

ORDINANCE NO. 14680

FILE OF CITY COUNCIL

BILL NO. 129 - 2008

DECEMBER 17, 2008

---

AN ORDINANCE

Amending Article 143, Police Pension Fund, by providing for the outcome of the Act 111 award on the compensation for overtime, providing for a One-time Deferred Retirement Option Plan, and deleting provisions not in compliance with the award.

SECTION ONE: That Article 143, Police Pension Fund, be amended to read as follows:

**ARTICLE 143  
POLICE PENSION FUND**

143.01	Association Established
143.02	Association Membership; Appointment and Term
143.03	Association Officers
143.04	Fund Corpus Turn Over to Corporate Trustee
143.05	Expenses
143.06	No Compensation
143.07	Fund Established
143.08	Fund; Sources of Income
143.09	Annual Actuarial Study
143.10	Association Powers and Meetings
143.11	Annual Financial Statement
143.12	Resolution and Orders by Vote
143.13	Payment Certificates
143.14	Ineligibility for Nonpayment
143.14.5	Salary for Pension Purposes
143.15	Retirement Period and Age
143.16	Amount of Pension
143.17	Retirement Prior to January 1, 1990
143.18	Service Increment Computation
143.18.2	Cost of Living Adjustment
143.186	Credit for CETA Service
143.1865	Credit for Police Cadet and/or Para Police Service
143.187	Vesting
143.18.8	Early Retirement Option
143.19	Years of Employment as Basis for Service Increment
143.20	Benefits for Surviving Spouse or Dependent Children
143.21	Credit for Military Service
143.22	Retirement for Disability

143.23	Reinstatement After Disability
143.24	Pensions for Disability Retirement
143.25	Pension for Disability Retirement for Over Twenty Years Service; Minimum Amount
143.26	Basis of Pension Amount; Increase
143.27	Suspension; Leave of Absence
143.28	Acceptance of Provisions of Article
143.29	Signatures Required
143.30	Notice of Enactment; Acceptance Period
143.31	Termination of Employment; Reinstatement
143.32	Payment of Contribution of Deceased Member
143.33	Payment of Contribution of Deceased Pensioner
143.34	Investment Account; Deposit with Corporate Trustee
143.35	Authority to Invest
143.36	Interest; Sale of Securities
143.37	Control Limits of Corporate Trustee
143.38	All Charges Borne by the Fund
143.39	Benefits Exempt from Garnishment, Nontransferable
143.40	Repealer
143.41	Service Increment Effective Date
143.42	Method of Payment
143.43	Minimum Pension

#### **143.01 ASSOCIATION ESTABLISHED**

There is hereby created the Allentown Police Pension Fund Association, which shall have charge of the distribution of pensions and service increments to, and payments to widows or widowers and children of, members of the Police Pension Fund, and shall designate the beneficiaries thereof as herein directed. (12300 §1 4/5/78)

#### **143.02 ASSOCIATION MEMBERSHIP; APPOINTMENT AND TERM**

The Police Pension Fund Association shall consist of the Mayor, Director of Finance and City Controller whose memberships shall be concurrent with their tenure of office; four (4) residents of the City, two (2) to be chosen by the Mayor, concurrent with the Mayor's tenure of office, one by Council concurrent with a Council's two year tenure, one (1) of whom shall be chosen by the City police, who shall serve for a period of three (3) years, or until their successors are named; and four (4) persons to be selected from among the policemen of the City, who shall be residents of the City, two (2) of whom shall be selected in each year to serve for the period of two (2) years, such selectees to be chosen by the officers and employees of the Police Bureau who have accepted the provisions of this Article as hereinafter provided. In the event that the office of any of the selectees becomes vacant by reason or death, resignation or otherwise, his office shall be filled for its unexpired term by the officers and the employees of the Police Bureau by special election. (11919 §1 4/26/72; 14377 §1 3/8/06)

#### **143.03 ASSOCIATION OFFICERS**

The Mayor shall be the President, the City Controller the Secretary, and the Manager of Treasury and Accounting, the Treasurer of the Police Pension Fund Association. (12835 §1 3/16/88)

#### **143.04 FUND CORPUS TURN OVER TO CORPORATE TRUSTEE**

When a corporate trustee shall be appointed as hereinafter provided in Section 143.34, the Treasurer is authorized to turn over all cash and investments making up the corpus of the Pension Fund to the corporate trustee. (11932 §1 4/26/72)

### **143.05 EXPENSES**

All incidental expenditures (stationery, postage, miscellaneous supplies, etc.) necessary to the transaction of the business of the Association shall be provided for from the Pension Fund. (11857 §1.04 1/5/71)

### **143.06 NO COMPENSATION**

The members of the Police Pension Fund Association shall receive no compensation for the services thus performed. (11857 §1.05 1/5/71)

### **143.07 FUND ESTABLISHED**

There shall be created by the Association a fund, to be known as the Police Pension Fund. (11857 §2.00 1/5/71)

### **143.08 FUND: SOURCES OF INCOME**

#### **A. Bequests, Gifts or Donations**

There shall be paid into the Police Pension Fund all bequests, legacies, gifts or donations made thereto, all sums subscribed by the public, lost, abandoned, unclaimed or stolen money or property in the possession of the Police Bureau for a period of three (3) years, and for which there is no lawful claimant, as well as all net incomes resulting from all games, sports, entertainments, or any and all other source of income conducted by or under the supervision of the Bureau of Police.

The Police Pension Fund Association may take and receive gifts, grants, devices or bequests of any monies real estate, personal property or other valuable things from whatever source, for the purposes of the Fund.

#### **B. Rewards**

There shall also be turned over and paid into the Police Pension Fund, one-half (½) of all rewards that may be paid or given for or on account of extraordinary service by the Bureau of Police or by any policeman who has accepted the provisions of this Article.

#### **C. Contributions By Employees**

1. Retirement: There shall also be paid into the Police Pension Fund the amount of four (4%) percent, to be retained or deducted by the Manager of Treasury and Accounting, from the salary of each officer or employee of the Bureau of Police, who shall have accepted the provisions of this Article, until such time that such officer or employee shall be retired under the provisions of this Article. (12835 §1 3/16/88)

Any officer or employee hired on or after the day the Pennsylvania Municipal Retirement Board approves the City of Allentown's application for withdrawal of membership in the Pennsylvania Municipal Retirement shall pay into the Police Pension Fund the amount of seven (7%) percent, to be retained or deducted by the Manager of Treasury and Accounting, from the salary of each officer or employee of the Bureau of Police, who shall have accepted the provisions of this Article, until such time that such officer or employee shall be retired under the provisions of this Article. (12840 §1 4/29/88)

2. Effective January 1, 1990, every covered employee hired before May 14, 1988, shall pay into the Police Pension Fund the amount of five (5%) percent of base pay, longevity, holiday pay, and shift differential. Every covered employee hired after May 13, 1988, shall continue to pay into the Police Pension Fund the amount of seven (7%) percent of base pay, longevity, holiday pay, and shift differential. (12931 §1 11/14/89)

3. Service Increment: There shall also be paid into the Fund the amount of one-half of one (½) percent, but not to exceed the sum of One (\$1.00) Dollar per month, to be retained or deducted by the Manager of Treasury and Accounting from the salary of each officer or employee in the Bureau of Police, who shall have accepted the provisions of this Article, until such officer or employee retired under the provisions of this Article or becomes sixty-five (65) years of age, whichever occurs first. (11857 §1 1/5/71)

4. Disability: There shall also be paid into the Fund an additional amount of one (1%) percent, to be retained or deducted by the Manager of Treasury and Accounting from the salary of each officer or employee in the Bureau of Police until such time as that officer retired under the provisions of this Article. This one (1%) percent shall be used to fund the following benefits: Any police officer who has less than ten (10) years of service and who is totally disabled due to injuries or mental incapacities not in the line of duty and is unable to perform the duties of a police officer, shall be entitled to a pension of twenty-five (25%) percent of his or her annual compensation. For injuries received after ten (10) years of service, the compensation shall be fifty (50%) percent of his or her annual compensation. If such retirement occurs on or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of retirement. The disability pension set forth above shall be payable to the police officer's widow or widower if she or he survives. If this surviving spouse subsequently dies or remarries, the pension shall be payable to the police officer's child or children under the age of eighteen (18) years. (13312 §1 12/22/94)

5. Effective January 1, 1995, every covered employee regardless of date of hire shall pay into the Police Pension Fund the amount of eight (8%) percent of base pay, longevity, holiday pay and shift differential. One (1%) percent of the eight (8%) percent shall be applied to disability. (13312 §1 12/22/94)

Administrative procedures to establish eligibility under this Section and for purposes of reinstatement after a determination of incapacity are as set forth in Section 143.29 et seq. (12300 §2 4/5/78; 12835 §1 and §2 3/16/88; 12840 §1 4/20/88; 12931 §1 11/14/89)

6. Effective January 1, 1997, every covered employee regardless of date of hire shall pay into the Police Pension Fund the amount of eight (8%) percent of base pay, longevity, holiday pay, shift differential, and overtime, but not including any monies received for off-duty employment pursuant to Section 136, of the Codified Ordinances. One (1%) percent of the eight (8%) percent shall be applied to disability. (13584 §1 6/19/97)

7. Effective January 1, 2005, every Covered Employee regardless of date of hire shall pay into the Police Pension Fund the amount of five (5%) percent of base pay, longevity, holiday pay, overtime and shift differential. (14300 §1 7/21/05)

#### D. Council Appropriations

There shall be appropriated by the City annually to the Police Pension Fund Association for the purpose of the Fund such amount as Council may consider proper or expedient within the limitation fixed by law. (11857 §2.01, §2.07 1/5/71)

#### E. No Benefit Increases/Actuarial Study Required

Notwithstanding any other provisions of this Article there shall be no future increases in any benefits of any officers or employees in such Pension Fund, except as already provided, until an actuarial study is made to determine the increased burden of such increased benefits on the Pension Fund and

Council shall be obligated to provide for such funds as are necessary to equal such increased burden on the Pension Fund. (12248 §1 4/20/77)

#### **143.09 ANNUAL ACTUARIAL STUDY**

Commencing in 2009, an actuarial study shall be done every year and made public no later than ninety (90) days prior to the ensuing fiscal year. The cost of the annual actuarial study shall be paid by the Police Pension Fund Association. (12748 §2 12/17/86; 14571 §2 3/6/08)

#### **143.10 ASSOCIATION POWERS AND MEETINGS**

The Police Pension Fund Association herein provided for shall keep full and accurate accounts of all transactions, shall have full power to make rules for such transactions, and shall have full power to make rules for the transaction of its business, the application and investment of its funds by the corporate trustee, and its time and place of meeting. It shall meet at least four (4) times in each year (special meetings upon the call of the President of the Association.) (11932 §2 4/26/72)

#### **143.11 ANNUAL FINANCIAL STATEMENT**

It shall be the duty of the Police Pension Fund Association, each year at the time of making up the general appropriation ordinances, with the assistance of the corporate trustee, to prepare a full and detailed statement of the assets of the Fund and the amount which it is required to pay and to present the same to Council together with a statement of the amount of money required to enable the Association to pay the pensions and service increments in full, together with refunds. (11932 §3 4/26/72)

#### **143.12 RESOLUTION AND ORDERS BY VOTE**

No resolution shall be passed or order made for payment of money unless by affirmative vote of a majority of the members of the Police Pension Fund Association. Upon all questions of fact relating to the Administration of the Fund, such resolution or order shall be conclusive. (11857 §3.02 1/5/71)

#### **143.13 PAYMENT CERTIFICATES**

The Police Pension Fund Association shall issue certificates signed by its President and Secretary to the officer or employee entitled to retirement and pension and also service increment under the provisions of this Article, for the amount of money ordered paid to such officer or employee out of the Police Pension Fund, which certificate shall state for what purpose payment is made. (11857 §3.03 1/5/71)

#### **143.14 INELIGIBILITY FOR NONPAYMENT**

No officer or employee shall be entitled to a pension and/or a service increment and/or a refund who does not make the payments herein required. (11857 §3.04 1/5/71)

#### **143.14.5 SALARY FOR PENSION PURPOSES**

Effective January 1, 1997, wherever, "salary" is used in this Ordinance to define benefits, it shall include base pay, longevity, holiday pay, shift differential, and overtime, but not including any monies received for off-duty employment pursuant to Section 135.03, of the Codified Ordinances, of the City of Allentown. For pension calculation purposes, overtime shall be the individual officer's average overtime compensation during the last three (3) years of employment prior to the effective date of retirement. Effective January 1, 2005, the basis of the amount of the pension shall be determined by the rate of the monthly pay of the employee at the time of retirement, or the highest average annual salary which the Covered Employee received during any five (5) years of service preceding retirement, whichever is higher. During the final thirty (30) days of employment, a retiring employee shall not artificially contrive or manipulate his regular or overtime hours so as to increase the rate of pension to which he would otherwise be entitled. When the Covered Employee submits his/her letter of retirement to the City, the City shall provide the employee with an itemized list of salary for each and all years of service. Salary will include base pay, longevity, holiday pay, shift differential and overtime, but not to include any monies received for

off duty employment pursuant to Section 136.03 of the Codified Ordinances of the City of Allentown. The definition of "the rate of the monthly payment" contained in this provision shall be a period of thirty (30) calendar days counting backwards from the day of retirement. All monies earned within that thirty (30) day period shall be counted for the purposes of calculation of pension, including compensatory time earned within the last thirty (30) days of employment. (13584 §3 6/19/97; 14300 §1 7/21/05)

Effective January 1, 2009, for purposes of calculating the pensions of officers retiring after December 31, 2008, the maximum amount of overtime compensation to be included in such calculation for any retiree opting for a pension based on his/her final 30 days compensation (which shall be based upon the period of thirty (30) calendar days counting backwards from the day of retirement) shall be no greater than ten (10%) percent of the officer's base compensation for that 30 day period. By way of example, if an officer's base compensation for that 30 day period is \$4000, the maximum allowable overtime credit would be \$400. (14680 §1 1/22/09)

#### **143.15 RETIREMENT PERIOD AND AGE**

(11919 §2 1/4/72; 12931 §2 11/14/89; 13846 §1 6/22/00)

Effective August 23, 1999, every covered employee may make application to retire after twenty (20) years of continuous service and shall be eligible to collect a pension. (13846 §1 6/22/00)

#### **143.16 AMOUNT OF PENSION**

(13312 §1 12/22/94; 13846 §2 6/22/00)

(11857 §4 1/5/71; 12931 §3 11/14/89; 13312 §1 12/22/94; 13846 §2 6/22/00)

Effective August 23, 1999, every covered employee who has served for a period of at least twenty (20) years of continuous service, regardless of age, shall be permitted to retire and receive a pension at the rate of fifty and one half (50.5%) percent of his/her salary on the date of retirement. (13846 §2 6/22/00)

#### **143.17 RETIREMENT PRIOR TO JANUARY 1, 1990**

Every covered employee who retired before January 1, 1990, shall make pension contributions until he/she has reached the age of fifty (50). Such pension contributions shall be determined by the annual salary the covered employee would have received if he/she had continued in City service at the same rank which he/she held at the time he/she left City employment. After such pension contributions have been made, he/she shall be entitled to collect a pension at age fifty (50) at a rate of one-half (½) of the annual salary he/she would have received if he/she had continued in City service at the same rank which he/she held at the time he/she left City employment. In addition, service increments shall be paid to entitled employees at the rate of one-fortieth (1/40) of their pension allowance for each whole year of service beyond twenty (20) but prior to reaching the age of sixty-five (65). Such service increments shall not exceed \$100 per month. This section shall be retroactive to include all police personnel who retired prior to the enactment of this Ordinance. (12929 §1 10/18/89)

#### **143.18 SERVICE INCREMENT COMPUTATION**

Every covered employee with at least twenty-one (21) years of continuous active service shall receive service increments for each full year of service beginning with the twenty-first (21st) up to and including the twenty-fifth (25th) year of continuous service at the rate of an additional two and one-quarter percent (2-1/4%) (.0225) per year of the annual salary. The maximum number of service increments shall be five (5). However, every covered employee retiring with at least twenty-two but fewer than twenty-three (23) years of continuous service shall receive credit for two and one-half (2-1/2) service increments. (11857 §4 1/5/71; 12931 §4 11/14/89)

Every covered employee who retires on or after January 1, 1995, with at least twenty-one (21) years of continuous active service shall receive service increments for each full year of service beginning with the twenty-first (21st) up to and including the twenty-fifth (25th) year of continuous service at the rate of

an additional three (3%) percent per year of the annual salary for the first service increment year and at the rate of three and one-half (3.5%) percent per year of the annual salary for each of the four (4) subsequent service increments. The maximum number of service increments shall be five (5). However, every covered employee retiring with at least twenty-two (22) but fewer than twenty-three (23) years of continuous service shall receive credit for two and one-half (2-1/2) service increments. (13312 §1 12/22/94)

Every covered employee who retires on or after January 1, 1996, with at least twenty-one (21) years of continuous active service shall receive increments for each full year of service beginning with the twenty-first (21st) up to and including the twenty-fifth year (25th) year of continuous service at the rate of an additional three and one-half (3.5%) percent of the annual salary for the first service increment year and at the rate of four (4%) percent per year of the annual salary for each of the four (4) subsequent service increments. The maximum number of service increments shall be five (5). However, every covered employee retiring with at least twenty-two (22) but fewer than twenty-three (23) years of continuous service shall receive credit for two and one-half (2-1/2) service increments. (13584 §4 6/19/97)

B. Effective January 1, 2005, the total of pension and service increments shall represent the following percentages of salary:

21 years of service	58%
22 years of service	61%
23 years of service	64%
24 years of service	67%
25 years of service	70%

(14300 §1 7/21/05)

C. Effective January 1, 2009, officers hired thereafter shall be entitled to a pension calculated in conformity with the provisions of the Pennsylvania Third Class City Code. Specifically, new officers hired after January 1, 2009 shall be eligible only for service increments calculated in accordance with the formula provided under Section 4303(b)(1) of the Third Class City Code, 53 P.S. §39303(b)(1): (14680 §1 1/22/09)

#### **143.18.2 COST OF LIVING ADJUSTMENT**

Effective January 1, 2005, any Covered Employee retiring after January 1, 2005, shall receive an annual Cost of Living Adjustment. Such increases shall be in conformity with a uniform scale, which may be based on the cost-of-living, but that the total of any such allowances received by said Covered Employee, shall not, at any time, exceed one half of the current salary being paid patrolmen/women of the highest bargaining unit pay grade. The cost of living adjustment shall conform to the Federal Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). (14300 §1 7/21/05)

#### **143.186 CREDIT FOR CETA SERVICE**

Every current member of the Police or Paid Firemen's Pension Fund who served as a City of Allentown CETA police officer or firefighter between 1977 and 1980 and who was not a member of the Police Pension Fund during such service shall be entitled to have full credit for each year or fraction thereof of such Allentown CETA service upon payment to the Police Pension Fund of an amount equal to that which he/she would have paid if he/she had been a member of the Police Pension Fund during the period of Allentown CETA service. All purchased Allentown CETA service shall be credited as "active service" for pension purposes. (13267 §1 6/20/94)

#### **143.1865 CREDIT FOR POLICE CADET AND/OR PARA POLICE SERVICE**

Every current member of the Police Pension Fund who served as a City of Allentown Police "Cadet" or "Para Police" Officer prior to their appointment as a police officer shall be entitled to have full credit for each year or fraction thereof, not to exceed four (4) years of such service, upon payment to the

Police Pension Fund of an amount equal to that which they would have paid had they been a member of the Police Pension Fund during the period of Allentown "Cadet" or "Para Police" service. All purchased Allentown "Cadet" or "Para Police" service shall be credited as "active service" for pension purposes. (13358 §1 10/18/95)

#### **143.187 VESTING**

A. Effective January 1, 1996, every covered employee shall be vested in their pro-rated pension after twelve (12) years of continuous service.

Where an employee shall have served twelve (12) years or more and shall not have attained the age of fifty (50) years, and their tenure of employment shall be terminated, with or without their voluntary action, upon attaining the age of fifty (50) years, the employee shall be entitled to receive such portion of their full pension compensation, based on their wages when termination occurred, as the period of their full years of service, up to date of termination, bears to the full twenty (20) year period of service. (13584 §2 6/19/97)

B. Effective January 1, 1999, every covered employee shall be vested in their pro-rated pension after twelve (12) years of credited service. Where an employee shall have served twelve (12) years or more and their tenure of employment shall be terminated with or without their voluntary action, the employee shall be entitled to receive upon the date when they would have achieved twenty (20) years of service, such portion of their full pension compensation, based on their wages when termination occurred, as the period of their full years of service, up to the date of termination, bears to the full twenty (20) year period of service. Pension benefits shall be payable when the terminated and vested employee shall have reached the date when he/she would have achieved twenty (20) years of service. (13846 §3 6/22/00)

#### **143.18.18 EARLY RETIREMENT OPTION**

~~Effective January 1, 2005, every Covered Employee having contributed sixteen (16) years into the Allentown Police Pension Fund shall have the option for early retirement as set forth as follows: The Covered Employee shall be entitled to have full credit for each year, or fraction thereof, not to exceed four (4) years of such service upon his/her payment into the Police Pension Fund of an amount equal to that which he/she would have paid in had he/she been a member during the period he or she desires credit. The amount paid into the Police Pension Fund shall be five (5%) percent of base pay, longevity, holiday pay, shift differential and overtime as set forth in Section 143.08, above. (14300 §1 7/21/05)~~

Effective January 1, 2009, Article 143 subsection 143.18.18 Early Retirement Option shall be eliminated. (14680 §1 1/22/09)

#### **143.189 ONE-TIME DEFERRED RETIREMENT OPTION PLAN**

The City shall provide on a one-time basis a self-directed Deferred Retirement Option Plan ("DROP"), with no guaranteed rate of return on DROP accounts, for officers who are eligible to retire on or before December 31, 2008. The award of the one-time DROP is contingent upon the receipt of an actuarial cost estimate showing the impact of the DROP on the future financial requirements of the pension plan, , and the future minimum obligation of the City with respect to the pension plan, and a statement that provision of the DROP shall not affect the actuarial soundness of the pension plan. (14680 §1 1/22/09)

Any current officer who was eligible to retire on or before December 31, 2008 may elect to retire under the provisions of the one time Deferred Retirement Option Plan ("DROP") as set forth herein. The election to participate in the DROP must be made no later than January 5, 2009. (14680 §1 1/22/09)

An officer electing to enter the DROP shall have his or her pension benefit calculated using the service and salary as if the officer had elected to retire at a date on or after November 20, 2008, but no later than December 31, 2008. (14680 §1 1/22/09)

Upon entering the DROP the officer shall continue employment for a period of no more than five years from the date of retirement as elected herein, after which time the separation of employment shall be mandatory. Once entered into the DROP the officer will not receive any service credit or service increments for the time he/she remains employed. Likewise, there will be no employee contribution into the Fund for the time he/she remains employed. Electing to enter the DROP is irrevocable. (14680 §1 1/22/09)

There is no guarantee of interest or earnings on monies placed into any financial investment vehicle on behalf of and as directed by the officer. There shall be no interest charged to the Fund on any monies paid into a financial investment under the DROP. (14680 §1 1/22/09)

### **143.19 YEARS OF EMPLOYMENT AS BASIS FOR SERVICE INCREMENT**

Officers or employees who are contributors to the Police Pension Fund who on or before January 1, 1952 reached the age of sixty-five (65) years shall have their service increment computed on the years of employment prior to the date of reaching their sixty-fifth (65th) birthday. (11857 §4.03 1/5/71)

### **143.20 BENEFITS FOR SURVIVING SPOUSE OR DEPENDENT CHILDREN**

#### **A. Death in the Line of Duty**

If any police officer while in the actual performance of his or her duty is killed or so injured that he or she dies from the effects thereof, his or her surviving spouse shall be entitled to receive a pension equivalent to one-half (½) the salary received by the officer at the time of death, and any service increment the officer may have been entitled to at the time of death. If such death occurs on or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of death. (12580 §1 12/7/83; 13312 §1 12/22/94)

Effective January 1, 2009 such pension shall be equivalent 62.5% of the officer's salary at the time of death or fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of death, whichever is higher. (14680 §1 1/22/09)

In case there is no surviving spouse, or after the death of the surviving spouse, or in case of her or his remarriage, the pension and service increment shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of eighteen (18) years, after which all pension and service increment rights shall cease, with the exception that after the last child has reached the age of eighteen (18) years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life. (12580 §1 12/7/83)

No surviving spouse who has for one (1) year or upwards previous to the death of the police officer, wilfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provision of this Article. (12580 §1 12/7/83)

#### **B. Death of Pensioner**

The surviving spouse of a retired police officer, including current retired police officers retired prior to 1969, shall be entitled to receive the same pension as was paid to the retired police officer. In case

there is no surviving spouse, or after the death of the surviving spouse or in the case of her or his remarriage, the pension shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of eighteen (18) years, after which all pension and service increment rights of the guardian shall cease, with the exception that after the last child has reached the age of eighteen (18) years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life. (12580 §1 12/7/83; 13570 §1 4/17/97)

No surviving spouse, who has, for one (1) year or upwards previous to the death of the police officer, wilfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provisions of this Article. (12580 §1 12/7/83)

#### C. Death After Ten Years on Police Force

If a member of the police force served more than ten (10) years, his or her surviving spouse shall be entitled to receive a pension equivalent to one-half (½) of the salary received by the officer at the time of death, and any service increment the officer may have been entitled to at the time of death. In case there is no surviving spouse, or after the death of the surviving spouse, or in the case of her or his remarriage, the pension and service increment shall be paid to the guardian of the deceased officer's dependent children, if any, without abatement until the youngest child reaches the age of eighteen (18) years, after which all pension and service increment rights of the guardian shall cease, with the exception that after the last child has reached the age of eighteen (18) years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life. (12580 §1 12/7/83)

If such death occurs on or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of death. (13312 §1 12/22/94)

No surviving spouse who has, for one (1) year or upwards previous to the death of the police officer, wilfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provisions of this Article. (12580 §1 12/7/83)

#### D. Death Before Ten Years on Police Force

The surviving spouse of a member of the police force which member had ten (10) or less years of service in the Police Bureau shall be entitled to receive a pension equivalent to one-half (½) the pension which the deceased police officer would have received had he or she been retired at the time of his or her death. In case there is no surviving spouse, or in the case of her or his remarriage, the pension shall be paid to the guardian of the deceased police officer's dependent children, if any, without abatement until the youngest child reaches the age of eighteen (18) years, after which all pension rights shall cease, with the exception that after the last child has reached the age of eighteen (18) years, then the surviving spouse who has since remarried, at this time will once again have his or her pension rights as a surviving spouse reinstated for the remainder of his or her life. (12580 §1 12/7/83)

No surviving spouse who has for one (1) year or upwards previous to the death of the police officer, wilfully or maliciously deserted the police officer shall have the right to claim any pension or service increment under the provisions of this Article. (12580 §1 12/7/83)

#### E. Application

The benefits for the surviving spouse or dependent children set forth in Subsections (a), (c) and (d) hereof, shall apply to the surviving spouses of City police officers who died after December 16, 1969. The benefits for the surviving spouse or dependent children of a retired police officer which are set forth in Subsection (b) hereof shall apply to police officers who retired after December 16, 1969. Effective June 1, 1998, surviving spouses of police officers who retired prior to December 16, 1969 shall prospectively receive a pension equivalent to the pension the deceased officer received. (12580 §1 12/7/83; 13662 §1 4/23/98)

F. On or after January 1, 1984, all current active employees in the fund, all current retirees in the fund, and all surviving spouses of deceased retirees in the fund who have not remarried since their spouse's death, shall be covered by this amendment that permits the surviving spouse of fund retirees to remarry without the loss of his or her survivor's pension benefits, except as limited in Sections (a), (b), (c), and (d) above. (12580 §1 12/7/83)

#### **143.21 CREDIT FOR MILITARY SERVICE**

Every covered employee who served in the Armed Forces of the United States subsequent to September 1, 1940, and who was not a member of the covered Police Department prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five (5) years of such service, upon his/her payment to the Police Pension Fund of an amount equal to that which he/she would have paid had he/she been a member during the period for which he/she desires credit, and his/her payment to such fund of an additional amount as the equivalent of the contributions of the CITY OF ALLENTOWN on account of such military service. All purchased military time shall be credited as "active service" for pension purchases. Any retired member who retired prior to June 13, 1973 and would otherwise qualify for this credit may purchase such credits to be applied prospectively from the effective date of this ordinance (passed on March 5, 1998, becoming effective April 5, 1998) and according to the Police Pension Fund benefit plan, in effect, at the date such member retired. (12016 §1 6/13/73; 12931 §5 11/14/89; 13651 §1 3/5/98)

#### **143.22 RETIREMENT FOR DISABILITY**

The Police Pension Fund Association shall have the right, on application received, to retire on pension any officer or employee accepting the provisions of this Ordinance, who has served continuously for a period of five (5) years and over, if in its opinion and in the opinion of two (2) reputable physicians who have been selected by the Association, who shall make a physical examination and file their opinion in writing with the Association (whose fees shall be paid by the officer or employee asking to be retired) that such officer is physically or mentally incapacitated, through injury received or disease contracted in the actual performance of duty and by reason of the performance of such duty and without fault of misconduct on their part, from performing his duty in the Bureau of Police. However, the Association shall have the authority to order another examination at the expiration of six (6) months from the date of retirement, and if the disability of the pensioner is found to have been removed, the Association shall terminate the pension and they shall be reinstated as an active member of the Bureau. (12388 §1 11/7/79)

#### **143.23 REINSTATEMENT AFTER DISABILITY**

Any officer or employee who is retired under the provisions of Section 143.19 on account of physical or mental incapacity may (upon his application) be reinstated by the Association as an active member of the Police Bureau with the same rank and rating which they had upon retirement, if upon satisfactory proof presented to the Association, it shall determine that such incapacity has been removed and the applicant is physically and mentally fit for duty in such position and rank, provided, however, that the applicant shall, if reinstated, file with the Association a release, duly executed and acknowledged, of any right or claim to the pension during the period which they shall serve after such retirement. (11857 §5.01 1/5/71)

#### **143.24 PENSION FOR DISABILITY RETIREMENT**

A. Every employee or officer of the Bureau of Police retired under the provisions of Section 143.19 who has less than ten (10) years service shall be entitled to a pension of twenty-five (25%) percent of his annual compensation.

B. Every officer or employee of the Bureau of Police retired under the provisions of Section 143.19 and who has been in continuous service for ten (10) years or more, shall be entitled to a pension of fifty (50%) percent of his salary at the time of his retirement. If such retirement occurs on or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time of retirement. (11963 §1, §2 10/18/72; 13312 §1 12/22/94)

#### **143.25 PENSION FOR DISABILITY RETIREMENT FOR OVER TWENTY YEARS SERVICES; MINIMUM AMOUNT**

Every officer or employee of the Bureau of Police retired under the provisions of Section 143.19 and who has been in continuous service for over twenty (20) years shall receive a pension equal to fifty (50%) percent of his salary at the time of his retirement and any service increment he may be entitled to under the provisions of this Article. However, from and after January 1, 1969, the minimum annual pension which shall be paid to officers and employees receiving pensions on that date and to those thereafter becoming eligible therefore, shall be Three Thousand (\$3,000) Dollars.

If such disability pension begins on or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time the pension begins. (13312 §1 12/22/94)

#### **143.26 BASIS OF PENSION AMOUNT; INCREASE**

The basis of the pension of a member shall be determined by the monthly salary of the member at the date of retirement or the highest average annual salary which he received during any five (5) years or service preceding retirement, whichever is the higher, whether for disability or by reason of age or service and, except as to service increments provided for in this Article, shall be one-half (1/2) the annual salary of such member at the time of retirement computed as such monthly or average annual rate, whichever is the higher. After January 4, 1971, the provisions of Sections 143.15, 143.21 and 143.22 shall be administered in accordance with this Section. On or after January 1, 1995, such pension shall be equivalent to fifty and one-half (50-1/2%) percent of such salary and any service increment in effect on that date which the officer may have been entitled to at the time the pension begins. (11857 §5.05(a) 1/5/71; 13312 §1 12/22/94)

#### **143.27 SUSPENSION; LEAVE OF ABSENCE**

Suspension from duty, other than as herein described or leave of absence under one (1) year shall not affect the period of continuous service in any event. (11857 §5.06 1/5/71)

#### **143.28 ACCEPTANCE OF PROVISIONS OF ARTICLE**

The provisions of this Article shall apply to all regular salaried officers and employees of the Bureau of Police excepting the janitor or similar employee, who shall have accepted the provisions of this Article, but it shall be optional with each office and employee as to whether or not he or she accepts the provisions of this Article, his or her acceptance to be signified by his or her signing the Police Pension Fund Roll, which shall be kept by the Secretary of the Association and which Police Pension Fund Roll shall show conclusively the date upon which such member accepted the provisions of this Article, as well as the date upon which he or she was appointed a regular salaried officer or employee of the Bureau and that he or she has been in continuous service to the date of his or her acceptance. (11857 §6 1/5/71)

### **143.29 SIGNATURES REQUIRED**

It shall be the duty of the Secretary to obtain the signature of those who may elect the provisions of this Article. (11857 §6.01 1/5/71)

### **143.30 NOTICE OF ENACTMENT; ACCEPTANCE PERIOD**

It shall be the duty of the Chief of Police to give prompt notice of the passage of this Article to all new regular salaried officers or employees, who shall be allowed sixty (60) days from the time of their appointment to accept the provisions of this Article or upon consent obtained from the Association within one (1) year from such appointment. (11857 §6.02 1/5/71)

### **143.31 TERMINATION OF EMPLOYMENT; REINSTATEMENT**

If for any cause whatsoever, any officer or employee of the Bureau of Police who has accepted the provisions of this Article by the signing of the Pension Roll, shall cease to be an officer or employee of the Bureau or for any other reason shall not be entitled to a pension and/or a service increment under the provisions of this Article, the total amount of the contribution paid into the Pension Fund by such officer or employee out of his salary shall be refunded to him, without interest. If any such member shall have returned to them the amount contributed, and shall afterward again become a member of the Police force, they shall not be entitled to the pension designated until twenty (20) years after their re-employment, unless they shall return to the Pension Fund the amount withdrawn, in which event the period of twenty (20) years shall be computed from the time the member first became a member of the Police force, excluding there from any period of time during which the member was not employed by the Police force. (11857 §7 1/5/71)

### **143.32 PAYMENT OF CONTRIBUTION OF DECEASED MEMBER**

In the event of the death of a member of the Police Pension Fund before the member becomes entitled to the pension and/or service increment herein provided, and such member is not survived by a spouse or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the pension fund by the member shall be paid over to the police officer's estate. (12300 §4 4/5/78)

### **143.33 PAYMENT OF CONTRIBUTION OF DECEASED PENSIONER**

In the event of the death of a pensioner, before they shall have received as much as they contributed to the Police Pension Fund, the balance thereof remaining, without interest, shall be paid to their estate. (11857 §7.02 1/5/71)

### **143.34 INVESTMENT ACCOUNT; DEPOSIT WITH CORPORATE TRUSTEE**

The Police Pension Fund Association is directed to create a Police Pension Fund Investment Account.

Such Account shall be deposited with a corporate trustee who shall be selected or changed by action of the Association with notice to its members and with the advice and consent of Council. (11932 §4 4/26/72)

### **143.35 AUTHORITY TO INVEST**

The corporate trustee is hereby authorized to invest for the credit of the Police Pension Investment Account the surplus money accumulated in the Pension Fund in excess of such sum as may be fixed by the Association together with such amounts as may be required for the payment of pensions and service increments as directed by this Article during the year. (11932 §5 4/26/72)

### **143.36 INTEREST; SALE OF SECURITIES**

The interest received from investments shall be paid into the Pension Fund upon receipt of same and if at any time sufficient funds are not available (inclusive of the monies appropriated by the City up to

the amount it may be permitted to pay under the law) for the payment of all pensions and service increments in full, then corporate trustee may dispose of and sell such securities as it may hold in its Investment Account and use the proceeds thereof to supply the deficiency. (11932 §6 4/26/72)

#### **143.37 CONTROL LIMITS OF CORPORATE TRUSTEE**

The corporate trustee, shall be bound by this Article, the order of the Association and the trust agreement governing the management of the fund. (11932 §7 4/26/72)

#### **143.38 ALL CHARGES BORNE BY THE FUND**

All charges that may be assessed for all normal operations of this Pension Fund shall be borne by this Fund. (12793 §1 9/2/87)

#### **143.39 BENEFITS EXEMPT FROM GARNISHMENT, NONTRANSFERABLE**

All pensions and service increments granted under the provisions of this Article and every portion thereof shall be exempt from attachment or garnishment processes and shall not be seized, taken or subject to detainer or be levied upon by virtue of an execution of any processes or proceedings whatsoever, issued out of or by any Court in the Commonwealth for the payment and satisfaction in whole or in part of any claim, damage, demand or judgment against any pensioner, and no pensioner shall have the right to transfer or assign his or her pension or any part thereof either by way of mortgage or otherwise. (11857 §9 1/5/71)

#### **143.40 REPEALER**

Ordinance No. 1890 of the City, enacted March 9, 1926, as amended, and all other Ordinances or parts thereof inconsistent herewith be and the same are hereby repealed, except that the foregoing repeal shall not affect any act done, any liability, duty or obligation incurred, or any right accrued or any tenure acquired by virtue of the provisions of Ordinance No. 1890, as amended, for which purpose the Ordinance shall remain in full force and effect. (11857 §10 1/5/71)

#### **143.41 SERVICE INCREMENT EFFECTIVE DATE**

The provisions of this Article pertaining to service increments, as provided for by Act No. 596, of the 1951 Pennsylvania Legislature, shall become effective as of January 1, 1952. (11857 §10.01 1/5/71)

#### **143.42 METHOD OF PAYMENT**

The pensioners shall have the right to choose whether they want payment by check, mailed to them, or direct deposit. (13424 §1 10/16/96)

#### **143.43 MINIMUM PENSION**

Effective on and prospectively from January 1, 2000, every retired officer and employee of the Department of Police, or surviving spouse of a retired officer or employee of the Department of Police, currently receiving a pension inclusive of any Ad Hoc Adjustment payable pursuant to the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act (53 P.S. 896.101, *et seq.*) totaling less than Ten Thousand Four Hundred (\$10,400) Dollars shall receive a minimum pension, inclusive of such Ad Hoc Adjustment of Ten Thousand Four Hundred (\$10,400) Dollars. (13821 §1 3/15/2000)

**Section 2:** This Ordinance shall be available for public inspection in the Office of the City Clerk during regular business hours.

**Section 3:** Severability. If any sentence, clause, section or part of this Ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance.

**Section 4:** This Ordinance shall become effective 10 days after adoption pursuant to Section 115.19 of the Administrative Code of the City of Allentown.

**Section 5:** All Ordinances, or parts of Ordinances, inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistency.

**Amendment to Add in Section 143.189 "and the future minimum obligation of the City with respect to the Pension Plan"**

	Yea	Nay
Michael Donovan	X	
Jeanette Eichenwald	X	
Julio A. Guridy	X	
David M. Howells, Sr.	X	
Tony Phillips	X	
Peter G. Schweyer	X	
Michael D'Amore, President	X	
TOTAL	7	0

	Yea	Nay
Michael Donovan	X	
Jeanette Eichenwald	X	
Julio A. Guridy	X	
David M. Howells, Sr.	X	
Tony Phillips	X	
Peter G. Schweyer	X	
Michael D'Amore, President	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council and signed by His Honor the Mayor on the 22<sup>nd</sup> day of January, 2009.

---

CITY CLERK