

**Introduced by: City Manager N. Mai-Lombardo**

**AN ORDINANCE AMENDING CITY OF BERKELEY  
POLICE AND FIREMEN'S RETIREMENT FUND PENSION  
PLAN**

**AMENDMENT NO. 2 TO 2015 AMENDED AND RESTATED PENSION ORDINANCE:  
PENSION ORDINANCE ON MANDATORY COMMENCEMENT OF RETIREMENT  
AND DEATH BENEFITS (Ordinance No. 4254) (12/7/2015)**

**WHEREAS**, the Further Consolidated Appropriations Act of 2020 contained the Setting Every Community Up for Retirement Enhancement (SECURE) Act that amended Code Section 401(a)(9) to extend the required beginning date for required minimum distributions to Participants in the City of Berkeley Police and Firemen’s Retirement Fund Pension Plan who attain age 70½ after December 31, 2019 to age 72; and

**WHEREAS**, the Consolidated Appropriations Act of 2023 included the SECURE 2.0 Act of 2022 that amended Code Section 401(a)(9) to (a) extend the required beginning date for required minimum distributions to participants who attain the applicable age, as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code, after December 31, 2022; (b) provide that, effective for calendar years after December 31, 2023, a surviving spouse who is the designated beneficiary of a participant may defer the distribution of death benefits to December 31<sup>st</sup> of the calendar year in which the surviving spouse reaches the applicable age.

**WHEREAS**, the Trustees of the City of Berkeley Police and Firemen’s Retirement Fund Pension Plan have recommended to the City Council an amendment to the Pension Ordinance on the Mandatory Commencement of Retirement and Death Benefits with an effective date of January 1, 2022;

**WHEREAS**, Pursuant to the authority of the City Council under Section 110.070 of the City Code, Pension Ordinance Section 200.240 is amended effective January 1, 2022:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF BERKELEY, MISSOURI, AS FOLLOWS:**

**Section 1.** Effective January 1, 2022, the Berkeley City Code Sections 200.240 (Pension Ordinance Section 7.24) which is titled “Mandatory Commencement of Retirement and Death Benefits,” shall be amended consistent with the Setting Every Community Up for Retirement Enhancement (SECURE) Act and the Consolidated Appropriations Act of 2023 which included the SECURE 2.0 Act of 2022 to provide as follows.

**Section 2.** Section 200.333 **Mandatory Commencement of Retirement and Death Benefits.**

**A. General Rules.**

1. *Effective date.* The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
2. *Precedence.* The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
3. *Requirements of Treasury regulations incorporated.* All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Internal Revenue Code.
4. *Minimum distribution to covered employees for calendar years prior to 2003.* With respect to distributions under the Plan made on or after March 30, 2001, for calendar years beginning on or after January 1, 2001, and prior to January 1, 2003, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001 (the 2001 proposed regulations), notwithstanding any provision of the Plan to the contrary. If the total amount of required minimum distributions made to a covered employee for 2001 prior to March 30, 2001, are equal to or greater than the amount of required minimum distributions determined under the 2001 proposed regulations, then no additional distributions are required for such covered employee for 2001 on or after such date. If the total amount of required minimum distributions made to a covered employee for 2001 prior to March 30, 2001, are less than the amount determined under the 2001 proposed regulations, then the amount of required minimum distributions for 2001 on or after such date will be determined so that the total amount of required minimum distributions for 2001 is the amount determined under the 2001 proposed regulations. This amendment shall continue in effect until the last calendar year beginning before the effective date of the final regulations under Section 401(a)(9) or such other date as may be published by the Internal Revenue Service.

**B. Time And Manner Of Distribution.**

1. *Required beginning date.* The covered employee's entire interest will be distributed, or begin to be distributed, to the covered employee no later than the covered employee's required beginning date.
2. *Death of covered employee before distributions begin.*

a. If the covered employee dies before distributions begin, the covered employee's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the covered employee's surviving spouse is the covered employee's ~~sole~~-designated beneficiary, then distributions to the surviving spouse will begin by the later of:

(a) December 31 of the calendar year immediately following the calendar year in which the covered employee died, ~~or by~~;

(b) For distributions prior to January 1, 2020, December 31 of the calendar year in which the covered employee would have attained- age 70 1/2, ~~if later~~;

(c) For distributions on or after January 1, 2020 but prior to January 1, 2022, December 31 of the calendar year in which the covered employee would have attained age 72; or

(d) For distributions on or after January 1, 2023, December 31 of the calendar year in which (i) the covered employee attained, or would have attained the applicable age as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code; or (ii) December 31 of the calendar year in which the covered employee's surviving spouse would have attained the applicable age as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code.

(2) If the covered employee's spouse is not the covered employee's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the covered employee died.

(3) If there is no designated beneficiary as of September 30 of the year following the year of the covered employee's death, the covered employee's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the covered employee's death.

(4) If the covered employee's surviving spouse is the covered employee's sole designated beneficiary and the surviving spouse dies after the covered employee but before distributions to the surviving spouse begin, this Section 200.333(B)(2), other than Section 220.333(B)(2)(a)(1), will apply as if the surviving spouse were the covered employee.





A covered employee's required beginning date is April 1 following the later of the year in which the covered employee attains [the applicable age as defined in Section 401\(a\)\(9\)\(C\)\(v\) of the Internal Revenue Code](#)~~age 70~~ or the year in which the covered employee retires.

Section 3. This ordinance shall be in full force and effect from and after its passage.

Section 4. The City Council does hereby find and declare that an emergency exists which requires the immediate passage of this ordinance for the preservation of the welfare of the citizens of the City of Berkeley.

1st Reading this 04<sup>th</sup> day of March 2024

2nd Reading this 04<sup>th</sup> day of March 2024

3rd Reading, PASSED and APPROVED, this       **day of**      **2024**

\_\_\_\_\_  
Babatunde Deinbo, Mayor

ATTEST:

Final Roll Call:

\_\_\_\_\_  
Deanna L. Jones, City Clerk

Councilwoman Verges	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Williams	Aye	___	Nay	___	Absent	___	Abstain	___
Councilman Hoskins	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Anthony	Aye	___	Nay	___	Absent	___	Abstain	___
Councilman Hindeleh	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman-at-Large Crawford-Graham	Aye	___	Nay	___	Absent	___	Abstain	___
Mayor Deinbo	Aye	___	Nay	___	Absent	___	Abstain	___

Approved as To Form:  
Donnell Smith, City Attorney