

ORDINANCE NO. 2014

AN ORDINANCE OF THE TOWNSHIP OF HARRISON, AMENDING THE HARRISON TOWNSHIP CODE OF ORDINANCE, CHAPTER 1, SECTION 641, THE HARRISON TOWNSHIP POLICE PENSION PLAN, BY MODIFYING SECTION 4.16 RELATING TO THE DEFERRED RETIREMENT OPTION PLAN (DROP).

WHEREAS, the Board of Commissioners of the Township of Harrison (the Township) established the Township of Harrison Police Pension Plan (the Plan) pursuant to the Municipal Police Pension Law, 53 P.S. §767 et. Seq. (Act 600 of 1956) for the benefit of the Township's police officer's and their beneficiaries; and

WHEREAS, the Board of Commissioners of the Township replaced and restated the Plan in its entirety by Ordinance No. 1984, effective January 1, 2016; and

WHEREAS, the Township and Teamsters Local Union No. 249 agreed in collective bargaining to amend the Plan to provide for a Deferred Retirement Option Plan (DROP) benefit for certain eligible police officers; and

WHEREAS, the Board of Commissioners has concluded that the Plan must be amended to incorporate necessary terms and conditions of the Plan; and

WHEREAS, the amendments to the Plan are in accordance with the laws of the Commonwealth of Pennsylvania, including Act 600 (as amended); and

WHEREAS, the Plan must be amended to include the following amendments; and

NOW THEREFORE, the Board of Commissioners of the Township hereby ordain and enact that the Plan, Ordinance No. 1984, as amended by Ordinance No. 2007, shall be amended as follows:

The current language of Section 4.16 shall be deleted and replaced with the following:

Section 4.16. Deferred Retirement Option Plan (DROP)

- a) Definitions
 - (1) DROP - The Deferred Retirement Option Plan is created as an optional form of benefit under the existing Township of Harrison Police Pension Plan available to eligible members of the Plan to elect beginning on January 1, 2021 and ending on April 30, 2022,

provided that an officer electing the DROP must begin participating in it no later than April 30, 2022.

- (2) DROP Account - A separate interest bearing account created to accumulate the DROP pension benefit for a DROP participant.
- (3) Member - A full-time Township of Harrison police officer covered by the Plan.
- (4) Participant - A member who: (a) is eligible for normal retirement (attains age 55 with 25 years of service); and (b) has elected to participate in the DROP program in accordance with all terms and conditions of the DROP program.
- (5) Plan – The Township of Harrison Police Pension Plan adopted pursuant to Act 600.
- (6) DROP Term – The maximum term of a DROP participation shall be three (3) years.

b) DROP Provisions

- (1) Eligibility. Effective January 1, 2021 through April 30, 2022, members of the Harrison Township Police Department who are eligible for a full superannuation retirement benefit and have not retired prior to the implementation of the DROP program, may enter into the DROP on the first day of any month following the attainment of age fifty-five (55) and the completion of twenty-five (25) or more years of credited police service with the Township of Harrison by the member submitting the “Written Election” requirements described in subsection 4.16(b)(2). Upon the effective date of a DROP election, the officer shall be deemed to be retired.
- (2) 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 Township Secretary, Township 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 Township at least 30 days before the date on which the member wishes the DROP election to be effective. The DROP Election Form shall include: an irrevocable notice to the Township by the member that

the member shall terminate his or her employment with the Township Police Department effective on a specific date (“resignation date”) in which they terminate employment and no later than thirty-six (36) months from the effective date of the DROP election.

In addition, all retirement documents required by the Township Police Pension Plan Administrator must be filed and presented to the Township Board of Commissioners for approval of retirement and the commencement of the monthly pension benefit. Once the retirement application has been approved by the Township Board of Commissioners, it shall become irrevocable.

After a Participant enters the DROP Program, contributions to the Plan by the participant and the Township will cease.

Members are hereby advised to consult a tax advisor of their choice before considering the DROP program as there may be serious tax implications and/or consequences to participating in the DROP program.

- (3) Limitation on Pension Accrual. After the effective date of the DROP election, the Participant shall no longer earn or accrue additional years of continuous service for pension purposes.
- (4) Benefit Calculation. For all Plan purposes, continuous service of a Participant shall remain as it existed on the effective date of commencement of participation in the DROP program. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Plan. The average monthly pay of the Participant for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the DROP program. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Plan.
- (5) Payments to DROP Account. The monthly retirement benefits that would have been payable had the Participant elected to cease employment and receive a normal retirement benefit shall, upon the member commencing participation in the DROP program, be credited on the first day of each month into a separate interest bearing account established

by the Plan Administrator to track and accumulate the participant's monthly pension benefits. This account shall be designated the DROP Account.

Interest shall be compounded and credited monthly at the actual rate earned by the DROP participant account that shall not be less than 0.0% nor more than 4.5%. The DROP account shall be an FDIC-insured bank account or other investment that will not lose value. The interest rate on DROP accounts shall be no less than 0%. The account shall be managed by the Plan Administrator pursuant to the same fiduciary obligations and principles applicable to management of municipal pension plans. All earnings credited to the DROP account will be included in the final cash settlement to the extent permitted by law.

- (6) Early Termination. A Participant may withdraw from the DROP program at any time and effectuate a complete retirement from service. No penalty shall be imposed for early termination of DROP participation. However, the Participant shall not be permitted to make any withdrawals from the DROP Account until DROP participation has ended. Upon either early or regular termination of DROP participation the DROP Participant shall be separated from employment with the Township and the retirement Plan shall pay the balance in the DROP Participant's DROP Account to the terminating Participant as provided herein and the DROP Participant shall be ineligible to re-enroll in the DROP thereafter even if the former DROP Participant is re-employed by the Township.
- (7) Payout. Upon the termination date set forth in the DROP Election Form or on such date as the participant withdraws or is terminated from the DROP program, if earlier, the normal retirement benefits payable to the participant or the participant's beneficiary, if applicable, shall be paid directly to the participant or beneficiary and shall no longer be credited to the DROP Account. Except in cases of early termination addressed in paragraph (6) above, within 45 days of the maximum period allowed by applicable law following the actual termination of a participant's employment with the Township Police Department, the accumulated balance in the DROP Account shall be paid to the participant, his or her survivor or beneficiary, (1) in a single lump-sum payment, subject to any required federal tax withholding, or (2) as a direct rollover to an eligible retirement plan or other qualified retirement account as permitted by law or individual retirement annuity. If the participant, his or her survivor or beneficiary, selects the rollover option,

he or she must also submit the appropriate paperwork from the IRA or other qualified retirement plan custodian within the required election period.

- (8) Disability During DROP. If a participant becomes eligible for a disability pension benefit and terminates employment, the monthly normal retirement benefit to the DROP participant shall terminate.
- (9) Death. If a Participant dies before the DROP account balance is paid, the participant's beneficiary under Act 600 shall have the same rights under applicable law as the participant to withdraw the DROP Account balance. The monthly benefit credited to the participant's DROP Account during the month of the participant's death shall be the final monthly benefit for DROP participation.

c) Effective Date.

The effective date of the DROP program is January 1, 2021. The ability to elect this benefit shall expire April 30, 2022.

d) Severability.

The provisions of the DROP Plan shall be severable, and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any of the remaining provisions of the Plan shall not be affected thereby. It is hereby expressly declared as the intent of the Township and Union that the DROP Plan has been accepted as if such unconstitutional or illegal provision had not been included herein.

e) Eligibility for Statutory Benefits.

A DROP Participant shall be eligible for all pre-retirement benefits for employees otherwise provided by law including, but not limited to, the following:

- (1) The Workers' Compensation Act (the Act of June 2, 1915 (P.L. 736, No. 338)).
- (2) The Enforcement Officer Disability Benefits Law (the Act of June 28, 1935 (P.L. 477, No. 193)).
- (3) The Unemployment Compensation Law (the Act of December 5, 1936 (2nd Sp. Sess., 1937 P.L. 28979 No. 11)).
- (4) The Emergency and Law Enforcement Personnel Death Benefits Act (the Act of June 24, 1976 (P.L. 424, No. 101)).

(5) The Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. § 90 Stat. 1347).

f) Contract/Pension Plan Benefits.

A DROP Participant shall be entitled to benefits set forth in the applicable collective bargaining agreement.

g) Legislation/Amendment of the Plan.

At all times, the DROP shall be administered in accordance with Act 205 of 1956, as amended through Act 44 of 2009 (53 P.S. § 895.1001 - § 895.1131).

In the event of amendment of legislation governing DROPs in the Commonwealth of Pennsylvania, this DROP shall be amended to comply with any new mandatory provisions set forth in such legislation. The application of any amendments to police officers actively employed as of the effective date of any such legislation shall be governed by and consistent with constitutional principles applicable to the pension and retirement benefits.

The DROP shall be deemed to be automatically amended to the extent necessary to remain in compliance with and/or sever any inconsistency with any change of statutory or applicable common law. The Township may amend the terms of the DROP ordinance without negotiation, limited, however, to the extent necessary to remain in compliance with any changes in controlling law.

EFFECTIVE DATE: The effective date to this DROP program shall be January 1, 2021, except that any changes relating to the Executive Level Employee DROP program shall not take effect until November 1, 2022 and are not intended to affect any individual currently in the Executive Level Employee DROP program.

SEVERABILITY: The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any of the remaining provisions of this Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of Harrison Township that this Ordinance has been adopted as if such unconstitutional or illegal provision or provisions had not been included herein.

The Code of Ordinances heading at Chapter 1, §641 of the Harrison Township Code of Ordinances is amended to reflect this amendment of the Plan by this Ordinance.

This Ordinance adopted by the Board of Commissioners of Harrison Township at a duly assembled meeting held this 28th day of November, 2022.

ATTEST:

Susan K Motosicky

TOWNSHIP OF HARRISON:

Gary Meanor

Gary Meanor,
President, Board of Commissioners

This Ordinance recorded in the Township Ordinance Book on the 29th day of November, 2022.

Susan Motosicky

Susan Motosicky,
Township Secretary