Member's current annual rate of pay as reflected in the city's payroll system.
- (3) If an Active Member dies on or after September 1, 2024, and at the time of the Active Member's death the Active Member is survived by a spouse and the Active Member's natural or adopted minor child or children, including natural children of an Active Member conceived prior to the Active Member's death, the Active Member's surviving spouse and minor children shall receive a one-time lump sum payment equal to two-thirds of the deceased Active Member's current annual rate of pay as reflected in the city's payroll system to be divided equally among the surviving spouse and eligible surviving children. In the event the eligible surviving children are not the natural or adopted children of the surviving spouse, payment shall be made to the parent or guardian of such child or children.
- (b)(1) If an Active Member dies on or before August 31, 2024 and is survived by a spouse and an Retiree's Active Member's natural or adopted minor child or children,

including natural children of an Active Member conceived prior to the Active Member's death, there shall be paid during the life of the surviving spouse to the surviving spouse or to the guardian of such child or children in the event such child or children are not in the custody of the surviving spouse the amount of \$157.50 per month for one eligible child for as long as only one child meets the eligibility requirements hereinafter set forth or the amount of \$270 per month for two or more eligible children, for as long as two or more children meet the eligibility requirements hereinafter set forth.

- (2) If an Active Member dies on or before August 31, 2024 and is not survived by a spouse or if the spouse dies or remarries during the dependency of the Active Member's minor child or children, –there shall be paid to the parent or guardian of such child or children, during the period there is no living spouse, the amount of \$157.50 per month for one eligible child for as long as only one child meets the eligibility requirements hereinafter set forth, the amount of \$315 per month for two eligible children for as long as two children meet the eligibility requirements hereinafter set forth, or the amount of \$427.50 per month for three or more eligible children for as long as three or more children meet the eligibility requirements hereinafter set forth.

~~In case a guardian is appointed for a surviving child by reason of the probate court adjudging such child to be mentally or physically incompetent, the Board may pay the guardian survivor benefits as provided in this section for the use and benefit of such child during the period of incompetency, notwithstanding the fact that such child may be over 18 years of age.~~

For the purpose of computing benefits pursuant to subsection (b) for the death of an Active Member on or before August 31, 2024, A natural child of a deceased Active Member shall be considered eligible for the purpose of computing benefits pursuant to this paragraph from the first of the month next following the child's birth or the death of the deceased Active Member, whichever is the latter date, until such child reaches 18 years of age or marries, whichever occurs first. In the case of a legally adopted child of the deceased Active Member, such child, in addition to the eligibility requirements hereinbefore fixed for a natural child of the deceased Active Member, must in order to be eligible to be considered for the computation of benefits pursuant to this paragraph subsection (b) have received at least one-half of the child's support from the deceased Active Member during the 12 months immediately prior to the death of the deceased Active Member.

- (3) If an Active Member dies on or after September 1, 2024, and at the time of the Active Member's death, the Active Member is survived by an Active Member's natural or adopted minor child or children, including natural children of an Active Member conceived prior to the Active Member's death, and the Active Member is not survived by a spouse, a one-time lump sum payment equal to two-thirds of the deceased Active Member's current annual rate of pay as reflected in the city's payroll system shall be divided equally among the eligible surviving children, which shall be payable to the parent or guardian of such child or children.

(c) If, at the time of an Active Member's death or within 120 days following the Active Member's death, a guardian has been appointed for an adult surviving child by reason of the probate court adjudging such child to be mentally or physically incompetent, there shall be paid survivor benefits in the amount of \$157.50 per month to the guardian for the use and benefit of such child during the period of incompetency, notwithstanding the fact that such child is over eighteen years of age.

(ed) If an Active Member dies on or before August 31, 2024 and is survived by a dependent father or mother, or both, who received more than one-half of their support from the deceased Active Member during the 12 months immediately prior to the death of the Active Member and this fact is established to the satisfaction of the Board within one year after the death of the Active Member, the dependent father or mother, or both, shall receive a pension payment in an amount fixed by the Board which shall not be less than \$112.50 nor more than \$157.50 per month each. If the benefits payable pursuant to this paragraph (ed) together with the benefits payable pursuant to the preceding paragraphs of this section exceed the limitations fixed by paragraph (eh), the benefits payable pursuant to this paragraph (ed) shall be reduced to meet the requirements of paragraph (eh).

If an Active Member dies on or after September 1, 2024, no benefit for a dependent parent is available under this section.

(e) Should any payments be made pursuant to this section to any person in excess of the payments due said person under the terms of this section, ~~either because of the City's inability to determine the income of such person or otherwise,~~ said overpayment shall be deducted from benefits thereafter payable to such person and no further benefits shall be payable to such person until such overpayment is fully recovered. Nothing herein shall be construed to in any way limit the right of the Retirement System to ~~in any way limit to recover overpayments~~ in any other manner provided by law.

(f) Effective January 1, 1999, the monthly benefit amounts detailed in ~~Sections~~ sections (a), (b) and (c) herein, shall be adjusted for the increase in average hourly earnings that has occurred between June 1987 and June 1998 as measured by the U.S. Bureau of Labor Statistics. Effective January 1, 2000, and every January thereafter, monthly benefits will be adjusted based on the increase in average hourly earnings occurring during the immediately preceding July through June period as measured by the U.S. Bureau of Labor Statistics, not to exceed three (3) percent per year.

(dg) For the purpose of this section the following terms shall have the meanings indicated:

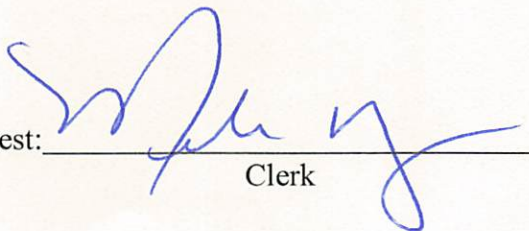
(i) ~~“Widow,” “widower,” “surviving~~ Surviving spouse, ~~“wife” or “husband”~~ shall mean the person legally married to the deceased Active Member on the day of such Active Member's death as evidenced by an undissolved ceremonial marriage and who has, in the opinion of the Board, either lived with the deceased Active Member as spouse immediately prior to the Active

Member's death or has taken care of the children of the Active Member for at least one year immediately prior to the Active Member's death ~~or in the event there is no such person the person, if any, the deceased Member has held out to the public as his or her spouse for at least one year immediately prior to the Member's death and who has been designated by the deceased Member as his or her spouse by written designation duly filed with the Board.~~

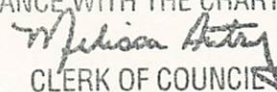
- (ii) "Child" shall mean a natural child, including natural children of an Active Member conceived prior to the Active Member's death, or a legally adopted child.
- (eh) In no event shall more than \$427.50 per month as adjusted according to the terms of ~~the last paragraph~~ of subsection (ef) hereof, be paid pursuant to this section by reason of the death of an Active Member.
- (fi) No person finally adjudged guilty either as a principal or an aider, abettor, or procurer of the aggravated murder (ORC 2903.01), the murder (ORC 2903.02), or the voluntary manslaughter (ORC 2903.03) of an Active Member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the Active Member's death. For the purpose of this section, such person shall be considered as having predeceased the Active Member killed.

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to implement the changes to survivor benefits by the date specified in the amended Section 203-49.

Passed: August 7, 2024

Attest:   
Clerk

  
Vice Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 272-2024  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 8/20/2024  
  
CLERK OF COUNCIL

\_\_\_\_\_  
New language underscored. Deletions struck through.