

ORDINANCE NO. 343 OF 2019

**AN ORDINANCE AMENDING THE PENSION PLAN
FOR THE POLICE OFFICERS OF THE TOWNSHIP OF EAST LAMPETER
PROVIDING FOR A DEFERRED RETIREMENT OPTION PLAN**

BACKGROUND:

WHEREAS, the Township of East Lampeter ("Employer" or "Township"), has previously established the East Lampeter Township Police Pension Plan ("Plan"); and

WHEREAS, as the result of collective bargaining negotiations in accordance with Act 111, the Township and the East Lampeter Township Police Officers Association (the "Association") have come to terms on a collective bargaining agreement, which provides for the establishment of a Deferred Retirement Option Plan ("DROP"), with a maximum three year participation period; and

WHEREAS, the purpose and intent of this DROP is to enable the East Lampeter Township Police Department to retain experienced police officers who will serve while participating in the DROP as described below and to enable the Township to properly and efficiently plan for the recruitment and training of new police officers; and

WHEREAS, having obtained the agreement of the Association to the terms of this Ordinance, the Board of Supervisors approves the amendment of the Plan and hereby adopts the following DROP provisions which are incorporated into and made a part of the Plan which will be effective as of January 1, 2020 as agreed upon by the parties.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, as follows:

Section 1. Amendment. The East Lampeter Township Police Pension Plan is amended to add the following provisions:

DROP Provisions

1. Definitions.

For the purposes of this DROP, the following words and phrases shall have the following meaning:

ASSOCIATION - The East Lampeter Township Police Officers Association, the duly recognized collective bargaining representative of all eligible police officers in the police bargaining unit and employed by the East Lampeter Township Police Department.

BENEFICIARY OR BENEFICIARIES - The individual or individuals identified by a Drop Participant to receive the balance of such DROP Participant's DROP account in the event of the death of the DROP Participant during the DROP Participation Period.

DROP - Deferred Retirement Option Plan.

DROP ACCOUNTS - A separate subsidiary DROP participant account established for each DROP participant. While a retired member is employed as a DROP participant, the member's monthly, normal retirement benefit and any interest thereon shall be credited to the DROP participant's DROP account.

DROP NOTICE - The form prescribed by the Township and acceptable to the Association upon which a Member or Officer informs the Township of his or her irrevocable intent to retire and to commence participation in the DROP Program pursuant to the terms of this Ordinance/Agreement. Once submitted to and approved by the Township, the DROP Notice is irrevocable. The DROP Notice shall contain the officer's retirement date, after which the officer shall commence his or her DROP Participation, and his or her resignation date, which is the date he or she shall leave the employ of the Township and cease to be a DROP Participant.

DROP PARTICIPATION PERIOD - The period from the time of the commencement of the Officer's (i.e. Participant's) participation in the DROP as stated in the Officer's DROP Notice which has been approved by the Employer (i.e. the Commencement Date) until the Officer's separation from employment as a police officer of Employer (i.e. the Resignation Date), which in no event shall exceed (36) months.

DROP PERIOD - The period of time during which an Officer can participate in a DROP, which in no event shall exceed (36) months.

DROP PROGRAM - The program implemented by the Township and the Association pursuant to which members of the Township's Police Department may retire, but continue to provide police service for the Township as described herein while the officer's monthly pension benefit is deposited into the officer's DROP Account as defined herein. The DROP Program is an integral component of the Plan.

MEMBER OR OFFICER - A duly sworn full-time police officer employed by the Township who was employed as a police officer for Township on or after January 1, 2020 and who is an active participant of the Plan or a DROP Participant.

DROP PARTICIPANT or PARTICIPANT – An Officer who has properly submitted a DROP Notice to participate in the DROP, which has been approved by the Township, and who has commenced his or her DROP Participation Period.

FORMER DROP PARTICIPANT – A DROP Participant who is no longer a DROP Participant and who is currently receiving his or her monthly pension following his or her Resignation Date.

PLAN or PENSION PLAN – The East Lampeter Township Police Pension Plan.

PLAN ADMINISTRATOR – The individual(s) charged with supervising the administration of the Plan.

RESIGNATION DATE - The date specified in the Participant's irrevocable DROP Notice, approved by the Township, on which the Participant shall resign from employment with the Department, which shall be no more than (36) months from the commencement of the Officer's DROP Participation Period.

TOWNSHIP – The Township of East Lampeter, including its elected and appointed officials. The Township is also referred to as “Employer”.

2. Eligibility.

Any MEMBER who has reached his or her normal (age/service) retirement date is eligible to elect to become a DROP Participant. Only officers employed as full-time sworn police officers with the Township on or after January 1, 2020 shall be eligible to participate in the DROP.

- a. In addition, in order to be eligible to participate in the DROP, an Officer must complete an irrevocable DROP Notice prior to entering the DROP that informs the Township of the Officer's desire to participate in the DROP, details the DROP Participant's rights and obligations under the DROP and complies with the requirements of 53 P.S. § 895.1113. The DROP Notice must include and satisfy the following requirements:
 - i. Identify the DROP Participant's date of retirement from the Township and on which the officer shall cease to be a member of the police pension plan. The officer's participation in the DROP shall commence the day after the officer's retirement date.

- ii. Include the DROP Participant's agreement to forego any active membership in the retirement system, any growth in salary base used for calculating the regular retirement benefit and any additional benefit accrual for pension and retirement purposes, including length of service increments.
- iii. The Drop Notice must be signed by the Officer and notarized and submitted to the Township at least 45 days prior to the date on which the Officer wishes his/her DROP Participation Period to commence (or a shorter period of time if approved by the Township in its sole discretion) which shall be specified on the DROP Notice.
- iv. The DROP Notice shall include a notice to the Township by the Member that the Member shall resign from employment with the Township Police Department effective on a specific date (the "Resignation Date") which shall be no more than thirty six (36) months from the commencement of the Officer's DROP Participation Period. Once approved by the Township, an Officer's Resignation Date shall be irrevocable. An Officer shall cease to work as a police officer on the Officer's Resignation Date, unless the Township terminates the Officer for cause or for other lawful reason under applicable law or if the Officer resigns, prior to the Resignation Date or becomes permanently disabled during the DROP Period.
- v. That the DROP Participant acknowledges that he or she is responsible for obtaining his or her own tax planning advice, financial planning advice and advice regarding any other issue relating the decision to enter the DROP or the receipt or use of any DROP proceeds (hereinafter "DROP Planning Advice"). The DROP Participant further acknowledges that he or she has not relied upon any financial or tax advice from the Township, the Association or any of its officers or attorneys or the Township or any of its elected or appointed officials, attorneys or employees.

- b. Finality of Election and Approval by the Township. All retirement documents required by the Police Pension Plan Administrator must be filed and presented to the Township for approval of retirement, participation in the DROP and payment of pension benefits. The Township shall complete its review prior to the date specified as the start of the Participation Period. The Township shall approve the DROP Notice if the member is eligible and has submitted the necessary documents. Once the Township approves a DROP Notice, it is irrevocable. The DROP Participant shall be ineligible to re-enroll in the DROP after his or her Resignation Date under any circumstances.

3. Pension Contributions.

After an Officer's DROP Participation Period commences, during his/her DROP Participation Period, the Officer shall not be required to make any pension contributions to the Plan that are paid by other Plan Members who are not DROP Participants.

4. Other Benefits.

After an Officer elects to participate in the DROP Program, all other aspects of employment shall remain as other full-time members of the bargaining unit who are not members of the DROP.

DROP Participants shall be considered to be employees of the Township and subject to the same rules of conduct and terms and conditions of employment contained in all Township policies, directives, Police Department General Orders and Orders and collective bargaining agreement between the Township and the Association, including but not limited to any obligation to make health care contributions if such are required by the CBA for active officers and to satisfy any other obligation or responsibility, including all training and certification requirements, required by the Township or the Commonwealth of Pennsylvania.

5. Disability during DROP Period.

If a DROP Participant becomes permanently disabled during his or her DROP Participation Period, such DROP Participant's employment with the Township shall immediately be severed or separated. If the discharge is due to a work-related disability the pension shall be at the amount of the normal retirement pension calculated when the officer entered the DROP but the pension shall be classified as a disability pension payable at the normal retirement pension amount.

6. Death during DROP Period.

If a DROP Participant dies during the DROP Participation Period, the Participant's participation in the DROP shall cease, the DROP Participant's DROP Notice shall be revoked, the designated Beneficiary shall be entitled to a lump-sum payment of the DROP account balance, and the Participant's survivor shall receive the applicable benefit in the event of the death of an officer.

7. The Monthly Pension Benefit Calculation and Limitation on Pension Accrual.

After the commencement of the DROP Participation Period and the effective date of the DROP Notice, the Officer shall no longer earn or accrue additional years of service for pension calculation purposes under the Plan. No benefit increases that may occur after DROP Participant's Commencement Date, including bargained pension enhancements, mandated pension enhancements through arbitration or other pension enhancements mandated by law, will apply to the DROP Participant and shall not increase the DROP Participant's frozen pension under the Plan, as calculated on the Commencement Date of the DROP Participation Period as stated in the DROP Notice. From the period beginning on the Commencement Date and ending on the Member's Resignation Date, the Participant's monthly pension payment shall not be paid to him or her but shall instead be transferred into the Participant's DROP Account. The average monthly compensation of the Participant for pension calculation purposes shall remain, as it existed on the Commencement Date as stated in the DROP Notice. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Plan. The pension benefit payable to the Member shall increase only as a result of cost of living adjustments, if any, that may be applicable and in effect under the Plan on the retiring officer's last day of employment with the Township prior to entering the DROP and becoming a DROP Participant.

8. Maximum Participation

The maximum period of participation in the DROP program is 36 months. On the Participant's Resignation Date, as stated in the DROP Notice, his or her employment with the Township (and DROP Participation Period) shall terminate automatically.

9. DROP Pension Payments.

Upon the commencement date of the Member's entry into the DROP program, a DROP Participant's Service and average monthly compensation (as each is defined under the Plan) will be determined and his or her pension payment will be on the effective date of such officer's retirement and the commencement of the DROP Participation Period as stated in the DROP Notice. The pension benefit payable to the member shall increase only as a result of any applicable Cost of Living Adjustments in effect on the effective date of the member's participation in the DROP or by applicable cost of living adjustments granted thereafter. The monthly pension payments that would have been made on and after the Commencement Date and prior to the DROP participant's Resignation Date shall be credited to the Participant's DROP Account under the Plan.

10. Accumulation of the DROP Account.

The monthly retirement benefits that would have been payable had the Police Officer elected to cease employment and receive a normal retirement benefit shall, upon the Police Officer commencing participation in DROP, remain in the Plan but shall accumulate to the sole benefit of that Officer until distribution to the Officer or the beneficiary. The DROP Participant's accrued benefit accumulation under the DROP shall be calculated annually and provided to the DROP Participant. The assigned rate of return on the Participant's DROP Account shall be the actual rate earned by pension plan trust fund but such amount shall not be less than 0% nor more than 4.5%.

11. Distribution Options.

Commensurate with DROP Program participation, a Member must make an election on forms designated by the Township of the payout option(s) desired upon termination of the DROP Period. This election may be changed at any time before termination but such elections must be consistent with the options available under applicable law, 53 P.S. § 895.1114 (d).

12. Beneficiary Designation.

Commensurate with DROP Program participation, a Member must make an election, on forms designated by the Township, of the Beneficiary or Beneficiaries they intend to receive the balance of the Member's DROP Account in the event of the Member's death before such balance has been distributed.

13. Amendment.

Any amendments to the DROP Plan shall be consistent with the provisions covering the DROP set forth in any applicable collective bargaining agreement and shall be binding upon all future DROP Participants and upon all DROP participants who have balances in their DROP Accounts. The DROP Plan may only be amended by a written instrument signed by an authorized representative of the Township and the Association and ratified or approved by the appropriate body of each Party, not by any oral agreement or past practice.

14. Interpretation of Provisions.

This document shall be interpreted under the laws of the Commonwealth of Pennsylvania and applicable federal law. An Officer's election to participate in the DROP Program shall in no way be construed as a limitation on the Township's right to suspend or terminate an officer for just cause or to grant the officer an honorable discharge based upon a permanent disability that renders him or her unable to perform his or her police duties. Nothing provided hereunder shall be construed as a change to the parties' practice of calculating pensionable compensation. Except for the ability to establish a DROP Account and participate in the DROP, nothing herein is intended to create new pension benefits of any kind which did not exist as of or prior to January 1, 2020.

Nothing provided hereunder shall guarantee any Officer or Drop Participant a specific term of employment. All DROP Participants shall be subject to the same terms and conditions of employment (except those relating to benefits under the Plan and retiree benefits), rules and regulations and disciplinary procedures as other Officers and Members who are not DROP Participants.

15. Costs of DROP.

The Plan will pay any costs of the Township and the Plan as it relates to the administration of the DROP Program or DROP Accounts.

16. Compliance with a Future Law.

The Township and the Association and all current and future DROP Participants (as a condition of participating in the DROP) recognize that 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 Ordinance shall not be affected thereby. It is expressly declared as the intent of the Township that

the DROP Plan would have been adopted had such unconstitutional or illegal provision or provisions not been included herein. In the event that the DROP Plan, or any part thereof, is declared invalid or illegal by a court of competent jurisdiction, the Police Officers shall have the right to bargain in accordance with Act 111 over the impact of the change in this benefit. To the extent an issue regarding this DROP is not addressed above, this DROP shall be interpreted in compliance with 53 P.S. § 895.111 et seq.

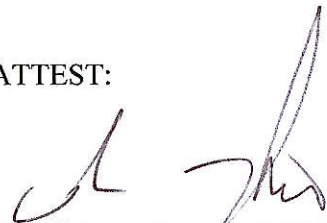
Section 2. Effect of Amendment. Except with respect to the contents of this Ordinance, the Plan, as has been amended from time to time, is hereby ratified and confirmed. It remains intended that the Plan, including the amendment contemplated by this Ordinance, shall continue to meet the requirements for a governmental plan under the Internal Revenue Code of 1986, including any later amendments to the Code. The plan is also intended to meet the requirements of any other laws governing police pension plans of Pennsylvania for boroughs, towns and townships.

Section 3. Severability. The provisions of this ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional such finding shall not affect or impair the remaining sections, sentences or provisions of this ordinance. It is hereby declared to be the intent of the Township that this ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included in the ordinance.

Section 4. Effective Date. The Effective Date for the changes to the Plan described above shall be January 1, 2020.

DULY ORDAINED AND ENACTED this 1st day of September, 2019, by the Board of Supervisors of the Township of East Lampeter, Lancaster County, Pennsylvania, in lawful session duly assembled.

ATTEST:



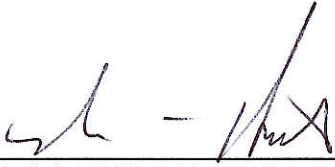
(Assistant) Secretary

BOARD OF SUPERVISORS OF
EAST LAMPETER TOWNSHIP

By: 

(Vice) Chairman

I, Ralph M. Hutchison, Secretary of the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted at a legally constituted meeting of the Board of Supervisors of East Lampeter Township held on 9/16 2019, at which meeting a quorum was present and voted in favor thereof.



Ralph M. Hutchison, Secretary