

## ARTICLE 151

### Firemen's Pension Fund

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### CROSS REFERENCES

Firemen's Pension Fund - See 3rd Class §4320 et seq. (53 P.S. 39320 et seq.)

Fire Department - See ADM. Art. 107.05

Employee compensation and fringe benefits - See ADM. Art. 123

Municipal Pension Plan Funding Standard and Recovery Act - Act 205 (53 P.S. Sec. 895.101)

#### 151.01 ESTABLISHMENT.

There is hereby established a Bethlehem Firemen's Pension Fund under authority of Article XLIII(b) of The Third Class City Code, and any other statutes now or hereafter pertaining or applicable hereto, and any ordinance that may be lawfully enacted for the purposes hereof. (Ord. 1032 §1. Passed 12/28/1948.)

#### 151.02 MAINTENANCE OF FUND.

The Firemen's Pension Fund shall be invested and merged in joint Funds for investment purposes under the provisions of Article 156 of the Codified Ordinances of the City of Bethlehem. The Fund shall charge against each paid member of the Fire Department of the City an amount of seven percent (7%) of the pay of such member, and an additional one percent (1%) to pay benefits to surviving spouses, or if no spouse survives or if he/she survives and subsequently dies, then to the child or children under the age of eighteen years, of members retired on pension or killed or who die in service. Annual appropriations to the Firemen's Pension Fund by the City shall be made in accordance with Act 205 of 1984, Municipal Pension Plan Funding Standard and Recovery Act.

(Ord. 3139 §1. Passed 9/15/1987; Ord. 3689. Passed 6/6/95; Ord. 3764. Passed 9/17/1996; Ord 2017-50. Passed 12/19/2017.)

151.03 APPROPRIATION FROM CITY TAXES.

In the year 1949 and annually thereafter, there shall be appropriated and paid to the Firemen's Pension Fund by the City a sum of money equal to no less than one-half of one percent of all City taxes levied by the City, other than taxes levied to pay interest on or to extinguish the debt of the City, or any part thereof. (Ord. 1907 §2. Passed 4/20/1965.)

151.04 ELECTION OF MEMBERS TO BENEFIT.

The Firemen's Pension Fund shall be for the benefit of all paid firemen employed in the Bureau of Fire, who elect to become members thereof. (Ord. 1032 §5. Passed 12/28/1948.)

151.05 PAYMENTS FROM FUND ONLY; COMPUTATION.

- (a) Payment of pensions shall not be a charge on any fund in the treasury of the City or under its control except the Firemen's Pension Fund herein provided for. For employees hired on or before October 23, 2011 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 years of service preceding retirement, whichever is the higher (hereinafter referred to as "Base Pay"), whether for disability or by reason of age or service; and except as to service increments provided for in subsection (e) hereof, shall be computed based upon the following percentage of such Base Pay:

<u>Years of Service</u>	<u>Pension Percentage</u>
20	60%
21	62%
22	64%
23	66%
24	68%
25	70%

- (b) For the purposes of this section 151.05, "monthly salary" shall be defined to include the following:
  - (1) Base pay; plus
  - (2) Longevity; plus
  - (3) Shift Differential for the last twelve months; plus

- (4) Overtime for the last twelve months; plus
  - (5) Holiday Pay (Current Daily Rate X 12); plus
  - (6) Holidays worked for the last twelve months multiplied by one-half the current daily rate; plus
  - (7) Roster Duty for the last twelve months; plus
  - (8) Sick Bonus for the last twelve months; plus
  - (9) Education Bonus for the last twelve months.
- (c) For all employees hired on or after October 24, 2011 the City shall solely provide the minimum required pension benefit as set forth in the Third Class City Code 53 P.S. §35101 to §39701 including but not limited to §39320, §39320.1, §39321, and §39322. For purposes of calculating pension benefits for employees hired on or after October 24, 2011, salary shall be defined solely as base salary plus longevity. Monthly salary shall be defined as annual base salary plus longevity divided by (12).
- (d) In the case of the payment of pensions to members for permanent injury incurred in service, and to families of members killed or who die in service, the amount and commencement of the payments of pensions shall be fixed as follows. Such payment shall not take into consideration the amount and duration of workmen's compensation allowed by law. Whenever any paid member of the fire department becomes physically or mentally incapacitated from circumstances or causes arising from the actual performance of his duties and without fault or misconduct on his part, the Pension shall be computed pursuant to this Ordinance based upon 20 years of service. However, in cases where the member has completed 21 or more years of benefit service at the time of such physical or mental incapacity, then pension shall be computed based upon the member's actual years of service. In cases of members killed or who die in service, payments to surviving spouses, or if no spouse survives or if he/she survives and subsequently dies, then to the child or children under the age of eighteen years, of members retired on pension or killed in the service on or after January 1, 1969, or who die in the service on or after January 1, 1969, shall be equal to the amount payable to the member or which would have been payable had he/she been retired at the time of his/her death.
- (e) In addition to the pension which is authorized to be paid from the Firemen's Pension Fund by this article and notwithstanding the limitations therein placed upon such pensions and upon contributions, every contributor who becomes entitled to the pension shall also be entitled to the payment of a service increment in accordance

with and subject to the conditions hereinafter set forth.

- (1) The service increment shall be the sum obtained by computing the number of whole years after having serviced twenty years during which a contributor has been employed by the City and paid out of the City treasury and multiplying the number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this article. In computing the service increment, no employment after the contributor has reached the age of sixty-five years shall be included, and no service increment shall be paid in excess of one hundred dollars (\$100.00) per month.
- (2) Each contributor, from and after the effective date of this section (Ordinance 2152, passed June 17, 1969), shall pay into the pension fund a monthly sum not to exceed one dollar (\$1.00), in addition to his/her pension contribution. Such service increment contribution shall not be paid after a contributor had reached the age of sixty-five years.
- (3) Any person who is a member of the Department on the effective date of this section (Ordinance 2152, passed June 17, 1969) who has already reached the age of sixty-five years shall have his/her service increment computed on the years of employment prior to the date of reaching his/her sixty-fifth birthday.
- (4) Service increment contributions shall be paid at the same time and in the same manner as pensions, and may be withdrawn in full, without interest, by persons who leave the employment of such City, subject to the same conditions by which retirements contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.
- (5) All members of the Fire Bureau who are now contributors to the pension fund and all those employed by the Fire Bureau after the effective date of this section (Ordinance 2152, passed June 17, 1969), if required to become contributors to the pension fund, shall be subject to the provisions of this section.
- (f) Non-Work-related disability. Whenever any paid member of the fire department becomes physically or mentally incapacitated from circumstances or causes not arising from the actual performance of his duties and without fault or misconduct on his part, then for members who shall have served at least
  - (1) ten (10) but less than fifteen (15) years of continuous service, the Pension payable to such member shall be equal to thirty percent (30%) of his "annual salary" as defined by this Ordinance; or

(2) fifteen (15) years or more of continuous service, the Pension shall be computed pursuant to this Ordinance based upon 20 years of service.

(Ord. 2152 §2. Passed 6/17/1969; Ord. 2013-26. Passed 10/1/2013; Ord 2017-50. Passed 12/19/2017.)

#### 151.06 RIGHTS OF PAID FIREMEN; EXCEPTIONS.

When any paid fireman shall become entitled to receive pension from the Firemen's Pension Fund and shall have been admitted to participate therein, he/she shall not thereafter be deprived of his/her right to participation therein on the basis upon which he/she first became entitled thereto, save from one or more of the following causes: conviction of a felony or misdemeanor, or failure to comply with some general regulation relating to the management of such Fund, which may be made by the Board of Managers and which may provide that failure to comply therewith shall terminate the right to participate in the Fund. Any termination of a pension shall be only after such due notice and hearing as shall be prescribed by regulation of the Board of Managers. (Ord. 1907 §4. Passed 4/20/1965; Ord. 3764. Passed 9/17/1996.)

#### 151.07 PAYMENT FROM FIREMEN'S PENSION FUND ONLY.

(EDITOR'S NOTE: This section was repealed by Ordinance 1907, passed April 20, 1965.)

#### 151.08 EMPLOYMENT AFTER RETIREMENT; PENSION REGULATIONS.

(EDITOR'S NOTE: This section was repealed by Ordinance 1907, passed April 20, 1965.)

#### 151.09 BOARD OF MANAGERS; COMPOSITION; TERM.

The Firemen's Pension Fund established under the provisions of this article and the Act of Assembly applicable thereto shall be under the direction and control of a Board of Managers consisting of the Mayor, the Business Administrator, the City Treasurer, the City Controller, the Chief of the Fire Bureau ex officio and two members of the Fund to be chosen by the members thereof, one of the first two members so chosen shall be designated to serve for a term of two years and the other shall be designated to serve for a term of four years; biennially thereafter, one member of the Board shall be chosen by the members of the Fund to serve for a four-year term. In case of a vacancy among the managers chosen by the members of the Fund, his/her successor shall be chosen by a majority vote of the members of the Fund and shall serve for the unexpired term of the manager whom he/she succeeds. (Ord. 1907 §7. Passed 4/20/65; Ord. 2989 §1. Passed 4/2/1985; Ord. 3764. Passed 9/17/1996; Ord. 2013-26. Passed 10/1/2013.)

## 151.10 BOARD RULES FOR SERVICE, AGE, DISABILITY.

The Board of Managers shall compile such rules and regulations of the Firemen's Pension Fund deemed necessary for the benefit of such members of the paid Fire Bureau as shall receive honorable discharge therefrom by reason of service, and age or disability, and the families of such as may be killed in the service or retired on pension or who die in service, subject to the provisions of the ordinances of the City and the acts of assembly applicable thereto. Such rules and regulations and all amendments thereto shall be presented to Council for approval. Council may accept or reject such rules and regulations, or if no action is taken within thirty days from the date of presentation, such rules and regulations shall be deemed approved. Such rules and regulations shall then be printed and made available to all interested parties. All pensions as shall be allowed by rules and regulations to those who are retired by reason of disability or of service and age shall conform to a uniform scale. Benefits allowed from the Firemen's Pension Fund to families of members killed in service or retired on pension or who die in service shall take into consideration the member's surviving spouse and his/her minor children under eighteen years of age, if any survive. In case of an application for disability pension benefits, proof of such physical disability or mental incapacity shall consist of the sworn statement of three (3) practicing physicians, selected by the Association, after examination had by them of the paid fireman, that such paid fireman is in a condition of health which permanently disables him from performing the duties of his position. Such member shall thereafter be subject to physical or mental examinations, at any reasonable time or times, upon order of the Association. The fees of the three (3) physicians designated by the Association to examine the paid fireman shall be paid by the Fund. (Ord. 2152 §3. Passed 6/17/1969; Ord. 3764. Passed 9/17/1996; Ord 2017-50. Passed 12/19/2017.)

## 151.11 MINIMUM SERVICE AND RETIREMENT.

Any rule or regulation adopted or enacted for the benefit of the members of the Firemen's Pension Fund shall prescribe a minimum period of continuous service in the paid Fire Bureau of the City not less than twenty years, after which a member of the paid Fire Bureau may be retired from active duty, provided that any such member so retired shall be subject to service from time to time as a fireman's reserve until the age of sixty-five. It shall be compulsory for all members of the paid Fire Bureau of the City who reach age sixty-five to retire or be retired on pension. Every member of this pension fund shall be entitled to credit toward his/her service or increment requirements one day for each day of sick leave accumulated up to the maximum allowed by the employment contract. (Ord. 2189 §1. Passed 4/7/1970; Ord. 3764. Passed 9/17/1996; Ord. 2013-26. Passed 10/1/2013.)

## 151.12 REINSTATEMENT.

If an employee of the Fire Department has ceased for any reason to be a member of the Fire Department and has been repaid his/her contributions to the pension fund, before he/she shall be reinstated as a fireman he/she shall repay the contributions refunded to him/her, and shall receive credit for the prior years of service in the Fire Department. (Ord. 2151 §1. Passed 6/3/1969; Ord. 3764. Passed 9/17/1996.)

## 151.13 PENSION BENEFITS INVIOLATE.

The pension benefit payments allowed to any fireman of the City under this article shall not be subject to attachment, execution, levy, garnishment or other legal process, and shall be payable only to the fireman entitled thereto or the beneficiary designated by him/her or by this article, and shall not be subject to assignment or transfer. (Ord. 2000 §1. Passed 9/20/1966; Ord. 3764. Passed 9/17/1996.)

## 151.14 ADMINISTRATIVE EXPENSES.

Administrative expenses associated with the Pension Fund may be paid from the Fund, providing the following three conditions are satisfied:

- (1) The administrative expense must be directly associated with the Pension Plan.
- (2) The members of the Pension Board must be informed and satisfied that the expenses are necessary, reasonable and have been incurred for the benefit of the Pension Plan.
- (3) The expenses must be detailed and itemized. (Ord. 3139 §2. Passed 9/15/1987.)

## 151.15 PICK-UP PLAN

Effective after December 31, 1992, the City shall pick up the contributions of each affected employee, as hereinafter defined, which are required to be made pursuant to the provisions of Section 151.02 and such contributions shall be treated as employer contributions in determining their tax treatment under the Internal Revenue Code of 1986, as amended (or any successor legislation). Such contributions shall be made by the City for the affected employees in lieu of employee contributions.

(a) The wages of affected employees shall be reduced by the amount of employee contributions to be made by the City pursuant to the provisions of this Section 151.15 and such reduction shall be the source of funds used by the City to make such employee contributions.

(b) Employee contributions made by the City under this Section 151.15 shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of this Ordinance, including, without limitation, the inclusion of such employee contributions as part of compensation for purposes of calculating benefits.

(c) No provision in this Section 151.15 shall be construed so as to permit or extend an option to affected employees to directly receive the contributions made by the City pursuant to this Section 151.15 instead of having them paid to the Firemen's Pension Fund.

(d) For the purposes of this Section 151.15, the term "affected employees" shall mean those officers and employees of the Bureau of Fire whose terms and conditions of employment are governed by the collective bargaining agreement entered into between the City and International Association of Firefighters Local 735. (Ord. 3521. Passed 12/15/1992.)

#### 151.16 DEFERRED RETIREMENT OPTION PLAN (DROP)

- (a) Eligibility: A member may become a participant in the DROP after attainment of age 57 and completion of 20 years of service.
- (b) Election to Participate: Election to participate in the DROP is irrevocable. The member shall make the election by using forms and procedures as prescribed by the Bureau of Human Resources.
- (c) DROP Pension Payments: Upon entry into the DROP, a member's years of service and average applicable salary/compensation shall be frozen and his/her DROP pension payment shall be calculated as if he/she actually retired on the date he/she entered the DROP. The monthly DROP pension payment, plus any applicable COLA, shall be credited to the member's individual DROP account. No assets shall be segregated due to the establishment of individual DROP accounts. There shall be no additional costs to the City of Bethlehem under the DROP plan.
- (d) Individual DROP Account: A member's individual DROP account at any time is equal to the sum of the monthly DROP pension payments credited to the account, accumulated with interest at the rate of 3.0% per annum, compounded monthly.
- (e) Employee Contributions: Upon entry into the DROP, all Employee Contributions shall cease, with no additional costs to the City. In the event there are additional costs or expenses to the City of Bethlehem as a result of the DROP plan, the DROP plan shall be null and void, at the sole option of the City. If the DROP plan becomes null and void any existing employee DROP agreement will be honored until the end of the agreement or until separation of service.
- (f) Maximum Participation: The maximum period of participation in the DROP is thirty-six (36) months. Once the maximum participation has been achieved, the member must terminate employment and separate from service. Upon separation from service, the monthly payments shall be paid directly to the member and not credited to the member's individual DROP account.



- (g) Distribution Options: Commensurate with DROP participation, a member shall make an election, on forms designated by the Bureau of Human Resources, of the payout option(s) he/she wishes at the termination of the DROP period. This election may be changed at any time prior to termination. The distribution options are as follows:
- (1) A full and lump sum distribution;
  - (2) Rollover to another qualified retirement plan (as permitted by law) or to an IRA;
  - (3) Purchase of an annuity; or
  - (4) Any other distribution provided by the Pension Board Trustees/Third Party Administrator.
- (h) Beneficiary Designation: Commensurate with DROP participation, a member shall make an election, on forms designed by the Bureau of Human Resources, of the beneficiary or beneficiaries he/she wishes to receive the monies in his/her individual DROP account in the event of his/her death before all monies have been distributed.
- (i) Disability: A member who becomes permanently disabled during the DROP period and retires from service shall revert to his/her normal retirement pension and to directly receive those pension payments which were being deposited into his/her individual DROP account.
- (j) If the Commonwealth of Pennsylvania passes and implements legislation governing DROP plans in this State, any plan in effect in the City of Bethlehem will be brought into compliance with such legislation when required.

(Ord. 2013-26. Passed 10/1/2013.)