

**TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA**

ORDINANCE NUMBER 233

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON AMENDING THE CODE OF THE TOWNSHIP OF WASHINGTON RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF A DEFINED CONTRIBUTION PENSION PLAN FOR THE BENEFIT OF THE NON-UNIFORMED EMPLOYEES OF THE TOWNSHIP OF WASHINGTON, FRANKLIN COUNTY, PENNSYLVANIA AND TO THE ESTABLISHMENT AND MAINTENANCE OF A DEFINED BENEFIT PLAN FOR THE BENEFIT OF THE POLICE EMPLOYEES OF SAID TOWNSHIP.

WHEREAS, Washington Township (the "Township") has previously enacted Ordinances 212 and 73 establishing the Washington Township Non-Uniformed Employees' Pension Plan. Said plan has either been amended or amended and restated in its entirety by Ordinances numbered 104, 116, 148, 151 and 188. Said plan has also been adopted by reference into the Code of the Township of Washington by Ordinance 227; and

WHEREAS, Washington Township (the "Township") has previously enacted Ordinances 218, 117 and 177 with respect to the Washington Township Police Pension Plan (the "Plan"). Said plan has also been adopted by reference into the Code of the Township of Washington by Ordinance 227; and

WHEREAS, the Township retains the right to amend the Plans; and

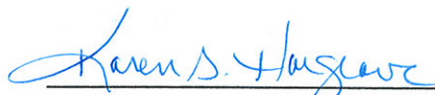
WHEREAS, the Township now desires to amend the Plans.

NOW, THEREFORE, be it ORDAINED and ENACTED by the Township Supervisors and it is hereby ORDAINED and ENACTED by authority of the same: The "Washington Township, Franklin County, Pennsylvania, Non-Uniformed Employees Pension Plan and Fund" as well as the "Washington Township Police Pension Plan" adopted by reference as Sections 56-2 and 56-1 of the Code of the Township of Washington, are amended as set forth in the attached amendment. The intention of the Amendment is that each of the plans will satisfy Section 401(a) of the Internal Revenue Code as it applies to governmental plans.

ORDAINED AND ENACTED INTO LAW this 6th day of June, 2011.


ATTEST:

**BOARD OF SUPERVISORS
WASHINGTON TOWNSHIP
FRANKLIN COUNTY, PENNSYLVANIA**



Karen S. Hargrave, Secretary

By:



Stephen D. Kulla, Chairman
Board of Supervisors

AMENDMENT

Article 8 of the Non-Uniformed Employee Pension Plan & Trust is deleted in its entirety and replaced with the following provisions. Also, Article 9 of the Police Pension Plan is deleted in its entirety and replaced with the following provisions:

APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE

- .1 **Definitions.** The following words and phrases are hereby introduced and defined for purposes of this Regulation only:
 - (a) "Leased Employee" shall mean, effective as of January 1, 1997, any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are under primary direction and control of the recipient.
 - (b) "Limitation Year" shall mean the Plan Year.
- .2 **Leased Employees and Independent Contractors.** Leased Employees and independent contractors are not eligible to participate in this Plan. Any person whom the Council does not regard as being an Employee shall not be eligible to participate.
- .3 **Maximum Annual Benefit.**
 - (a) General Rule. Effective January 1, 1989, except as otherwise provided, this Plan shall at all times comply with the provisions of Code Section 415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If a benefit payable to a Participant under this Plan would otherwise exceed the limit under Code Section 415, the benefit will be reduced to the maximum permissible benefit.
 - (b) Effective Date. If there is more than one permissible effective date for any required change in the Code Section 415(b) provisions, then the change shall be effective as of the latest permissible effective date; however, any adjustment in the dollar limit under Code Section 415(b)(1)(A), whether required or permissible, shall take effect automatically as of the earliest permissible effective date. The "applicable mortality table" in Rev. Rul. 2001-62 is effective from December 31, 2002 through December 31, 2007.

Effective as of January 1, 2008 the "applicable mortality table" and "applicable interest rate" are found in Rev. Rul. 2007-67.

- (c) No Reduction in Accrued Benefits. Notwithstanding the above, no change in the limits under this Article shall reduce the benefit of any Participant.
- (d) Multiple Plans. If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code Section 415(b), and if the aggregated benefits would otherwise exceed the limit under Code Section 415(b), then benefits shall be reduced first under this Plan.
- (e) Mandatory Contributions. Participant Contributions are annual additions, and any benefit attributable to Participant Contributions is not included in the benefit subject to the limits of Code Section 415(b). This subsection does not apply to contributions "picked-up" in accordance with Code Section 414(h).
- (f) Permissive Service Credit. Effective as of January 1, 1998, if a Participant makes a purchase of permissive service credit (within the meaning of Code Section 415(n)) under the Plan, the benefit derived from the contributions made to purchase the service credit shall be treated as part of the benefit subject to the limitations under this section.

.4

Limit on Annual Additions.

- (a) Annual Additions. Effective January 1, 1989, except as otherwise provided, annual additions (which include Participant Contributions) under this Plan shall at all times comply with the provisions of Code Section 415(c) and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If an annual addition would otherwise exceed the limit under Code Section 415(c), the excess annual addition will be eliminated in accordance with methods permitted under Rev. Proc. 2008-50 (Rev. Proc. 2006-27 prior to 2009) or its successor.
- (b) Multiple Plans. If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code Section 415(c), and if the annual additions would otherwise exceed the limit under Code Section 415(c), annual additions will first be reduced under the other plan. If there is more than one other plan, annual additions will first be reduced under the plan with the greatest amount of annual additions.
- (c) Effective Date. The limits under which Code Section 415(c) are adjusted periodically in accordance with changes in the law or cost of living adjustments without the need for a plan amendment. If there is more than one permissible effective date for any required change relating to Code

Section 415(c), then the change shall be effective as of the earliest permissible effective date.

(d) 415(c) Compensation. For the purposes of this Section, "compensation" includes only those items specified in Treas. Reg. §1.415(c)-2(b)1 or (2) and excludes all items listed in Treas. Reg. §1.415(c)-2(c), the terms of which are specifically incorporated herein by reference. Effective as of January 1, 2009, to the extent required by the Heroes Earnings Assistance Tax Relief Tax Act of 2008 (HEART Act), differential wage payments shall be included in Compensation.

.5 **Multiple Plan Reduction.** Code Section 415(e) applied for Limitation Years beginning prior to 2000.

.6 **Limit on Compensation.** Effective January 1, 1993, Compensation is subject to the limitation under Code Section 401(a)(17), which is \$245,000 for the Plan Year beginning in 2011. The limit is automatically adjusted periodically, without formal amendment, for changes in the law and cost-of-living adjustments under Code Section 401(a)(17).

.7 **Vesting Upon Plan Termination.** Effective September 1, 1974, upon the termination of this Plan, or complete or partial discontinuance of contributions (within the meaning of pre-ERISA Code Section 401(a)(7)) to this Plan, each Employee (who is not already 100% vested) as of the date of such termination or discontinuance shall become vested to the extent that the Plan is funded.

.8 **Required Distributions.** Effective January 1, 1986, notwithstanding any provision in this Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Code Section 401(a)(9). For purposes of complying with Code Section 401(a)(9), life expectancies were determined in accordance with the 1987 proposed regulations prior to January 1, 2003 and with the final regulations (§1.401(a)(9)-1 through §1.401(a)(9)-9) on or after January 1, 2003.

(a) Distribution of a Participant's benefits shall begin not later than April 1st of the calendar year following the later of:

(1) the calendar year in which the Participant attains age seventy and one-half (70½), or

(2) the calendar year in which the Participant retires.

Distributions must be made over a period not exceeding the life of the Participant or the joint lives a Participant and his Beneficiary.

(b) Distributions to a Participant and his Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9)(G) and the regulations thereunder. If a Participant receives a joint and survivor annuity and the beneficiary is not the

Participant's spouse, life expectancy shall be determined using the Uniform Lifetime Table of Treasury regulation §1.401(a)(9)-9.

- (c) This section does not authorize the payment of any benefit in any form not permitted under another provision of the Plan.
- (d) The terms of any annuity purchased with Trust assets must comply with the requirements of Code Section 401(a)(9) and the regulations thereunder.

.9 Domestic Relations Order. Effective January 1, 1985, all rights and benefits, including elections, provided to a Participant in this Plan may be subject to the rights afforded to any "alternate payee" pursuant to a domestic relations order as provided by applicable state law.

.10 Direct Rollover.

- (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) For purposes of this Section, the following definitions shall apply:
 - (l) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or 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; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (iv) effective as of January 1, 2002, any hardship distribution. Effective as of January 1, 2002 clause (iii) does not apply to any after-tax Participant contributions that are paid to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) or effective as of January 1, 2007, any 403(b) annuity contract that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, prior to January 1, 2002, an eligible retirement plan was an individual retirement account or individual retirement annuity. Effective as of January 1, 2002, an "eligible retirement plan" includes an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective January 1, 2008, a Roth IRA is an "eligible retirement plan."
 - (3) A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.
 - (4) A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) Non-Spouse Beneficiaries - Effective as of January 1, 2007, if a Beneficiary who is not a surviving spouse is entitled to receive what would otherwise be an "eligible rollover distribution", the Beneficiary may, in accordance with Code Section 402(c)(11), make a trustee-to-trustee transfer of that amount to an IRA or individual retirement annuity (other than an endowment contract); provided that:
- (1) the transfer is made not later than the end of the fourth year after the year of the Participant's death, and
 - (2) the account or annuity to which the amount is transferred is treated as an inherited IRA or individual retirement annuity in accordance with Code Section 408(d)(3)(C).

Heroes Earnings Assistance Relief Tax Act of 2008 (HEART Act)--Except where otherwise specifically provided to the contrary in this Plan, effective for deaths occurring on or after January 1, 2007, the Plan will provide retirement benefits and service credit to the extent that the Plan is required and mandated by the Heart Act to provide said benefits and/or service credit.

- .12 Consent for Lump-Sum Distributions** - Effective January 1, 2006, notwithstanding any other provision of the Plan, any distribution to a Participant made prior to the earlier of age 62 or Normal Retirement Age of an amount in excess of \$1,000 that is an eligible rollover distribution as set forth in the Plan and the Code shall be made only upon consent of the Participant.
- .13 Credit for Qualified Military Service.** Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.
- .14 Forfeitures**--Effective September 1, 1974. forfeitures shall not be used to increase the benefits of any Participant in this Plan, but may be used to reduce Employer contributions to the Plan.
- .15 Vesting at Normal Retirement Age**--Effective September 1, 1974, upon attainment of Normal Retirement Age a Participant shall be 100% vested in his Normal Retirement Benefit.

