

**BOROUGH OF BELL ACRES
ALLEGHENY COUNTY, PENNSYLVANIA
ORDINANCE NO. 323**

**AN ORDINANCE OF THE BOROUGH OF BELL ACRES, ALLEGHENY
COUNTY, PENNSYLVANIA AMENDING THE POLICE PENSION
PLAN TO ADD A DEFERRED RETIREMENT OPTION PLAN.**

WHEREAS, the Borough of Bell Acres (the "Borough") previously enacted an ordinance establishing the Borough of Bell Acres Police Pension Plan (the "Plan"); and

WHEREAS, the Plan was amended and restated, effective January 1, 2004, and further amended by Ordinance No. 253, Ordinance No. 268, Ordinance No. 272, and Ordinance No. 312; and

WHEREAS, the Borough reserved the right to amend the Plan pursuant to section 10.01; and

WHEREAS, the Borough desires to create a Deferred Retirement Option Plan ("DROP") consistent with Act 44 of 2009.

NOW, THEREFORE, BE IT ORDAINED and enacted by Borough Council of the Borough of Bell Acres, Allegheny County, Pennsylvania, as follows:

SECTION 1. The Borough of Bell Acres Police Pension Plan ("Plan") which was established under the provisions of Public Law 1804, 53 Pa. C.S.A. § 767, *et seq.*, sometimes referred to as Act 600, for the benefit of the Borough police employees and which has been amended and restated by ordinances and resolutions of Borough Council thereafter shall be and is hereby amended and supplemented to reflect the following provisions:

A. Retroactive to January 1, 2023, a new Article XIII – DEFERRED RETIREMENT OPTION PLAN is hereby added to the Police Pension Plan as follows:

ARTICLE XIII

DEFERRED RETIREMENT OPTION PLAN

Section 13.01 Definitions for this Article

- (a) DROP - The Deferred Retirement Option Plan created as an optional form of benefit under the existing Borough of Bell Acres Police Pension Plan (Plan).
- (b) Member - A full-time police officer covered by the Plan.

- (c) Normal Retirement Benefit – The retirement benefit payable to a Member on or after the date on which the Member first satisfies the age and service requirements for full, unreduced retirement benefits, including supplemental amounts provided to the Member after retirement as cost-of-living increases.
- (d) Participant – a Member who is eligible for normal retirement and who has elected to participate in the DROP program.
- (e) Subsidiary DROP Participant Account – The separate, interest-bearing, subsidiary DROP Participant account established for a DROP Participant.

Section 13.02 Eligibility - Effective January 1, 2023, a Member may enter the DROP on the first day of any month between January 1 and December 31 following the attainment of eligibility for the Normal Retirement Benefit with the Borough of Bell Acres. The DROP is not available to an elected official of the Borough. Participation in a DROP does not guarantee the DROP participant's employment by the Borough during the specified period of the DROP.

Section 13.03 Written Election - An eligible Member of the Plan electing to participate in the DROP program must complete and execute a "DROP Election Form" prepared by the Borough Manager and/or the Plan administrator, which shall evidence the Member's participation in the DROP program, and document the participant's rights and obligations under the DROP. The form must be signed by the Member and the Chief Administrative Officer of the Plan and submitted to the Borough Manager at least (30) days before the date on which the Member wishes the DROP election to be effective. The DROP Election Form shall include a binding and irrevocable letter of resignation from regular employment with the Borough that discloses the Member's intent to retire and specifies the Member's retirement date on a specific date not more than five (5) years from the effective date of the DROP election. The DROP Election Form shall also include an irrevocable written election to participate in the DROP that: (i) details a DROP Participant's rights and obligations under the DROP, (ii) includes an agreement to forgo active membership in the Plan, any growth in the salary base used for calculating the regular retirement benefit, and any additional benefit accrual for retirement purposes including length-of-service increments, (iii) specifies the effective date of DROP participation that shall be the day after the specified retirement date, and (iv) specifies the DROP termination date that satisfies the limitation in that it not be more than five (5) years from the effective date of the DROP election. In addition, all retirement documents required by the Borough Police Pension Plan Administrator must be filed and presented to the Borough manager for approval by Borough Council. Once the retirement application has been approved by Borough Council, it shall become irrevocable.

Members shall be advised to consult a Tax Advisor of their choice prior to considering the DROP program, as there may be tax implications and/or consequences to participating in the DROP program. The treatment of DROP benefits in regard to taxation, attachment, and assignment shall be in accordance with Act 44 of 2009.

- Section 13.04 Limitation on Pension Accrual - Effective with the date of retirement, which shall be the day before the effective date of DROP participation, the Member's monthly, Normal Retirement Benefit under the pension plan, the Member's effective date of retirement, and the Member's effective dates of beginning and terminating employment as a DROP Participant shall be fixed.
- Section 13.05 Disablement of a DROP Participant - If a DROP Participant becomes eligible for a disability pension benefit and terminates employment, the monthly Normal Retirement Benefit of the DROP Participant shall terminate.
- Section 13.06 Payments to DROP Account - All of the retired Member's monthly, Normal Retirement Benefit and interest thereon at the assigned rate shall be credited to the DROP Participant's Subsidiary DROP Participant Account in the pension trust fund and a separate accounting of the DROP Participant's accrued benefit accumulation under the DROP shall be calculated annually and provided to the DROP Participant. The Borough shall establish a DROP Participant account as an interest-bearing ledger account in the pension trust fund. The account balance shall be accounted for separately but need not be physically segregated from other pension trust fund assets. A separate interest-bearing Subsidiary DROP Participant Account shall be established for each DROP Participant. The interest shall be compounded and credited monthly at the actual rate earned by the DROP Participant Account that shall not be less than 0% nor more than 4.5%. A DROP Participant Account shall be held in trust for the exclusive benefit of DROP retired Members who are or were DROP Participants and for the beneficiaries of the Members.
- Section 13.07 Termination - A DROP Participant may change the DROP termination date to an earlier date within the five (5) year period described in Section 13.03 with thirty (30) days written notice to the Borough. No penalty shall be imposed for early termination of DROP participation. Upon either early or regular termination of DROP participation the DROP Participant shall be separated from employment by the Borough, the Plan shall pay the balance in the DROP Participant's Subsidiary DROP Participant Account to the terminating DROP Participant as provided in Section 13.09, and the DROP Participant shall be ineligible to reenroll in the DROP thereafter even if the former DROP Participant is reemployed by the Borough with renewed active membership in the Plan. In the event of a discharge of a DROP Participant for cause or violation of the Police Rules

and Regulations Manual, the Member's monthly, Normal Retirement Benefit and interest thereon shall immediately cease to be credited to the Subsidiary DROP Participant Account and the payout shall be made pursuant to Section 13.09.

Section 13.08 Other Provisions and Benefits - All other provisions of the Collective Bargaining Agreement, employment agreement, Police Rules and Regulations Manual, and any other applicable law or regulation shall apply to the Member while in the DROP. Except for those benefits specified under Section 13.03(ii), a DROP Participant shall be eligible for any employee benefits provided to active employees before retirement. A DROP Participant shall be eligible for all preretirement benefits for employees otherwise provided by law such as workers' compensation, enforcement officer disability benefits, unemployment compensation, the emergency and law enforcement personnel death benefit, and the public safety officers' benefit.

Section 13.09 Payout - On the effective date of a DROP Participant's termination of employment with the Borough as a DROP Participant, participation in the DROP shall cease and the Plan shall calculate and pay to the Participant the Participant's total accumulated DROP benefits in the DROP Participant's Subsidiary DROP Participant Account subject to the following provisions:

- (a) Except as provided in (b) below, the terminating DROP Participant or, if deceased, the Participant's survivor as provided under Act 600 or, in lieu thereof, the Participant's named beneficiary, shall elect on a form provided by the Plan to receive payment of the DROP benefits in accordance with one of the following options: (i) the balance in the DROP Participant's Subsidiary DROP Participant Account less withholding taxes, if any, remitted to the Internal Revenue Service shall be paid within forty-five (45) days by the Plan from the account to the DROP Participant or surviving beneficiary, or (ii) the balance of the DROP Participant's Subsidiary DROP Participant Account shall be paid within forty-five (45) days by the Plan from the account directly to the custodian of an eligible retirement plan as defined in section 402(c)(8)(b) of the Internal Revenue Code of 1986, 26 U.S.C. § 402(c)(8)(b), or, in the case of an eligible rollover distribution to the surviving spouse of a deceased DROP 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 of 1986, 26 U.S.C. § 402(c)(9).

- (b) If the DROP Participant or beneficiary fails to elect a method of payment within sixty (60) days after the Participant's termination date, the Plan shall pay the balance as a lump sum as provided in (a) above.
- (c) The form of payment selected by the DROP Participant or surviving beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code.

Section 13.10 Death - If a DROP Participant dies, the DROP Participant's named beneficiary shall be entitled to apply for and receive the benefits accrued in the DROP Participant's Subsidiary DROP Participant Account as provided in Section 13.09. The monthly Plan benefit accrued in the DROP Participant's Subsidiary DROP Participant Account during the month of the DROP Participant's death shall be the final monthly Plan benefit credited for DROP participation. A DROP Participant's eligibility to participate in the DROP terminates upon the death of the DROP Participant. If a DROP Participant dies on or after the effective date of participation in the DROP but before the monthly Plan benefit of the Participant accruable for the month has accrued in the DROP Participant's Subsidiary DROP Participant Account, the Borough shall pay the monthly Plan benefits as though the Participant had not elected DROP Participation and had died after the Member's effective date of retirement but before receipt of the retired Member's first regular retirement benefit. Except for those benefits specifically payable as a result of death incurred in the course of performing a hazardous public duty, the survivors of a DROP Participant who dies shall not be eligible to receive Plan benefits payable in the event of the death of an active Member. The DROP Participant's survivor shall be eligible to receive Plan death benefits normally payable in the event of the death of a retired employee.

Section 13.11 Killed-In-Service Survivor Benefit - In lieu of the death benefit in Section 13.10 Death, if a Participant is killed in service, the Participant's beneficiaries under Act 600 shall be entitled to apply for and receive a calculation for payment of survivor benefits at 100% of the Participant's salary as fixed at the date of death pursuant to Act 51 of 2009. In this event, the DROP application shall be considered to be rescinded and the Subsidiary DROP Participant Account shall be transferred to the Police Pension Fund's general assets.

Section 13.12 Amendment - Any amendments to the DROP Ordinance shall be consistent with the provisions covering deferred retirement option plans set forth in any applicable collective bargaining agreement or state or federal law, and shall be binding upon all future Participants and upon all Participants who have balances in their Subsidiary DROP Participant Accounts.

Section 13.13 Subsequent Employment - After both the termination of a DROP Participant's employment as a DROP Participant by the Borough and the expiration of the DROP participation period, a former DROP Participant shall be subject to such reemployment limitations as other retired Members and shall be eligible for renewed membership as an active Member in the Borough employees' retirement system.

SECTION 2. The remainder of the Police Pension Plan Ordinance is hereby restated and reenacted without amendment.

SECTION 3. Should any part or section of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part held to be invalid.

SECTION 4. Any ordinance or part of any ordinance conflicting with the provisions of this Ordinance be and the same are hereby repealed to the extent of such conflict.

ORDAINED AND ENACTED into law by Borough Council of the Borough of Bell Acres, Allegheny County, Pennsylvania, at its meeting held on the 2nd day of January, 2024.

ATTEST:

BOROUGH OF BELL ACRES

Jessie A. Parks
Secretary

By: David W. Ruffen
President

Approved by me this 2nd day of January, 2024.

Kenneth A. Chavis
Mayor