

BOROUGH OF BELLEVUE
COUNTY OF ALLEGHENY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 16-04

AN ORDINANCE OF THE BOROUGH OF BELLEVUE TO
SUPPLEMENT THE PENSION PLAN FOR FULL-TIME POLICE
OFFICERS OF THE BOROUGH OF BELLEVUE.

The Police Pension Plan of the Borough of Bellevue ("Plan"), which was established pursuant to Ordinance No. 10-20 and the provisions of Act 600 of 1956, as amended, 53 Pa. Con. Stat. Ann. §§ 761 et seq., for the benefit of the Borough's full-time police officers effective January 1, 1958, and which has been amended by ordinances or resolutions of the Borough thereafter, shall be, and hereby is, amended and supplemented in the following respects.

WHEREAS, the Borough maintains a Police Pension Plan that is subject to the terms, conditions and provisions of Act 600 of 1956, as amended, and Act 205, 53 P.S. §§ 895.101, et seq.; and

WHEREAS, the Act 111 Interest Arbitration Award issued by Arbitrator Richard Dissen, Esq., on November 13, 2012 provided that a Deferred Retirement Option Plan ("DROP") shall be implemented with an effective date of January 1, 2013.

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Bellevue ("Borough"), Allegheny County, Pennsylvania, and it is HEREBY ORDAINED AND ENACTED AS FOLLOWS:

The following Article shall be added to the Plan, as a new Article XV:

ARTICLE XV

DEFERRED RETIREMENT OPTION PLAN

15.1 Definitions

DROP - The Deferred Retirement Option Plan is created as an optional form of benefit under the existing Borough of Bellevue Police Pension Plan available to eligible members of the Plan beginning on January 1, 2013.

DROP Account - A separate interest bearing account created to accumulate the DROP pension benefit for a DROP participant.

Member - A full-time Borough of Bellevue police officer covered by the Plan.

Participant - A member who is eligible for normal retirement and who has elected to participate in the DROP program.

Plan - The Bellevue Borough Police Pension Plan adopted pursuant to Act 600.

DROP Term - The maximum term of a DROP participation shall be three (3) years.

DROP Provisions

- (a) Eligibility. Effective January 1, 2013, members of the Plan that 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 Borough of Bellevue. Upon the effective date of a DROP election, the officer shall be deemed to be retired.
- (b) 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 Secretary 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 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 Borough by the member that the member shall terminate his or her employment with the Borough Police Department effective on a specific date ("resignation date") not later than thirty-six (36) months 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 Council for approval of retirement and the commencement of the monthly pension benefit. Once the retirement application has been approved by Borough Council, it shall become irrevocable.

After a member enters the DROP Program, contributions to the Plan by the participant and the Borough will cease, and the amount of the monthly benefit will be frozen, except, however, for any applicable cost-of-living adjustment (COLA) increases awarded to all pension recipients.

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.

- (c) 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.
- (d) Benefit Calculation. For all Plan purposes, continuous service of a member participating in the DROP program 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 member 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.
- (e) Payments to DROP Account. The monthly retirement benefits that would have been payable had the member 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.

As required by 53 P.S. § 895.1121, 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 1/2%." 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 the municipal pension plans. All earnings credited to the DROP account will be included in the final cash settlement to the extent permitted by law.

- (f) 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.
- (g) 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 (f) above, within 45 days of the maximum period allowed by applicable law following the actual termination of a participant's employment with the Borough 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.
- (h) 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.

15.3 **Effective Date.**

The effective date of the DROP program is January 1, 2013.

15.4 **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 Borough the DROP Plan has been accepted as if such unconstitutional or illegal provision had not been included herein.

15.5 **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:

The Workers' Compensation Act (the Act of June 2, 1915 (P.L. 736, No. 338).

The Enforcement Officer Disability Benefits Law (the Act of June 28, 1935 (P.L. 477, No. 193)).

The Unemployment Compensation Law (the Act of December 5, 1936 (2nd Sp. Sess., 1937 P.L. 28979 No. 11).

The Emergency and Law Enforcement Personnel Death Benefits Act (the Act of June 24, 1976 (P.L. 424, No. 101)).

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

15.6

Eligibility for Contract Benefits, Generally.

Officers in DROP shall be entitled to all benefits set forth in the collective bargaining agreement except with regard to the following:

- (a) The longevity rate and vacation rate shall be frozen at the officer's rate on the effective date of the DROP election;
- (b) Sick leave may be accumulated during the DROP period but said sick leave will not be bought back by the Borough upon the DROP termination date;
- (c) In the event of DROP participation by an officer, the buy-back by the Borough of accumulated unused sick days under Article 22, Sick Leave, Section (G) of the collective bargaining agreement, shall occur on the effective date of the DROP election by the officer.

15.7

Legislation/Amendment of the Plan.

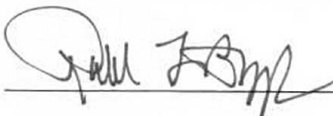
At all times, the DROP shall be administered in accordance with Act 205, as amended through Act 44 of 2009 (53 P.S. §§ 895.1001-895.1131).

In the event of amendment of legislation governing DROP's 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 Borough 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.

ORDAINED AND ENACTED this 25th day of OCTOBER, 2016.

ATTEST:



BOROUGH OF BELLEVUE



President, Borough Council

