

Chapter 203 EMPLOYEES' RETIREMENT SYSTEM¹

Sec. 203-0. Legislative Finding.

The Council established a Retirement System for employees of the City of Cincinnati by the passage of Ordinance No. 412-1931 on June 22, 1931, and the Retirement System became operational on August 1, 1931. This system was established as a defined benefit plan and provides for retirement benefits, including survivor benefits, based on age, years of service and wages. The system has been continuously maintained since its establishment, and has been modified from time to time in order to define and modify, as appropriate, benefits provided to its Members. The system is overseen by a Board of Trustees, which operates under the provisions of Article XV of the Adm. Code of the City. The trustees administer the system and invest its assets. Trustee duties are to be performed solely in the interests of the Members and their Optionees and Beneficiaries, for the exclusive purpose of providing benefits to Members and their Optionees and Beneficiaries and defraying the reasonable expenses of administering the system. Such duties are to be performed with the care, skill, prudence and diligence more particularly described in this Chapter. The system is recognized by the State of Ohio. The system is a qualified benefit plan under the laws and regulations set forth in the U.S. Internal Revenue Code.

There are some Members of the system who are current or former employees of the University of Cincinnati and University Hospital, which institutions were formerly, in whole or in part, under the jurisdiction of the City. There are also some Members of the system who are current or former employees of Hamilton County, which employee functions were transferred from the jurisdiction of the City of Cincinnati to Hamilton County over the years. There are specific Ohio Revised Code provisions that recognize the Membership of these non-City employees in the Cincinnati Retirement System.

On May 7, 2015, a Collaborative Settlement Agreement was entered in the case of Sunyak, et al. v. City of Cincinnati, et al. (the City of Cincinnati Pension Litigation), Case: 1:11-cv-00445-MRB, in the United States District Court, Southern District of Ohio, Western Division. To the extent that there is any conflict between the provisions of Chapter 203 and the terms of the Collaborative Settlement Agreement, the terms of the Collaborative Settlement Agreement shall govern.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1. Definitions.

For the purposes of the sections governing the administration of the Retirement System, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is plainly required by the context. For purposes of internal consistency, definitions have been added as needed in the section corresponding to the first letter of the defined term, but not necessarily in alphabetical order. For purposes of clarity and comprehension, the sections of this chapter modified by passage of an ordinance on October 26, 2016 shall contain defined terms designated by initial capital letters. Defined terms in all other sections of this chapter are not indicated by initial capital letters.

¹Cross reference(s)—Financial, personnel, procurement and real property procurements, tit. III; See also Article XV, Administrative Code.

(C.O. 203-1; reordained as C.M.C. 203-1, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-A. Accumulated Contributions.

"Accumulated Contributions" shall mean the sum of the following amounts, together with Regular Interest thereon as provided in Section 203-1-R:

- (a) All the amounts deducted from the compensation of a Member and credited to the Member's individual account;
- (b) Any amounts paid by a Member pursuant to Section 203-7 to purchase Creditable Service for a period of prior service in the police and fire division;
- (c) Any amounts paid by a Member pursuant to Section 203-7-A to purchase Creditable Service for a period of prior non-contributing service;
- (d) Any State Retirement System Member contributions transferred to this Retirement System pursuant to the election of a Member and a transfer agreement entered into pursuant to Section 203-8, including any interest thereon transferred by the State Retirement System;
- (e) [Repealed.]
- (f) Any amount paid by a Member pursuant to Section 203-23 to purchase Creditable Service for a period of prior service when he or she was on a contract basis, including any interest thereon paid by the Member;
- (g) Any amount paid by a Member pursuant to Sections 203-27-A or 203-28 to purchase Creditable Service for a period of military service, including any interest thereon paid by the Member;
- (h) Any amount paid by a Member pursuant to Section 203-29 to purchase Creditable Service for a period of prior service, including any interest thereon paid by the Member;
- (i) Any amount paid by a Member pursuant to Section 203-31 to purchase Creditable Service for a period of academic leave, including any interest thereon paid by the Member;
- (j) Any amount paid by a Member pursuant to Section 203-7-B to purchase Out of State or Federal Service Credit; and
- (k) Any amount paid by a Member pursuant to Section 203-7-C to purchase Unpaid Authorized Leave of Absence Service Credit.

(C.O. 203-a1; renumbered to C.M.C. 203-1-A, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 3, eff. Oct. 28, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-A1. Annuity.

"Annuity" shall mean payments for life derived from the accumulated contributions of a member. All annuities shall be paid in equal monthly installments.

(C.O. 203-a2; renumbered to C.M.C. 203-1-A1; eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-A2. Active Member.

"Active Member" shall mean any Employee who is a Member of the Retirement System.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-A3. Average Highest Compensation.

- (a) For Members who are entitled to a Service Retirement Allowance under the provisions of Section 203-33, "Average Highest Compensation" shall mean the average annual compensation or salary paid to a Member during the Member's most highly compensated period of the designated number of consecutive years of service, or if the Member has had less than such number of consecutive years of service, then the average annual compensation, pay or salary paid to the Member during the total years of the Member's service. Severance payments shall not be included in the calculation of a Member's Average Highest Compensation.
- (i) For Members in Groups A, B, C and D as defined in Section 203-1-M1, with respect to benefits earned at any time, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be three.
- (ii) For Members in Group E as defined in Section 203-1-M1, with respect to benefits earned on or before December 31, 2013, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be three, and with respect to benefits earned on or after January 1, 2014, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be five.
- (iii) For Members in Group F as defined in Section 203-1-M1, with respect to benefits earned on or before June 30, 2011, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be three, and with respect to benefits earned on or after July 1, 2011, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be five.
- (iv) For Members in Group G as defined in Section 203-1-M1, with respect to benefits earned on or after January 1, 2010, the designated number of consecutive years of service applicable for purposes of determining the Average Highest Compensation shall be five.
- (b) Except as provided in subsection (c) below, in computing the Average Highest Compensation for Members, overtime pay, payments for compensatory time, and lump sum terminal leave pay for any Employees shall not be included, and no deductions shall be made from such earnings as contributions to the retirement fund. Longevity, sick-leave buy back, shift differential, and special assignment payments shall be included, and deductions shall be made from such earnings as contributions to the retirement fund.
- (c) In computing the "Average Highest Compensation" for Members who are entitled to a Service Retirement Allowance under the provisions of Section 203-33(d), the overtime pay of any Employee, payments for compensatory time not in excess of 80 hours, except as otherwise provided in an applicable collective bargaining agreement, lump sum terminal leave, longevity, sick-leave buy back, shift differential, and special assignment for such Employees shall be included as further specified in the remainder of this section below, and deductions shall be made from such earnings as contributions to the retirement fund.

For Members who are entitled to a Service Retirement Allowance under the provisions of Section 203-33(d), the Average Highest Compensation shall include that portion of their lump sum terminal leave pay which could be accumulated in their final years of active service used for purposes of determining the Average Highest Compensation, with the exception that the amount of the lump sum payment for unused sick leave to be included in the final average salary shall not exceed an amount equal to compensation at the hourly rate last earned by a

Member for 312 hours. The normal Employee contribution shall be based upon and deducted from the pensionable portion of the lump sum payment.

For Members who are entitled to a Service Retirement Allowance under the provisions of Section 203-33(d) who are in Group E, with respect to compensation earned on or before December 31, 2013, the provisions of subsection (c) herein shall apply. For such Members, with respect to compensation earned on or after January 1, 2014, the provisions of subsection (b) herein shall apply.

For Members who are entitled to a Service Retirement Allowance under the provisions of Section 203-33(d) who are in Group F, with respect to compensation earned on or before June 30, 2011, the provisions of subsection (c) herein shall apply. For such Members, with respect to compensation earned on or after July 1, 2011, the provisions of subsection (b) herein shall apply.

The provisions of this section (c) shall not apply to Employees hired before July 12, 1998 who have elected, either affirmatively or by default, to receive a Service Retirement Allowance that does not include such payments.

- (d) For Members who retired prior to January 1, 1976, "Average Highest Compensation" shall mean the amount determined in accordance with the definition of "Average Highest Compensation," which was in effect and applicable to the Member on the date of the Member's retirement.
- (e) The compensation limitations of this subsection (e) shall apply to Members who did not become a Member in this Retirement System prior to January 1, 1996. For such Members, when calculating the Member's most highly compensated consecutive years of service, the compensation or salary taken into account for a year of service which is included in such calculation shall not exceed the IRC Section 401(a)(17)(B) limit that is in effect for the calendar year in which the applicable year of service begins. The IRC Section 401(a)(17)(B) limit is \$150,000, as adjusted for increases in the cost of living for years beginning after January 1, 1994.
- (f) In computing the "Average Highest Compensation" any lump sum payments made to or on behalf of a Member for court ordered vacation accumulation settlement compensation arising out of O.R.C. Section 9.44 vacation rate accrual shall not be included beyond the maximum vacation accumulation authorized by personnel policy or union contract. The term "court ordered vacation accumulation settlement compensation" shall mean any vacation accrual resulting from a court order to compensate Members for O.R.C. Section 9.44 vacation accrual rate accumulation not previously granted.
- (g) When the salary of an Employee within a particular class is temporarily reduced so as to address critical funding issues, including, but not limited to, Holiday Pay Savings, affected Employees may also elect to continue contributions on the basis of the rate of pay before the salary reduction was implemented with the amount of the additional payment calculated to include both the Employee's portion of the contribution and the City's portion of the contribution to the Retirement System. Said additional contributions to the Retirement System shall either be completed as an increased contribution each biweekly pay period during the period of temporary salary reduction or the Employee may elect to make a one-time lump sum payment prior to Retirement. If the temporary salary reduction was in effect prior to the institution of this Section, then the Employee may make a lump sum "catch-up" payment to cover the pay periods prior the institution of the biweekly contributions and then make biweekly contributions for the remainder of their time prior to Retirement.

In such cases, the Average Highest Compensation shall be figured as though the Employee had continued at the former rate of pay. Provided, however, that if by reason of amendment of the compensation schedules, the annual compensation earnable by the Employee in the former position would have been reduced, the Average Highest Compensation shall be figured on the basis of such reduced compensation and the contributions reduced accordingly.

- (h) If the Member does not have the applicable number of years of continuous service with the City at the time of his or her Retirement or other termination of service with the City, the Average Highest Compensation of any such Member shall be determined under the foregoing provisions of this Section, based on both (i) his

years of service and compensation with the employers under this chapter, and (ii) his years of State Retirement System Service Credit and Prior State Retirement System Compensation. Prior State Retirement System Compensation shall be taken into account for purposes of determining the Member's Average Highest Compensation under this Retirement System only to the extent that such compensation otherwise would be considered compensation under the foregoing provisions of this Section.

- (i) If a Member is subject to the provisions of paragraph (h) because he does not have the applicable number of years of continuous service at the time of his or her Retirement or other termination of service with the City, the Member or, in the event of the death of a Member, his Optionee or Beneficiary shall provide to the Board evidence of the Member's Prior State Retirement System Compensation. Evidence of the Member's Prior State Retirement System Compensation shall include evidence of the amount thereof that would be considered compensation under the foregoing provisions of this Section. A decision of the Board as to whether evidence provided by a Member, Optionee or Beneficiary is sufficient to determine the amount of his Prior State Retirement System Compensation shall be final.

(C.O. 203-a4; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 6-1961, eff. Feb. 4, 1961; renumbered to C.M.C. 203-1-A3, eff. Jan. 1, 1972; a. Ord. No. 6-1975, eff. Jan. 1, 1975; a. Ord. No. 63-1976, eff. Jan. 1, 1976; a. Ord. No. 300-1979, eff. Aug. 4, 1979; Ord. No. 545-1983, eff. Dec. 13, 1983; a. Ord. No. 540-1990, eff. Dec. 19, 1990; a. Ord. No. 452-1992, eff. Oct. 14, 1992; a. Ord. No. 77-1998, eff. April 3, 1998; a. Ord. No. 130-1999, eff. May 14, 1999; a. Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 78-2002, eff. March 20, 2002; Emer. Ord. No. 291-2009, § 4, eff. Oct. 28, 2009; a. Ord. No. 359-2009, § 1, eff. Dec. 25, 2009; Emer. Ord. No. 191-2010, § 1, eff. June 3, 2010; a. Ord. No. 084-2011, § 2, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Note(s)—For effect on members who retired prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-1-A4. Actuarial Definitions.

The terms Entry Age Normal Actuarial Cost Method, Normal Cost and Unfunded Actuarial Accrued Liability shall have the meanings as defined in the Actuarial Standard of Practice No. 4, Measuring Pension Obligations published by the Actuarial Standards Board, October 1993, including modifications.

(Ordained by Ord. No. 130-1999, eff. May 14, 1999; a. Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-1-B. Beneficiary.

"Beneficiary" shall mean any person designated by a Member, in writing and filed with the Board for the purpose of distributing benefits payable under Sections 203-45, 203-47, and 203-63(b) and (f) of this Chapter.

(C.O. 203-61; renumbered to C.M.C. 203-1-B, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-B1. Board.

"Board" shall mean the board of trustees of the retirement system provided in Article XV, Section 1, of the administrative code.

(C.O. 203-62; renumbered to C.M.C. 203-1-B1, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-C. City.

"City" shall mean the city of Cincinnati, state of Ohio.

(C.O. 203-c1; renumbered to C.M.C. 203-1-C, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-C1. Council.

"Council" shall mean the council of the city of Cincinnati.

(C.O. 203-c1; renumbered to C.M.C. 203-1-C1, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-C2. Creditable Service.

"Creditable Service" shall mean the sum of a Member's:

- (a) Membership Service,
- (b) [Repealed.]
- (c) State Retirement System Credit purchased under Section 203-8,
- (d) Out of State or Federal Service Credit purchased under Section 203-7-B,
- (e) Unpaid Authorized Leave of Absence Service Credit purchased under Section 203-7-C, and
- (f) Prior Service Credit from Eligible System purchased under Section 203-7-A.

(C.O. 203-3; renumbered to C.M.C. 203-1-C2, eff. Jan. 1, 1982; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 4, eff. Oct. 28, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-C3. Current Employees Class.

"Current Employees Class" shall mean all persons who (a) participated in the CRS with at least five (5) years of Creditable Service on July 1, 2011 and (b) were actively employed or otherwise qualified for benefits on July 1, 2011, and (c) are Members of Group C, Group D, Group E, or Group F, as defined under Section 203-1-M1(b), (c), (d), and (e). In addition, the dependents and/or surviving beneficiaries of any Current Employees Class Member who is entitled to retirement benefits subject to the Collaborative Settlement Agreement shall be included in the Current Employees Class.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-C4. Collaborative Settlement Agreement.

"Collaborative Settlement Agreement" shall mean the Collaborative Settlement Agreement entered into on May 7, 2015 in Sunyak, et al., v. City of Cincinnati, et al. (the City of Cincinnati Pension Litigation), Case: 1:11-cv-00445-MRB in the United States District Court, Southern District of Ohio, Western Division.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-C5. Collaborative Settlement Agreement Effective Date.

"Collaborative Settlement Agreement Effective Date" shall mean the day after which all of the following events have occurred: (1) the Collaborative Settlement Agreement is fully executed by all the Parties; (2) the court enters the preliminary approval order; and (3) the court enters the order granting final approval.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-D. Deferred Vested Member.

"Deferred Vested Member" shall mean a Member who (i) is not an Active Member, (ii) has contributions on deposit with the Retirement System; (iii) is vested, and (iv) is not currently eligible for a Service Retirement Allowance.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-D2. Disability Retiree.

"Disability Retiree" shall mean a Member receiving a disability retirement allowance under Section 203-41.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-E. Employee.

"Employee" shall mean any officer, servant or employee of the City, not elected, but shall not include officers and employees who receive no salary.

Subject to the provisions of Section 203-23, "Employee" shall not include:

- (1) Any person who is employed by a temporary help service or other independent contractor and performs services under the direction of any agent or employee of the City;
- (2) Any person who is employed on a contractual basis by the City or any of its independent boards, commissions or any other employing agency that participates in the Retirement System; and
- (3) Any person who is employed under a personal service contract by the City or any of its independent boards, commissions or any other employing agencies that participate in the Retirement System.

Eligibility for Creditable Service as an "Employee" shall be determined exclusively by the provisions of this chapter regardless of any eligibility for or determination of civil service status.

In all cases of doubt, the Board shall decide who is a Member within the meaning of the ordinance sections governing the Retirement System. Any such determination by the Board shall be final and conclusive.

The Board may also permit any Member who transferred to county employment under the terms of a City/county agreement to continue participation in the City Retirement System as if such person were a City Employee as long as the person continues to receive a regular salary from the county for service. Transfers or promotions to other county employment after the initial entry into county service under the terms of the City/county agreement will not affect an Employee's eligibility to remain in the City Retirement System as long as there is no break in service and the Employee receives an exemption from participation in the Public Employees' Retirement System.

(C.O. 203-E1; renumbered to C.M.C. 203-E-1, eff. Jan. 1, 1972; a. Ord. No. 319-74, eff. July 1, 1974; a. Ord. No. 53-1977, eff. Feb. 24, 1977; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 326-1983, eff. Aug. 6, 1983; a. Ord. No.

545-1983, eff. Dec. 23, 1983; a. Ord. No. 406-1988, eff. Oct. 12, 1988; a. Ord. No. 246-1991, eff. July 1, 1991; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-E1. Employer.

"Employer" shall mean the employer of an Active Member described in Section 203-1-A2.

(Ordained by Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-I. IRC.

"IRC" means the Federal Internal Revenue Code of 1986, as amended from time to time. Reference to a section of the IRC includes all regulations that are issued by the United States Department of the Treasury, revenue rulings of the Internal Revenue Service, and decisions of any court of competent jurisdiction that are lawful and pertinent to the interpretation, application or effectiveness of such section with respect to the status of the Retirement System as a tax-qualified plan under IRC Section 401(a).

(Ordained by Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-1-I1. Inactive Member.

"Inactive Member" shall mean a Member who has contributions on deposit with the Retirement System but is not an Employee and is not vested.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-L. Limitation Year.

"Limitation Year" shall mean the calendar year for Internal Revenue Code Chapter 415 purposes.

(Ordained by Emer. Ord. No. 291-2009, § 1, eff. Oct. 28, 2009; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-1-M. Medical Director.

"Medical director" shall mean the physician provided for in Article XV, Section 6, of the administrative code.

(C.O. 203-m1; renumbered to C.M.C. 203-1-M, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-M1. Member.

"Member" shall mean any person enrolled in the membership of the Retirement System as provided in Section 203-3. Membership in the Retirement System is terminated by the death of the Member or by the withdrawal of the Member's Accumulated Contributions as provided in Section 203-11. Except for Inactive Members and Members who were Deferred Vested Members on July 1, 2011, effective on and after July 1, 2011, Members shall be designated a Member in one of the following groups. For purposes of determining the group in which a Member is placed, years of service will include only service earned through June 30, 2011, or service credited pursuant to a service purchase through June 25, 2011.

(a) "Groups A and B" shall mean any Member who has retired under the Plan prior to July 1, 2011;

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- (b) "Group C" shall mean any Member who, as of June 30, 2011, was an Active Member or a Deferred Vested Member and has either (i) completed at least thirty (30) years of service, or (ii) reached age sixty (60) and completed at least five (5) years of service, regardless of the Member's Retirement date;
 - (c) "Group D" shall mean any Member who, as of June 30, 2011, was either:
 - (i) An Active Member and who, during the period beginning on July 1, 2011 and ending on December 31, 2013, both:
 - (A) Retired, and
 - (B) Either
 - (I) Completed at least thirty (30) years of service, or
 - (II) Reached age sixty (60) and completed at least five (5) years of service; or
 - (ii) A Deferred Vested Member and who, regardless of the Member's Retirement date, during the period beginning on July 1, 2011 and ending on December 31, 2013, either:
 - (A) Completed at least thirty (30) years of service, or
 - (B) Reached age sixty (60) and completed at least five (5) years of service.
 - (d) "Group E" shall mean any Member who, as of June 30, 2011, was an Active Member and who:
 - (i) During the period beginning on July 1, 2011 and ending on December 31, 2013, either:
 - (A) Completed at least thirty (30) years of service, or
 - (B) Reached age sixty (60) and completed at least five (5) years of service; and
 - (ii) Retired after January 1, 2014.
 - (e) "Group F" shall mean any Member whose most recent membership enrollment date was prior to January 1, 2010, and who is not in Groups A through E.
 - (f) "Group G" shall mean any Member whose most recent membership enrollment date is on or after January 1, 2010, or a Retiree of the Cincinnati Retirement System who is receiving a Service Retirement Allowance and is re-employed on or after April 1, 2013 pursuant to Section 203-137.

(C.O. 203-m2; renumbered to C.M.C. 203-1-M1, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 084-2011, § 3, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-1-M2. Repealed.

(C.O. 203-m4; ordained by Ord. No. 16-1959, eff. Jan. 28 1959; renumbered to C.M.C. 203-1-M2, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Ord. No. 336-2016, § 3, eff. Nov. 26, 2016)

Sec. 203-1-M3. Membership Service.

"Membership Service" shall mean service as an Employee since last becoming a Member and such other service rendered subsequent to August 1, 1931, for which credit is allowed under the provisions of this chapter. Membership Service shall include purchased Contract Service as provided for in Section 203-23, Creditable Military Service purchased under Section 203-27, USERRA service established under Section 203-27A, Military Service Credit Prior to Membership purchased under Section 203-28, and purchase of Prior Withdrawn Retirement System Service as provided for in Section 203-29. Membership Service shall not include any purchase of Prior Service

Credit from Eligible System under Section 203-7-A, any Out of State or Federal Service Credit purchased under Section 203-7-B, any Unpaid Authorized Leave of Absence Service Credit purchased under Section 203-7-C, or State Retirement System Service Credit obtained under Section 203-8.

(C.O. 203-m3; renumbered to C.M.C. 203-1-M3, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 5, eff. Oct. 28, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-1-O. Optionee.

"Optionee" shall mean a person designated, in writing and filed with the Board, by the Member at the time of the Member's Retirement, to receive a reduced allowance under Section 203-63.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-P. Pension.

"Pension" shall mean payments for life derived from the money provided by the employer. All pensions shall be paid in equal monthly installments.

(C.O. 203-p1; renumbered to C.M.C. 203-1-P, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-P1. Repealed.

(C.O. 203-p3; renumbered to C.M.C. 203-1-P2, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-1-P2. Noncontributing Prior Service.

"Noncontributing prior service" shall mean service rendered by an employee during which service such employee was exempted from membership in the retirement system. Such service includes but is not limited to service in a part-time or temporary capacity prior to July 1, 1991.

(C.O. 203-1-p2; ordained by Ord. No. 445-1997, eff. Dec. 17, 1997; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-1-P3. Prior State Retirement System Compensation.

A member's Prior State Retirement System Compensation shall be compensation the member earned with his employers under the State Retirement System that is taken into account for purposes of determining his average highest compensation, as provided in Section 203-1-A3.

(Ordained by Ord. No. 352-2001, eff. Oct. 31, 2001)

Sec. 203-1-P4. Plan Year.

"Plan Year" shall mean the calendar year.

(Ordained by Emer. Ord. No. 291-2009, § 2, eff. Oct. 28, 2009)

Sec. 203-1-P5. Pensioner.

"Pensioner" shall mean a person receiving an allowance under this Chapter.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-R. Regular Interest.

"Regular interest" shall mean:

- (a) Interest at 4 percent per annum compounded annually for contributions accumulated prior to January 1, 1958; and at 3½ percent per annum compounded annually for periods from and after January 1, 1958, to January 1, 1964; and at 3½ percent per annum compounded annually for periods from January 1, 1964, to January 1, 1968; and at 4 percent per annum compounded annually for periods from and after January 1, 1968, when such accumulated contributions are applied to the payment of annuities.
- (b) In all other cases, interest at 4 percent per annum compounded annually for periods prior to January 1, 1942, and at 2 percent per annum compounded annually for periods from and after January 1, 1942.

(C.O. 203-r1; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 33-1968, eff. Jan. 24, 1968; renumbered to C.M.C. 203-1-r, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Note(s)—For effect on members who retired prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-1-R1. Retirement.

"Retirement" shall mean the separation from service of an Active Member who is eligible for the receipt of a Service Retirement Allowance on or before their last day of employment service, and has applied for and submitted all required documentation to the Cincinnati Retirement System.

(C.O. 203-r2; renumbered to C.M.C. 203-1-R1, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-1-R2. Repealed.

(C.O. 203-r3; renumbered to C.M.C. 203-1-R2, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Ord. No. 084-2011, § 22, eff. April 16, 2011)

Sec. 203-1-R3. Retirement System.

"Retirement system" shall mean the retirement system for employees of the city of Cincinnati as provided for by Article XV of the administrative code.

(C.O. 203-r4; renumbered to C.M.C. 203-1-R3, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-1-R4. Retirant.

"Retirant" shall mean a person who was formerly employed by the City and who is receiving a Service Retirement Allowance under this Chapter for a period of time that exceeds the re-employment qualification period

and subsequently becomes an Active Member of the Retirement System. "Retirant" does not include any person who is receiving a disability retirement allowance as provided under Section 203-41.

(Ordained by Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-R5. Retiree.

"Retiree" shall mean a person who was formerly employed by the City and who is receiving a Service Retirement Allowance under this Chapter. "Retiree" does not include any person who is receiving a disability retirement allowance as provided under Section 203-41.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-R6. Retirees Class.

"Retirees Class" shall mean all persons who (a) were formerly employed by the City of Cincinnati, the University of Cincinnati, the University Hospital f/k/a General Hospital and Hamilton County, (b) retired on or before July 1, 2011, and (c) have received retirement benefits under the Retirement System, and their dependents and/or their surviving beneficiaries who are entitled to those benefits pursuant to this Chapter.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-R7. Retirement Effective Date.

"Retirement Effective Date" shall mean the first day of the month after the all of following have occurred:

- (a) the Member has become eligible for the receipt of a Service Retirement Allowance,
- (b) the Member has applied for receipt of a Service Retirement Allowance as provided under this Chapter, and
- (c) the Member has separated from active employment service.

A Retirement Effective Date shall always be on the first of a month.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-1-S. Service.

"Service" shall mean service as an employee as described in Section 203-1-E and paid for by the city and military service for which the city has made pension and annuity contributions on behalf of the employee.

(C.O. 203-s1; renumbered to C.M.C. 203-1-S, eff. Jan. 1, 1972; a. Ord. 545-1983, eff. Dec. 23, 1983; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-1-S1. State Retirement System.

"State Retirement System" shall include the following Ohio retirement systems:

- (i) The Public Employees Retirement System ("PERS"),
- (ii) The State Teachers Retirement System ("STRS"),
- (iii) The School Employees Retirement System ("SERS"),

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- (iv) The Police and Fire Pension Fund ("PFPF"), and
 - (v) The Highway Patrol Retirement System ("HPRS").

(Ordained by Ord. No. 352-2001, eff. Oct. 31, 2001)

Sec. 203-1-S2. State Retirement System Service Credit.

"State Retirement System Service Credit" means the amount of creditable service that a member becomes entitled to under this Retirement System pursuant to one or more transfers of service credit from a State Retirement System, as provided in Section 203-8.

(Ordained by Ord. No. 352-2001, eff. Oct. 31, 2001)

Sec. 203-1-S3. Out of State and Federal Service Credit.

"Out of State and Federal Service Credit" means the total amount of creditable service that a member becomes entitled to by purchasing such creditable service under this Retirement System pursuant Section 203-7-B.

(Ordained by Emer. Ord. No. 379-2008, eff. Nov. 19, 2008)

Sec. 203-1-S4. Unpaid Authorized Leave of Absence Service Credit.

"Unpaid Authorized Leave of Absence Service Credit" means the total amount of creditable service that a member becomes entitled to by purchasing such creditable service under this Retirement System pursuant to Section 203-7-C.

(Ordained by Emer. Ord. 290-2009, § 1, eff. Oct. 28, 2009)

Sec. 203-1-S5. Service Retirement Allowance.

"Service Retirement Allowance" shall mean the sum of the annuity and the pension.

(Ordained by Ord. No. 084-2011, § 1, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-1-S6. Survivor.

"Survivor" shall mean a person receiving survivor benefits under Section 203-49.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-3. Membership.

Effective July 1, 1991, all Employees and all persons who shall hereafter become Employees of the City shall be enrolled as Members of the Retirement System except the following:

- (a) Active and retired Members of the Police and Fireman's Disability and Pension Fund of Ohio.
- (b) [Repealed.]

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- (c) Members of the faculties, teaching staffs, research staffs, and administrative staff of the University of Cincinnati appointed to positions covered by the Teachers Insurance and Annuity Association Social Security Plan.
 - (d) [Repealed.]
 - (e) Persons becoming Employees after June 1, 1961, who are employed in any of the following employment classifications: bricklayer, carpenter, carpenter foreman, cement finisher, electrician, electrician foreman, painter, painter foreman, plasterer, plumber, sign painter, steamfitter and pipefitter, tinsmith, or composition roofer.
 - (f) Persons hired as Police Recruits who are not currently enrolled as a Member of the Retirement System prior to their date of hire.
 - (g) Current contributing members of the School Employees Retirement System (SERS) or the State Teachers Retirement System (STRS) who are hired by the City on a seasonal, temporary, or part-time basis.

(C.O. 203-2; a. Ord. No. 202-1961, eff. July 14, 1961; a. Ord. No. 468-1961, eff. Dec. 28, 1961; renumbered to C.M.C. 203-3, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 246-1991, eff. July 1, 1991; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-5. CETA and New Careers Program.

Individuals who are hired for training under the New Careers Program and whose full salaries are reimbursed by the Community Action Commission shall be ineligible for membership in the city retirement system during any period of time they are participating in the New Careers Program.

Individuals who are hired after June 30, 1979, as participants in any program authorized, undertaken or financed pursuant to the Comprehensive Employment and Training Act shall be ineligible for membership in the city retirement system during any period of time they are participating in such program.

(C.O. 203-2A; ordained by Ord. No. 458-1967, eff. Jan. 12, 1968; renumbered to CMC 203-5, eff. Jan. 1, 1972; a. Ord. No. 69-1981, eff. Feb. 25, 1981; a. Ord. No. 545-83, eff. Dec. 23, 1983)

Sec. 203-6. Service Purchase Administrative Provisions.

- (a) For purposes of service purchased under Sections 203-7, 203-7-A, 203-7-B, 203-7-C, 203-8, 203-23, 203-27A, 203-28, and 203-29, service shall be credited as it is purchased and in accordance with the Service Retirement Allowance under Section 203-33 that applies to the Member at the time the service is purchased, and in accordance with any applicable transfer agreements. The purchase of service, when combined with any other creditable service of the Member for the same calendar year as the purchased service, shall not result in the Member receiving more than one year of service credit per calendar year. If the Member is permitted to pay on an installment basis and fails to complete the payments within five years or becomes unable to complete the payments due to non-payment, termination, death, or disability, the system shall only credit the Member with the service which is funded as of the date of non-payment, termination, death, or disability. An individual must be an Active Member to purchase service.
- (b) Effective on and after July 1, 2011, Members who purchase service under Sections 203-7, 203-7-A, 203-7-B, 203-7-C, 203-8, 203-23, 203-27A, 203-28 and 203-29 shall be credited with service in the following manner:

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- (i) For Members in Group C, service purchased prior to the date of Retirement shall be credited toward the Service Retirement Allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33.
 - (ii) For Members in Group D, service purchased prior to the date of Retirement shall be credited toward the Service Retirement Allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33.
 - (iii) For Members in Group E, service purchased:
 - (A) On or before December 31, 2013 and prior to the date of Retirement, shall be credited toward the Service Retirement Allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33;
 - (B) On or after January 1, 2014 and prior to the date of Retirement, shall be credited toward the Service Retirement Allowance formula under Section 203-33(h)(iii).
 - (iv) For Members in Group F, service purchased:
 - (A) On or before June 30, 2011 and prior to the date of Retirement, shall be credited toward the Service Retirement Allowance formula under subsections (c) or (e) of Section 203-33, as determined pursuant to subsections (b) and (d) of Section 203-33;
 - (B) On or after July 1, 2011 and prior to the date of Retirement, shall be credited toward the Service Retirement Allowance formula under 203-33(h)(iv).
 - (v) For Members in Group G, service credited prior to the date of Retirement shall be credited toward the Service Retirement Allowance formula under Section 203-33(h)(v).

(Ordained by Ord. No. 084-2011, § 1, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-7. Members Not To Belong to the Ohio Police and Fire Pension Fund.

- (a) A member of the police or fire division who becomes a City Employee in a position covered by this Retirement System shall not become a Member of this system if such Employee continues to be a member of the Police and Fire Pension Fund ("PFPF") and the City and the Employee are required to make contributions to PFPF based upon the employment with the City. If the City and the Employee are not required to make contributions to PFPF based upon employment with the City, the Employee shall become a Member of this Retirement System.
- (b) If an Employee described in paragraph (a) becomes a Member of this Retirement System, the Employee may be permitted to purchase additional Creditable Service for such period of service in the police and fire division pursuant to Section 203-8. If the Employee is not permitted to purchase Creditable Service under Section 203-8, the Employee shall be permitted to purchase additional Creditable Service for such period of service in accordance with the provisions of Section 203-7-B.

(C.O. 203-3; a. Ord. No. 22-1965, eff. Feb. 19, 1965; a. Ord. No. 90-1966, eff. Mar. 2, 1966; a. Ord. No. 157-1967, eff. Apr. 26, 1967, renumbered to C.M.C. 203-7, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017)

Sec. 203-7-A. Purchase of Prior Service Credit From Eligible Systems.

- (a) A Member of PERS who becomes an Employee of an employer in a position covered by this Retirement System shall not become a Member of this system if while employed in such position, the employer and the Employee are required to make contributions to PERS based upon the employment with the employer.

If the employer and the Employee are not required to make contributions to PERS based upon the employment with the employer, the Employee shall become a Member of this Retirement System. In addition, pursuant to Section 203-8, the Employee shall be allowed, at the Employee's option, to obtain credit for credited service the Member has in PERS.

- (b) An Active Member of the Retirement System who has non-contributing prior service shall be allowed, at the Employee's option, to obtain Creditable Service for the time served as a City Employee, as defined in Section 203-1-E, by depositing in this system an amount equal to 100 percent of the amount determined by the actuary chosen by the Retirement System, to be necessary to fund the pension payable on account of the Member's period of service purchased under this section.

Any Employee desiring to exercise the option to purchase Creditable Service for non-contributing prior service shall make application to the Board of trustees of the Retirement System, which application shall be accompanied by a non-refundable \$250 application fee for the cost of the actuarial study required by subsection (b) hereof and the costs of staff time required for the retrieval of payroll records. If the Employee purchases credit the \$250 fee shall be applied toward the cost of such purchase.

At the time of application, an Employee shall provide payroll records or other proof of prior non-contributing service for periods prior to December 31, 1982 for which City records are not available, in a form and manner acceptable to the Board. The decision of the Board as to whether or not such payroll records provide proper verification of prior non-contributing service shall be final. City payroll records shall be used for all calculations pertaining to prior service which occurred on or after January 1, 1983.

Applications under this subsection (b) may be filed by all persons who were Employees, as defined in Section 203-1-E of this Chapter, on or after July 3, 1996. Applications for purchase of service credit under this subsection (b) shall be made on or before November 1, 1998 or within thirty-six (36) months of the date of becoming a Member of the Retirement System, whichever is later.

- (c) The minimum number of years of service required under the provisions of Section 203-42, 203-43 and Section 203-44 for health care benefits cannot be supplied by the purchase of credit under the provisions of this section; however, credit purchased under the provisions of this Section will be applied to years of City service in excess of the required minimum number of years of service in order to determine the percentage of premiums to be paid by the Retirement System on behalf of a retired Member.

(C.O. 203-7-A; ordained by Ord. No. 445-1997, eff. Dec. 17, 1997; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-7-B. Purchase of Out of State or Federal Service Credit.

- (a) An Active Member of the Retirement System shall be permitted to obtain Creditable Service under this Retirement System if (i) the Member has "Eligible Out of State Service" or "Eligible Federal Service" (as defined below), and (ii) the Member satisfies all of the requirements of subsection (b) below. The amount of such Creditable Service and the purposes for which it shall be used under this Retirement System are described in subsection (c) below.
- (b) A Member meets the requirements of this subsection if all of the following requirements are met:

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- (i) The Member is an Employee, as defined in Section 203-1-E of this Chapter, after the effective date of this Section.
 - (ii) The Member shall have been a Member for at least 18 consecutive months at the time that the Member either makes payment or begins making payments for the Creditable Service.
 - (iii) The Member is an Employee at the time of payment for the Creditable Service.
 - (iv) The purchase of service, when combined with any other creditable service of the Member for the same calendar year as the purchased service, shall not result in the Member receiving more than one year of service credit per calendar year.
- (c) In order to become entitled to additional Creditable Service under this Section, the Member shall deposit in this system an amount equal to 100 percent of the amount determined by the actuary chosen by the Retirement System, to be necessary to fund the additional Service Retirement Allowance and all other benefits that shall be payable under the Retirement System on account of the Member's purchase of Creditable Service under this section. Payment by the Member may be made in any combination of the following methods:
- (i) [Repealed.]
 - (ii) Payroll deduction by the Member pursuant to a pick-up plan that meets the requirements of IRC Section 414(h)(2).
 - (iii) The Member making a rollover contribution (including a direct rollover) to the Retirement System from an "Eligible Retirement Plan," as defined in Section 203-117.
 - (iv) A trustee-to-trustee transfer from a 403(b) plan or an eligible governmental deferred compensation 457(b) plan.
 - (v) Any other direct payment in cash to the Retirement System.

Any Employee desiring to exercise the option to purchase Creditable Service under this Section shall make application to the Board, which application shall be accompanied by a non-refundable \$250 application fee for the cost of the actuarial study required to determine the cost. If the Employee purchases Creditable Service, the \$250 fee shall be applied toward the cost of such purchase.

At the time of application, an Employee shall provide payroll records or other proof of "Eligible Out of State Service" or "Eligible Federal Service," in a form and manner acceptable to the Board.

For this purpose, a rollover contribution shall be a contribution to this Retirement System that, in accordance with IRC Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3) or 457(e)(16) and procedures established by the Board, a Member makes by delivering, or causing to be delivered to the Retirement System, assets in cash which constitute such rollover contribution.

- (d) The minimum number of years of service required under the provisions of Section 203-42, 203-43 and Section 203-44 for health care benefits cannot be supplied by the purchase of credit under the provisions of this Section; however, credit purchased under the provisions of this Section will be included when determining the percentage of premiums to be paid by the Retirement System on behalf of a Retired Member.
- (e) The total amount of Creditable Service purchased under this Section shall not exceed the lesser of five years or the Member's total number of years of Eligible Out of State Service and Eligible Federal Service.
- (f) For purposes of this Section:
 - (i) "Eligible Out of State Service" shall include membership service in a defined benefit plan earned as a common law employee of a state other than Ohio (another state), a political subdivision of another state, an agency or instrumentality of another state, or the District of Columbia, that is not concurrent

with full-time City service, and provided that such employment shall not be used in the calculation of any retirement benefit currently being paid or payable in the future to the Member under any other retirement program except social security.

- (ii) "Eligible Federal Service" shall include membership service in a defined benefit plan earned as a common law employee of the United States and its possessions and territories, or an agency or instrumentality of the United States, that is not concurrent with full-time City service, and provided that such employment shall not be used in the calculation of any retirement benefit currently being paid or payable in the future to the Member under any other retirement program except social security. At the time the Creditable Service is purchased, the Member shall certify this requirement to the Board on a form furnished by the Board.
- (g) At the time that "Out of State" or "Federal Service Credit" is purchased under this Section, the Member shall certify to the Board, on a form furnished by the Board, that the prior employment, or service as an elected official, will not be used in the calculation of any retirement benefit currently being paid or payable in the future to the Member under any other retirement program except social security. In accordance with Section 203-133, the Board shall otherwise have full authority to administer the terms of this Section. All decisions of the Board made in regard to the administration of this Section shall be final, including without limitation (i) determinations of the Board in regard to the question of whether or not records supplied by a Member provide proper verification of "Eligible Out of State Service" or "Eligible Federal Service," and (ii) determinations of whether other service constitutes "Eligible Out of State Service" or "Eligible Federal Service".

(Ordained by Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 6, eff. Oct. 28, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-7-C. Purchase of Unpaid Authorized Leave of Absence Service Credit.

- (a) An Active Member of the Retirement System shall be permitted to obtain up to one (1) year Creditable Service under this Retirement System if the Member satisfies all of the requirements of subsection (b) below. The purposes for which the service credit shall be used under this Retirement System are described in subsection (c) below.
- (b) A Member meets the requirements of this subsection if all of the following requirements are met:
 - (i) The Member has had at least 160 hours of continuous, non-contributing unpaid authorized leave of absence from full-time City service for any reason except for leaves due to corrective action from the disciplinary process.
 - (ii) The Member is an Employee, as defined in Section 203-1-E of this Chapter, on or after October 28, 2009.
 - (iii) The Member shall have returned to work as an employee and maintained employment for at least 18 consecutive months at the time that the Member applies to purchase the service.
 - (iv) The purchase of the service complies with Section 203-6.
- (c) In order to become entitled to additional Creditable Service under this section, the Member shall deposit in this system an amount equal to 100 percent of the amount determined by the actuary chosen by the Retirement System, to be necessary to fund the additional Service Retirement Allowance and all other benefits that shall be payable under the Retirement System on account of the Member's purchase of Creditable Service under this Section. Payment by the Member may be made in any combination of the following methods:
 - (i) [Repealed.]

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- (ii) Payroll deduction by the Member pursuant to a pick-up plan that meets the requirements of IRC Section 414(h)(2).
 - (iii) A trustee-to-trustee transfer from a 403(b) plan or an eligible governmental deferred compensation 457(b) plan.
 - (iv) The Member making a rollover contribution (including a direct rollover) to the Retirement System from an "Eligible Retirement Plan," as defined in Section 203-117.
 - (v) Any other direct payment in cash to the Retirement System.

Any Employee desiring to exercise the option to purchase Creditable Service under this Section shall make application to the Board, which application shall be accompanied by a non-refundable \$250 application fee for the cost of the actuarial study required to determine the cost. If the Employee purchases Creditable Service, the \$250 fee shall be applied toward the cost of such purchase.

At the time of application, a Member shall provide a letter from his or her employing agency stating all of the following: (i) the Member was on an unpaid authorized leave of absence unrelated to corrective action from the disciplinary process; (ii) the inclusive dates of the unpaid authorized leave of absence; and (iii) the Employee's rate of pay and monthly gross income at the time of the unpaid authorized leave of absence in a form and manner acceptable to the Board.

For this purpose, a rollover contribution shall be a contribution to this Retirement System that, in accordance with IRC Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3) or 457(e)(16) and procedures established by the Board, a Member makes by delivering, or causing to be delivered to the Retirement System, assets in cash which constitute such rollover contribution.

- (d) The maximum amount of Creditable Service an Employee may purchase due to an unpaid authorized leave of absence is one (1) year, and the minimum amount of Creditable Service an Employee may purchase is 160 work hours. An Employee may purchase all or part of the Creditable Service for which the Employee is eligible provided the Employee purchases at least 160 work hours of Creditable Service.
- (e) The minimum number of years of service required under the provisions of Section 203-42, 203-43 and Section 203-44 for health care benefits cannot be supplied by the purchase of credit under the provisions of this Section; however, credit purchased under the provisions of this Section will be applied to years of City service in excess of the minimum number of 20 years of service in order to determine the percentage of premiums to be paid by the Retirement System on behalf of a Retiree.
- (f) At the time a Member purchases unpaid authorized leave of absence service credit, the Member shall certify to the Board, on a form furnished by the Board, that the unpaid authorized leave of absence service will not be used in the calculation of any retirement benefit currently being paid or payable in the future to the Member under any other retirement program except social security. In accordance with Section 203-133, the Board shall otherwise have full authority to administer the terms of this Section. All decisions of the Board made in regard to the administration of this Section shall be final, including without limitation (i) determinations of the Board in regard to the question of whether or not information supplied by a Member provides proper verification of "Unpaid Authorized Leave of Absence Service," and (ii) determinations of whether a leave of absence constitutes "Unpaid Authorized Leave of Absence Service."

(Ordained by Emer. Ord. 290-2009, § 2, eff. Oct. 28, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-8. State Retirement System Service Credit Transfer.

Subject to approval by the city council, the Board may enter into one or more transfer agreements with the State Retirement Systems to permit Members of the Retirement System to elect to either (i) obtain State

Retirement System Service Credit under this Retirement System that is attributable to a transfer of all or part of the Member's service credit under a State Retirement System, or (ii) obtain additional service credit under a State Retirement System that is attributable to a transfer of all or part of the Member's creditable service under this Retirement System.

Any transfers between this Retirement System and a State Retirement System shall be done in accordance with the terms of the applicable transfer agreement. Any such transfer agreement between the Board and a State Retirement System shall comply with applicable state law. No transfer agreement shall become effective until the City council has approved it. Likewise, no amendment of a transfer agreement or action by the Board terminating such agreement shall become effective until the City council has approved it. Notwithstanding the foregoing, any transfer agreement may have retroactive effect to the extent provided in the agreement, provided that the agreement is approved by City council.

The service retirement allowance or other benefits that a Member is to be provided with respect to the transfer of a Member's State Retirement System Service Credit to the Retirement System shall be determined solely in accordance with the provision of this Retirement System, as amended from time to time; and no transfer agreement with any State Retirement System may grant any additional benefits to a Member. Nor may a transfer agreement with a State Retirement System restrict or limit the power of the legislative authority of the city to amend the provisions of this Retirement System at any time and in any manner that is otherwise permitted by law. Any transfer agreement with a State Retirement System shall permit the agreement to be terminated, subject only to reasonable notice or other reasonable restrictions on such right of termination as may be part of the transfer agreement.

If a Member elects to obtain additional service credit under a State Retirement System that is attributable to creditable service under this Retirement System, the Member's creditable service and accumulated contributions under this Retirement System shall be reduced in an amount determined by the Board; and if the Member continues to retain any creditable service and accumulated contributions under this Retirement System, such Member's remaining entitlement to a service retirement allowance or other benefits shall be determined solely in accordance with the provisions of this Retirement System.

All amounts that are paid to the Retirement System pursuant to a transfer agreement shall be held as part of the Retirement System trust fund that has been established hereunder. The Board shall not be required to separately invest any such amounts or to separately account for any such amounts, except to the extent that separate accounting is required hereunder to properly account for the accumulated contributions of a Member.

If the Board is required to transfer funds and service credit to a State Retirement System, such transfers shall be made directly from the Retirement System fund to the State Retirement System; and the Board shall reduce the accumulated contributions and service credit of a Member in accordance with the terms of the applicable transfer agreement.

Once a transfer agreement has become effective, in accordance with Section 203-133, the Board shall have the power to administer such agreement. To the extent not inconsistent with the provisions of this Retirement System and the terms of a transfer agreement, in the administration of a transfer agreement, the Board may address the following points:

- (a) the Members who are entitled to elect a transfer of service credit,
- (b) the amount of State Retirement System Credit to be credited to a Member who elects to transfer service credit from a State Retirement System,
- (c) the amount of creditable service that a Member may transfer to a State Retirement System,
- (d) a Member's payment method relating to any such transfers, and
- (e) a requirement that a Member complete a transfer application form and acknowledgment of the effect of the transfer.

Notwithstanding the foregoing, no Member or former member who has an outstanding loan shall be permitted to transfer service credit to a State Retirement System under this Section unless and until such loan is repaid in full, with interest.

(Ordained by Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 084-2011, § 4, eff. April 16, 2011; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017)

Sec. 203-9. University Board, Other Pension Systems.

If any member of the facilities, research and teaching staffs of the University of Cincinnati becomes a member of the retirement system, the board of directors of said university shall not contribute on behalf of any such employee to any other pension, retirement or annuity system.

(C.O. 203-4; renumbered to C.M.C. 203-9, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-11. Termination of Membership.

Membership in the Retirement System shall terminate as follows:

- (a) On the death of the Member;
- (b) [Repealed.]
- (c) [Repealed.]
- (d) If a Member withdraws his or her Accumulated Contributions after leaving City employment.

(C.O. 203-5; a. Ord. No. 73-1963; eff. Mar. 22, 1963; renumbered to C.M.C. 203-11, eff. Jan. 1, 1972; a. Ord. No. 465-1975, eff. Oct. 1, 1975; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 084-2011, § 5, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-12. Benefit Claims.

Benefit(s) payable under this Chapter shall not be paid without proper documentation or application submitted by the Member, Beneficiary, or survivor as may be required. No benefits shall be paid retroactively.

(Ordained by Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-13. Data as to New Members and Retirants.

Whenever an Employee is appointed, the appointing authority shall furnish to the Board a statement showing the name, title, compensation, duties and date of birth of such Employee, and such other information as the Board shall require. At the request of the Board, a Retirant shall provide any documentation required to establish eligibility to become a Retirant.

(C.O. 203-6; renumbered to C.M.C. 203-13, eff. Jan. 1, 1972; a. ord. No. 545-1983, eff. Dec. 23, 1983; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-15. Repealed.

(C.O. 203-8; renumbered to C.M.C. 203-15, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-17. Repealed.

(C.O. 203-11; renumbered to C.M.C. 203-17, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-19. Service Creditable.

Service creditable at retirement, on which the Service Retirement Allowance of a Member shall be based, shall consist of Creditable Service. The Board shall not credit as service for any period of more than one month's duration during which the Employee was absent without pay. The Board shall have power to add to the service creditable to any Member the service in a similar capacity rendered for the government of territory annexed to the City.

(C.O. 203-12; renumbered to C.M.C. 203-19, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 084-2011, § 6, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-21. Repealed.

(C.O. 203-13; a. Ord. No. 188-1958, eff. June 17, 1958; a. Ord. No. 30-1959, eff. Mar. 13, 1959; a. Ord. No. 399-1959, eff. Jan. 8, 1960; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 33-1968, eff. Jan. 24, 1968; renumbered to C.M.C. 203-21, eff. Jan. 1, 1972; a. Ord. No. 43-1977, eff. Feb. 16, 1977; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 69-1981, eff. Feb. 25, 1981; r. Ord. No. 336-2016, § 3, eff. Nov. 26, 2016)

Sec. 203-23. Contract Service Credit.

A member who was employed as a regular permanent employee, then for the convenience of the city employed in relatively the same capacity on a contract basis and then reemployed as a regular permanent employee, may receive credit for such period of contract service, if service including such contract service is continuous, upon payment into the fund prior to January 1, 1953, of a sum of money equal to the contributions that would have been made had the employee been a member during such period of contract service, plus interest at 3½ percent per annum compounded annually for periods from and after January 1, 1958, to January 1, 1964; and at 3¾ percent per annum compounded annually for periods from January 1, 1964, to January 1, 1968; and at 4 percent per annum compounded annually for periods from and after January 1, 1968, from the time such contributions would have been paid to the retirement system, had such person been a member from August 1, 1931, to the date of actual payment. For the purpose of determining such payment, the member shall be considered to have received during the period of contract service the same rate of pay received as a regular permanent employee immediately prior to employment on a contract basis, and the present rate of contribution shall be applied thereto. The board shall, in all cases, determine whether the member was employed on a contract basis for the convenience of the city; and such determination of the board shall be final.

(C.O. 203-13a; a. Ord. No. 188-1958, eff. June 27, 1958; a. Ord. No. 30-1959, eff. Mar. 13, 1959; a. Ord. No. 399-1959, eff. Jan. 8, 1960; a. Ord. No. 98-1964, eff. Jan. 1, 1964; 8. Ord. No. 33-1968, eff. Jan. 24, 1968; renumbered to C.M.C. 203-23, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-25. Year of Service.

The board shall fix and determine, by appropriate rules and regulations, how much service in any year is equivalent to a year of service; but in no case shall more than one year of service be creditable for all service in one calendar year.

(C.O. 203-14; renumbered to C.M.C. 203-25, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-27. Creditable Military Service.

The Board may, during a period of national war emergency, by resolution declare an "emergency period" of indefinite duration to be terminated by resolution of the Board. Any Member entering the active military service of the United States during such an emergency period and returning to the City service within a reasonable time after honorable termination of such service shall be entitled to have the period of military service credited as City employment service and treated as prior service credit for the purpose of determining the Service Retirement Allowance, subject to the following:

- (a) City service, military service and return to City service; must be continuous, with no interval of other regular employment.
- (b) Accumulated Contributions must have been left standing in full to the Member's credit during the entire period, if withdrawn, the Accumulated Contributions must have been redeposited in full in accordance with the provisions of Section 203-29 of the Cincinnati Municipal Code.

The Board shall be authorized to adopt rules as to what shall constitute a "reasonable time after honorable termination of military service" in certain types of cases or to adjudge each case on its own facts.

Nothing in this section shall be construed to entitle a Member to the payment of pension or other benefits during the period of military service or during the period between military service and return to City service.

(C.O. 203-15; renumbered to C.M.C. 203-27, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-27A. USERRA Compliance.

The provisions of this section shall apply if a Member is absent from employment because of service in the "uniformed services" and is reemployed pursuant to the provisions of Chapter 43 of Title 38 of the United States Code (the Uniformed Services Employment and Reemployment Rights Act "USERRA").

- (a) If the Member is not entitled to have the period of absence treated as City employment service pursuant to Section 203-27, the period of uniformed service shall be considered service as an Employee (as defined in Sections 203-1-E and 203-1-S) for all purposes of this chapter, other than the purposes described in paragraph (b) below.
- (b) If the Member is not entitled to have the period of absence treated as City employment service pursuant to Section 203-27, for purposes of determining the amount of a Member's Service Retirement Allowance under Section 203-33, or the amount of disability retirement allowance of a Member under Section 203-41, to the extent that the Member satisfies the contribution requirements of this paragraph (b), the Member shall be entitled to Membership Service and Creditable Service, respectively, for the period of absence. To obtain such Membership Service and Creditable Service, the Member must contribute to the Retirement System an amount equal to the payroll deductions that the Member would have been required to make pursuant to Section 203-73, determined as if the Member had been continuously employed during his or her absence and had received compensation at a rate of

pay determined in a manner consistent with IRC Section 414(u)(7). Payment by the Member must be made within a period of time which begins on the date of the Member's reemployment and ends on the earlier of (i) five years, or (ii) three times the period of absence. If the Member pays less than the full amount of Member contributions required for the period of absence, the Board shall provide partial Membership Service and partial Creditable Service for such purposes, based on the amounts paid, beginning with the original date of absence. Payments may be made by payroll deduction if approved by the Board.

- (c) If the reemployed Member has previously withdrawn his or her Accumulated Contributions, the Member shall be entitled to Membership Service for his or her employment prior to the uniformed services absence if repayment is made in accordance with Section 203-29.
- (d) If a Member is entitled to Membership Service for all or part of a period of uniformed service absence pursuant to paragraph (b) above, for purposes of determining the Member's Average Highest Compensation under Section 203-1-A3, the Member shall be deemed to have earned compensation at the rate described above in paragraph (b) for any period of absence for which the Member pays the Employee contributions required under paragraph (b). If a Member is entitled to Membership Service for all or part of a period of uniformed service absence pursuant to Section 203-27, for purposes of determining the Member's Average Highest Compensation under Section 203-1-A3, the Member shall be deemed to have earned compensation at the rate described above in paragraph (b) for any period of absence which is determined to be Membership Service under Section 203-27.
- (e) Irrespective of whether, or to what extent, a Member is entitled to Membership Service and Creditable Service for a period of uniformed services absence, under Section 203-1-A3, for purposes of determining the Member's most highly compensated period of three consecutive years of service, if a Member does not have deemed compensation attributable to a period of uniformed services absence (because the Member has not made payment of all of the required Member contributions as is provided above in paragraph (b)), that period of military absence shall be disregarded. Thus, a Member's periods of Membership Service (or deemed Membership Service) preceding the Member's date of reemployment shall be deemed to be consecutive periods of service for purposes of Section 203-1-A3.
- (f) Effective December 12, 1994, notwithstanding any other provision of this Chapter, the Retirement System law, contributions, benefits and service credit with respect to qualified military service are governed by IRC Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994.
- (g) Effective with respect to deaths occurring on or after January 1, 2007, while a Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by IRC Section 401(a)(37), survivors of a Member of the Retirement System are entitled to any additional benefits that the system would provide if the Member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the Member's death while employed.
- (h) Beginning January 1, 2009, to the extent required by IRC Sections 3401(h) and 414(u)(2), an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in chapter 43 of title 38, United State Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation, but contributions attributable to such differential wage payments shall not be made unless and until the Member returns to active employment and makes up the missed contributions. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 291-2009, § 5, eff. Oct. 28, 2009; a. Ord. No. 084-2011, § 7, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-28. Military Service Credit Prior to Membership.

- (a) An Active Member who has been honorably discharged from the Armed Forces of the United States prior to their employment with the City may purchase up to 3 years of military service credit which shall be considered as the equivalent of City service for each year of active duty service.
- (b) For each year of service purchased, for military service performed prior to January 1, 1978, the Member shall pay to the Retirement System for credit to such Member's accumulated account an amount determined by multiplying the 6 percent rate of contribution by the annual compensation for full-time employment during the first year of Membership in the Retirement System following termination of military service.
- (c) For each year of service purchased, for military service performed on or after January 1, 1978, the Member shall pay to the Retirement System for credit to such Member's accumulated account an amount determined by multiplying the applicable Member contribution rate in effect for the period of military service by the annual compensation for full-time employment during the first year of membership in the Retirement System following termination of military service. To this amount shall be added an amount equal to compound interest at 4 percent per annum from the date active military service terminated to date of payment.
- (d) An Active Member whose Membership date is prior to January 1, 2010 who had active military service prior to employment may purchase such service, and any such purchased service will be included for purposes of determining whether a Member has obtained five years of Creditable Service prior to July 1, 2011, and is entitled to the appropriate vesting for such service. The number of years purchased shall not exceed three years. A service purchase under this section is subject to existing service purchase procedures and policies.
- (e) A Member of the Retirement System is ineligible to purchase service credit under this section for any year of military service used in the calculation of any retirement benefit currently being paid to the Member or payable in the future under any other retirement program except military retirement or social security. At the time the credit is purchased the Member shall certify on a form furnished by the Board that such Member does and will conform to this requirement. Any benefit paid under this section to which the Member is not entitled shall be recovered by any recovery procedures available under this chapter.
- (f) The Board shall promulgate rules and regulations consistent with the provisions of this chapter for the granting of retirement service credit for military service.

(C.M.C. 203-28; ordained by Ord. No. 25-1975, eff. Jan. 1, 1975; a. Ord. No. 474-1977, eff. Jan. 1, 1978; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-29. Purchase of Prior Withdrawn Retirement System Service.

Any Member who has left or leaves the City service for any reason, and withdrew or withdraws Accumulated Contributions, and who reenters the City service and becomes a Member shall be entitled to Membership Service for the former period of Membership when the Member shall have completed eighteen months of service subsequent to the Member's most recent membership enrollment date and pays into the fund the amount described in paragraph (a) or (b) below, as applicable. Service shall be credited as it is purchased and in accordance with the Service Retirement Allowance under Section 203-33 that applies to the Member at the time the service is purchased. The purchase of prior withdrawn Retirement System service does not retroactively establish the membership enrollment date; rather, the Member's most recent membership enrollment date shall continue to apply for all purposes under this Chapter.

- (a) The provisions of this paragraph (a) shall apply if there is a service credit transfer agreement in effect with one or more of the State Retirement Systems under Section 203-8. If so, the Member shall pay:

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- (i) For each year of service to be repurchased, an amount equal to the Member contributions previously paid by the Member and refunded to the Member for such year of service; plus
 - (ii) Interest calculated separately for each year of service dating from the year in which the service was originally earned.

Unless otherwise specified by the Board, interest shall be calculated at the actuarial assumption rate of the Retirement System for the year in which the service credit was originally earned. The interest shall be compounded annually.

- (b) The provisions of this paragraph (b) shall apply if there is no service credit transfer agreement in effect with one or more of the State Retirement Systems under Section 203-8. If so, the Member shall pay:
 - (i) A sum equal to the amount of Accumulated Contributions withdrawn at the termination of the former period of service;
 - (ii) Interest at 4 percent per annum compounded annually thereon from date of withdrawal until date of payment; and
 - (iii) An amount equal to 50 percent of the amount determined by the actuary to be necessary to be paid to fund the pension payable on account of the Member's former period of service.

Notwithstanding the foregoing, the provisions of paragraph (b) shall apply to an Employee who returned to membership status prior to February 19, 1965, and any such person need not pay the amount specified under clause (iii) of paragraph (b).

If said Member had a prior service certificate, and if at Retirement, membership subsequent to the date of reentry amounts to 10 years or more, the prior service certificate shall be reinstated upon proper application being made to the Board.

(C.O. 203-16; a. Ord. No. 188-1958, eff. June 27, 1958; a. Ord. No. 30-1959, eff. Mar. 13, 1959; a. Ord. No. 399-1959, eff. Jan. 8, 1960; a. Ord. No. 13-1961, eff. Feb. 10, 1961; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 22-1965, eff. Feb. 19, 1965; a. Ord. No. 33-1968, eff. Jan. 24, 1968; a. Ord. No. 273-1968, eff. July 12, 1968; renumbered to C.M.C. 203-29, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 084-2011, § 8, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-31. Academic Leaves.

A member granted an academic leave by the University of Cincinnati may continue as an active contributing member of the retirement system for the period of the academic leave by making regular membership contributions to the retirement system if the University of Cincinnati pays to the retirement system during the period of academic leave, at the same time and in the same manner, the contributions it would have made had the member remained on the university payroll.

A member on academic leave may make contributions to the retirement system in the same amounts and at the same time the contributions would have been made had the member remained on the payroll of the University of Cincinnati, or may make contributions in a lump sum not later than 30 days after return from academic leave, in which event interest at 3½ percent per annum compounded annually for periods from and after January 1, 1958, to January 1, 1964; and a 3¾ percent per annum compounded annually for periods from January 1, 1964, to January 1, 1968; and at 4 percent per annum compounded annually for periods from and after January 1, 1968, shall be paid in addition to the principal amount of the contributions.

A member on academic leave retaining contributing membership in the retirement system shall be considered a member in service during such period and shall be entitled to all benefits of the retirement system on the basis of pay that would have been received if employment at the university had been uninterrupted.

(Sec. 203-16a; ordained by Ord. No. 190-1958, eff. June 27, 1958; a. Ord. No. 30-1959, eff. Mar. 13, 1959; a. Ord. No. 399-1959, eff. Jan. 8, 1960; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 33-1968, eff. Jan. 24, 1968; renumbered to C.M.C. 203-31, eff. Jan. 1, 1972; Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-32. Repealed.

(Ordained by Ord. No. 130-1999, eff. May 14, 1999; r. Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-33. Service Retirement Allowance; Vesting.

- (a) A Member may be entitled to a Service Retirement Allowance, as provided herein, after satisfying the applicable requirements set forth below:
- (i) For a Member in Group C, after reaching age 60 with 5 years of Creditable Service or with 30 years of Creditable Service regardless of age;
 - (ii) For a Member in Group D, after reaching age 60 with 5 years of Creditable Service or with 30 years of Creditable Service regardless of age;
 - (iii) For a Member in Group E, after reaching age 60 with 5 years of Creditable Service or with 30 years of Creditable Service regardless of age;
 - (iv) For a Member in Group F, after reaching age 60 with 5 years of Creditable Service or with 30 years of Creditable Service regardless of age;
 - (v) For a Member in Group G, after reaching age 62 with 30 years of Creditable Service or age 67 with 5 years of Creditable Service.

A Member having completed 5 years of Creditable Service on or after January 1, 1989, or in the case of a Member who serves at the pleasure of the appointing authority, after completion of 5 years of Creditable Service on or after January 1, 1989, shall be entitled upon reaching the requisite age specified by this section to a Service Retirement Allowance; provided, however, that the entire Accumulated Contributions of the Member remain to the Member's credit in the Retirement System.

- (b) The Service Retirement Allowance described in subsection (c) shall apply for:
- (i) Persons hired on or after July 12, 1998,
 - (ii) Persons who:
 - (A) Were hired prior to July 12, 1998,
 - (B) Retire after May 1, 1999, and
 - (C) In accordance with Ordinance Number 130-1999, elected by October 1, 1999 to be provided benefits under the formula described in subsection (c),
 - (iii) Persons who:
 - (A) In accordance with Ordinance Number 130-1999, elected by October 1, 1999 to be provided benefits under the formula described in subsection (e), and

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- (B) Pursuant to the provision of paragraph (d) below, cease to be entitled to benefits under that paragraph.
- (c) The Service Retirement Allowance described in this subsection (c) shall consist of:
- (i) An annuity which shall be the actuarial equivalent of the Accumulated Contributions of the Member at the time of Retirement or in the case of a Member who left employment after 5 years of service, at the time of reaching age 60;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:
 - (A) 2.50 percent of the Average Highest Compensation multiplied by the total of the number of years of Membership Service plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C; and
 - (B) For each year of a Member's State Retirement System Service Credit, the lesser of 2.50 percent or Member's State Retirement System Benefit Percentage for that year (as defined in paragraph (n) below), multiplied by his or her Average Highest Compensation.
- (d) The Service Retirement Allowance described in subsection (e) shall apply for persons who became a Member prior to July 12, 1998, retire after May 1, 1999, and, in accordance with Ordinance Number 130-1999, have elected to be provided benefits under the formula described below. If a Member has satisfied the foregoing requirements, the Member shall nevertheless cease to have the provision of subsection (e) apply to determine his or her Service Retirement Allowance; and shall instead have the provisions of subsection (c) applied to determine the amount of his or her Service Retirement Allowance, if any of the following applies to the Member:
- (i) The Member ceases to be a Member prior to retirement and withdraws all of the Member's Accumulated Contributions;
 - (ii) The Member elects to transfer all of the Member's Accumulated Contributions to a State Retirement System, as provided in Section 203-8 or otherwise;
 - (iii) The Member ceases to be an Active Member prior to retirement and does not have five or more years of Creditable Service at the time he or she ceases to be an Active Member; or
 - (iv) The Member elects (or has ever elected) under the provisions of paragraph (l) below, to have the provisions of subsection (c) above apply.
- (e) The Service Retirement Allowance described in this subsection (e) shall consist of:
- (i) An annuity which shall be the actuarial equivalent of the Accumulated Contributions of the Member at the time of retirement, or in the case of a Member who retired after 5 years, at the time of reaching age 60;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:
 - (A) 2.22 percent of the Average Highest Compensation multiplied by the total of the number of years of Membership Service plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C; and
 - (B) For each year of a Member's State Retirement System Service Credit, the lesser of 2.22 percent or Member's State Retirement System Benefit Percentage for that year (as defined in paragraph (n) below), multiplied by his or her Average Highest Compensation.
- (f) The Service Retirement Allowance described in subsection (g) shall apply for persons who were hired on or after January 1, 2010.
- (g) The Service Retirement Allowance described in this subsection (g) shall consist of:

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- (i) An annuity which shall be the actuarial equivalent of the Accumulated Contributions of the Member at the time of retirement, or in the case of a Member who retired after 5 years, at the time of reaching age 67;
 - (ii) A pension which together with the annuity, shall be equal to the sum of:
 - (A) 2.2 percent of the Average Highest Compensation multiplied by the total of the number of years of Membership Service plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C; and
 - (B) For each year of a Member's State Retirement System Service Credit, the lesser of 2.2 percent or Member's State Retirement System Benefit Percentage for that year (as defined in paragraph (n) below), multiplied by his or her Average Highest Compensation.
 - (h) Effective July 1, 2011, for retirements occurring on or after that date, all benefits shall be calculated as specified in this subsection (h).
 - (i) For Members of Group C, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above.
 - (ii) For Members of Group D, benefits shall be calculated pursuant to subsections (c) or (e) above, as determined pursuant to subsections (b) and (d) above.
 - (iii) For Members of Group E, benefits shall be calculated as follows:
 - (A) The Member's applicable multiplier as determined by Sections (b) or (d) above, for the greater of 1) the Member's Membership Service as of January 1, 2014, plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C, prior to January 1, 2014; or 2) all of the Member's years of Membership Service plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C up to a maximum of 20 years; multiplied by the Member's Average Highest Compensation; and
 - (B) 2.2 percent of the Average Highest Compensation multiplied by all other years of Membership Service, including service purchased under Section 203-7-A, 203-7-B, and 203-7-C not included in (A) above; and
 - (C) For each year of a Member's State Retirement System Service Credit, as provided for in Section 203-8, the lesser of the applicable percentage under subsection (A) or (B) above or the Member's State Retirement System Benefit Percentage for that year (as defined as provided for in paragraph (n) below), multiplied by his Average Highest Compensation.
 - (iv) For Members of Group F, benefits shall be calculated as follows:
 - (A) The Member's applicable multiplier as determined by Sections (b) or (d) above, for the greater of 1) the Member's Membership Service as of July 1, 2011, plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C, prior to January 1, 2014; or 2) all of the Member's years of Membership Service plus service purchased under Sections 203-7-A, 203-7-B and 203-7-C up to a maximum of 20 years; multiplied by the Member's Average Highest Compensation; and
 - (B) 2.2 percent of the Average Highest Compensation multiplied by all other years of Membership Service, including service purchased under Section 203-7-A, 203-7-B, and 203-7-C not included in (A) above; and
 - (C) For each year of a Member's State Retirement System Service Credit, as provided for in Section 203-8, the lesser of the applicable percentage under subsections (A) or (B) above or the Member's State Retirement System Benefit Percentage for that year (as defined in paragraph (n) below), multiplied by his or her Average Highest Compensation.
 - (v) For Members of Group G, with respect to benefits earned on or after January 1, 2010, the Service Retirement Allowance shall equal the sum of:

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- (A) 2.2 percent of the Average Highest Compensation multiplied by the number of years of Membership Service plus service purchased under Section 203-7-A, 203-7-B, and 203-7-C, up to and including 30 total years; plus 2.0 percent of the Average Highest Compensation multiplied by the number of years of Membership Service plus service purchased under Section 203-7-A, 203-7-B, and 203-7-C, in excess of 30 total years; and
 - (B) For each year of a Member's State Retirement System Service Credit, the lesser of the applicable percentage under subsection (A) or Member's State Retirement System Benefit Percentage for that year (as defined in paragraph (n) below), multiplied by his or her Average Highest Compensation.
- (i) The Service Retirement Allowance for persons who retired prior to January 1, 1978, shall consist of the amount determined in accordance with the calculation formula in effect and applicable to the Member at the time of the Member's Retirement.
 - (j) The eligibility for and calculation of the Service Retirement Allowance for persons who were in Groups A and B and who were Deferred Vested Members on July 1, 2011, shall consist of the amount determined in accordance with the calculation formula in effect and applicable to the Member at the time of the Member's Retirement.
 - (k) In no event shall the Service Retirement Allowance provided herein be greater than 90% of the Average Highest Compensation for those Members retiring after April 1, 1993. Average Highest Compensation, for those retiring on or after April 14, 1999, shall be calculated or recalculated in accordance with the provisions of Section 203-1-A3 contained herein, notwithstanding the provisions of Section 203-1-A3 contained in Ordinance No. 264-2000.
 - (l) In no event shall the Service Retirement Allowance provided herein, exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 USCA 15, as amended.
 - (m) [Repealed.]
 - (n) For purposes of this Section, a Member's State Retirement System Benefit Percentage shall be the percentage multiplier that was in effect under the terms of the State Retirement System to determine the pension or other retirement allowance of the Member under that system for each separate year of service credit that is being transferred to this Retirement System.

The Member's State Retirement System Benefit Percentage shall be determined using the percentage multiplier that was in effect for the calculation of the Member's pension or other retirement allowance on the last date that Member was in the employment of an employer covered by the relevant State Retirement System. Accordingly, and not by way of limitation, increases in the benefit multiplier of a State Retirement System shall not be taken into account for purposes of determining a Member's State Retirement System Benefit Percentage if such increases became effective after the date that the Member ceased to be employed by an employer under the relevant State Retirement System.

By way of example, a Member's State Retirement System Benefit Percentage can be currently located in the following Sections of the Ohio Revised Code:

- (a) PERS - Section 145.33(A)(5)(b).
- (b) STRS - Section 3307.58(B)(2)(a)(i).
- (c) SERS - Section 3309.36(B)(1)(b).
- (d) PFPF - Section 742.37(C).
- (e) HPRS - Section 5505.17.

If a Member previously terminated employment with an employer under a State Retirement System, the Member's State Retirement System Benefit Percentage shall be determined based on the similar provisions of the State Retirement System as in effect upon the Member's previous termination of employment.

(C.O. 203-17; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 436-1960, eff. Jan. 28, 1961; a. Ord. No. 473-1961, eff. Jan. 1, 1962; a. Ord. No. 245-1962, eff. July 27, 1962; a. Ord. No. 359-1963, eff. Nov. 22, 1963; a. Ord. No. 294-1964, eff. Jan. 1, 1965; a. Ord. No. 16-1966, eff. Feb. 18, 1966; a. Ord. No. 33-1968, eff. Jan. 24, 1968; a. Ord. No. 5-1969, eff. Jan. 2, 1969; renumbered to C.M.C. 203-33, eff. Jan. 1, 1972; a. Ord. No. 116-1972, eff. Mar. 1, 1972; a. Ord. No. 92-1973, eff. Mar. 6, 1973; a. Ord. No. 162-1977, eff. June 3, 1977; a. Ord. No. 474-1977, eff. Jan. 1, 1978; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 487-1988, eff. Jan. 3, 1989; a. Ord. No. 540-1990, eff. Dec. 19, 1990; a. Ord. No. 510-1992, eff. Dec. 16, 1992; a. Ord. No. 77-1998, eff. April 3, 1998; a. Ord. No. 130-1999, eff. May 14, 1999; a. Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 78-2002, eff. March 20, 2002; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 6, eff. Oct. 28, 2009; a. Ord. No. 359-2009, § 2, eff. Dec. 25, 2009; a. Ord. No. 084-2011, § 9, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Note(s)—For effect on members who retire prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-34. Repealed.

(Ordained by Ord. No. 130-1999, eff. May 14, 1999; r. Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-35. Early Service Retirement Allowance.

- (a) Any Member whose most recent membership enrollment date is before January 1, 2010 and who has attained age 55 and has 25 or more but less than 30 years of Creditable Service may retire from active service on a Service Retirement Allowance which shall be the actuarial equivalent, at the Member's age at the actual date of Retirement, of the Service Retirement Allowance which would have been payable under Section 203-33 had the Member attained the age of 60 on said date.
- (b) Any Member whose most recent membership enrollment date is on or after January 1, 2010, and who has attained age 57 and has 15 years of Creditable Service may retire from active service on an early Service Retirement Allowance which shall be the actuarial equivalent, at the Member's age at the actual date of Retirement, of the Service Retirement Allowance which would have been payable under Section 203-33 had the Member attained eligibility on said date for a Service Retirement Allowance pursuant to the provisions of Section 203-33 applicable to that Member.
- (c) A Member who is eligible for benefits under this Section and who terminates employment without immediate commencement of a benefit under this section shall no longer be eligible for a benefit under this Section.

In no event shall the Service Retirement Allowance provided herein, exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C.O. 203-17a; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 436-1960, eff. Jan. 28, 1961; renumbered to C.M.C. 203-35, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 540-1990, eff. Dec. 19, 1990; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 359-2009, § 3, eff. Dec. 25, 2009; a. Ord. No. 084-2011, § 10, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Note(s)—For effect on members who retire prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-37. Repealed.

(Sec. 203-17c; ordained by Ord. No. 15-1961, eff. Feb. 1, 1961; a. Ord. No. 51-1967, eff. Feb. 1, 1967; renumbered to C.M.C. 203-37, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-38. Repealed.

(Ordained by Ord. No. 70-1980, eff. Feb. 27, 1980; a. Ord. No. 545-83, eff. Dec. 23, 1983; r. Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013)

Sec. 203-39. Repealed.

(Sec. 203-17D; ordained by Ord. No. 18-1968, eff. Feb. 16, 1968; a. Ord. No. 33-1968, eff. Jan. 24, 1968; a. Ord. No. 40-1970, eff. Jan. 1, 1971; a. Ord. No. 82-1971, eff. Jan. 1, 1972; renumbered to C.M.C. 203-39, eff. Jan. 1, 1972; a. Ord. No. 6-1975, eff. Jan. 1, 1975; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 33-1987, eff. Feb. 27, 1987; a. Ord. No. 540-1990, eff. Dec. 19, 1990; r. Ord. No. 084-2011, § 22, eff. April 16, 2011)

Sec. 203-41. Disability Retirement Allowance.

No Active Member with fewer than five years of Creditable Service with the Retirement System shall be eligible for disability benefits pursuant to this Section. Any Active Member having completed 5 years of Creditable Service with the Retirement System on or after April 1, 2013, who is disabled by reason of an accidental or non-accidental cause may be retired by the Board upon the application of the Member or the head of his department not less than 30 and no more than 180 days next following the date of filing such application, on a disability retirement allowance, provided the medical director after a medical examination of such Member shall certify that such Member is mentally or physically incapacitated for the further performance of duty, and such incapacity is likely to be permanent, and such Member should be retired; provided further, where the findings of the medical director are disputed, the Board may employ not more than two additional competent disinterested physicians to make a physical examination of such applicant and report their medical findings to the Board. In all disputed cases the decision of the Board shall be final.

Pursuant to the rules adopted by the Board, the Board may waive the requirement that a Member be an Active Member, provided that it can be proved that the disability existed before the Member's contributing service was terminated.

The death of a Member who has applied for retirement due to disability prior to final determination by the Board under this section shall not affect the right of the applicant to a disability retirement, and the Board shall proceed to act upon the application for disability retirement as though the individual were still alive and shall take subsequent action following that determination as though the individual had died immediately after having been granted disability retirement.

- (a) Upon retirement for disability on or after January 1, 1978, a Member shall receive a Service Retirement Allowance if the Member has attained the age of 60, or at any age with 30 years of Creditable Service; otherwise the Member shall receive a disability retirement allowance which shall consist of:
 - (i) An annuity which shall be the actuarial equivalent of Accumulated Contributions at the time of Retirement; and
 - (ii) A pension which together with the annuity shall provide a total disability retirement allowance equal to 90 percent of the Average Highest Compensation by the number of years of Creditable

Service; provided that, if the total disability retirement allowance so obtained does not exceed one-quarter of the Average Highest Compensation, the formula shall be 90 percent of the sum obtained by multiplying 2.20 percent of the Average Highest Compensation by the number of years which would be creditable if service continued to age 60; but the total retirement allowance in such case shall in no event exceed one-fourth of the Average Highest Compensation.

- (iii) In no event shall the disability retirement allowance provided for herein be less than \$90 per month in the case of Employees having 25 years of service, or an amount per month equal to the sum of \$3.60 multiplied by the number of full years of Creditable Service in the case of Employees having less than 26 years of Creditable Service.
- (iv) In no event shall the disability retirement allowance provided for herein, exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.
- (b) Persons who retired on disability retirement prior to January 1, 1978, shall receive a disability retirement allowance which shall consist of the amount determined in accordance with the calculation formula in effect at the time of the Member's disability retirement.
- (c) A Retirant who is earning service credit as an Employee, and who is concurrently receiving a Service Retirement Allowance from the Retirement System, is not eligible to apply for a disability retirement benefit pursuant to this Section.

(C.O. 203-18; a. Ord. No. 189-1958, eff. June 27, 1958; a. Ord. No. 283-1959, eff. Oct. 2, 1959; a. Ord. No. 315-1960, eff. Oct. 8, 1960; a. Ord. No. 16-1966, eff. Feb. 18, 1966; a. Ord. No. 33-1968, eff. Jan. 24, 1968; a. Ord. No. 120-1968, eff. Apr. 19, 1968; a. Ord. No. 72-1969, eff. Mar. 21, 1969; a. Ord. No. 116-1972, eff. Mar. 1, 1972; a. Ord. No. 468-1973, eff. Oct. 17, 1973; a. Ord. No. 539-1973, eff. Dec. 12, 1973; a. Ord. No. 25-1974, eff. Jan. 16, 1974; a. Ord. No. 474-1977, eff. Jan. 1, 1978; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 540-1990, eff. Dec. 19, 1990; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-42. Health Care Benefits.

- (a) In addition to other benefits provided in this chapter, the health care benefits described in this Section shall be provided to the following persons:
 - (i) A Member who retired on or before July 1, 2011 and whose eligibility for health care benefits was determined on their Retirement Effective Date according to the provisions of this chapter in effect on such date, or
 - (ii) A Member of Group C who retires on or after August 1, 2011 with 15 years of Membership Service, or
 - (iii) A Member of Group D, E, or F whose most recent membership enrollment date is before January 9, 1997 and who retired on or after August 1, 2011 and on or before January 1, 2016 with 15 years of Membership Service, or
 - (iv) Persons receiving the benefits of a retirement optional allowance under Section 203-63 and who are eligible for benefits under Section 203-48 of this chapter, provided that the Member satisfied the health care eligibility requirements of paragraph (i), (ii) or (iii) above at the time the Member retired, or
 - (v) A surviving spouse, eligible dependent child and orphan, receiving survivor benefits as provided in Section 203-49 of this chapter on or before January 1, 2016.
- (b) The benefits to be provided under this Section are:

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- (i) Medical and prescription drug coverage similar to coverage in effect for eligible Retirees on January 1, 2014, and Member premium contributions are not to exceed 5% of the full funding rate for each tier of coverage:
 - (A) For in-network benefits:
 - (I) An annual deductible of \$300 per person and \$600 per family;
 - (II) A maximum annual medical out-of-pocket expense of \$1,500 per person and \$3,000 per family; and
 - (III) Prescription co-pays: \$10 for generic; \$20 for brand name; \$30 for non-formulary; with no out-of-pocket limit.
 - (B) For out-of-network benefits:
 - (I) An annual deductible of \$600 per person and \$1,200 per family;
 - (II) A maximum annual medical out-of-pocket expense of \$3000 per person and \$6,000 per family; and
 - (III) Limited out-of-network coverage for prescription drugs.
 - (ii) Dental and vision insurance coverage which shall be purchased and fully paid for by the Retirees, their surviving spouse, their eligible dependents or orphans, as provided in Section 203-48 of this chapter.
- (c) Members who retired before September 1, 2007, and their surviving spouse as provided in Section 203-48 of this chapter, who met the requirements of former Section 203-43(d), subsections (i), (ii), (iii), or (iv) as in effect prior to July 1, 2011, and who as of January 1, 2012, and annually thereafter, meet the requirements of subsection (i) below are entitled to the benefits described in subsection (ii) below.
- (i) Members must establish that their annual household income is less than \$30,000 by annually submitting to the Retirement System a copy of their federal income tax return or any other or additional documentation the Retirement System requires to determine annually whether the Member's household income is less than \$30,000. For purposes of this Section, "household income" shall mean the total income of the Member, including the income of the Member's spouse if married, after adding back the nontaxable portion of interest, dividends, pensions, annuities, IRA distributions and social security benefits. Business or investment losses are not included in "household income" and may not be used to reduce the amount of "household income" for purposes of this Section. Members must submit a copy of their federal income tax return (and that of their spouse, if applicable) for the prior year to the Retirement System no later than the date determined by the Retirement System each year, or any other or additional documentation the Retirement System requires. Failure to submit the required documentation shall result in the Member becoming permanently ineligible for the benefits described in (c)(ii) of this Section. The Member will be eligible for coverage as described in (b) of this Section.
 - (ii) Members who meet the requirements of subsection (i), above shall receive medical and prescription drug coverage with no premium cost with the following benefits:
 - (A) For in-network benefits:
 - (I) An annual deductible of \$0;
 - (II) A maximum annual medical out-of-pocket expense of \$500 per person and \$1,000 per family;
 - (III) A maximum annual prescription drug out-of-pocket expense of \$500 per person; and
 - (IV) Prescription drug tiers: \$5 for generic; \$15 for brand name; \$30 for non-formulary.

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- (B) For out-of-network benefits:
 - (I) An annual deductible of \$0;
 - (II) A maximum annual medical out-of-pocket expense of \$1000 per person and \$2,000 per family; and
 - (III) Limited out-of-network coverage for prescription drugs.

Members who meet the requirements of subsection (i) above shall be provided dental and vision coverage to be purchased and fully paid for by the Retirees, their surviving spouse, their dependents or orphans.

- (d) To the extent allowable under applicable federal law, coverage under this Section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and Part B. A person is considered eligible for Medicare for these purposes during any period such person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A (premium free) or Part B, does not have such coverage under Medicare Part A or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-43. Health Care Benefits For Membership Dates Prior to January 9, 1997 and Retirement Effective Dates After January 1, 2016.

- (a) In addition to other benefits provided in this chapter, the health care benefits described in this Section shall be provided to the following persons:
 - (i) A Qualified Member (as defined in paragraph (c) below) who retires after January 1, 2016 who is at least 60 years of age with a minimum of 20 years of Membership Service and who is not otherwise eligible for health care benefits under Section 203-42, or
 - (ii) A Qualified Member (as defined in paragraph (c) below) who retires with 30 or more years of Creditable Service consisting of a minimum of 20 years of Membership Service and who is not otherwise entitled to benefits under Section 203-42, or
 - (iii) Persons receiving the benefits of a retirement optional allowance under Section 203-63 of this chapter, and who are eligible for benefits under Section 203-48 of this chapter, provided that the Member satisfied the requirements of either paragraph (i) or paragraph (ii) above at the time the Member retired and who is not otherwise entitled to benefits under Section 203-42, or
 - (iv) Each surviving spouse, eligible dependent child and orphan of a deceased Active Member who would have been eligible for benefits under this section, who is receiving survivor benefits as provided in Section 203-49 of this Chapter, provided that:
 - (A) the deceased Active Member's most recent membership enrollment date is before January 9, 1997 and the survivor benefit commenced on or after February 1, 2016 and the deceased Active Member is not otherwise entitled to benefits under Section 203-42; and
 - (B) a surviving spouse may only obtain coverage if the surviving spouse possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of the Active Member's death. However, if the deceased Active Member dies on or after January 1, 2019, the surviving spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death.

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- (v) Qualified Members who are not covered by the provisions of the Collaborative Settlement Agreement and who retire on or after February 1, 2016 and on or before January 1, 2017 and who have at least 15 years of Membership Service.
- (b) The benefits to be provided under this Section are:
- (i) Medical and prescription drug coverage similar to the most favorable plan available to active Employees, excluding Police & Fire and Building & Trade unions, and Member premium contributions are not to exceed 10% of the full funding rate for each tier of coverage; and
 - (ii) Dental and vision insurance coverage which shall be purchased and fully paid for by the Retirees, their surviving spouse, or their dependents or orphans as provided in Section 203-48 of this chapter.
 - (iii) To the extent allowable under applicable federal law, coverage for a Member who is eligible to be covered under Medicare shall be secondary to coverage of such Member under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the Member were enrolled in Medicare Part A and/or Part B. A Member is considered eligible for Medicare for these purposes during any period such Member has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A (premium free) or Part B, does not have such coverage under Medicare Part A or Part B solely because such Member has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.
- (c) For purposes of this Section, a Qualified Member is a Member who was an Active Member before January 9, 1997. The following rules shall apply for purposes of determining whether a Member was an Active Member before January 9, 1997:
- (i) If the Member terminates Membership due to a withdrawal of Accumulated Contributions (as provided in Section 203-11(d)) or a transfer of service credit and Accumulated Contributions to a State Retirement System (as provided in Sections 203-8 and 203-7-A), the Member shall not be considered to have been an Active Member for any period attributable to the withdrawn or transferred contributions, irrespective of whether the Member is subsequently granted credit for such period of service pursuant to Section 203-29, Section 203-8 or any similar provisions of this Retirement System.
 - (ii) A Member shall not be considered to have been an Active Member for any period of Creditable Service of a Member that is attributable to State Retirement System Service Credit, Out of State and Federal Service Credit, or Unpaid Authorized Leave of Absence Service Credit.
 - (iii) If a Member ceases (or ceased) to be an Employee, the Member shall not be considered to have been an Active Member for any period of employment that precedes the date the Member ceases (or ceased) to be an Employee, unless the Member does not withdraw all or any part of his Accumulated Contributions.
 - (iv) Notwithstanding the foregoing, if a Member is granted service credit for a period of military absence pursuant to Sections 203-27 or 203-27A, to the extent required by federal law, the Member shall be considered to have been an Active Member during the period of military absence.
- (d) Any Inactive Member who is rehired on or after January 1, 2016 shall not be eligible for benefits under this Section.
- (e) The director of retirement or his or her designee shall adopt rules and policies necessary to implement this Section.

(Sec. 203-19; ordained by Ord. No. 442-1960; eff. Jan 1, 1961; a. Ord. No. 473-1961, eff. Jan 1, 1962; a. Ord. No. 67-1966, eff. Mar. 18, 1966; a. Ord. No. 24-1971, eff. Jan. 27, 1971; a. Ord. No. 187-1971, eff. July 3, 1971; a. Ord. No. 334-1971, eff. Sept. 22, 1971; renumbered to C.M.C. 203-43, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 487-1988, eff. Jan. 3, 1989; a. Ord. No. 284-2000, eff. 8-2-00; a. Ord. No. 352-2001, eff. Oct. 31,

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(Supp. No. 40, Update 1)

2001; Emer. Ord. No. 0020-2007, § 1, eff. Jan. 1, 2007; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 7, eff. Oct. 28, 2009; a. Ord. No. 360-2009, § 1, eff. Dec. 25, 2009; a. Ord. No. 085-2011, § 1, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-44. Health Care Benefits For Membership Dates On and After January 9, 1997.

- (a) In addition to other benefits provided in this chapter, the health care benefits described in this Section shall be provided to the following persons:
- (i) A Member whose most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015, and who:
 - (A) Retired on or after August 1, 2011 and on or before January 1, 2016 with 15 years of Membership Service and who is not entitled to benefits under Section 203-42 or 203-43, or
 - (B) Retires on or after February 1, 2016 and who is at least 60 years of age with a minimum of 20 years of Membership Service and who is not otherwise eligible for health care benefits under Section 203-42 or Section 203-43, or
 - (C) Retires on or after February 1, 2016 with 30 or more years of Creditable Service consisting of a minimum of 20 years of Membership Service and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.
 - (ii) Persons receiving the benefits of a retirement optional allowance under Section 203-63 of this Chapter, and who are eligible for benefits under Section 203-48 of this Chapter, provided that the Member satisfied the requirements of paragraph (i) above at the time the Member retired and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.
 - (iii) Members whose most recent membership enrollment date is on or after January 9, 1997 and who are not covered by the provisions of the Collaborative Settlement Agreement and who retire on or after February 1, 2016 and on or before January 1, 2017 and who have at least 15 years of Membership Service.
 - (iv) Each surviving spouse, eligible dependent child and orphan of a deceased Active Member who would have been eligible for benefits under this section, who is receiving survivor benefits as provided in Section 203-49 of this Chapter, provided that:
 - (A) the deceased Active Member's most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015; and
 - (B) a surviving spouse may only obtain benefits if the surviving spouse possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of the Active Member's death. However, if the deceased Active Member dies on or after January 1, 2019, the surviving spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death.

Accordingly, the provisions of Section 203-33 of this Chapter, which provide for Service Retirement Allowances after vesting, shall not entitle persons who are so vested to health care benefits under the provisions of this Section unless such persons are Members who also qualify for health care benefits under the provisions of this Section.

- (b) The benefits to be provided under this Section are:
- (i) Medical and prescription drug coverage similar to the most favorable plan available to active Employees, excluding Police & Fire and Building & Trade unions; and subject to Member premium contributions described in (c) below; and

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- (ii) Dental and vision insurance coverage shall be purchased and fully paid for by the Member, their surviving spouse, and their eligible dependents or orphans.
 - (iii) To the extent allowable under applicable federal law, coverage under this section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and/or Part B. A person is considered eligible for Medicare for these purposes during any period such person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A or Part B, does not have such coverage under Medicare Part A (premium free) or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.
- (c) Except for dental and vision insurance coverage, the percentage of the full funding rates, or premiums, for medical and prescription drug coverage to be paid by the Retirement System on behalf of persons entitled to benefits under this Section shall be based on a formula consisting of the sum of (i) the number of the Member's full years of Creditable Service, and (ii) the Member's age at the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member, with each such full year of Membership Service and each such year of age at Retirement date counting as one point each. Years of age at Retirement shall mean years of age at the birthday immediately preceding the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member. The number of full years of Creditable Service and the years of age at Retirement date shall be added together and shall result in the payment of medical and prescription drug coverage in the following percentage amounts:

95% of full cost or full premiums for 90 points

75% of full cost or full premiums for 80 to 89 points

50% of full cost or full premiums for 70 to 79 points

25% of full cost or full premiums for 60 to 69 points

If a Member's total points are less than 60, the Member is only eligible for individual medical and prescription drug coverage. The Retirement System will pay 25% of the premium for individual medical and prescription drug coverage. No spouse or family coverage is available.

A Member's years of Creditable Service shall be used for the purpose of determining the points of a Member under this subsection (c), but will not include years of Creditable Service credited under a previous Service Retirement Allowance provided under this Chapter.

- (d) If a Member leaves the City service prior to Retirement and is entitled to a deferred Service Retirement Allowance and such Member is entitled to benefits under this Section, no benefits shall be provided to the Member until the Member reaches the later of their normal retirement date, or their Medicare eligibility age.
- (e) Any Inactive Member who is rehired on or after January 1, 2016 shall not be eligible for benefits under this Section.
- (f) The director of retirement or his or her designee shall adopt rules and policies necessary to implement this Section.

(Ord. No. 1-1997, eff. Jan. 8, 1997; a. Ord. No. 284-2000; eff. 8-2-00; a. Ord. No. 352-2001, eff. Oct. 31, 2001; Emer. Ord. No. 0020-2007, § 2, eff. Jan. 1, 2007; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. 290-2009, § 8, eff. Oct. 28, 2009; a. Ord. No. 360-2009, § 2, eff. Dec. 25, 2009; a. Ord. No. 085-2011, § 2, eff. April 16, 2011; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-45. Death Benefit Prior to Retirement.

Upon receipt of proper proof by the Board of the death of an Active Member, an Inactive Member, or a Deferred Vested Member, a death benefit shall be paid to a person that the Member shall have nominated by written designation duly executed in accordance with the provisions of this Section and filed with the Board.

- (a) The designation of the Beneficiary shall be limited to the following:
 - (i) A person or persons,
 - (ii) A trust,
 - (iii) The Member's estate; or
 - (iv) Other legal entity
- (b) If there is no such designation, the death benefit shall be paid to:
 - (i) The surviving spouse; or
 - (ii) If there is no surviving spouse then to any surviving children in equal shares; or
 - (iii) If there is no surviving spouse or surviving children, to any surviving parents in equal shares; or
 - (iv) If there is no surviving spouse, surviving children or surviving parents, then to the Member's estate.
- (c) Primary beneficiaries shall have 180 days to claim a benefit under this Section. If a primary beneficiary does not make a claim within 180 days, then that primary beneficiary forfeits all rights to a benefit under this Section. In the event that no primary beneficiaries make a claim, the beneficiaries next in order of preference shall become entitled to the benefit and shall have 90 additional days to claim the benefit under this section. If there are multiple beneficiaries in a given category, the benefit shall be divided equally among the eligible beneficiaries who make a claim within the applicable time period. Failure to make a claim within the required time period shall result in total forfeiture of this benefit for that beneficiary.
- (d) The death benefit shall consist of the return of the deceased Member's Accumulated Contributions, or in the event the sole, primary designated Beneficiary is the deceased Member's spouse, such spouse may elect between this benefit and the benefits available under Section 203-63(b) if eligible.

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 a Member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the Member's death. For the purpose of this section, such person shall be considered as having predeceased the Member killed.

(C.O. 203-20; a. Ord. No. 315-1960, eff. Oct. 8, 1960; a. Ord. No. 442-1960, eff. Jan. 1, 1961; a. Ord. No. 168-1962, eff. June 8, 1962; a. Ord. No. 272-1966, eff. Aug. 6, 1966; a. Ord. No. 204-1967, eff. June 16, 1967, a. Ord. No. 528-1968, eff. Jan. 17, 1969; renumbered to C.M.C. 203-45, eff. Jan. 1, 1972, a. Ord. No. 502-1973, eff. Dec. 14, 1973; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 116-1997, eff. May 23, 1997; a. Ord. No. 084-2011, § 11, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017; Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Editor's note(s)—Emer. Ord. No. 343-2018, § 1, effective October 31, 2018, renamed § 203-45 from "death benefit in service" to "death benefit prior to retirement".

Sec. 203-47. Retirement Death Benefit.

Upon receipt of proper proof by the Board of the death of a Member who has retired, a death benefit shall be paid to a person that the Member shall have nominated by written designation duly executed in accordance with the provisions of this Section and filed with the Board.

- (a) Designation of the Beneficiary shall be limited to the following:
 - (i) A person or persons,
 - (ii) A trust,
 - (iii) The Member's estate; or
 - (iv) Other legal entity
- (b) If there is no such designation, the death benefit shall be paid to:
 - (i) The surviving spouse; or
 - (ii) If there is no surviving spouse, then to any surviving children in equal shares; or
 - (iii) If there is no surviving spouse or surviving children, to any surviving parents in equal shares; or
 - (iv) If there is no surviving spouse, surviving child or children or surviving parents, then to the Member's estate.
- (c) Primary beneficiaries shall have 180 days to claim a benefit under this Section. If a primary beneficiary does not make a claim within 180 days, then that primary beneficiary forfeits all rights to a benefit under this Section. In the event that no primary beneficiaries make a claim, the beneficiaries next in order of preference shall become entitled to the benefit and shall have 90 additional days to claim the benefit under this section. If there are multiple beneficiaries in a given category, the benefit shall be divided equally among the eligible beneficiaries who make a claim within the applicable time period. Failure to make a claim within the required time period shall result in total forfeiture of this benefit for that beneficiary.
- (d) The retirement death benefit shall consist of:
 - (i) A lump sum death benefit of \$5,000 for all Members in Groups A and B. Members in Groups C, D, E, F and G shall not receive a lump sum death benefit. Provided, the designated Beneficiaries of the Members of the Retirees Class shall be paid a lump sum death benefit in the amount of \$5,000.
 - (ii) In the case of a Member who did not select Option 1, Option 2, Option 3 or Option 4 pursuant to Section 203-63:
 - (A) such Member's Accumulated Contributions at date of Retirement, minus
 - (B) all amounts paid by reason of said Member's Retirement.

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 a Member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the Member's death. For the purpose of this section, such person shall be considered as having predeceased the Member killed.

(C.O. 203-20a; ordained by Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 226-1960, eff. July 22, 1960; a. Ord. No. 472-1962, eff. Jan. 11, 1963; a. Ord. No. 16-1966, eff. Feb. 18, 1966; a. Ord. No. 272-1966, eff. Aug. 6, 1966; a. Ord. No. 204-1967, eff. June 16, 1967; a. Ord. No. 528-1968, eff. Jan. 18, 1969; a. Ord. No. 19-1969, eff. Jan. 1, 1969; a.

Ord. No. 28-1969, eff. Jan. 18, 1969; renumbered to C.M.C. 203-47, eff. Jan. 1, 1972; a. Ord. No. 502-1973, eff. Dec. 14, 1973; a. Ord. No. 42-1975, eff. Jan. 29, 1975; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 310-1986, eff. Oct. 4, 1986; a. Ord. No. 116-1997, eff. May 23, 1997; a. Ord. No. 388-1998, eff. Nov. 20, 1998; a. Ord. No. 254-1999 eff. June 16, 1999; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 084-2011, § 12, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Note(s)—For effect on members who retired prior to Jan. 1, 1981, see § 203-50.

Sec. 203-48. Health Care Benefits for Eligible Dependent Family Members.

Notwithstanding any other provisions of this chapter, health care benefits provided by the Retirement System for eligible dependent family members of Retirees or deceased Active Members shall be limited to the following:

(a) Eligibility for Health Care:

- (i) If a Retiree or deceased Active Member is eligible to receive health care benefits pursuant to this Chapter, only the following dependents as defined by and in accordance with the Ohio Administrative Code 145-4-09, "Definition of Eligible Dependent for Health Care Coverage," or Internal Revenue Code Section 152 (a)(1), "Qualifying Child," may be enrolled for health insurance purposes:
 - (A) A Retiree's spouse possessing a valid marriage certificate or other proof of marriage as recognized by the State of Ohio, dated prior to the effective date of retirement, and beginning January 1, 2019 who is not legally separated from the Retiree; or
 - (B) A spouse of a deceased Retiree who is receiving benefits under Section 203-63, and who possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the effective date of retirement. However, if the deceased Retiree dies on or after January 1, 2019, the spouse is eligible for coverage only if the spouse was not legally separated from the deceased Retiree at the time of the deceased Retiree's death; or
 - (C) A spouse of a deceased Active Member who is receiving benefits under Section 203-49, and who possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of death. However, if the deceased Active Member dies on or after January 1, 2019, the spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death; or
 - (D) A Retiree's or a deceased Active Member's biological children who were born or children who were legally adopted by the Retiree prior to the effective date of retirement, or in the case of a deceased Active Member, prior to the date of death.
- (ii) A Retiree's child who has never entered into a marriage recognized by the State of Ohio is eligible for coverage if the child is either under the age of 19, or is a student attending an accredited school on a fulltime basis for at least 7 months of the calendar year and who has not attained the age of 24.
- (iii) Coverage shall be extended if the Retiree's child is permanently and totally disabled in accordance with Social Security Disability Definition, 42 U.S.C. 416i(1), prior to the limiting age specified in Section (a)(ii) herein and maintains his or her residence within the household of the Retiree. For purposes of this section, the term "disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental

impairment, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Evidence of the incapacity shall be required to be provided to the Board, such as a Certificate of Disability or other adequate proof from the United States Social Security Administration, and shall be subject to approval by the Board.

- (b) Eligibility to Purchase Health Care at 100% of Premium Cost:
- (i) The ability to enroll a spouse, minor child, or minor grandchild for Health Care benefits shall be closed to spouses when the date of marriage is after the date of the Retiree's retirement, to children born or adopted after the Retiree's date of Retirement and to minor grandchildren after December 31, 2017, unless subsection (ii) below applies.
 - (ii) Otherwise eligible spouses and dependents who were married to, born of, or adopted by the Retiree after the Retiree's date of Retirement, and one minor grandchild born to an unmarried, un-emancipated minor child of the Retiree that the Retiree is permitted to claim as a dependent on the Retiree's federal tax return in accordance with Section 152 of the Internal Revenue Code, will be entitled to remain enrolled in coverage as long as they meet all other eligibility requirements, were enrolled in Retiree Health Care coverage on January 1, 2018 and provided that there is no break in coverage. Once a break in coverage occurs, spouses, dependents and minor grandchildren will be subject to all the eligibility requirements of Chapter 203, including this section, and will be ineligible for re-enrollment unless they meet all the eligibility requirements of Chapter 203.
- (c) If an individual receives a monthly benefit as an Optionee of a deceased Retiree of the Retirement System, he or she may enroll the biological children who were born of the Retiree or any children who were legally adopted by the Retiree prior to the effective date of Retirement, provided that all such individuals meet the criteria listed in Sections (a)(i),(ii) or (iii) herein.
- (d) If a Retiree has not selected a pension payment option that includes an Optionee, health care benefits provided by the Retirement System for the Retiree's dependent spouse and eligible biological or legally adopted dependent child/ren terminates following the death of the Retiree.
- (e) For the purposes of this chapter, it is the responsibility of the Retiree, Optionee, or survivor to notify the Retirement System in writing, within 60 days of the date that any spouse or dependent child fails to meet eligibility requirements. Failure to provide such notice to the Retirement System may result in overpaid health care claims for which the Retiree, Optionee, or survivor shall be responsible in addition to penalties imposed in Section (f) herein.
- (f) The Board maintains the right to conduct compliance-related audits of dependent eligibility and to impose penalties for non-compliance. Penalties for non-compliance shall include suspension of health care coverage of the Retiree, Optionee, or surviving spouse and his or her dependents for a period of 3 years and a requirement that the Retiree, Optionee, or surviving spouse repay all improperly paid prescription drug claims. After the three-year suspension period, the Retiree, Optionee, or surviving spouse's health insurance may only be reinstated upon full repayment of the amount of the improperly paid prescription drug claims. The Retiree, Optionee, or surviving spouse is responsible for making payment arrangements to repay the amounts owed. If the Retiree, Optionee, or surviving spouse has been found legally incompetent by a court, the Board, at its sole discretion, may elect to modify the penalty imposed by this section.

(Ordained by Ord. No. 0193-2009, § 1, eff. July 24, 2009; a. Ord. No. 073-2010, § 1, eff. April 24, 2010; a. Ord. No. 175-2010, § 1, eff. May 19, 2010; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017; a. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Editor's note(s)—Section 3 of Ord. No. 175-2010, effective May 19, 2010, amended Section 2 of Ord. No. 193-2009, effective July 24, 2009, to specify that implementation of the provisions of this section by the Cincinnati Retirement System shall take place on January 1, 2011.

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) If a Member is survived by a spouse, such spouse shall receive a pension of \$157.50 per month for life or until remarriage. Such pension 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 Member if survivor benefits are payable pursuant to paragraph (b) hereof and shall continue to be paid as long as such spouse remains unmarried and survivor benefits are payable pursuant to paragraph (b) hereof. Effective the first of the month next following the 62nd birthday of such spouse, if the deceased 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 Member had 15 years of Creditable Service or more, such pension shall be paid irrespective of any benefits payable pursuant to paragraph (b) hereof. If no benefits are payable pursuant to paragraph (b) hereof, such spouse shall begin to receive the pension effective on the first day of the month following the 62nd birthday of such spouse, if the deceased 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 Member had 15 years of Creditable Service or more.
- (b) If a Member is survived by a spouse and a Retiree's natural or adopted child or children including natural children of a Member conceived prior to the 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.

If a Member is not survived by a spouse or if the spouse dies or remarries during the dependency of the Member's minor child or children - there shall be paid to the 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.

A natural child of a deceased 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 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 Member, such child, in addition to the eligibility requirements hereinbefore fixed for a natural child of the deceased

Member, must in order to be eligible to be considered for the computation of benefits pursuant to this paragraph have received at least one-half of the child's support from the deceased Member during the 12 months immediately prior to the death of the deceased Member.

- (c) If a Member is survived by a dependent father or mother, or both, who received more than one-half of their support from the deceased Member during the 12 months immediately prior to the death of the Member and this fact is established to the satisfaction of the Board within one year after the death of the Member, the dependent father or mother, or both, shall receive a pension 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 (c) together with the benefits payable pursuant to the preceding paragraphs of this section exceed the limitations fixed by paragraph (e), the benefits payable pursuant to this paragraph (c) shall be reduced to meet the requirements of paragraph (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 overpayment in any other manner provided by law.

Effective January 1, 1999, the monthly benefit amounts detailed in 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.

- (d) For the purpose of this section the following terms shall have the meanings indicated:
- (i) "Widow," "widower," "surviving spouse," "wife" or "husband" shall mean the person legally married to the deceased Member on the day of such Member's death as evidenced by an undissolved ceremonial marriage and who has, in the opinion of the Board, either lived with the deceased Member as spouse immediately prior to the Member's death or has taken care of the children of the Member for at least one year immediately prior to the 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 or a legally adopted child.
- (e) In no event shall more than \$427.50 per month as adjusted according to the terms of the last paragraph of subsection (c) hereof, be paid pursuant to this section by reason of the death of a Member.
- (f) 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 a Member shall be eligible to receive the benefits payable pursuant to the provisions of this section by reason of the Member's death. For the purpose of this section, such person shall be considered as having predeceased the Member killed.

(C.O. 203-21; ordained by Ord. No. 442-1960*, eff. Jan. 1, 1961; a. Ord. No. 473-1961, eff. Jan. 1., 1962; a. Ord. No. 169-1962, eff. June 8, 1962; a. Ord. No. 341-1962, eff. Oct. 19, 1962; a. Ord. No. 35-1965, eff. Feb. 26, 1965; a. Ord. No. 29-1967, eff. Feb. 24, 1967; a. Ord. No. 36-1968, eff. Mar. 1, 1968; a. Ord. No. 207-1970, eff. July 31, 1970; renumbered to C.M.C. 203-49, eff. Jan. 1, 1972; a. Ord. No. 136-1973, eff. Mar. 1, 1973; a. Ord. No. 502-1973, eff.

Dec. 14, 1973; a. Ord. No. 311-1975, eff. June 18, 1975; a. Ord. No. 437-1975, eff. Sept. 10, 1975; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 160-1981, eff. Apr. 29, 1981; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 224-1988, eff. July 29, 1988, operative Sept. 1, 1988; a. Ord. No. 389-1998, eff. Nov. 20, 1998; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

*Section 5 of Ord. No. 442-1960 states:

Notwithstanding any other provisions of this ordinance, members of the retirement system who are employed in the employment classifications, commonly called building crafts, shall not be eligible for any of the benefits provided for in Section 203-21 of the Code of Ordinances as ordained herein.

The council finds as a basis for this exception, and the exception in Ord. No. 437-1960, passed December 29, 1960, that because of the distinctive and unique terms of employment of these employees over twenty years or more, they should not receive these cash value benefits.

Sec. 203-50. Retirement Allowance Increases for Members Retiring Prior to January 1, 1981.

Every retirement allowance payable pursuant to Sections 203-33, 203-35, and 203-41 of the Cincinnati Municipal Code by reason of the retirement of a member prior to January 1, 1981, and every optional allowance paid to a beneficiary under Section 203-63 by reason of the retirement of a member prior to January 1, 1981, shall be increased in accordance with the following:

- (a) Allowances paid to persons who retired during 1980 shall be increased 2½ percent;
- (b) Allowances paid to persons who retired during 1979 shall be increased 5 percent;
- (c) Allowances paid to person who retired during 1978 shall be increased 7½ percent;
- (d) Allowances paid to persons who retired during 1977 shall be increased 10 percent;
- (e) Allowances paid to persons who retired during 1976 shall be increased 12½ percent;
- (f) Allowances paid to persons who retired during 1975 shall be increased 15 percent;
- (g) Allowances paid to persons who retired during 1974 shall be increased 17½ percent;
- (h) Allowances paid to persons who retired during 1973 shall be increased 20 percent;
- (i) Allowances paid to persons who retired during 1972 shall be increased 22½ percent;
- (j) Allowances paid to persons who retired prior to January 1, 1972 shall be increased 25 percent.

(Ordained by Ord. No. 310-1986, eff. Oct. 4, 1986)

Sec. 203-51. Unclaimed Benefits.

All unclaimed amounts payable under the provisions of the retirement system sections shall remain part of the funds of the retirement system.

(C.O. 203-23; renumbered to C.M.C. 203-51, eff. Jan. 1, 1972; a. Ord. No. 545-1983 eff. Dec. 23, 1983)

Sec. 203-52. Retirement Allowance Increase for Members Retiring from the City of Cincinnati or Hamilton County, Prior to January 1, 1983.

Every retirement allowable payable pursuant to §§ 203-33, 203-35, and 203-41 of the Cincinnati Municipal Code by reason of the retirement of a member from the City of Cincinnati or Hamilton County prior to January 1,

1983, and every optional allowance paid to a beneficiary under § 203-63 by reason of the retirement of a member from the City of Cincinnati or Hamilton County prior to January 1, 1983, shall be increased in accordance with the following:

- (a) Allowances paid to persons who retired during 1982 shall be increased 2 percent;
- (b) Allowances paid to persons who retired during 1981 shall be increased 4 percent;
- (c) Allowances paid to persons who retired during 1980 shall be increased 6 percent;
- (d) Allowances paid to persons who retired during 1979 shall be increased 8 percent;
- (e) Allowances paid to persons who retired during 1978 shall be increased 10 percent;
- (f) Allowances paid to persons who retired during 1977 shall be increased 12 percent;
- (g) Allowances paid to persons who retired during 1976 shall be increased 14 percent;
- (h) Allowances paid to persons who retired during 1975 shall be increased 16 percent;
- (i) Allowances paid to persons who retired during 1974 shall be increased 18 percent;
- (j) Allowances paid to persons who retired during 1973 shall be increased 20 percent;
- (k) Allowances paid to persons who retired during 1972 shall be increased 22 percent;
- (l) Allowances paid to persons who retired prior to January 1, 1972 shall be increased 24 percent.

(C.O. 204-52; ordained by Ord. No. 215-1995, eff. June 21, 1995; a. Ord. No. 397-1997, eff. Nov. 13, 1997)

Sec. 203-53. Reduction of Disability Retirement Allowance.

Each Disability Retiree shall report annually to the Board, on forms to be furnished by the Board, all the compensation for personal services earned by the Disability Retiree during the preceding year; provided, however, that all Employee Members retired for disability under the provisions of Section 203-41 of the Cincinnati Municipal Code shall not be required to report annual outside compensation for personal services earned while on a disability retirement allowance after the attainment of their normal age and/or service retirement eligibility date.

In the event that a Disability Retiree's annual financial report indicates that compensation earned for personal services during the preceding year plus the disability retirement allowance exceeded the compensation that would have been received from the City during that period if the Disability Retiree had been employed by the City in the same employment classification held at the time of the disability retirement, the Board shall reduce the Disability Retiree's retirement allowance during the following year, or, if necessary, years, by the amount that compensation for personal service plus the retirement allowance exceeded the compensation that would have been received from the City if the Disability Retiree had been employed by the City in the same employment classification held at the time of retirement.

If the Disability Retiree fails to file with the Board the report required herein, the Board shall suspend the Disability Retiree's retirement allowance until such time as the report is filed.

If a Disability Retiree makes any false statement concerning the compensation received for personal services in reports required to be filed by this section, the Board may revoke the Disability Retiree's retirement allowance. If a Disability Retiree's retirement allowance is revoked, the unpaid balance of the Member's Accumulated Contributions shall be paid to the Disability Retiree in a lump sum.

A Disability Retiree restored to active service at a compensation less than the prevailing compensation for the employment classification held by such Disability Retiree at the time of Retirement shall continue to receive the disability allowance, subject to the limitations of this section; and the Disability Retiree shall not again become a Member of the Retirement System.

(C.O. 203-24; ordained by Ord. No. 166-1962, eff. June 8, 1962; a. Ord. No. 483-1967, eff. Jan. 19, 1968; renumbered to C.M.C. 203-53, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Analogous to C.O. 203-24; r. Ord. No. 315-1960, eff. Oct. 8, 1960.

Sec. 203-55. Reexamination of Disability Retirees; Restoration to Service.

Once each year after the retirement of a Member on a retirement allowance for disability, the Board may, and upon such Disability Retiree's application shall, require any Disability Retiree who has not yet attained their normal age and/or service retirement eligibility date to undergo a medical examination; provided, however, that if such Disability Retiree resides outside the limits of greater Cincinnati, the Board may designate a competent physician to examine such Disability Retiree. Should any Disability Retiree who has not yet attained their normal age and/or service retirement eligibility date refuse to submit to at least one medical examination in any such year by the medical director or physician designated by the Board, the Disability Retiree's allowance may be discontinued until withdrawal of such refusal; and should the refusal continue for one year, all such Disability Retiree's rights in and to a pension may be revoked by the Board.

Should the medical director or such competent physician designated by the Board recommend to the Board that a Disability Retiree is able to engage in a gainful occupation, and should the Board concur with the recommendation, then such Disability Retiree's disability retirement allowance shall cease.

Should a Disability Retiree be rehired subsequent to the termination of their disability retirement allowance, the Disability Retiree shall again become a Member of the Retirement System. Any prior service credit used to compute the prior disability retirement allowance shall be restored, and, in addition, upon subsequent Retirement the Member shall be credited with all service as a Member.

(C.O. 203-25; ordained by Ord. No. 166-1962, eff. June 8, 1962; renumbered to C.M.C. 203-55, eff. Jan. 1, 1972; a. Ord. No. 474-1977, eff. Jan. 1, 1978; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Analogous to C.O. 203-25; r. Ord. No. 315-1960, eff. Oct. 8, 1960.

Sec. 203-56. Cost-of-Living Adjustments.

- (a) Through December 31, 2015, all Retirees in Groups A, B and C and the Optionees thereof entitled to benefits pursuant to Section 203-63, shall receive an annual cost-of-living adjustment to their benefit amount which adjustment shall be three (3) percent per year compounded annually. For Retirees and Optionees who begin receiving benefits on or after January 1, 1998, the cost-of-living adjustment will commence one year after the initial receipt of benefits.
- (b) Through December 31, 2015, all Retirees in Groups D, E, F and G and the Optionees thereof entitled to benefits pursuant to Section 203-63, shall receive an annual cost-of-living adjustment to their benefit amount which adjustment shall be indexed to the CPI-U but shall not exceed two (2) percent per year. The annual cost-of-living adjustment shall not compound annually. This cost-of-living adjustment will commence one year after the initial receipt of benefits.
- (c) Effective January 1, 2016, the annual cost of living adjustment for current and future Retirees and Optionees in the Current Employees Class and the Retirees Class, except as provided in this Section, will be a three (3) percent fixed simple adjustment.
 - (i) For those Members who retired prior to July 1, 1987, the cost of living adjustment calculation under this subsection (c) will be effective on January 1, 2016. For those Members who retired on or after July

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- 1, 1987, the cost of living adjustment calculation under this subsection (c) will commence on their retirement anniversary date.
- (ii) For purposes of calculating the simple cost of living adjustment in this subsection (c) for Members of the Retirees Class, the basis amount upon which the adjustment will be calculated will be the gross monthly pension amount on January 1, 2016, including all previously granted cost of living adjustments. For Members of Groups C, D, E, F and G, the basis amount upon which the cost of living adjustment will be calculated will be the gross monthly benefit as of their Retirement Effective Date.
 - (iii) Effective January 1, 2016, no member of the Retirees Class shall be entitled to a simple cost of living adjustment for a period of three (3) years unless the Member is entitled to the cost of living poverty exception. The suspension period shall commence upon January 1, 2016, or the anniversary date of the individual Member's Retirement, whichever date is later. In 2018, members of the Retirees Class shall receive a one-time payment calculated at three (3) percent of their base pension annuity benefit (but in any event, no greater than \$1,000). This payment will be made on the Retiree Class Member's retirement anniversary date.
 - (iv) Members of Groups C, D, E, F and G shall be subject to a three-year cost of living adjustment delay period during which he or she will not receive a cost of living adjustment. For those members of the Current Employees Class who retired after July 1, 2011 and on or prior to January 1, 2016, the three-year cost of living adjustment delay period begins on their next retirement anniversary date or on January 1, 2016, whichever is later. Members in Groups C, D, E, F, and G who are not members of the Current Employees Class, will be subject to a three (3) year cost of living adjustment delay period beginning on January 1, 2017 or on the first anniversary of their Retirement Effective Date, whichever is later.
 - (v) Each Current Employees Class Member who is a Member of Group C shall receive a one-time payment pursuant to the following schedule, to be paid no later than 90 days after the Effective Date of the Collaborative Settlement Agreement or within 90 days following the Member's Retirement, if later:
 - (A) Retired after July 1, 2011 through December 31, 2011: \$125
 - (B) Retired on or after January 1, 2012 through December 31, 2012: \$250
 - (C) Retired on or after January 1, 2013 through December 31, 2013: \$375
 - (D) Retired on or after January 1, 2014 through December 31, 2014: \$500
 - (E) Retired on or after January 1, 2015: \$625
 - (vi) Any Member of the Retirees Class or the Current Employees Class (or their Optionee or Beneficiary entitled to continuing Retirement System benefits) who retired (or retires) with at least five years of Creditable Service and whose household income is below 150% of the U.S. Department of Health and Human Service's updated annual poverty guideline pursuant to 42 U.S.C. § 9902(2) will receive an annual cost-of-living adjustment to their benefit amount which adjustment shall be three (3) percent per year compounded annually, without being subject to any cost of living adjustment delay or suspension. If for that year and any subsequent year their household income (as defined in Cincinnati Municipal Code § 203-42) exceeds 150 percent of the federal poverty guidelines, such Retirees will receive an annual cost of living adjustment which shall be a three (3) percent fixed simple adjustment, after appropriate notice has been provided to the qualifying Retirees and Optionees. In order to be eligible under this Section, the Retiree must provide satisfactory documentation of their household income to the Board in a timely manner. Failure to provide satisfactory documentation in a timely manner may result in a waiver of any retroactive claims for the application of the compound cost of living adjustment provided for under this Section.

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- (d) The total retirement allowance including the adjustments payable herein shall not exceed the limit established by Section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(Ord. No. 389-1998, eff. Nov. 20, 1998; a. Ord. No. 084-2011, § 13, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-57. Return of Accumulated Contributions and Payments.

Should a Member cease to be an Employee except by death or Retirement under the provisions of this chapter, the Member may request a return of his or her Accumulated Contributions by written request acceptable to and filed with the Board. In such case, the Member shall be paid:

- (a) Such Member's Accumulated Contributions, plus
- (b) The amount, if any, paid by such Member in accordance with Sections 203-7, 203-7-A, 203-7-B, 203-8, 203-23, 203-27A, 203-28, and 203-29, but only to the extent credited to the Accumulated Contributions of the Member at the time of payment.

The withdrawal of Accumulated Contributions by a Member terminates his or her Membership in the Retirement System.

(C.O. 203-27; a. Ord. No. 186-1971., eff. July 3, 1971; renumbered to C.M.C. 203-57, eff. Jan. 1, 1972; a. Ord. No. 42-1975, eff. Jan. 29, 1975; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-59. Rights of Members Transferring to Other Public Employment.

The provisions of this Section shall not apply if there is an agreement with PERS under Section 203-8 to permit a member or former member to transfer service credit to PERS.

If this Section should apply, when a member transfers to the employment of the state or any of its political subdivisions and pays into PERS pursuant to Section 145.44 of the Ohio Revised Code the amount, with interest, the member would have paid through regular salary deductions had the member participated in PERS since the commencement of city employment, or since January 1, 1935, if city employment commenced before that date, the board shall pay to PERS on behalf of the member, the member's funded actuarial reserve as of the date of withdrawal from the city retirement system, or the amount the city is required to pay by the last sentence of Section 145.44, Ohio Revised Code, whichever is the lesser amount, but only if the member pays to PERS, through the board, the difference, if any, between the amount the board will have contributed to PERS on the member's behalf pursuant to this Section, and the amount that must be paid by the city to PERS pursuant to Section 145.44 of the Ohio Revised Code to provide for the payment of the "full liability" referred to in Section 145.44 of the Ohio Revised Code.

No payment shall be made by the board to the state retirement system pursuant to this section unless application therefor is made by the member concerned within one year from the date the member leaves the city service or prior to January 1, 1957, whichever is the later.

(C.O. 203-28; a. Ord. No. 283-1961, eff. Oct. 7, 1961; renumbered to C.M.C. 203-59, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 352-2001, eff. Oct. 31, 2001)

Sec. 203-61. Repealed.

(C.O. 203-28a; ordained by Ord. No. 468-1961, eff. Dec. 28, 1961; renumbered to C.M.C. 203-61, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Emer. Ord. No. 343-2018, § 1, eff. Oct. 31, 2018)

Sec. 203-63. Optional Allowances.

- (a) Any Member may elect to receive the Service Retirement Allowance in the form of an allowance payable through life, or may elect to receive the actuarial equivalent, at the time of Retirement, of such allowances in any one of the four following ways:
- Option 1.* A reduced allowance for life and upon death, such reduced allowance to an Optionee for life.
- Option 2.* A reduced allowance and upon death, one-half of such reduced allowance to an Optionee for life.
- Option 3.* A reduced allowance to the Member during the period the Member and the Member's Optionee are both alive, and upon the death of either of them, two-thirds of such reduced allowance to the survivor for life.
- Option 4.* A reduced allowance to the Member during the period the Member and the Member's Optionee are both alive and upon the death of either of them, 80 percent of such reduced allowance to the survivor for life.
- (b) A surviving spouse who was designated as the sole primary Beneficiary of a Member who either dies in service while eligible for Retirement or dies in service with twenty or more years of Creditable Service, and the surviving spouse of a Deferred Vested Member whose Service Retirement Allowance payments had not begun as of the date of the Member's death, may elect to receive either:
- (i) The death benefits, if any, provided by Section 203-45, or
- (ii) A reduced allowance for the life of the surviving spouse only, calculated under Option 1.
- (c) The optional allowance to the surviving spouse of a Member who dies in service while eligible for Retirement shall become effective as of the first day of the month following the date of the Member's death.
- (d) The optional allowance to the surviving spouse of a Member who is not eligible for Retirement and dies in service with twenty or more years of Creditable Service, shall become effective as follows:
- (i) If the deceased Member was an Active Member on or after January 1, 2002, payments shall begin as of the first day of the month following the earliest date on which normal Service Retirement Allowance payments to the Member would have become effective had the Member lived and continued to be employed in service as an Employee.
- (e) The optional allowance to the surviving spouse of a Deferred Vested Member who dies shall become effective on the date on which Service Retirement Allowance payments to the Member would have become effective had the Member lived.
- (f) In the event that by reason of the death of any Member who selected an option under this section and the death of the Optionee, the payments made to the Member and the Optionee in the aggregate do not equal the amount of contributions standing to the Member's credit at the time of Retirement, there shall be paid to a Beneficiary, in accordance with Section 203-47, the amount of the contributions less the aggregate of the following amounts:
- (i) All Service Retirement Allowance payments to the Member and to the Optionee, and

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- (ii) Any payments made by reason of the Member's death pursuant to any other applicable Section of this Chapter.

If the Member has failed to designate a Beneficiary, then payment shall be made to the person(s) and in the manner specified in Sections 203-47(b) and 203-47(c).

- (g) In the event of any overpayment made to a Member, Optionee or Beneficiary, such overpayment shall be deducted from the next allowance payment or payments payable to the Member, Optionee or Beneficiary in such manner as to recover such overpayment as quickly as possible.
- (h) Any Member who has elected an option under this section may change such election at any time prior to Retirement. No election of options shall be changed after Retirement, except that any Retiree who has elected to receive an option shall have the right to cancel that option in the event that such Retiree has become divorced, legally separated, obtained a dissolution of marriage or annulment from the Optionee and has provided the Board with a signed release from the Member's Optionee waiving all rights to the option or a certified copy of a court order stating that the Optionee is not entitled to any portion of the benefit. Upon application for cancellation of the option and filing with the Board a certified copy of the decree of divorce, dissolution, annulment or written separation agreement or a written waiver of all rights by the Optionee, the Board shall order the option previously elected to be cancelled, and the Retiree shall receive retirement benefits thereafter in the amount to which the Retiree would be entitled if an option had not been elected.

(C.O. 203-29; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 227-1960, eff. June 22, 1960; a. Ord. No. 167-1962, eff. June 8, 1962; a. Ord. No. 472-1962, eff. Jan. 11, 1963; a. Ord. No. 16-1966, eff. Feb. 18, 1966; a. Ord. No. 176-1968, eff. May 17, 1968; a. Ord. No. 125-1970, eff. May 29, 1970; a. Ord. No. 460-1971, eff. Dec. 22, 1971; renumbered to C.M.C. 203-63 in 1971, eff. Jan. 1, 1972; a. Ord. No. 65-1977, eff. Mar. 9, 1977; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 50-1985, eff. Mar. 8, 1985; a. Ord. No. 485-1985, eff. Nov. 8, 1985; a. Ord. No. 404-1997, eff. Dec. 17, 1997; Emer. Ord. No. 318-2002, § 1, eff. Oct. 2, 2002; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016; Emer. Ord. No. 357-2017, § 2, eff. Dec. 20, 2017)

Sec. 203-65. Management of Fund and Duties of Trustees.

The Board shall be the trustee of the fund created by this Chapter and shall have full power to invest and reinvest the moneys and other assets of such fund subject to the terms, conditions, limitations and restrictions set forth in this section and Section 203-66. An investment committee consisting of members of the Board shall be appointed by the chairperson of the Board.

The Board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the Members and their Optionees and Beneficiaries; and for the exclusive purpose of providing benefits to Members, and their Optionees and Beneficiaries and defraying reasonable expenses of administering the Retirement System. The foregoing shall not prohibit a return of City or Member contributions made under a mistake of fact or law, to the extent permitted under IRC Section 401(a)(2).

In addition to the foregoing, as trustee of the fund, the Board and its members shall perform all of their duties with respect to the Retirement System in accordance with standards described in Section 5809.02 of the Ohio Revised Code, as amended from time to time. As set forth in Section 5809.02 of the Ohio Revised Code, the Board and its members shall abide by the following standards of care:

- (a) The Board shall invest and manage the fund assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the Retirement System. In satisfying this requirement, the Board shall exercise reasonable care, skill and caution.
- (b) The Board shall make a reasonable effort to verify facts relevant to the investment and management of fund assets.

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- (c) The Board's investment and management decisions (including investment management delegation) shall not be evaluated in isolation, but in the context of the fund portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the Retirement System.
 - (d) Among circumstances that the Board shall consider in investing and managing fund assets are the following as are relevant to the Retirement System and its Members:
 - (1) The general economic conditions;
 - (2) The possible effect of inflation or deflation;
 - (3) The expected tax consequences of investment decisions or strategies;
 - (4) The role that each investment or course of action plays within the overall fund portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
 - (5) The expected total return from income and appreciation of capital;
 - (6) Other resources of the Members;
 - (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital;
 - (8) An asset's special relationship or special value, if any, to the purposes of the Retirement System.
 - (f) The Board may enter into a bank custody or master trustee relationship, hold securities in nominee name, authorize the lending of securities for the purpose of earning additional income, and authorize the writing of options on owned securities. To facilitate investment of the funds, the Board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under 26 U.S.C. §§ 1 et seq., as amended, or any other legal entity authorized to transact business in this state.
 - (g) The Board may employ competent outside investment manager(s) and may delegate to such investment manager(s) its power to invest and reinvest as provided herein. The Board may require from investment manager(s) appropriate information to ensure the disinterested character of its recommendations and to ensure disinterested advice on the continued holdings of securities recommended. If investment manager(s) have been hired by the Board in accordance with the provisions of this section, no member of the Board shall be liable for acts or omissions of such investment manager(s), or be under any obligation to invest or otherwise manage any asset of the Retirement System which is subject to the management of such investment manager(s). The Board shall exercise reasonable care, skill and caution in doing all of the following:
 - (1) Selecting an investment manager;
 - (2) Establishing the scope and terms of the delegation consistent with the purposes and terms of the Retirement System and the fund; and
 - (3) Periodically reviewing the actions in order to monitor the investment manager's performance with the terms of the delegation.
 - (h) The Board shall, in the process of selecting an investment manager, consider qualified Cincinnati investment managers, provided, however, that while consideration shall be given to such qualified Cincinnati investment managers, the Board must continue to act as a prudent investor in its selection of an investment manager. The Board shall also make public, on an annual basis, the list of investment managers used by the Cincinnati Retirement System during that period.

An investment manager shall be deemed a "qualified Cincinnati investment manager" if the investment manager possesses each of the following:

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- (1) A material investment manager business presence in Cincinnati, Ohio;
 - (2) Past and/or future firm commitment or involvement in the Cincinnati, Ohio community, prior to and/or throughout the period in which the investment manager shall manage the fund assets;
 - (3) Compliance with the Cincinnati Retirement System Statement of Investment Policy approved by the Cincinnati Retirement System Board of Trustees, including the Investment Manager Selection Policy; and
 - (4) The investment manager has a minimum of Two Billion Dollars and 00/100 (\$2,000,000,000) in assets under its management at the time it submits its request to present a proposal to the Board to manage the fund assets. This section does not apply to Alternative Investment as determined by the Cincinnati Retirement System Board of Trustees.
- (i) The Board shall have authority to impose upon the investment manager, pursuant to the contract with such manager, a standard of care that exceeds the standard of care imposed upon a fiduciary under applicable law. An investment manager appointed by the Board shall exercise reasonable care to comply with the terms of its investment management contract. The foregoing provisions of this section providing for the delegation of investment functions are intended to implement the provisions of Section 1339.59 of the Ohio Revised Code in the context of the Retirement System, and shall be construed in a manner that is consistent with the requirements of such section.
 - (j) Nothing herein or in Section 203-66 shall be construed as in any way limiting the authority of the Board to make loans to Members pursuant to Section 203-11 of this code.

(C.O. 203-32; a. Ord. No. 211-1961, eff. July 21, 1961; a. Ord. No. 238-1963, eff. July 26, 1963; Ord. No. 178-1968, eff. Apr. 17, 1968; a. Ord. No. 31-1969, eff. Jan. 22, 1969; a. Ord. No. 380-1970, eff. Dec. 2, 1970; renumbered to C.M.C. 203-65, eff. Jan. 1, 1972; a. Ord. No. 487-1973, eff. Oct. 31, 1973; a. Ord. No. 233-1980, eff. June 29, 1980; a. Ord. No. 433-1982, eff. Nov. 19, 1982; a. Ord. No. 206-1983, eff. May 11, 1983; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 360-1986, eff. Oct. 24, 1986; a. Ord. No. 386-1993, eff. 11-26-93; a. Ord. No. 302-1999, eff. June 30, 1999; a. Ord. No. 159-2000, eff. May 10, 2000; a. Ord. No. 388-2004, eff. Jan. 7, 2005; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-66. Prohibited Transactions.

- (a) Except as set forth in division (b) below, the board shall not perform any of the following actions to a party in interest:
 - (1) Lend any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest;
 - (2) Pay any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered;
 - (3) Make any part of its services available on a preferential basis;
 - (4) Make any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth;
 - (5) Sell any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth; or
 - (6) Engage in any other transaction which results in a substantial diversion of its income or corpus.
- (b) For purposes of subsection (a)(1) above, a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this section referred to as "obligation") of the city shall not be treated as a loan made without the receipt of adequate security if:

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- (1) Such obligation is acquired:
 - (A) On the market, either at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission; or if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;
 - (B) From an underwriter, at a price not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission; and at which a substantial portion of the same issue is acquired by person independent of the issuer; or
 - (C) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;
 - (2) Immediately following acquisition of the obligation:
 - (A) Not more than 25% of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust; and
 - (B) At least 50% of the aggregate amount referred to in subsection (a) is held by persons independent of the issuer; and
 - (3) Immediately following acquisition of the obligation, not more than 25% of the assets of the trust is invested in obligations of persons described in division (d).
 - (c) Except as otherwise provided herein, the board shall not purchase or sell any securities from, to or through any party in interest. The board shall not hire an investment manager who is a party in interest.
 - (d) For purposes of this section, the term "party in interest" shall include the following:
 - (1) The City of Cincinnati;
 - (2) A member of the board;
 - (3) An elected or appointed official, an officer who is appointed with the consent of the council of the city of Cincinnati, or any department or division head;
 - (4) A relative of a person described in subsections (2) or (3);
 - (5) A corporation, partnership or other legal entity that is controlled by the city of Cincinnati;
 - (6) A corporation, partnership or other legal entity in which a person described in subsections (2), (3), or (4) has a stock, capital or profits interest of three percent or more.
 - (e) For purposes of this section, the term "relative" shall include a spouse, lineal ascendants, lineal descendants and spouses of lineal descendants.
 - (f) The foregoing restrictions of divisions (a) and (b) are intended to comply with the requirements of Federal Internal Revenue Code, 26 U.S.C. § 503(b) and (e), and shall be construed and interpreted accordingly.

(Ordained by Ord. No. 159-2000, eff. May 10, 2000)

Sec. 203-69. Custodians of Funds.

The city treasurer shall be the custodian of the retirement system regular bank account. All payments from said account shall be made by the treasurer only upon vouchers signed by the secretary of the board or persons designated by the secretary.

The board may designate a master trustee/custodian and delegate to said custodian the authority to make payments from custodial accounts for investment purposes, receive funds derived from investment sales, dividends, and interest, and perform such other services related to investment transactions and custody as specified in the master custody agreement.

(C.O. 203-34; renumbered to C.M.C. 203-69, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 457-1984, eff. Nov. 9, 1984; a. Ord. No. 263-1988, eff. Aug. 6, 1988)

Sec. 203-71. Available Cash.

Cash may be kept on deposit for the purpose of meeting disbursements for pensions, annuities and other payments.

(C.O. 203-35; renumbered to C.M.C. 203-71, eff. Jan. 1, 1972; a. Ord. No. 206-1983, eff. May 11, 1983, a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-73. Payroll Deductions.

The Board shall certify to the proper authority or officer responsible for making up the payroll the names of all Members listed on such payroll, and the proper authority or officer responsible for making up the payroll, prior to January 1, 2010, shall cause to be deducted from the salary of each Member on each and every payroll for each and every payroll period 7 percent of the pensionable compensation of each Member for such period. As of the first full pay period of 2010, the proper authority or officer responsible for making up the payroll shall cause to be deducted from the salary of each Member on each and every payroll for each and every payroll period 7.5 percent of the pensionable compensation of each Member for such period. As of the first full pay period of 2011, the proper authority or officer responsible for making up the payroll shall cause to be deducted from the salary of each Member on each and every payroll for each and every payroll period 8.0 percent of the pensionable compensation of each Member for such period. As of the first full pay period of 2012, the proper authority or officer responsible for making up the payroll shall cause to be deducted from the salary of each Member on each and every payroll for each and every payroll period 8.5 percent of the pensionable compensation of each Member for such period. As of the first full pay period of 2013, the proper authority or officer responsible for making up the payroll shall cause to be deducted from the salary of each Member on each and every payroll for each and every payroll period 9.0 percent of the pensionable compensation of each Member for such period. Provided, for Current Employees Class Members the payroll deduction under this Section shall not exceed 9.0 percent of the pensionable compensation of each Member for each and every payroll period during the term of the Consent Decree entered in *Sunyak, et al., v. City of Cincinnati, et al. (the City of Cincinnati Pension Litigation)*, Case: 1:11-cv-00445-MRB in the United States District Court, Southern District of Ohio, Western Division.

(C.O. 203-39; a. Ord. No. 455-1957, eff. Jan. 1, 1958; renumbered to C.M.C. 203-77, eff. Jan. 1, 1972; a. Ord. No. 474-1977, eff. Jan. 1, 1978; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 359-2009, § 4, eff. Dec. 25, 2009; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Note(s)—For effect on members who retired prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-75. Status of Deductions.

The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for the member's full salary or compensation, and payment of salary or compensation less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period

covered by such payment except as to the benefits provided under this chapter. The proper authority or officer responsible for making up the payroll shall certify to the board on each and every payroll the amounts to be deducted, and each of said amounts shall be deducted by the city treasurer, and when deducted shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation said deduction was made.

(C.O. 203-40; renumbered to C.M.C. 203-79, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-81. Repealed.

(C.O. 203-41; a. Ord. No. 455-1957, eff. Jan. 1, 1958; a. Ord. No. 442-1960, eff. Jan. 1, 1961; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 469-1965, eff. Dec. 24, 1965; a. Ord. No. 33-1968, eff. Jan. 24, 1968; renumbered to C.M.C. 203-81, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Ord. No. 336-2016, § 3, eff. Nov. 26, 2016)

Sec. 203-83. Normal and Accrued Liability Contributions.

On account of each member who is an employee there shall be paid each year into the fund by the employer of each member, a certain percentage of the earnable compensation of each member to be known as the "normal contribution," and an additional percentage of the member's earnable compensation to be known as the "accrued liability contribution." The rates percentum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation.

(C.O. 203-44; renumbered to C.M.C. 203-87, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-85. Calculation of Normal Contributions.

On the basis of regular interest and of such mortality and other tables as shall be adopted by the board, the board shall determine the normal contribution. The normal contribution rate shall equal the percentum determined by dividing: (a) the Normal Cost plus all administrative costs of the system, by (b) the expected total annual compensation reflected in determining plan benefits of all members for the next calendar year. The Normal Cost shall be determined under the Entry Age Normal Actuarial Cost Method. The normal rate of contribution shall be determined after each valuation

(C.O. 203-45; renumbered C.M.C. 203-89, eff. Jan. 1, 1972; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-91. Accrued Liability Contribution Rate.

The Board shall determine the accrued liability contribution rate based on the calculation made by the actuary dated December 31, 1999 and shall determine such rate on each subsequent anniversary thereof (the "valuation date"). The rate shall be expressed as a percentum of the estimated total annual compensation reflected in determining plan benefits of all members for the next calendar year.

If the Unfunded Actuarial Accrued Liability as of the valuation date is less than zero, all Prior Year Amortization Bases shall be considered fully amortized and the accrued liability contribution rate shall be equal to 15-year amortization of the Unfunded Actuarial Accrued Liability on the basis of regular interest divided by the estimated total annual compensation reflected in determining plan benefits of all members for the next calendar year.

If the Unfunded Actuarial Accrued Liability as of the valuation date is greater than zero, but as of the previous valuation date was less than zero, the Current Year Amortization Base shall equal the Unfunded Actuarial Accrued Liability. The accrued liability contribution rate shall be equal to 15-year amortization of the Current Year Amortization Base on the basis of regular interest divided by the estimated total annual compensation reflected in determining plan benefits of all members for the next calendar year. In subsequent years the Current Year Amortization Base shall be referred to as a Prior Year Amortization Base.

If the Unfunded Actuarial Accrued Liability as of the valuation date is greater than zero, and was also greater than zero as of the previous valuation date, the Current Year Amortization Base shall equal the Unfunded Actuarial Accrued Liability less the unamortized portion of all Prior Year Amortization Bases. The accrued liability contribution rate shall be equal to 15-year amortization of the Current Year Amortization Base and all Prior Year Amortization Bases that have not been fully amortized on the basis of regular interest divided by the estimated total annual compensation reflected in determining plan benefits of all members for the next calendar year.

(C.O. 203-46; a. Ord. No. 455-1957, eff. Jan. 1, 1958; renumbered to C.M.C. 203-91, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 264-2000, eff. June 28, 2000)

Note(s)—For effect on members who retired prior to Jan. 1, 1958, see Ord. No. 62-1959, eff. Apr. 17, 1959.

Sec. 203-93. Total Employer Contribution Payable to the Fund.

- (a) The total Employer contribution payable in each year to the fund shall be not less than the sum of the rates percentum known as the normal contribution rate and the accrued liability contribution rate of the second previous year multiplied by the total annual compensation reflected in determining plan benefits of all Members for the calendar year. The Board shall specify the procedures and schedule for employer billings and collection of the amounts payable.
- (b) Notwithstanding anything in the Cincinnati Municipal Code to the contrary, the total Employer contribution payable in each year to the fund shall not be less than 16.25% of the annual amount of pensionable salaries for full-time Employees who are Members of the Retirement System for the duration of the Consent Decree entered in *Sunyak, et al., v. City of Cincinnati, et al. (the City of Cincinnati Pension Litigation)*, Case: 1:11-cv-00445-MRB in the United States District Court, Southern District of Ohio, Western Division (30 years).
- (c) The City, with input and recommendations from the Board, shall establish a funding policy for health care in accordance with the provisions of the Collaborative Settlement Agreement.

(C.O. 203-47; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 16-1966, eff. Feb. 18, 1966; renumbered to C.M.C. 203-93, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-95. Repealed.

(C.O. 203-48; renumbered to C.M.C. 203-95, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; r. Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-101. Appropriations.

The board shall certify the amount of the employer contribution necessary to pay the retirement system the amounts payable by the city as enumerated in this chapter according to legal budget procedure.

(C.O. 203-53; a. Ord. No. 98-1964, eff. Jan. 1, 1964; a. Ord. No. 16-1966, eff. Feb. 18, 1966; renumbered to C.M.C. 203-101, eff. Jan. 1, 1983; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-103. Benefit Recipients Rights Exempt From Assignment, Execution and Taxes.

The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any option benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter (collectively referred to herein as a "benefit") and the moneys in the fund created by this chapter, shall be exempt from any state tax except that tax imposed by O.R.C. Section 5747.02, and any county, municipal or other local tax except taxes imposed pursuant to O.R.C. Sections 5748.02 or 5748.08. Except as provided in O.R.C. Sections 145.57, 3111.23 and 3113.21, the right of a person to a benefit and the moneys in the trust funds created by this chapter shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever; and except as provided in O.R.C. Sections 145.57, 3111.23 and 3113.21, shall be unassignable.

(C.O. 203-59; renumbered C.M.C. 203-105, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-105. Correction of Errors.

Should any change or error in the records result in any eligible person receiving from the Retirement System more or less than they would have been entitled to receive had the records been correct, the Board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such eligible person was correctly entitled shall be paid.

(C.O. 203-61; renumbered to C.M.C. 203-107, eff. Jan. 1, 1972; Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-107. Benefits Under Other City Systems Excluded.

No other provision of law or ordinance which provides wholly or partly at the expense of the city for pensions or retirement benefits for employees of the city, their widows or other dependents, shall apply to members or beneficiaries of the retirement system established in accordance with provisions of this chapter or to their widows or other dependents.

(C.O. 203-62; renumbered to C.M.C. 203-109, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-111. Loans to Members.

On and after July 1, 1967 and until September 28, 2010, loans may be made to any member who has had at least three years of service as a member. Effective September 29, 2010, no new retirement loan applications will be accepted or approved by the Cincinnati Retirement System.

The aggregate amount of loans outstanding to any member shall never exceed the lesser of the following amounts:

- (a) 50 percent of the amount of the member's accumulated contributions.
- (b) An amount which, together with interest thereon, can be repaid prior to the member's 65th birthday by deduction from the member's compensation at the rate of 20 percent of the compensation.
- (c) \$50,000, reduced by the highest outstanding balance of loans made to the member under this retirement system during the one year period preceding the date of the loan.

The interest rate on loans shall be a per annum rate to be set by the board from time to time, which rate shall cover the loan insurance established under Section 203-113. The principal amount, together with the interest, shall be repaid to the retirement system in equal installments payable at least quarterly over a repayment period that does not exceed:

- (1) For a loan which is used to acquire a dwelling unit which, within a reasonable period of time, is to be used as the principal residence of the member, the repayment period may not exceed 15 years; and
- (2) For all other loans, five years.

Loan repayments shall be made by deduction from the compensation of the member at the same time and in the same manner the member's contributions to the retirement system are deducted. Such installments shall be at least equal to 5 percent of the member's compensation, and not in excess of 20 percent.

Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this chapter applies or shall apply, the additional deductions required to repay the loan shall be made.

If said member has a retirement loan outstanding at the time of leaving service, the loan shall be paid in full prior to reaching age 65, or within one year of leaving city service, whichever comes first. If loan repayment is not made as stipulated herein, the following options exist:

- (i) the member can have the balance of contributions refunded directly as specified in Section 203-57;
- (ii) the member can have the balance of contributions rolled over into another qualifying plan, including the Public Employees Retirement System as specified in Section 203-59;
- (iii) a member hired before January 1, 2010 having at least 25 years of service and being at least age 55, can take a reduced retirement as specified in Section 203-35(a); a member hired on or after January 1, 2010 having at least 25 years of service and being at least age 60 can take a reduced retirement as specified in Section 203-35(b).

Application for retirement shall be made before the member leaves the service or within one year thereafter, except application may be made after said one year with the approval of the board of trustees.

No member or former member who has an outstanding loan shall be permitted to transfer service credit to a State Retirement System under Section 203-8 unless and until such loan is repaid in full, with interest.

The board of trustees of the retirement system shall promulgate rules and regulations consistent with the provisions of this chapter governing the making of loans to members; and if the principal amount of a loan will exceed \$7,500.00 and the member is married at the time of the loan, the loan will not be made unless the spouse of the member provides a written consent to the loan, on a form or forms provided by the board of trustees for such purpose.

(C.O. 203-63; a. Ord. No. 86-1958, eff. Apr. 18, 1958; a. Ord. No. 14-1961, eff. Feb. 10, 1961; a. Ord. No. 205-1967, eff. June 16, 1967; renumbered to C.M.C. 203-111, eff. Jan. 1, 1972; a. Ord. No. 52-1976, eff. Feb. 11, 1976; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 341-1995, eff. Nov. 17, 1995; a. Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 352-2001, eff. Oct. 31, 2001; a. Emer. Ord. No. 346-2010, eff. Sept. 29, 2010; a. Ord. No. 084-2011, § 14, eff. April 16, 2011)

Sec. 203-113. Loan Insurance.

In case of the death of a member who executes a loan on or after July 1, 1967, any unpaid balance of a loan at the time any benefit becomes payable shall be deducted from the benefit otherwise payable, provided, however, that:

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- (a) If a benefit is payable by reason of the death of the member after the 30th and before the 60th day after making a loan, 25 percent of the amount of the loan outstanding not in excess of \$2,000 shall not be deducted from the benefit.
 - (b) If a benefit is payable by reason of the death of a member on or after the 60th but before the 90th day after the making of a loan, 50 percent of the loan outstanding not in excess of \$2,000 shall not be deducted from the benefit.
 - (c) If a benefit is payable by reason of the death of a member on or after the 90th day after the making of a loan, no part of the loan outstanding not in excess of \$2,000 shall be deducted from the benefit.

For the purposes of this section, the term "benefit" shall include the return of accumulated contributions.

Effective January 1, 1978, for purposes of this section, the term "member" shall be defined to include both active and retired members of the Cincinnati Retirement System.

(C.O. 203-64; ordained by Ord. No. 205-1967, eff. June 16, 1967; renumbered to C.M.C. 203-113, eff. Jan. 1, 1972; a. Ord. No. 96-1978, eff. Mar. 15, 1978; a. Ord. No. 545-1983, eff. Dec. 23, 1983; a. Ord. No. 341-1995, eff. Nov. 17, 1995)

Sec. 203-115. Optional Coverage for City Manager.

The city manager may elect to become a member of the retirement system and receive coverage under the provisions of this chapter or elect to become a member of the public employee retirement system. Election of coverage shall be made by the city manager in writing directed to the board at the beginning of the city manager's term. The city manager shall state in such writing that the election is made with the knowledge of the various benefits provided by each system.

(C.O. 203-115; ordained by Ord. No. 333-1974, eff. Aug. 7, 1974; a. Ord. No. 300-1979, eff. Aug. 4, 1979; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

Sec. 203-117. Eligible Rollover Distributions.

For purposes of compliance with IRC Section 401(a)(31), this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

- (a) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, as further described below:
 - (i) an eligible rollover distribution does not include the following:
 - (A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; or
 - (B) any distribution to the extent such distribution is required under IRC Section 401(a)(9); or
 - (C) the portion of any distribution that is not includible in gross income; or
 - (D) any other distribution that is reasonably expected to total less than \$200 during the year.

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- (ii) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only as follows
 - (A) to an individual retirement account or annuity described in IRC Section 408(a) or (b) or to a qualified defined contribution plan described in IRC Section 401(a);
 - (B) on or after January 1, 2007, to a qualified defined benefit plan described in IRC Section 401(a) or to an annuity contract described in IRC Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or
 - (C) on or after January 1, 2008, to a Roth IRA described in IRC Section 408A.
 - (iii) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse.
 - (b) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:
 - (i) an individual retirement account described in IRC Section 408(a),
 - (ii) an individual retirement annuity described in IRC Section 408(b),
 - (iii) an annuity plan described in IRC Section 403(a),
 - (iv) a qualified trust described in IRC Section 401(a),
 - (v) effective January 1, 2002, an annuity contract described in IRC Section 403(b),
 - (vi) effective January 1, 2002, a plan eligible under IRC Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or
 - (vii) effective January 1, 2008, a Roth IRA described in IRC Section 408A.
 - (c) "Distributee" means an employee or former employee. "Distributee" also includes the employee's or former employee's surviving spouse. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC Section 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.
 - (d) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 379-2008, eff. Nov. 19, 2008; Emer. Ord. No. 291-2009, § 6, eff. Oct. 28, 2009)

Sec. 203-119. Minimum Distribution Requirements of IRC Section 401(a)(9).

- (a) It is intended that the provisions of the Retirement System comply with a good faith interpretation of the requirements of IRC Section 401(a)(9) as applicable to a governmental plan within the meaning of IRC Section 414(d). Accordingly, the Board shall apply the provisions of this section in any manner that the Board deems necessary or desirable to assure compliance with such requirements.

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- (b) Payment of the retirement allowance of each Member must begin by the Member's Required Beginning Date and, except as provided below, will be made in non-increasing monthly amounts either (a) for the life of the Member or for the joint lives of the Member and the Member's Optionee or Beneficiary, or (b) for the life of the Member with a stated period certain not to exceed the life expectancy of the Member or the joint life expectancy of the Member and the Member's Optionee or Beneficiary. Notwithstanding the foregoing, lump sum payments of Accumulated Contributions may be made to Members and increases in the retirement allowances of Members may be made as provided in Section 203-56. Any stated period certain for the payment of a retirement allowance hereunder may not be lengthened after the commencement date of the retirement allowance.

Optional forms of retirement allowances provided under Section 203-63 are subject to the minimum incidental benefit payment restrictions of IRC Section 401(a)(9)(G). Accordingly, if a retired Member elects an optional form of payment under Section 203-63 and names a Beneficiary or Optionee other than the spouse of the Member, the Board shall limit the percentage of the Member's retirement allowance that may be paid to the Beneficiary or Optionee to the extent required to assure compliance with such requirements.

If a Member dies on or after his or her required beginning date, payments to the Beneficiary or Optionee of the Member shall continue to be made over the life or life expectancy of the Beneficiary or Optionee at a rate that is at least as rapid as that in effect before the Member's death.

For purposes of this section the "Required Beginning Date" of a Member is the first day of April of the calendar year following the calendar year in which the Member attains age 70½ or retires, whichever is later.

For the requirements of this section, life expectancies will be calculated as of the commencement date of the retirement allowance by use of the expected return multiples in Tables V and VI of IRS Regulation 1.72-9, and will not be recalculated thereafter.

- (c) If a Member dies before his or her required beginning date, any lump sum death benefits payable under this Retirement System shall be paid by December 31 of the calendar year containing the fifth anniversary of the Member's death; and any annuity benefits payable on account of the Member's death shall be paid in accordance with this division (c).

If an annuity benefit is payable to a Beneficiary or Optionee other than the Member's spouse, the annuity shall be paid over the life of the Beneficiary or Optionee or over a period certain not to be greater than the life expectancy of the Beneficiary or Optionee, and shall commence on or before December 31 of the calendar year immediately following the calendar year in which the Member died.

If an annuity benefit is payable to the Member's surviving spouse, the annuity shall be paid over the life of the spouse or over a period certain not greater than the life expectancy of the spouse, and shall commence by the later of (1) December 31 of the calendar year immediately following the calendar year in which the Member died, and (2) December 31 of the calendar year in which the Member would have attained age 70½.

- (d) Payments made under an annuity contract purchased by the Retirement System to provide any retirement allowance or other benefit will also comply with the requirements of this section and IRC Section 401(a)(9).

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 291-2009, § 7, eff. Oct. 28, 2009; a. Ord. No. 084-2011, § 15, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-121. Funding of Medical Benefits.

- (a) The Board shall establish a "Qualified Medical Benefits Account" within the fund of the Retirement System for the purpose of funding the payment of Qualified Medical Benefits.

Effective as of December 31, 1997, funding for the Qualified Medical Benefits Account shall be in an amount equal to 30.4% of the assets of the trust fund for the Retirement System. Thereafter, the Board shall credit to the

Qualified Medical Benefits Account all or a portion of the employer contribution that is payable to the Fund for such year pursuant to Sections 203-85 and 203-93; provided, however, that the amount credited to the Qualified Medical Benefits Account after December 31, 1997 shall not exceed an amount which will cause the aggregate amount of the employer contributions to the Retirement System since January 1, 1998 for the purposes of providing Qualified Medical Benefits and "Chargeable Death Benefits" to exceed 25% of the sum of the "Section 401(h) Contribution Bases" for all calendar years beginning on or after January 1, 1998.

The Section 401(h) Contribution Basis attributable to any calendar year beginning on or after January 1, 1998 shall equal the sum of (i) the employer contributions for such year for the purpose of funding service retirement allowances and disability allowances (other than for past service credits), (ii) the employer contributions for such year for the purpose of funding "Chargeable Death Benefits," and (iii) the employer contributions for such year for the purpose of funding of Qualified Medical Benefits.

"Chargeable Death Benefits" shall include any benefit under the Retirement System that is payable with respect to a member or retired member as a result of such member's death, to the extent that such payment would exceed the amount of the reserve needed to provide for the service retirement allowance of the member or retired member existing at his or her death.

Assets credited to the Qualified Medical Benefits Account may, but need not, be invested in a segregated fund within the fund of the Retirement System. If the assets of the Qualified Medical Benefits Account are not so segregated, the Account shall participate on a reasonable basis in the income, gains and losses of the fund (or of any portion of such fund to which the Qualified Medical Benefits Account may be assigned by the Board).

Except to the extent applicable law requires otherwise, in no event shall any amounts credited to the Qualified Medical Benefits Account revert to the City, or be diverted to purposes other than the payment of Qualified Medical Benefits (which term may be amended from time to time to include any medical expenses permitted to be paid under the terms of Section 401(h) of the IRC) and any necessary or appropriate expenses attributable to the payment of Qualified Medical Benefits and the maintenance of the Qualified Medical Benefits Account, prior to the satisfaction of all liabilities of the Retirement System for such Qualified Medical Benefits. Any amounts credited to the Qualified Medical Benefits Account following the satisfaction of all such liabilities shall be returned to the City (except to the extent applicable law requires otherwise).

(b) As referred to in this Section:

- (i) An "Eligible Person" is a retired member, widow, eligible dependent child, or orphan or other individual who, pursuant to Section 203-43 or Section 203-44: (A) is eligible for hospital, surgical and medical benefits, (B) has enrolled to be covered under one of the medical benefit programs made available to such persons, and (C) if required, is making the monthly retiree contributions required for such coverage (either for that person alone or for that person and any eligible dependent for whom he or she has elected such coverage).
- (ii) The "Qualified Medical Benefits" of an Eligible Person at any time shall be the benefits for which, pursuant to Section 203-43 or Section 203-44, the Eligible Person and his or her dependents (if any) are eligible at any time, and for which he or she has paid all required monthly retiree contributions specified for such coverage.
- (iii) The "Qualified Coverage" of an Eligible Person shall be the medical benefit programs that are made available to such person pursuant to Section 203-43 or Section 203-44 (as amended from time to time).
- (iv) A "Premium Payment Program" is a medical benefit arrangement maintained through an insurance contract, health maintenance organization, or similar prepaid arrangement. The term Premium Payment Program shall not include the reimbursement of an Eligible Person's "Part B Premium" under Medicare.

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- (v) A "Direct Cost Program" is a medical benefit arrangement that is either fully self-insured by the Retirement System and/or the City or partially self-insured by the Retirement System and/or the City with individual and/or aggregate stop loss insurance coverage.
 - (c) Subject to the terms and limitations of this Section and Sections 203-43 and 203-44, the Retirement System shall provide the Qualified Medical Benefits of each Eligible Person as follows:
 - (i) If the Qualified Coverage of the Eligible Person is under a Premium Payment Program, the Retirement System shall provide the Qualified Medical Benefits solely by paying the relevant Base Rate monthly premium for the Qualified Coverage (in excess of the required retiree contributions) to the provider of the Qualified Coverage.
 - (ii) If the Qualified Coverage of the Eligible Person is under a Direct Cost Program, the Retirement System shall provide the Qualified Medical Benefits by paying for the cost of such benefits from the fund of the Retirement System, either directly to the health care provider or through a provider of administrative services.

No member or Eligible Person has an individual interest in the qualified Medical Benefits Account and, therefore, there are no individual interests that may be forfeited and applied to reduce City employer contributions.

- (d) Monthly contributions required of an Eligible Person under a "Premium Payment Program" may be paid by the Eligible Person directly to the insurance company, health maintenance organization or other provider of the Qualified Medical Benefits; provided that the Board may instead direct that such contributions be paid directly to the Retirement System (or deducted from the payment of a service retirement allowance or other benefit payable to the Eligible Person under the Retirement System) and credited to the Qualified Medical Benefits Account provided for in this Section. A monthly contribution required of an Eligible Person under a Direct Cost Program shall be paid to the Retirement System (or deducted from the payment of a service retirement allowance or other benefit payable to the Eligible Person under the Retirement System) and credited to the Qualified Medical Benefits Account provided for in this Section.
- (e) No member, retired member, Eligible Person or other person shall have any individual right or interest in the assets of the Qualified Medical Benefits Account, and such persons shall be entitled to Qualified Medical Benefits only to the extent provided by the terms and conditions of this Section, Sections 203-43 and 203-44, and the medical benefit program by which such person is covered. Payments by the Retirement System of premiums under Premium Payment Programs and costs under Direct Cost Programs (all such payments being hereinafter referred to as "Qualified Medical Benefits Payments") shall be subject in all respects to the following terms and restrictions:
 - (i) All Qualified Medical Benefits Payments shall be made exclusively from the balance credited to the Qualified Medical Benefits Account. If the balance credited to the Qualified Medical Benefits Account is inadequate at any time to provide all of the Qualified Medical Benefits Payments due and payable, the Board shall pay, on such equitable and non-discriminatory basis as the Board shall determine in its sole discretion, such portion of the Qualified Medical Benefits payments as may be provided from the available balance of the Qualified Medical Benefits Account.
 - (ii) The Retirement System shall pay or otherwise provide Qualified Medical Benefits Payments only to the extent that such payment or provision is neither prohibited by, nor otherwise in violation of, law (including, without limitation, the requirements of Sections 401(a) and 401(h) of the IRC which are applicable to the Federal tax qualification of the Retirement System).
 - (iii) The Qualified Medical Benefits provided under the medical benefit programs are subject to reduction, increase, modification or elimination in whole or in part by amendment of such programs by any insurance company, health maintenance organization or other provider of benefits. Such Qualified Medical Benefits and the level of Qualified Medical Benefits payments payable by the Retirement

System are also subject to reduction, increase, modification or elimination by the City. In the event of elimination of all Qualified Medical Benefits, the balance credited to the Qualified Medical Benefits Account on the date thereof shall be applied, to the extent sufficient, to provide all premiums due to such date under premium payment programs and any Qualified Medical Benefits payable under direct cost programs for which Eligible Persons (and their eligible dependents) have incurred expenses prior to such date, subject nevertheless to the terms of clauses (i) and (ii) above.

- (iv) An Eligible Person (and his or her eligible dependents) shall cease to have Qualified Medical Benefits and Qualified Coverage at the start of any period for which he or she fails to make the contributions required for such coverage. All required contributions are subject to increase (or reduction) at any time by action of the City.

(Ordained by Ord. No. 144-2001, eff. May 9, 2001; Emer. Ord. No. 0020-2007, § 3, eff. Jan. 1, 2007; a. Ord. No. 085-2011, § 3, eff. April 16, 2011)

Sec. 203-122. Establishment of 115 Trust for Funding of Healthcare Benefits.

The Board and the City shall establish a separate trust, pursuant to IRC Section 115, for the purpose of funding healthcare benefits provided under this Chapter. The Board and the City shall adopt a trust agreement establishing the applicable terms for the 115 Trust. Except as provided by the Collaborative Settlement Agreement, healthcare benefits provided by this Chapter are subject to reduction, increase, modification or elimination by the City.

(Ordained by Ord. No. 336-2016, § 2, eff. Nov. 26, 2016)

Sec. 203-123. IRC Section 415 Limitations on Benefits.

- (a) Notwithstanding any other provisions of the retirement system to the contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of IRC Section 415 for a qualified governmental pension plan.
- (b) *Participation in Other Qualified Plans: Aggregation of Limits.*
 - (i) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in IRC Section 414(j) maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.
 - (ii) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in IRC Section 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (c) *Basic 415(b) Limitation.*
 - (i) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in IRC Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in IRC Section 415(b)(1)(A), subject to the applicable adjustments in IRC Section 415(b) and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to IRC Section 415(d) and the regulations thereunder.

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- (ii) For purposes of IRC Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC Section 415(n)) and to rollover contributions (as defined in IRC Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (d) *Adjustments to Basic 415(b) Limitation for Form of Benefit.* If the benefit under the plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.
- (i) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the IRC Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:
- (ii) For a benefit paid in a form to which IRC Section 417(e)(3) does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):
- (A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or
- (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in IRC Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing IRC Section 417(e)(3)(B)); or
- (iii) For a benefit paid in a form to which IRC Section 417(e)(3) applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions:
- (A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
- (B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in IRC Section 417(e)(3)(B) (Notice 2008-85 or any subsequent IRS guidance implementing IRC Section 417(e)(3)(B)); or
- (C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the

applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in IRC Section 417(e)(3)(B) (Notice 2008-85 or any subsequent IRS guidance implementing IRC Section 417(e)(3)(B)), divided by 1.05.

- (e) *Benefits Not Taken into Account for 415(b) Limitation.* For purposes of this section, the following benefits shall not be taken into account in applying these limits:
- (i) Any ancillary benefit which is not directly related to retirement income benefits;
 - (ii) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
 - (iii) Any other benefit not required under IRC Section 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of IRC Section 415(b)(1).
- (f) *Other Adjustments in 415(b) Limitation.*
- (i) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of IRC Section 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
 - (ii) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (g) *Less than Ten (10) Years of Service Adjustment for 415(b) Limitations.* The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (h) *Ten Thousand Dollar (\$10,000) Limit.* Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not any time maintained a qualified defined contribution plan in which the member participated.
- (i) *Effect of COLA without a Lump Sum Component on 415(b) Testing.* Effective on and after January 1, 2009, for purposes of applying the limits under IRC Section 415(b) (the "Limit") to a member with no lump sum benefit, the following will apply:
- (i) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under the retirement system;
 - (ii) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

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- (iii) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under the retirement system, shall be tested under the then applicable benefit Limit including any adjustment to the IRC Section 415(b)(1)(A) dollar limit under IRC Section 415(d), and the regulations thereunder.
- (j) *Effect of COLA with a Lump Sum Component on 415(b) Testing.* On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by IRC Section 415(b) and applicable Treasury Regulations.
- (k) *Section 415(c) limitations on contributions and other additions.* After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to IRC Section 415(d)) or 100% of the member's compensation.
- (i) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
- (ii) For purposes of applying IRC Section 415(c) and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under IRC Section 414(h) shall not be treated as compensation.
- (iii) Compensation will be defined as wages within the meaning of IRC Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under IRC Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).
- (A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of IRC Section 132(f)(4).
- (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:
- (I) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or
- (II) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or
- (III) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of IRC Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

An employee who is in qualified military service (within the meaning of IRC Section 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (iv) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of subsection (k) shall not exceed the annual limit under IRC Section 401(a)(17).
- (l) *Service Purchases under Section 415(n)*. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC Section 415(n) will be treated as met only if:
- (i) the requirements of IRC Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC Section 415(b), or
 - (ii) the requirements of IRC Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of IRC Section 415(c).
 - (iii) For purposes of applying this section, the system will not fail to meet the reduced limit under IRC Section 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under IRC Section 415(c)(1)(B) solely by reason of this section.
 - (iv) For purposes of this section the term "permissive service credit" means service credit—
 - (A) recognized by the system for purposes of calculating a member's benefit under the system,
 - (B) which such member has not received under the system, and
 - (C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.
- Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.
- (v) The system will fail to meet the requirements of this section if—

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- (A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or
 - (B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the system.
- (vi) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to—
- (A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in IRC Section 415(k)(3)),
 - (B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,
 - (C) service as an employee of an association of employees who are described in clause (A), or
 - (D) military service (other than qualified military service under IRC Section 414(u)) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

- (vii) In the case of a trustee-to-trustee transfer after December 31, 2001, to which IRC Section 403(b)(13)(A) or IRC Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—
- (A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
 - (B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.
- (viii) For an eligible member, the limitation of IRC Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the system before January 1, 1998.
- (m) *Modification of Contributions for 415(c) and 415(n) Purposes.* Notwithstanding any other provision of law to the contrary, the system may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in IRC Section 415 by using the following methods:
- (i) If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC Section 415(c) or 415(n).
 - (ii) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by IRC Section 415(c) or 415(n), the system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

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- (n) *Repayments of Cashouts.* Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of IRC Section 415, in accordance with applicable Treasury Regulations.
 - (o) *Reduction of Benefits Priority.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 291-2009, § 8, eff. Oct. 28, 2009)

Sec. 203-125. Total Retirement Benefits Arrangement.

- (a) As used in this section:
 - (i) "Total benefits" shall mean the total Service Retirement Allowance or disability retirement allowance benefit that is payable to a Restricted Retired Member in accordance with the provisions of this section.
 - (ii) "Restricted Retired Member" shall mean a retired Member whose Service Retirement Allowance or disability retirement allowance must be limited to comply with the requirements of IRC Section 415, as provided in Section 203-123.
- (b) This section establishes the City of Cincinnati Total Retirement Benefits Arrangement (referred to herein as the "Arrangement"). The Arrangement is intended to be an arrangement described in IRC Section 415(m)(3). The sole purpose of the Arrangement is to provide total benefits to Restricted Retired Members under an arrangement that meets the requirements of IRC Section 415(m)(3).
- (c) The Board shall administer the Arrangement. The Board may utilize its employees and property and the employees of and property of the City in the administration of the Arrangement, without charge to the funds of the Arrangement. The Board shall have all of the powers that are granted to the Board under Chapter 203 and other pertinent provisions of the Cincinnati Municipal Code.
- (d) Total benefits shall be payable to a Restricted Retired Member for the calendar year in which this Arrangement is adopted and for each subsequent calendar year. Payments of total benefits shall be made at times determined by the Board; provided, however, that all total benefit payments attributable to any calendar year shall be paid by not later than the end of the such calendar year.

The amount of a Restricted Retired Member's total benefits that are payable for a calendar year shall be equal to the difference between (i) the Service Retirement Allowance or disability retirement allowance of the Restricted Retired Member that would be payable under the Retirement System during such calendar year, without considering the application of IRC Section 415, as provided in Section 203-123, and (ii) the Service Retirement Allowance or disability retirement allowance of the Restricted Retired Member that is actually payable to the Restricted Retired Member during such calendar year after it has been reduced to comply with the requirements of IRC Section 415, as provided in Section 203-123.

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- (e) The City shall provide funds to the Board to the extent required to provide for the payment of the total benefits under the Arrangement. The Board shall hold all such contributions from the City in a trust known as the total benefits arrangement trust fund. The total benefit arrangement trust fund is separate from the trust fund otherwise maintained by the Board for the Retirement System. The total benefits arrangement trust fund shall be a grantor trust of which the City is grantor. The sole source of funding for payments of total benefits shall be the assets of the total benefits arrangement trust fund. No other funds held by the Board shall be used for such purposes. Funds held in total benefits arrangement trust fund must be used solely for purposes of paying total benefits under the Arrangement; provided, however, that any such funds held in such trust shall continue to be subject to the claims of the general creditors of the City.

Assets held in the total benefits arrangement trust fund shall be held, managed, and invested by the Board in accordance with the provisions of Sections 203-65 and 203-66.

The City shall provide funds to the Board for the purpose of funding the Arrangement in such amounts as the City shall, in its sole discretion, from time to time deem appropriate; provided, however, that at the beginning of each calendar year, the Board shall estimate the total amount of total benefits to be paid during the calendar year, the amount of funds held in the total benefits arrangement trust fund that can be used for purposes of paying total benefits, and advise the City of its estimate of any additional City contributions which will be required to provide for the payment of total benefits during such calendar year. From time to time during each calendar year, the Board may revise its estimate and notify the City of its revisions thereto.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 084-2011, § 16, eff. April 16, 2011; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-127. Actuarial Assumptions.

Except as otherwise provided under the terms of this Section or the terms of the Retirement System, for purposes of making a determination of actuarial equivalence during a particular calendar year, such determination shall be made using the applicable interest rate and mortality table specified in Section 417(e)(3)(A) of the Code for the month of October preceding such calendar year. For purposes of determining amounts payable under optional forms of payment described in Section 203-63, the amounts payable to the retired Member and Optionee or Pensioner shall be determined in accordance with actuarial tables selected by the Board; provided, however, that the amounts payable to an Optionee, Pensioner or Beneficiary shall nevertheless be subject to restriction, as the Board deems necessary to comply with the requirements of IRC Section 401(a)(9). The foregoing provisions shall not apply for purposes of determining funding requirements of the Retirement System and related employer contribution requirements.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-129. IRC Termination Requirements.

A member will be fully vested in a retirement benefit upon attainment of the retirement system's age and service requirements for a normal retirement benefit. In the event of a termination of the retirement system or the complete discontinuance of contributions to the retirement system, each member shall have a vested right to a service retirement allowance, to the extent that the funds of the retirement system are available to provide for such service retirement allowances. The foregoing provisions of this section are intended to comply with the requirements of Section 401(a)(7) of the IRC, as in effect on September 1, 1974, and shall be construed and administered accordingly. In addition, the foregoing provisions of this section are intended to supplement any right to benefits that a member otherwise may have under applicable law. Accordingly, no member shall have a vested or otherwise nonforfeitable right to a service retirement allowance that is less than the member otherwise is entitled to under applicable law.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 291-2009, § 9, eff. Oct. 28, 2009; a. Ord. No. 084-2011, § 17, eff. April 16, 2011)

Sec. 203-131. IRC Tax-Qualification.

The retirement system (other than the provisions of Section 203-125) is intended to constitute a qualified defined benefit plan under Sections 401(a) and 414(d) of the IRC or such other provision of the IRC as applicable and applicable Treasury regulations and other guidance. The board shall administer and construe the terms of the retirement system accordingly.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000; Emer. Ord. No. 291-2009, § 10, eff. Oct. 28, 2009)

Sec. 203-133. Retirement System Administration.

The board shall exercise all authority for the administration and operation of the retirement system except to the extent any such authority is delegated to others as provided herein. Specifically, but without limiting the general scope of its authority, the board may establish rules and procedures for the administration of the retirement system (including, without limitation, forms and procedures for applying for benefits and electing forms of payment). The board shall have the right to construe and interpret the terms of the retirement system (including any such terms as are unclear or ambiguous), and to resolve any questions or disputes arising in the administration and operation of the retirement system. The board shall exercise its authority to construe and interpret the terms of the retirement system, and to resolve questions and disputes, so as to preserve the status of the retirement system as a qualified plan under Section 401(a) of the IRC. The board is empowered to direct the payment of the expenses of administering the retirement system from the assets of the trust fund, subject to the provisions of Sections 203-65 and 203-66, and other applicable law.

(Ordained by Ord. No. 264-2000, eff. June 28, 2000)

Sec. 203-135. Effect of Forfeiture of Benefits.

In conformity with Section 401(a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members of the retirement system will not be used to increase the benefits of any member. However, such forfeitures may be used to reduce employer contributions.

(Ordained by Emer. Ord. No. 291-2009, § 3, eff. Oct. 28, 2009)

Sec. 203-137. Employment of Retirant.

- (a) For the purposes of this Section, the words and phrases defined in the subsections below shall have the meanings therein respectively ascribed to them, without limiting the generalities of the words, unless a different meaning is clearly indicated by the context.
 - i. "Re-employment Qualification Period" shall mean a period of three hundred sixty-five (365) consecutive days during which a person who was formerly employed by the City of Cincinnati has received a Service Retirement Allowance under this Chapter. The following shall be excluded from the calculation of the Re-employment Qualification Period:
 - A. Time during which a person performs services under the direction of any agent or Employee of the City of Cincinnati or any of its independent boards, commissions or any other employing agency that participates in the Retirement System through a temporary help service or another independent contractor;

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- B. Time during which a person performs services on a contractual basis for the City of Cincinnati or any of its independent boards, commissions or any other employing agency that participates in the Retirement System; and
 - C. Time during which a person performs services pursuant to a personal service contract with the City of Cincinnati or any of its independent boards, commissions or any other employing agencies that participate in the Retirement System.
- ii. "Re-employment" or "re-employed" shall mean a Retirant's position as a City Employee which occurs while the Retirant continues to receive a Service Retirement Allowance under this Chapter.
- (b) A Retirant is eligible for re-employment by the City of Cincinnati as a public Employee and to become an Active Member of the Retirement System.
 - (c) During re-employment, the City of Cincinnati shall make payroll deductions toward a Retirant's pension contribution in accordance with Section 203-73. In addition, the City of Cincinnati shall provide an Employer contribution to the Retirement System in accordance with Section 203-83 for each Retirant.
 - (d) A Retirant who is re-employed by the City is a Member of the Retirement System with all the rights, privileges, and obligations of Membership except as provided in this section. A Retirant may, if eligible, receive healthcare benefits provided by the City of Cincinnati to Employees during any period of re-employment. A Retirant who is re-employed is not entitled to the following benefits:
 - i. Survivor benefits provided pursuant to Section 203-49;
 - ii. Disability benefits provided pursuant to Section 203-41 or Section 203-55; or
 - iii. Any healthcare benefits provided under Sections 203-42, 203-43 or 203-44 during any period of re-employment.
 - (e) Any period of re-employment shall not constitute Creditable Service pursuant to Sections 203-42 or 203-43. A re-employed Retirant who is subject to Section 203-44 may not combine any Creditable Service earned prior to the Retirant's re-employment with any period of re-employment to qualify for or to calculate benefits under Section 203-44.
 - (f) A Retirant who is re-employed by the City of Cincinnati may become eligible, in accordance with Section 203-33(a)(v), to receive an additional Service Retirement Allowance. Any additional Service Retirement Allowance is a retirement allowance separate from and in addition to the Service Retirement Allowance a Retirant is currently receiving during any period of re-employment. A Retirant's prior employment shall not be included in the calculation of the Retirant's additional Service Retirement Allowance. Re-employment shall not alter the calculation of the Service Retirement Allowance a Retirant is currently receiving.
 - (g) The Board may adopt rules to carry out this section.

(Ordained by Emer. Ord. No. 083-2013, § 2, eff. April 10, 2013; a. Ord. No. 336-2016, § 1, eff. Nov. 26, 2016)

Sec. 203-999. Penalty for Fraudulent Practice.

No person shall, with intent to deceive, make any statement or reports required under the sections of this chapter which are untrue, nor shall any person falsify or permit to be falsified any record or records of the retirement system.

Whoever violates any provision of this section shall be fined not more than \$100 or imprisoned not more than three months, or both.

(C.O. 203-60; renumbered to C.M.C. 203-999, eff. Jan. 1, 1972; a. Ord. No. 545-1983, eff. Dec. 23, 1983)

