

HOPEWELL TOWNSHIP
RESOLUTION NO. R-2010-23

A RESOLUTION OF HOPEWELL TOWNSHIP RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF TOWNSHIP EMPLOYEE PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE OF SAID TOWNSHIP AND TO AMEND CERTAIN ASPECTS OF SUCH PENSION PLAN OR PROGRAM.

BE IT RESOLVED AND ADOPTED by the Board of Commissioners of Hopewell Township ("Township") and it is HEREBY RESOLVED AND ADOPTED by authority of the same:

The Hopewell Township Police Pension Plan ("Plan"), which was established as of September 12, 1955, and was reestablished as of October 19, 1957 pursuant to Resolution No. 57-106 and under the provisions of Pub. Law 1804, 53 Pa. Con. Stat. Ann. 767, et seq., (sometimes referred to as Act 600) for the benefit of the Township's police employees and which has been amended and restated by resolutions of the Township Board of Commissioners thereafter, shall be, and hereby is, amended and supplemented in the following respects:

Effective for employment terminations after January 1, 2010 (except where a different effective date is referenced), the Plan shall be amended by deleting the provisions of said Plan as referenced and substituting the following in their place:

1. Section 1.18 entitled "Final Monthly Average Salary" is amended to read as follows:
 - 1.18 "Final Monthly Average Salary" shall mean the average monthly salary earned by the Participant and paid by the Employer during the final thirty-six (36) months immediately preceding termination of active employment. Salary shall include the Employee's compensation to which the Employee is entitled for the rendering of services in employment but shall exclude for this purpose single sum or extraordinary payments such as a back pay damage awards which are made but not directly attributable to active employment during the averaging period.

Final Monthly Average Salary shall be calculated by taking into account only those periods during which an Employee receives salary, as that term is defined in this Section 1.18. Therefore, for example, the Final Monthly Average Salary for a Participant who receives disability benefits from this Plan or who is voluntarily or involuntarily serving in the United States armed forces during the final thirty-six (36) months of Aggregate Service shall be based on the period during which the Employee last received salary (as defined in the preceding paragraph) from the Employer. Salary used to determine Final Monthly Average Salary shall be limited on an annual basis to the amount specified for government plans in accordance with Code Section 401(a)(17).

2. Section 4.04 entitled "Service Increment" is amended to read as follows:

4.04 "Service Increment" - A Participant who shall retire after completion of at least twenty-six (26) years of Aggregate Service as determined hereunder may receive a monthly service increment benefit. Such service increment shall only be available to a Participant who shall retire after attainment of Normal Retirement Age and whose Aggregate Service for purposes of this Section 4.04 shall only include periods of time when the Participant actively renders service in Employment and shall not include any period of time during which the Participant received a Disability Benefit under the terms of this Plan or was not otherwise in active Employment. Such service increment shall be in an amount equal to one hundred dollars (\$100.00) per month for the first completed year of Aggregate Service in excess of 25 years of Aggregate Service. The service increment shall be paid monthly in addition to the amount of Normal Retirement Benefit calculated pursuant to Section 4.02 hereof.

3. Effective pursuant to Act 51 of 2009, delete Section 6.04 entitled "Killed in Service Benefit."

4. Article IX entitled "Applicable Provisions of the Internal Revenue Code" is deleted and in its place is substituted the following:

ARTICLE IX

APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE

9.01 Definitions

The following definitions apply for purposes of this Article only:

- (a) "Leased Employee" shall mean 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.
- (b) "Limitation Year" shall mean the Plan Year.

9.02 Limit on Compensation

Compensation (including Basic Monthly Earnings and Salary) is subject to the limitation under Code Section 401(a)(17), which is \$245,000 for the Plan Year and Limitation Year beginning in 2009. 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).

9.03 Leased Employees and Independent Contractors

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

9.04 Limit on Accrued 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 permitted effective date for any change, 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. Effective as of January 1, 2008 the "applicable mortality table" and "applicable interest rate" are found in Rev. Rul. 2007-67. The "applicable mortality table" in Rev. Rul. 2001-62 was effective from December 31, 2002 through December 31, 2007.
- (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.

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 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.

9.06

Direct Rollovers

- (a) 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:
 - (1) 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 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 as of 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)(11), are distributees with regard to the interest of the spouse or former spouse.

9.07

Minimum Required Distributions

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.

9.08 Qualified Domestic Relations Orders

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternate payee" under what is recognized pursuant to State law support provisions or as a "qualified domestic relations order".

9.09 Credit for Qualified Military Service

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 Sections 401(a)(37) and 414(u).

9.10 Vesting Upon Plan Termination

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 (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.

- 9.11 Mandatory Lump Sum Distributions
Effective as of January 1, 2006, no lump-sum distribution in excess of \$1000 may be made to a Participant prior to the Participant's attainment of Normal Retirement Age unless the Participant consents to the distribution.
- 9.12 Non-Spousal Rollover - Effective 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:
- (a) the transfer is made not later than the end of the fourth year after the year of the Participant's death; and
 - (b) 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).
- 9.13 Heart Act - Effective for participant deaths occurring while performing qualified military service (as defined in Code Section 414(u)) on or after January 1, 2007, the Plan will provide retirement benefits and service credit to the extent required by the Heart Act.
- 9.14 Plan for Sole Benefit of Participants - The income and principal of the Plan are for the sole use and benefit of the Participants and their beneficiaries, and to the extent permitted by law, shall be free, clear and discharged of and from and are not to be in any way liable for debts, contracts or agreements, now contracted or which may hereafter be contracted, and from all claims and liabilities now or hereafter incurred by any Participant or beneficiary.
- 9.15 No Reversion to the Employer - At no time shall it be possible for the Plan assets to be used for, or diverted to, any purpose other than for the exclusive benefit of the Participants and their Beneficiaries, except that contributions made by the Employer may be returned to the Employer if the contribution was made due to a mistake of fact and the contribution is returned within one year of the mistaken payment of the contribution, the Plan is terminated or as otherwise permitted by the laws of the Commonwealth of Pennsylvania.
- 9.16 Code Section 415 Compensation - For the purposes of the annual additions limitations of Code Section 415(c) and this section, "compensation" includes wages within the meaning of section 3401(a) (for the purpose of income tax withholding at the source) plus amounts that would be included in wages but for an election under Code Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 401(k) or 457(b). However, any rules 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 section 3491*a(*2((

are disregarded for this purpose. For limitation years beginning prior to January 1, 1998, elective deferrals under Code Section 402(g) and amounts elected under Sections 125(a), 132(f)(4), 401(k) or 457(b) are excluded from "compensation."

9.17 Benefits Less Than \$10,000 - Benefits paid to a Participant which total less than ten thousand dollars (\$10,000) from all defined benefit plans maintained by the Employer expressed as an annual benefit shall be deemed not to exceed the limitations of this section provided that the Employer has not at any time maintained a defined contribution plan in which the Participant has not at any time maintained a defined contribution plan in which the Participant has participated; however, in the case of a Participant who is not receiving a Disability Retirement Benefit or a Death Benefit, with fewer than ten (10) years of service the limitation expressed in this subsection (d) shall be reduced by one-tenth (1/10th) for each year of service less than ten (10) but in no event shall this limitation be less than one thousand dollars (\$1,000). In the event that a Participant has less than 10 years of service with the Employer, the limitation of this section shall be reduced by multiplying the otherwise applicable limitation by a fraction, the numerator of which is the number of years of service with the Employer.

9.18 Retroactive Effective Date for Certain Internal Revenue Code Provisions - Notwithstanding the effective date of this restatement, any provision required by EGTRRA is effective as of January 1, 2002 and any provision that is required by GUST is effective as of the effective dates set forth herein.

ATTEST:

HOPEWELL TOWNSHIP





President, Board of Commissioners