

TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 218

AN ORDINANCE

AN ORDINANCE OF WASHINGTON TOWNSHIP RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF POLICE EMPLOYEES PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE EMPLOYEES OF SAID TOWNSHIP.

WHEREAS, Washington Township (the "Township") has previously enacted Ordinances 117 and 177 with respect to the Washington Township Police Pension Plan (the "Plan"); and

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

WHEREAS, the Township now desires to amend the Plan to add non-intervening military service buy-back and to include certain updates with respect to changes in law and the Internal Revenue Code.

NOW, THEREFORE, be it ORDAINED and ENACTED by the Township Supervisors and it is hereby ORDAINED and ENACTED by authority of the same:

That effective for Participants who terminate Employment on or after January 1, 2007, the Plan now known as the "Washington Township Police Pension Plan" is hereby revised as set forth in Appendix "A" attached hereto.

DULY ENACTED AND ORDAINED, this 20th day of October, 2008 by the Board of Supervisors of Washington Township, Franklin County, Pennsylvania, in lawful session duly assembled.

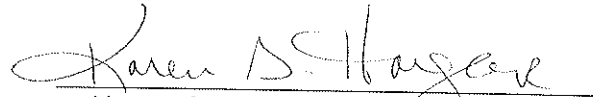
ATTEST:

**BOARD OF SUPERVISORS
WASHINGTON TOWNSHIP**

By: Karen S. Hargrave
Karen S. Hargrave, Secretary

By: Carroll C. Sturm
Carroll C. Sturm, Chairman

I, Karen S. Hargrave, Secretary of the Board of Supervisors, Washington Township, Franklin County, Pennsylvania, do certify that the foregoing is true and correct copy of an ordinance adopted at a regular meeting of the Washington Township Supervisors held October 20, 2008, regular session duly assembled.


Karen S. Hargrave, Secretary

APPENDIX A

1. Section 1.04—Compensation—is amended by deleting existing Section 1.04 in its entirety and replacing it with the following:

“Compensation” shall mean the amount of a Participant’s earnings, received or receivable during the Participant’s employment with the Township as an Eligible Employee, that shall be considered under the Plan for purposes of calculating benefits and contributions, and unless otherwise provided, in applying any applicable limitations to such benefits or contributions. For the foregoing purposes, Compensation shall be total gross wages during a plan year including base pay, longevity, night differential, court pay, holiday pay, overtime and any amounts deferred by the Eligible Employee to an Internal Revenue Code Section 457 deferred compensation plan.

Compensation is limited to amounts that are permitted to be included in the calculation of Final Average Monthly Compensation by the Auditor General’s Bulletin No. 2001-01, as clarified. In no event shall Compensation include payment for any accumulated leave that was earned outside of the final 36 months of Service.

2. Section 1.10 is amended by deleted existing Section 1.10 in its entirety and replaced by the following:

Final Average Monthly Compensation shall mean the Compensation of a Participant averaged over the Participant’s final 36 months of Service but “Compensation” for the purpose of calculating Final Average Monthly Compensation is limited to amounts that are permitted by the Auditor General’s Bulletin No. 2001-01, as clarified. In no event, will payment for any accumulated leave that was earned outside of the final 36 months of Service be considered Compensation for the purposes of calculating Final Average Monthly Salary.

3. Existing Section 1.16—Service—is amended to add new paragraph (f) which shall provide as follows:

“Service” shall not include any period of time subsequent to the Participant’s Entry Date into the Deferred Retirement Option Program.

4. Article IX is amended by deleting existing Article IX in its entirety and adding new Article IX, which shall provide as follows:

ARTICLE IX

APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE

9.01 Definitions -

- (a) The following definitions apply for purposes of this Article only:
- (i) "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 performed under primary direction or control by the recipient.
 - (ii) "Limitation Year" shall mean the Plan Year.

9.02 Leased Employees and Independent Contractors -

- (a) Leased Employees and independent contractors are not eligible to participate in this Plan. Any person whom the Employer does not regard as being an Employee shall not be eligible to participate.

9.03 Limit on Compensation -

- (a) Compensation is subject to the limitation under Code Section 401(a)(17), which is \$230,000 for the Plan Year beginning in 2008. 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).

9.04 Maximum Annual Benefit -

- (a) General Rule - 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 became effective as of December 31, 2002.

- (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) or (e), and if the aggregated benefits would otherwise exceed the limit under Code Section 415(b) or (e), then benefits shall be reduced first under this Plan. [Historical Note: Code Section 415(e) applied for Limitation Years beginning prior to 2000.]
- (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) or (e). 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.
- (g) To the extent applicable, the above provisions and limitations shall be subject to Code Section 415(b)(2)(G).

9.05 Limit on Annual Additions -

- (a) Annual Additions - 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 allocated in accordance with reg. §1.415-6(b)(6)(ii).
- (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.

9.06 Direct Rollovers -

- (a) Effective as of January 1, 1993, if a Participant, a spousal beneficiary, or an alternate payee (who is a spouse or former spouse of a Participant) is entitled (under other provisions of this Plan) to receive an “eligible rollover distribution” of at least two hundred (\$200) dollars, the distributee may elect that the Plan Administrator transfer all or part (provided that the part is at least five hundred (\$500) dollars) to any “eligible retirement plan” capable of accepting such a transfer.
- (b) For purposes of this section, the following definitions shall apply:
- (i) 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: (a) 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; (b) any distribution to the extent such distribution is required under Code Section 401(a)(9); (c) 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 (d) 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 January 1, 2007, a 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.

- (ii) 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 a 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 an eligible retirement plan shall include a Roth IRA as that term is defined in Code Section 408A(b) that agrees to separately account for amounts transferred from this Plan.
- (iii) 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)(11), are distributees with regard to the interest of the spouse or former spouse.
- (iv) Effective as of January 1, 2002, an Employee may, in accordance with Code Section 457(e)(17), make a trustee-to-trustee transfer from an eligible deferred compensation plan (as defined in Code Section 457(b)) to this Plan for the purpose of purchasing service credit (to the extent that such purchases are permitted under the terms of the Plan) or repaying a cash-out of contributions refunded under the Plan.

9.07 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).

9.08 Minimum Required Distributions -

- (a) Notwithstanding any provision in this Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements and conditions of and shall otherwise comply with Code Section 401(a)(9). For purposes of complying with Code Section 401(a)(9), life expectancies shall be 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.
- (b) Effective as of January 1, 1997 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.

- (c) 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.
- (d) This section does not authorize the payment of any benefit in any form not permitted under another provision of the Plan.

9.09 Approved Domestic Relations Orders -

- (a) Upon approval by the Plan Administrator of a domestic relations order as an "approved domestic relations order," all rights and benefits provided to a Participant in this Plan shall be subject to the rights afforded an "alternate payee" pursuant to an approved domestic relations order to the

extent provided by the laws of Pennsylvania. In no event, shall a domestic relations order be approved which expands the rights and benefits otherwise available to the Participant under the Plan.

9.10 Credit for Qualified Military Service -

- (a) Effective as of 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 Code Section 414(u).

9.11 Vesting Upon Plan Termination -

- (a) Upon the termination of this Plan, or complete discontinuance of contributions (within the meaning of pre-ERISA Code Section 401(a)(7)) to this Plan, each Employee as of the date of such termination or discontinuance shall become vested to the extent that the Plan is funded.

9.12 Consent for Lump-Sum Distributions -

- (a) 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.

5. The Plan is amended by adding new Article XIII, which shall provide as follows:

ARTICLE XIII

DEFERRED RETIREMENT OPTION PROGRAM

13.01 Eligibility.

An active Participant of the Washington Township Police Pension Plan ("Plan") who is an active Employee may enter into the DROP program on the first day of any month following attainment of DROP Retirement Age (the later of attainment 25 years of service and age 50) and after completing a written Election, Waiver and Release and Beneficiary Designation forms and such other administrative requirements as may be required by the Township ("Eligible Employee").

13.02 Written Election.

An eligible Plan Participant electing to participate in the DROP program ("DROP Participant") must complete and properly execute the forms supplied by the Township in advance of participation in the DROP program. The election to participate in the DROP is irrevocable seven days after the DROP election is accepted by the Township.

13.03 Benefit Requirements and Calculations.

The Entry Date of a DROP Participant's participation in the DROP shall be a date provided on the Participant's application, provided that such date shall only be the first day of the month and must be at least ninety (90) days after the date the Election and Waiver is filed with the Township nor earlier than the date the DROP Participant attains DROP Retirement Age. On the day previous to participation in the DROP the Participant shall have retired from the Plan. After commencement of participation in the DROP, the DROP Participant shall no longer earn or accrue additional benefits or continue service accruals under the Plan nor shall his Compensation for the purpose of calculating any retirement benefits under the Plan increase. Any payments for accumulated sick or annual leave shall be paid out as of the last day of employment prior to entering the DROP. A DROP Participant shall be eligible for all contractual benefits (other than continued pension accruals) and pre-retirement benefits for employees otherwise provided by law, including benefits under the Act of June 2, 1915 (P.L. 736, No.338), known as the Workers' Compensation Act; the Act of June 28, 1935 (P.L. 477, No.93), referred to as the Enforcement Officers Disability Benefits Law; the Act of December 5, 1936 (2nd Sp. Sess., 1937P.L. 2897, No. 1) known as the Unemployment Compensation Law; the Act of June 24, 1976 (P.L. 424, No. 101) referred to as the Emergency and Law Enforcement Personnel Death Benefits Act; and the Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. § 90 stat. 1347).

13.04 Reenrollment Prohibited.

A DROP participant shall be ineligible to reenroll in the DROP even if the former DROP Participant is reemployed by the Employer and becomes an active member in the Plan.

13.05 DROP Period.

A DROP Participant shall select an Entry Date, which may be the first day of any month after the date he attains DROP Retirement Age. A DROP Participant shall also select an employment termination date that shall be the last day of a month and which is no more than five years from his Entry Date. A DROP Participant may change his employment termination date to an earlier date than that of his original selection however, such early termination date shall be the last day of a month.

13.06 Participant Contributions.

DROP Participants will continue to make Participant Contributions required by Article V of the Plan or as set forth under the applicable Collective Bargaining Agreement during their DROP participation.

13.07 Freeze on Future Accruals.

For all Plan purposes other than making Participant Contributions as provided in Section 13.06 above, the service and Compensation of the DROP Participant shall remain, as it existed on the effective date of commencement of participation of the DROP program.

13.08 Disability.

If a DROP Participant becomes eligible for a Disability pension payable from the Plan and terminates employment, the monthly Normal Retirement Benefit of the DROP Participant shall terminate, and his DROP benefit will be payable as soon as administratively feasible after his termination of employment. Any disability pension payable from the Plan in the event a DROP participant becomes disabled shall be based upon the DROP Participant's monthly average salary or salary (whichever may be applicable) determined as of the day before he began participation in the DROP, and shall be paid in lieu of the Normal Retirement Benefit.

13.09 Active Employee Death Benefits.

Survivors of a DROP Participant who dies while a DROP Participant shall be ineligible for any death benefits other than the survivor benefits which are ordinarily payable when a Participant is retired on a Normal Retirement Benefit or dies after attaining eligibility for a Normal Retirement benefit but before commencement of his Normal Retirement Benefit and the Killed-in Service benefit as provided for in Section 4.03 of the Plan.

13.10 DROP Account.

A separate interest-bearing subsidiary account shall be established for each DROP Participant. The account balance shall be held in trust for the benefit of the DROP Participant and his beneficiaries as part of the Plan's trust but shall be accounted for separately although it shall not be physically segregated from other Plan trust fund assets. While participating in the DROP a DROP Participant's monthly Normal Retirement benefit and interest thereon shall be credited to the DROP Participant's DROP Account.

13.11 Drop Account Earnings.

Interest shall be credited and compounded monthly to the DROP Participant's DROP account at an interest rate of 3% per annum.

13.12 Expenses.

Expenses such as actuarial and legal expenses to establish, operate and administer the DROP Program shall, to the extent permitted under State law, be paid from the Police Pension Plan.

13.13 Rehire.

After both the termination of the DROP Participant's employment as a DROP Participant and the expiration of the DROP participation period, a former DROP Participant shall be subject to such reemployment limitations as other retired Former Participants.

13.14 Payout.

Upon termination from employment (for any reason, whether by retirement, resignation, discharge, or death), the DROP Account (including interest), less any withholding taxes, if any, shall be paid within 45 days by the program to the DROP Participant or surviving beneficiary; or the balance in the DROP Participant's Account shall be paid within 45 days to an eligible retirement plan under the Internal Revenue Code including to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(b) of the Internal Revenue Code or, in the case of an eligible rollover distribution to the surviving spouse of a deceased Participant, an eligible retirement plan that is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code except that if the DROP Participant or beneficiary fails to elect a method of payment within 60 days after a DROP Participant's termination date, the Plan shall pay the balance as a lump sum to the DROP Participant and surviving beneficiary as set forth above.

A distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this paragraph, a "distributee" includes a DROP Participant, a Participant's designated beneficiary, and a Participant's former spouse who is an alternate payee under a qualified domestic relations order. For purposes of this paragraph, "eligible rollover distribution" has the meaning given the term by Section 402(f)(2)(A) of the Internal Revenue Code except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution, and, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in Sections 408(a) and (b) of the Internal Revenue Code.

Regardless of the option selected by the Participant, the Township has a right to accelerate payments in order to comply with Section 401(a) (9) of the Internal Revenue Code and the right to defer payments in compliance with Section 415 of the Internal Revenue Code. There shall be no loans, hardship withdrawals, or other such distributions while the DROP Participant is employed by the Township.

NOTE: If a rollover is not utilized or if the DROP distribution is for some reason not eligible for rollover treatment, income taxes and possibly additional taxes will be due upon distribution.

13.15 Forms.

To participate in the DROP, an eligible DROP Participant must complete the Election form, and Waiver and Release form as well as the Beneficiary Designation form.

13.16 Non-Assignment.

None of the benefits, payments, proceeds, claims or rights of any DROP Participant hereunder shall be subject to any claim of any creditor of the Participant nor shall any Participant have any right to transfer, assign, encumber or otherwise alienate, any of the benefits or proceeds which he may expect to receive, contingently or otherwise, under the DROP program.

Notwithstanding any restrictions on the time of distribution which would otherwise apply under the DROP program, distributions may be made with respect to a domestic relations order recognized under state law.

13.17 No Guarantee of Employment.

None of the rights, benefits or features of the DROP program shall entitle the DROP Participants to employment with the Township.

13.18 Amendment/Regulations/Administration.

The Township can amend, revise or terminate the DROP at any time to conform the program with State or Federal law including the requirements of the Internal Revenue Code or to otherwise effectuate the operation or administration of the program, including the establishment of a trust to hold DROP Account funds if deemed helpful by the Township or as required by law. All such amendments shall be binding upon future DROP Participants and upon all DROP Participants who have balances in their accounts. Any provisions of state law passed after the adoption of the DROP program that are required to be part of a pre-existing DROP program will be instituted in this DROP program. The Township shall, by regulation, provide for the operation and interpretation of the DROP program. The Township shall administer the DROP program including the determination of all claims brought thereunder.

13.19 Laws.

The DROP program shall be construed pursuant to the laws of the Commonwealth of Pennsylvania.

13.20 DROP Account Subject to Public Employees Forfeiture Act.

A DROP Participant's DROP Account is subject to forfeiture as provided in the Act of July 8, 1978 (P.L. 752, No. 140), known as the Public Employees Forfeiture Act. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any DROP Participant would otherwise receive under the DROP.

13.21 Defined Terms.

Any defined terms used in this Section that are not defined herein are as defined in the Washington Township Police Pension Plan.