

Chapter 50

PENSIONS

[HISTORY: Adopted by the Borough Council of the Borough of North Wales as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Social Security

[Adopted 9-2-1952 by Ord. No. 235]

§ 50-1. Benefits of extension of social security to Borough officers and employees.

It is the considered opinion of the governing body that the extension of the Social Security System to employees and officers of the Borough of North Wales will be of great benefit, not only to the employees of the Borough by providing that said employees and officers may participate in the provisions of the Old Age and Survivors Insurance System, but will also be of great benefit to the Borough of North Wales by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government.

§ 50-2. Effectuation of coverage authorized.

The 1951 Session of the General Assembly of the Commonwealth of Pennsylvania, in regular session, enacted a statute, known as "Act No. 491,"¹ which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Secretary of Labor and Industry of the Commonwealth of Pennsylvania to act as the state agency to implement the coverage of employees and officers under said Old Age and Survivors Insurance System. The Borough of North Wales is hereby authorized to execute and deliver to the state agency a plan or plans and agreement, required under Section 6 of said Enabling Act and the Social Security Act, to extend coverage to employees and officers of the Borough of North Wales and do all other necessary things to effectuate coverage of employees and officers under the Old Age and Survivors Insurance System.

§ 50-3. Payroll deduction system; matching Borough contributions. [Amended 11-22-1994 by Ord. No. 674]

The Borough Secretary is hereby authorized to establish a system of payroll deduction to be matched by payments by the Borough of North Wales to be made into the Contribution Fund of the Social Security Act through the office of the state agency and to make charges of this tax to the fund or funds from which wage or salary payments are issued to employees of the Borough of North Wales. Such payments are to be made in accordance with the provisions of the laws and regulations promulgated by the state agency and the Federal Security Administrator. Such payments which are delinquent shall bear interest at a rate of one-half of one percent (1/2 of 1%)

1. Editor's Note: See 65 P.S. § 201 et seq.

per month until such time as payments are made.

§ 50-4. Appropriation into contribution fund; date participation commences.

Appropriation is hereby made from the proper fund or funds of the Borough of North Wales in the necessary amount to pay into the Contribution Fund as provided in Section 4 of the enabling Act and in accordance with the plan or plans and agreement. Authority is given to the Mayor and the Secretary of the Borough of North Wales to enter into an agreement with the state agency, which agreement shall be in accordance with Act No. 491 and with Paragraph 218 of the Social Security Act. Such plan and agreement shall provide that the participation of the Borough of North Wales shall commence as of October 1, 1952.

ARTICLE II
Police Pension Plan

[Adopted 12-11-1974 by Ord. No. 489; amended in its entirety 2-25-1997 by Ord. No. 685]

§ 50-5. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

AGE — The age attained by the employee at his or her last birthday.

ANNIVERSARY DATE — Any January 1 after the "effective date."

AVERAGE APPLICABLE COMPENSATION — The average monthly salary of the employee at any time of reference computed over the last 36 months (or such shorter period as represents the member's total period of employment by the municipality) of his employment by the municipality prior to such date of reference. For purposes of computing average applicable compensation, actual monthly salary shall include base pay, longevity pay, night differential pay (if any) and overtime pay but shall exclude reimbursed expenses or payments in lieu of expenses, nonsalary compensation (including, but not limited to, fringe benefits provided by the municipality) or any other payments or allowances. Average applicable compensation shall include pickup contributions (if any) paid for the member by the municipality pursuant to Section 414(h) of the Internal Revenue Code and any elective salary deferrals made by the member pursuant to Section 457 and/or Section 125 of the Internal Revenue Code.

CHIEF ADMINISTRATIVE OFFICER — The person who has primary responsibility for the execution of the administrative affairs of this plan or the designee of that person.

COUNCIL — The Borough Council of the Borough of North Wales.

EFFECTIVE DATE (of this article) — January 1, 1997.

EMPLOYEE — Any sworn police officer in the employ of the municipality whose customary employment is for not less than 40 hours a week.

FUND — All assets held in trust by the trustee under this Pension Plan.

MEMBER — Any employee who has satisfied eligibility requirements established in § 50-6 hereof.

MUNICIPALITY — The Borough of North Wales, Montgomery County, Pennsylvania.

NORMAL RETIREMENT DATE — The first day of the month coincident with or next following the later of the dates on which the member attains age 55 and completes 25 years of service.

PLAN — The Borough of North Wales Police Pension Plan, as herein set forth and as the same may hereafter be amended.

PLAN YEAR — A period of 12 consecutive months commencing on any January 1 and ending on the following December 31.

POLICE PENSION COMMITTEE — A three-member committee composed of one Council member, a police officer and one citizen at large recommended by the Police Department.

SALARY — All earnings including base pay, longevity pay, night differential (if any), overtime pay and pickup contributions pursuant to Section 414(h) of the Internal Revenue Code, but shall exclude reimbursement expenses or payments in lieu of expenses, nonsalary compensation including, but not limited to, fringe benefits provided by the municipality and any other allowances paid by the municipality (e.g., uniform allowances). Salary shall include any and all elective salary deferrals made by the member pursuant to Section 457 and/or Section 125 of the Internal Revenue Code.

SERVICE — The aggregate of the member's total periods of employment as a full-time employee of the municipality's Police Department. If a member enters military service, either voluntarily or by conscription, after he has been employed for at least six months, such time spent in the armed forces of the United States during a period of national emergency shall be counted as service for purposes of the plan, provided that such member returns to police service with the municipality within six months after his discharge or release from such active duty in the armed forces of the United States. The time spent in military service due to voluntary extension of such military service during a period of peacetime shall not be included as service for the purposes of this plan. Time spent on reserve or national guard training shall be included as service for purposes of this plan.

TRUST AGREEMENT — The contract between the municipality and the trustee establishing the terms by which and under which the fund is invested, distributed, accounted for and terminated as the same now exists and as it may hereafter be amended.

TRUSTEE — The financial institution, agency or person appointed by the governing body of the municipality to serve in that capacity as set forth in this plan.

VESTING — A nonforfeitable portion of the normal retirement benefit.

B. Wherever applicable as used herein, unless the context specifically provides otherwise, the singular and plural shall be interchangeable, and the masculine and feminine pronoun shall include either sex.

§ 50-6. Eligibility.

A. Each person who is an employee (as defined in this plan) as of the effective date hereof shall be a member as of the effective date.

B. Any person who becomes an employee after the effective date hereof shall become a

member on the first day of service as an employee.

§ 50-7. Contributions.

- A. Contributions by members. Members shall pay into the fund at the rate of 5% of salary. Salary for this purpose shall be as defined in § 50-5 of this article. If an actuarial study shows that the condition of the fund is such that contributions by members may be reduced or eliminated, that contributions by the municipality will not be required to keep the fund actuarially sound, then the Council may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members. Individual records of contributions by members shall be maintained, including all interest credited to his individual account. Interest to be credited shall be 4% per annum. Interest shall be credited from the end of the plan year in which paid to the last day of the month in which a refund becomes payable.
- B. Refund of member's contributions. Any member who for any reason shall be ineligible to receive a pension after having made contributions shall be entitled to a refund of his individual account balance; such refund is payable within 45 days of discontinuance of his employment with the police force. If such discontinuance is due to death, then such refund shall be paid to his designated beneficiary or, in the absence thereof, to his estate. If the retired member is receiving a benefit by reason of disability or retirement, then the refund payable to the beneficiary is equal to the individual account balance at the date of disability or retirement less any payments made to the member.
- C. Deposits. Contributions by members shall be remitted to the trustees not less than monthly.
- D. State aid. The portion of the payments made by the State Treasurer to the municipality and designated by the Council to be allocated to the Police Pension Fund from money received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension, retirement or disability benefits for policemen shall be used as follows: to reduce the unfunded liability or, after such liability has been fully funded, to apply against the annual obligation of the municipality for future service costs or, to the extent that the payment may be in excess of such obligations, to reduce member contributions pursuant to Subsection A hereof.
- E. Municipality contributions. Subject to the provisions and limitations set forth in other sections of this plan, the municipality shall contribute the amounts certified to be necessary by the fund's actuary to provide the benefits provided by this plan.
- F. Contributions by members while in military service. A member who enters the military service during a time of national emergency either voluntarily or by conscription shall not be required to make contributions to this plan while in military service. However, no contributions will be made either by or on behalf of a member who voluntarily extends his military service during peacetime. [Amended 7-22-2003 by Ord. No. 724²]
- G. Other contributions. The fund shall be authorized to receive by gift, grant, devise or bequest any money or property, real, personal or mixed, in trust for the benefit of the fund.

2. Editor's Note: This ordinance provided for an effective date of 4-17-2002 for all those who retire or whose service is terminated after 4-16-2002.

The trustee of the fund shall be subject to such directions not inconsistent with this plan as the donors of such funds and property may prescribe.

§ 50-8. Retirement benefits.

- A. Normal retirement. Each member may retire on or at any time after his normal retirement date. Any member so retiring shall be entitled to receive a monthly pension commencing as of the first day of the month coincident with or next following his date of actual retirement and ending with the payment made as of the first day of the month in which his death occurs. The monthly pension to which such retired member shall be entitled under this plan shall be equal to 50% of such member's average applicable compensation.
- B. Postponed retirement. An employee shall be allowed to continue as an employee beyond his normal retirement date. In such case, the employee shall remain a member of the plan until he actually retires or ceases to be an employee and he continues to make any contributions required pursuant to § 50-7A hereof.
- C. Early retirement benefit. The early retirement benefit shall be provided to a member who has attained his 50th birthday and who has completed 20 or more years of service and who terminates employment prior to the completion of superannuation retirement age and service requirements and who files a written application for an early retirement benefit with the Chief Administrative Officer of the plan. The early retirement benefit shall commence on the first day of the month and shall become effective as of the date the application is filed or the date designated on the application, whichever is later, and shall be the actuarial equivalent of a partial superannuation retirement benefit calculated as follows: [Added 3-26-2002 by Ord. No. 716³]
 - (1) A partial superannuation retirement benefit shall be determined by applying the percentage that the member's years of service bear to the years of service that the member would have rendered had the member continued to be employed until his superannuation retirement date to the gross pension amount calculated using the average applicable compensation during the appropriate period prior to his termination of employment.
 - (2) The actuarial equivalent of the partial superannuation retirement benefit shall be determined by actuarially reducing the partial superannuation retirement benefit to reflect that it will commence on the effective date of the early retirement rather than on the date on which the member would have completed superannuation age and service requirements. The actuarial reduction shall be calculated using the actuarial assumptions reported in the last actuarial valuation report filed with the Public Employee Retirement Commission under the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."⁴

3. Editor's Note: This ordinance provided for an effective date of 1-1-2002 for all those who retire or whose service is terminated after 12-31-2001.

4. Editor's Note: 53 P.S. § 895.101 et seq.

§ 50-9. Death benefits. [Amended 3-26-2002 by Ord. No. 716⁵; 7-22-2003 by Ord. No. 724⁶]

- A. Preretirement death benefit. If a member dies prior to becoming eligible for pension benefits, then his/her designated beneficiary shall be entitled to a refund of his/her accumulated member's contributions with credited interest at the rate of 5%. If no beneficiary survives, then the refund is payable to the member's estate.
- B. Pension benefit to surviving spouse and dependent children. If a member dies survived by a spouse or dependent children, after having become eligible to receive a pension benefit, i.e., he/she was eligible because he/she was already receiving a pension or he/she met the age and service requirements, but he/she had not yet retired, then a monthly pension benefit shall be provided.
 - (1) The amount of the monthly pension benefit shall be equal to 50% of the normal retirement benefit the member was receiving or would have been entitled to receive if he/she had been retired when he/she died.
 - (2) The monthly pension benefit is payable to the surviving spouse until he/she dies. If there is no benefit payable to a surviving spouse, then the benefit is payable to the guardian of surviving dependent children until the last dependent child dies or reaches his/her 18th birthday or, if attending college, under or attaining the age of 23 years. The phrase "attending college" shall mean the eligible child is registered at an accredited institution of higher learning and is carrying a minimum course load of seven credit hours per semester. Dependent children shall include stepchildren, adopted children and any child conceived at the time of the member's death and thereafter born to the member's spouse.
- C. If such member has no surviving spouse or dependent children, the member's beneficiary or estate, if no beneficiary survives, shall be entitled to a refund of his/her accumulated member's contributions with credited interest reduced by the amount of pension benefit received by the member pursuant to § 50-8.⁷

§ 50-10. Disability benefits. [Amended 7-22-2003 by Ord. No. 724⁸]

In the case of payment of pensions for permanent injuries in service, the amount and commencement of the payments shall be fixed by regulations of the Borough, and shall be calculated at a rate no less than 50% of the member's salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat.620, 42 U.S.C. § 301 et seq.) shall have his disability benefits offset or reduced by the amount of such benefits. The 50% disability benefit shall commence as of the first day of the month after any short-term disability benefits have ceased. The Council reserves

5. Editor's Note: This ordinance provided for an effective date of 1-1-2002 for all those who retire or whose service is terminated after 12-31-2001.

6. Editor's Note: This ordinance provided for an effective date of 4-17-2002 for all those who retire or whose service is terminated after 4-16-2002.

7. Editor's Note: Former Subsection D, regarding pensions for families of members killed in service, which immediately followed this section, was repealed 2-9-2010 by Ord. No. 774.

8. Editor's Note: This ordinance provided for an effective date of 4-17-2002 for all those who retire or whose service is terminated after 4-16-2002.

the right to require disabled members to present evidence of total disability and of the continuance of such condition from time to time and further reserves the right to require members to submit to medical examinations by practitioner(s) selected by the Council as a precondition to the continued payment of benefits. If the disabled member dies before he receives total disability benefits from the fund in an amount equal to his total contributions, plus credited interest, the unpaid balance shall be paid in a lump sum to his designated beneficiary. Disability benefits as outlined above will be paid on a monthly basis and continue until the member recovers, dies or reaches his normal retirement date. Upon attaining his normal retirement date, the disabled member shall become a retired member and shall be eligible for a pension benefit. The amount of the pension benefit shall be equal to the pension amount being received prior to the normal retirement date, plus any length-of-service increment, payable by reason of the fact that service is credited up until the normal retirement date. This pension benefit shall commence on the first day of the month after the member's normal retirement date and shall be payable up to and including the first day of the month in which the member dies.

§ 50-11. Vesting and severance of employment.

- A. If a member leaves the employ of the municipality or ceases to be a member whether by reason of his transfer, resignation or discharge or by reason of disability or retirement other than after becoming eligible for benefits pursuant to § 50-8, 50-9 or 50-10 of this plan, he shall be entitled to a refund of all contributions made by him and then on deposit in the trust fund, plus interest thereon, computed at the rate described in § 50-7A. However, a member who has completed 12 or more years of service may elect either (1) or (2) as described below:
- (1) He may elect to leave his contributions, plus interest, in the trust fund so as to receive a vested pension benefit to start at his normal retirement date. He must file with the Chief Administrative Officer, within 90 days of the date he ceases to be a full-time police officer, a written notice of his intention to vest. The amount of the vested pension benefit shall be $(x) \div (y)$ where (x) is the number of years of service at date of termination and (y) is the number of years of service which the member would have had if he worked until the normal retirement date, multiplied by the benefits as described in § 50-8A. Years of service shall be measured in years and completed months.
 - (2) He may elect to receive a refund of all contributions made by him and then on deposit in the trust fund, plus interest thereon, computed at the rate described in § 50-7A. If he elects to receive the refund of his contributions, plus interest, he would forfeit the pension benefit as outlined in Subsection A(1) above.

§ 50-12. Method of distribution of benefits.

- A. Refund benefits becoming distributable pursuant to § 50-11A and death benefits becoming distributable pursuant to the provisions of § 50-9A or 50-9B shall be paid in the form of a lump-sum distribution.
- B. The normal form of all benefits payable hereunder shall be a pension for the life of the member commencing on the date specified and ending with a payment made on the first

day of the month in which the member dies subject, however, to the payment of a death benefit calculated pursuant to § 50-9.

§ 50-13. Management of fund.

- A. It is the duty of the trustee to pay the benefits to members and their beneficiaries, as provided in §§ 50-8 through 50-11, in accordance with the instructions received from the Council; provided, however, that the duty of the trustee to make such payments is wholly contingent upon the sufficiency of the fund for such purposes. Neither the trustee nor the municipality in any way guarantees the sufficiency of the fund to make such payments nor assumes any liability for the insufficiency thereof.
- B. The Council may employ an actuary, investment advisors, counsel or other professional consultants from time to time in connection with the operation of the fund or of this plan. Such persons or entities shall be compensated from the fund at such rates as may be agreed upon by the Council.
 - (1) The Council may, by an instrument in writing, appoint one or more persons as an investment manager and may delegate to an investment manager from time to time the power to manage and control the investment of any plan asset. Each person appointed shall be:
 - (a) An investment advisor registered under the Investment Advisors Act of 1940;
 - (b) A bank as defined in that Act; or
 - (c) An insurance company qualified to manage, acquire or dispose of any asset of the plan under the laws of more than one state.
 - (2) Each investment manager shall acknowledge, in writing, that it is a fiduciary with respect to the plan. The Council shall enter into an agreement with each investment manager specifying the duties and compensation of such investment manager and other terms and conditions under which such investment manager shall be retained. The Council shall not be liable for any act or omission of any investment manager and shall not be liable for following the advice of any investment manager with respect to any duties delegated to the investment manager.
 - (3) The Council shall have the power to determine the amount of fund assets to be invested pursuant to the direction of a designated investment manager and to set investment objectives and guidelines for the investment manager.
- C. The trustee shall make an annual determination of the fair market value of the fund as of the anniversary date and as of such additional dates as the Council may direct. The fair market value of the fund shall be reported to the actuary who shall calculate the amount to be contributed to the fund by the municipality with respect to each plan year in accordance with the assumptions most recently adopted by the Council for the purpose of such computations; provided, however, that the liability of the municipality to make such contributions is subject to all of the conditions and limitations set forth elsewhere in this plan.

§ 50-14. Administration of the plan.

- A. The plan shall be administered by the Council (see definition, § 50-5). The Council shall designate the Chief Administrative Officer and shall administer this plan through a three-person Police Pension Committee, herein referred to as "the Committee." The Council shall make and adopt rules and regulations for the efficient administration of the plan receiving recommendations from the Committee.
- B. The Chief Administrative Officer (see definition, § 50-5) shall keep all data, records and documents pertaining to the administration of the plan and shall execute all documents necessary to carry out the provisions of the plan and shall provide all such data, records and documents to the trustee, the actuary and other professionals whose services are employed pursuant to § 50-13B of this plan.
- C. The Council shall construe the plan, shall determine any questions of fact arising under the plan and shall make all decisions required of it under the plan and its construction thereof, and such decisions taken thereon in good faith shall be final and conclusive. It may correct any defect or supply any omission or reconcile any inconsistency in such manner and to such extent as it shall deem expedient to carry the plan into effect, and it shall be the sole judge of such expediency. The Council shall act uniformly with respect to matters coming before it concerning employees in similar circumstances.
- D. The Council shall serve without bond except as may be otherwise required by law and without compensation for its services as such.
- E. The members of the Council, and each of them, shall be free of all liability for any act or omission except by willful misconduct or gross negligence, and each of them shall be fully indemnified by the municipality against all judgments not involving findings of their respective personal or collective willful misconduct or gross negligence and against all costs, including counsel fees, incurred in defense of actions brought against them.
- F. The Council shall make available to members, retired members and terminated members and to their beneficiaries, for examination during business hours, such records as pertain to the person examining.
- G. The Committee (see definition, § 50-5) shall serve in an advisory capacity to the Council and, as such, has no decision-making authority. The Committee has no authority to enter into contracts, employ consultants or certify documents, reports or studies pertaining to the plan or its members.
- H. The Committee will meet at least semiannually to review the plan administration, fund management, plan provisions and other matters which from time to time may affect the plan. The Committee will present its findings and/or recommendations to the Council.
- I. To enable the Council to perform its function, the municipality shall supply full and timely information to it on all matters relating to the pay of all members, their retirement, death, termination of employment and such other pertinent facts as the Council may require, and the Council shall advise the trustee of such of the foregoing facts as may be pertinent to the trustee's administration of the fund and shall give proper instructions to the trustee for the carrying out of the purposes of this plan.

- J. The Council shall enact such rules and regulations for the conduct of its business and for the administration of the plan as it may consider desirable, provided that the same shall not be in conflict with any of the provisions of the plan. All actions of the Council shall be taken at meetings at which at least four members shall be present. Written resolutions concurred in by not less than four of its members shall be the action of the entire Council.

§ 50-14.1. Contribution to fund; liability.

- A. It is the expectation of the municipality that it will continue this Pension Plan indefinitely and will from time to time contribute to the fund such amounts as may be required by Act 205⁹ to provide the benefits set forth in the plan, but continuance of the plan is not assumed as an obligation of the municipality and the right is reserved by the municipality at any time to reduce, suspend or discontinue its contributions in accordance with the distress provisions of Act 205 of 1984, as amended.
- B. The municipality does not guarantee the payment of the benefits herein provided for members of the plan. The municipality shall have no liability with respect to the administration of the fund held by the trustees, and payments made under the provisions of any ordinance establishing, amending or maintaining the plan shall not be a charge on any other fund in the treasury of the municipality or under its control, save the Police Pension Fund herein provided for.
- C. Nothing contained in the plan shall be held or construed as a contract or guaranty of employment nor to create any liability upon the municipality to retain any person in its service. The municipality reserves the full right to discontinue the service of any person without any liability except for salary or wages that may be due and unpaid, whenever in its judgment its best interests so require, and such discontinuance shall be without regard to this plan.

§ 50-14.2. Termination or amendment of plan.

- A. The municipality may amend, curtail or terminate this plan at any time; provided, however, that no amendment affecting the trustee shall be made without the consent of the Council (other than an amendment having the effect of terminating the plan); nor shall any amendment be made which will in any manner divert any part of the fund to any purpose other than the exclusive benefit of members or their beneficiaries (except that upon termination such diversion may be made after all of the fixed and contingent liabilities to members and their beneficiaries have been met); nor shall any amendment be made at any time which will in any manner divest any benefit then vested in a member.
- B. In the event of termination of this plan, the trustee, upon a written report from the actuary and upon written instructions from the Council, shall allocate the assets then remaining in the fund, to the extent that such assets are sufficient, to members and retired members in the following order of precedence:
- (1) To members and retired members in an amount equal to their respective contributions with interest, reduced in cases of retired members by any prior distribution made.

9. Editor's Note: See 53 P.S. § 895.101 et seq.

- (2) To provide benefits due retired members in the proportion that the pension earned by each member bears to the total pension earned for all such members.
 - (3) The remaining assets, if any, to each of the remaining members in the proportion that his pension credits earned to date of termination bears to the total pension credits so earned for all such remaining members.
- C. After allocation of the fund, the Council shall determine the following:
- (1) When to distribute the assets.
 - (2) Whether or not to purchase guaranteed annuities from an insurance company.
 - (3) Whether or not to operate the fund as a wasting trust for the benefit of the members and their beneficiaries.
 - (4) Any other matter as required by the facts and circumstances at the time.

§ 50-14.3. Construal of provisions.

- A. No benefit under this plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge or encumbrance nor to seizure, attachment or other legal process for the debts of any member or member's beneficiary. This provision shall not apply to a "qualified domestic relations order," as defined in the Internal Revenue Code of 1986, as amended, Section 414(p), and those other domestic relations orders permitted to be so treated by the Council under the provisions of the Retirement Equity Act of 1984. The Council shall establish a written procedure to determine the qualified status of domestic relations orders to administer distributions under such qualified orders. Further, to the extent provided under a qualified domestic relations order, a former spouse of a participant shall be treated as the spouse or surviving spouse for all purposes under this plan. The Council shall rely on the Borough Solicitor for advice relating to the above matters.
- B. Any person dealing with the trustee may rely upon a copy of this plan and any amendments thereto certified to be true and correct by the trustee.
- C. Anything heretofore contained in this plan to the contrary notwithstanding, it is the intention of the municipality that any action herein provided to be taken by the trustee shall be taken only in accordance with written instructions of the Council given in such detail as to preclude the exercise by the trustee of discretion in performance thereof.
- D. In no circumstances, whether upon amendment or termination of this plan or otherwise, shall any part of the fund be used or diverted to any purpose other than the exclusive benefit of members or their beneficiaries until all of the actuarial obligations to such member or member's beneficiaries have been met.
- E. If the Council deems any person incapable of receiving benefits to which he is entitled by reason of minority, illness, infirmity or other incapacity, it may direct the trustee to make payment directly for the benefit of such person or to any person selected by the Council to disburse it, whose receipt shall be complete acquittance therefor. Such payment shall, to the extent therefor, discharge all liability of the municipality, the trustee or the fund.

- F. Should any provision of this plan be determined to be void by any court, the plan will continue to operate and, to the extent necessary, will be deemed not to include the provision determined to be void.
- G. Headings and captions provided herein are for convenience only and shall not be deemed part of the plan.
- H. This plan shall be construed and applied under the laws of the Commonwealth of Pennsylvania where not in conflict with federal laws which shall prevail.
- I. All ordinances or resolutions or portions thereof inconsistent herewith are repealed.

ARTICLE III

Municipal Pension Plan

[Former Art. III, Nonuniformed Employee Pensions, adopted 5-26-1992 by Ord. No. 647, was repealed 2-28-2012 by Ord. No. 788. The current Municipal Pension Plan is available for review at the Borough offices.]