

## ARTICLE 153

### Police Pension Fund

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### CROSS REFERENCES

Police Pension Fund - See 3rd Class §4301 et seq. (53 P.S. §39301et seq.)

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)

#### 153.01 RE-ESTABLISHMENT.

There is hereby re-established the Bethlehem Police Pension Fund under authority of Third Class City Code Sections 4301 et seq. and any other statutes now or hereafter pertaining or applicable hereto, or any ordinance that may be lawfully enacted for the purposes hereof. The Fund shall be maintained by: an equal and proportionate charge against each member of the police force, in the amount of six percent of the pay of such member, except for those employees hired after January 1, 2012. For those employees their deduction shall be four percent (4%) of the pay of such member effective July 1, 2015. An additional amount of one percent of the pay of such member will be charged to provide funds for 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 of the police force or of members retired on pension; annual appropriations by the City to such Fund of a sum equal to not less than one-half of one percent of all City taxes levied by the City

other than taxes levied to pay interest or to extinguish the debt of the City, or any part thereof, and such additional amount as is deemed necessary to provide sufficient funds for payments to surviving spouses of members retired on pension or killed or who die in service; and also from other sources of revenue. (Ord. 2158. §1. Passed 8/5/69; Ord. 3685. Passed 4/18/95; Ord. 3698. Passed 7/18/95; Ord. 4091. Passed 10/16/2001; Ord. 2016-28. Passed 10/18/16.)

#### 153.02 ELECTION OF MEMBERS TO BENEFIT; DIRECTION OF COUNCIL.

The Police Pension Fund shall be for the benefit of all members of the police force who elect to become members thereof and shall, at all times, be under the direction of Council. (Ord. 1033 §2. Passed 12/28/48.)

#### 153.03 POLICE PENSION FUND ASSOCIATION.

(a) Establishment and Composition. There is created a Bethlehem Police Pension Fund Association, to be comprised of the Mayor, the City Controller, the Business Administrator, the City Treasurer and three members of the Police Pension Fund to be selected by a majority vote of the members of the Police Department who are contributors to the Police Pension Fund and whose terms of office shall be two years. (Ord. 1793 §1. Passed 1/24/63; Ord. 2013-27. Passed 10/1/13.)

(b) Officers and Members. The Mayor shall be President of the Association, and the City Treasurer shall be Treasurer. The members of the Association shall not receive any compensation for services performed as members of the Police Pension Fund Association. (Ord. 3391. Passed 2/19/91.)

(c) Minute Book and Records. The Association shall keep minutes, setting forth full and accurate accounts of all of its transactions in a minute book which shall be known as the "Minutes of the Bethlehem Police Pension Fund Association." The books and records of the Association shall be open for inspection by any interested party and its accounts shall be audited by an independent accounting firm. (Ord. 3391. Passed 2/19/91; Ord. 2013-27. Passed 10/1/13.)

(d) Meetings. The Association shall meet at least once a month at 9:30 a.m., Eastern Standard Time or Eastern Daylight Time, according to which standard of time is prevailing, on the first Friday of each and every month, and at such other times as the Association may designate, for the transaction of such business as may properly come before it. All meetings shall be open to the public. (Ord. 2989 §1. Passed 4/2/85.)

(e) Quorum. A majority of the Association shall constitute a quorum and shall have power to transact such business as may properly come before it. In case of a tie vote, the decision of the President shall be final, notwithstanding any previous vote cast by him as a member of the Police Pension Fund Association.

(f) Vacancies. In the event of a vacancy or vacancies in the Association, for any reason whatsoever, for a period in excess of thirty days, Council shall fill such vacancy or vacancies by the appointment of another officer or officers of the City, temporarily or permanently, as it deems best.

(g) Fiduciary Liability Policy. The Association shall maintain a fiduciary liability policy, in a sum not less than two-million dollars, for the faithful performance of duties of the Police Pension Fund Association. The premium on the policy shall be paid out of the Police Pension Fund. (Ord. 2013-27. Passed 10/1/13.)

NOTE: Former Section (g) Expenditures deleted by Ord. 3140 §1. Passed 9/15/87.  
Former Section (g) Treasurer's Bond deleted by Ord. 2013-27. Passed 10/1/13.)

(h) Disbursement of Funds. The Police Pension Fund Association is designated as the official and authorized organization to hold, receive and distribute all sums of money in the Police Pension Fund for the purpose of pensioning such members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in the service. Any allowance made to those who are retired by reason of disability or age shall be in conformity with a uniform scale. For the purpose of this article, unless and until changed by statute or ordinance, a "policeman" means a full-time paid policeman or policewoman. (Ord. 1033 §3. Passed 12/28/48.)

NOTE: Former Section (h) Report to Council deleted by Ord. 2013-27. Passed 10/1/13.)

#### 153.04 APPLICATION TO JOIN FUND; CONTRIBUTIONS; BENEFICIARY NAMED.

Any policeman may elect to join the Fund by notifying the City, in writing, and therein authorizing the City to deduct six percent (6%) of the officer's pay except for those employees hired after January 1, 2012. For those employees their deduction shall be four percent (4%) of the Officer's pay effective July 1, 2015. An additional amount of one percent (1%) of such officer's pay will be deducted to provide funds for payment 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 such officer of the police force or of members retired on pension, as his contribution to the Fund, and in such communication naming a beneficiary or beneficiaries to whom payment shall be made in the event of the officer's death while a member of the Police Department or the Fund, and further stipulating and agreeing that he shall be bound by the provisions of the law pertaining hereto and of this article and by any future statutes and authorized ordinances pertaining hereto. (Ord. 2627 §1. Passed 12/5/78; Ord. 3685. Passed 4/18/95; Ord. 3690. Passed 6/6/95; Ord. 4091. Passed 10/16/2001; Ord. 2016-28. Passed 10/18/16.)

In addition to the pension which is authorized to be paid from the Police 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. (Ord. 2013-27. Passed 10/1/13.)

- (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 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. (Ord. 2013-27. Passed 10/1/13.)

- (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. (Ord. 2013-27. Passed 10/1/13.)

#### 153.05 SOURCE OF MONIES FOR FUND.

All contributions shall be deposited to the credit of the City of Bethlehem's Pension Fund, as set forth in Article 156 of the Codified Ordinances of the City of Bethlehem. The Fund shall be credited to the Police Pension fund in accordance with the apportionment set forth in Article 156. Into the fund shall likewise be deposited and credited any and all appropriations and contributions that may be lawfully made by the City. The association is authorized to accept and likewise deposit and credit any and all contributions, revenues or proceeds from any source, gifts, grants, devises, bequests of money or property, and any sums paid to the City and inuring to the Fund from any official or department of the Commonwealth of Pennsylvania under any present or future law pertinent thereto. Any such sums deposited will be apportioned on the basis set forth in Article 156. (Ord. 3140 §2. Passed 9/15/87.)

#### 153.06 ASSETS TO BE SEPARATE AND PROTECTED; INVESTMENTS; WITHDRAWALS.

The assets of the Police Pension Fund Association shall be deposited into the City of Bethlehem Pension Fund as set forth in Article 156 of the Codified Ordinances of the City of Bethlehem. The apportionment of the Police Pension Fund shall be made in accordance with the provisions of Article 156.05. (Ord. 3140 §3. Passed 9/15/87.)

#### 153.07 MINIMUM SERVICE FOR RETIREMENT; RESERVE SERVICE; RETIREMENT AT 65.

The minimum period of continuous service after which members may be retired from active duty and entitled to a pension hereunder is fixed at twenty years. Policemen so retired shall be subject to service as a police reserve until unfitted therefor by age or disability, when they may be finally discharged. While on duty as a police reserve, they shall be paid as wages, in addition to the regular pension, such sum as Council may determine, which sum, however, with the monthly pension fund or compensation received by him, shall not be less, in any event, than the monthly compensation paid to police officers by the City for similar services. All policemen eligible for full pension hereunder shall retire at the age of sixty-five years. Every member of this pension fund shall

be entitled to credit toward his service or increment requirements one day for each day of sick leave accumulated up to the maximum allowed by the employment contract. (Ord. 2190 §1. Passed 4/7/70; Ord. 2013-27. Passed 10/1/13.)

#### 153.08 ADDITIONAL PROVISIONS.

(a) Should a policeman be discharged or voluntarily withdraw from service, or otherwise cease to be a member of the Fund, except as provided in subsections (b) and (c) hereof, he shall be paid from the Fund the full amount of the deductions from his pay, without interest, or the amount may, in the reasonable discretion of Council, be paid to his spouse, children or other dependents.

(b) Should a policeman, not eligible to pension but in good standing in the Fund, be honorably discharged because of disability, he shall likewise be paid from the Fund the full amount of the deductions from his pay, without interest, and shall, if he shall have been in the service at least one full year, be paid, in addition to any other grants or privileges to which he may be entitled, an amount equal to his last month's salary. (Ord. 1033 §8. Passed 12/28/48; Ord. 2013-27. Passed 10/1/13.)

(c) Should a policeman in good standing in the Fund die, either while in service or while retired from active duty and receiving a pension hereunder, there shall be paid monthly to his surviving spouse, or if no spouse survives, to the policeman's child or children under the age of eighteen years, a sum equal to the pension to which the member would have been entitled had he retired at the time of his death while in service or to the pension the retiree was receiving in the event of death while receiving pension hereunder.

The payments provided in Subsection (b) hereof and this subsection are alternative and not cumulative. (Ord. 2679. Passed 12/4/79; Ord. 3685. Passed 4/18/95.)

#### 153.09 DISABILITY AND COMPENSATION.

Whenever any member of the police force of the City becomes physically or mentally incapacitated, from injuries received or disease contracted in the actual performance of his duties and by reason of the performance of his duties without fault or misconduct on his part, from performing his duties in the Police Department, the Police Pension Fund Association may, in its discretion, retire or honorably discharge such member upon submission to it of substantial proof of such member's physical disability or mental incapacity. Pension shall be computed pursuant to Section 153.12 based upon 20 years of service; provided however, if the police officer has served twenty-one or more years at the time of the injury or at the time the disease is contracted, the pension calculation shall be adjusted according to the sliding scale set forth in Section 153.12(a) below.

Whenever any member of the police force of the City who shall have served at least ten (10) but less than fifteen (15) years of continuous service, becomes physically or mentally incapacitated without fault or misconduct on his part, from performing his duties in the Police Department, the Police Pension Fund Association may, in its discretion, retire or honorably discharge such member

upon submission to it of substantial proof of such member's physical disability or mental incapacity. However, the Pension payable to such member shall be equal to thirty percent (30%) of his "annual salary" (as such term is defined in Section 153.12(b) below).

Whenever any member of the police force of the City who shall have served at least fifteen (15) years of continuous service, becomes physically or mentally incapacitated without fault or misconduct on his part, from performing his duties in the Police Department, the Police Pension Fund Association may, in its discretion, retire or honorably discharge such member upon submission to it of substantial proof of such member's physical disability or mental incapacity. Pension shall be computed pursuant to Section 153.12 based upon 20 years of service; provided however, if the police officer has served twenty-one or more years at the time of the disability, the pension calculation shall be adjusted according to the sliding scale set forth in Section 153.12(a) below.

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 policeman, that such policeman 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 policeman shall be paid by the Fund.

Any policeman, so retired or discharged for such physical disability or mental incapacity by the Association, shall become entitled to receive an allowance from the Fund and shall be admitted to participate therein while so physically disabled and mentally incapacitated, upon the final payment to him of any workmen's compensation benefits payable to him under any agreement of any workmen's compensation insurance company, any order of the Workmen's Compensation Board of Pennsylvania, or under any Workmen's Compensation Law now or hereafter enacted by the Commonwealth of Pennsylvania. (Ord. 2677. Passed 11/14/79; Ord.4273. Passed 8/17/04.)

#### 153.10 REINSTATEMENT UPON REMOVAL OF DISABILITY.

Any policeman who has been placed on the pension list on account of physical disability or mental incapacity may, upon application therefor, be reinstated by Council as an active member of the Police Department, with the same rank and rating which he had at the time he was placed on pension, upon satisfactory proof presented to Council that such physical disability or mental incapacity has been removed and that the applicant is physically and mentally fit to perform his duties in such position and rank. (Ord. 2627 §3. Passed 12/5/78.)

#### 153.11 PROVISIONS FOR CONTRIBUTORS, NONCONTRIBUTORS ON LEAVE.

Upon application, in writing, stating a reason deemed good and sufficient to it, Council may grant any policeman leave of absence, without pay, for a period not exceeding six months, unless such period shall be extended by a four-fifths vote of the entire Council, during which time the policeman shall be considered in relation to the Fund as being in active service, and he shall not lose any rights to pension or benefits hereunder, provided that while on leave of absence he regularly

makes a contribution to the Fund in the amount that would be deducted from his pay if he were on active duty. The provision of this section may likewise apply where any policeman is prevented by injury or illness from performing his regular duties, if he remains a member of the Police Department and of the Fund. Such leave of absence shall not affect any law, ordinance or action of Council providing for sick leave or vacations. (Ord. 1033 §11. Passed 12/28/48.)

#### 153.12 SCALE OF PENSION COMPENSATION.

- (a) For employees hired on or before December 31, 2011 pension compensation shall be determined by the salary of the retired policeman at the time of the honorable discharge, disability or retirement, and shall not, in any case, exceed the following percentages of the annual salary (as defined in section 153.12(b)) of such policeman computed at such monthly rate:

<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 153.12, “annual 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) Average overtime pay for the last 5 years; 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) Average roster pay computed based upon the best five years of roster pay; 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 January 1, 2012 the City shall solely provide the minimum required pension benefit as set forth in the Third Class City Code 53 P.S. §35101 *et seq.* For purposes of calculating pension benefits for employees hired on or after January 1, 2012 salary shall be defined solely as base salary plus longevity. Monthly salary shall be defined as annual base salary plus longevity divided by (12).

(Ord. 2627 §4. Passed 12/5/78; Ord. 4273. Passed 8/17/04 NOTE: This Amendment shall be retroactively applied to January 1, 2003; Ord. 2013-27. Passed 10/1/13.)

#### 153.13 NONELIGIBILITY FOR FUND MEMBERSHIP FOR SUSPENSIONS.

No policeman who, during his term of service, has accepted any graft or bribes or who has been suspended on two occasions for drunkenness or disorderly conduct while on duty or for other serious infraction of the State laws, rules or ordinances of Council, shall be eligible to be a participant in the Fund. However, this section shall not be construed to bar any member of the Police Department from the receipt of his pension unless all charges preferred against him have been properly substantiated as prescribed by law. All deductions from the payroll of any such policemen and paid into the Pension Fund prior to his second suspension shall be returned in full to him, without interest, at the time of his second suspension. (Ord. 1033 §13. Passed 12/28/48.)

#### 153.14 RIGHTS NOT TO BE DEPRIVED.

Whenever any policeman shall become entitled to receive an allowance from the Fund and shall have been admitted to participate therein by act of Council and the Police Pension Fund Association, he shall not thereafter be deprived of his right to an equal and proportionate participation therein, upon the basis upon which he first became entitled thereto. (Ord. 1033 §14. Passed 12/28/48.)

#### 153.15 HEARING FOR GRIEVANCES; COUNCIL TO RULE.

Any policeman aggrieved by any ruling or action of the Police Pension Fund Association regarding the Fund and his relation thereto, shall have the right to a hearing before Council, to be held within ten days of his written request therefor, which he may attend in person and be represented by counsel, and may further require the attendance of any witnesses on his behalf by subpoena to be issued by Council on his written request. Minutes and records shall be kept of testimony and facts produced, and Council may thereupon make such order and ruling in the matter as may seem just and lawful. (Ord 1033 §15. Passed 12/28/48.)

#### 153.16 PENSION BENEFITS INVIOATE.

The pension benefit payments allowed to any policeman 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 policeman entitled thereto or the beneficiary designated by him or by this article, and shall not be subject to assignment or transfer. (Ord. 1033 §16. Passed 12/28/48.)

#### 153.17 AMENDMENT AND REPEAL.

The provisions of this article, insofar as they are the same as the statutory provisions, shall be subject to change or repeal in order to comply with any future statutory provisions. The provisions of this article may be amended or repealed if statutory authority be granted therefor or statutory restrictions or mandates are eliminated and discretion vested in Council. (Ord. 1033 §17. Passed 12/28/48.)

#### 153.18 MEMBERS BOUND BY PRESENT AND FUTURE PROVISIONS.

The policeman applying for membership in the Fund agrees to be bound by the provisions of this article and by future laws or ordinances pertinent to the subject matter of this article. (Ord. 1033 §18. 12/28/48.)

#### 153.19 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. 3140 §4. Passed 9/15/87.)

#### 153.20 PICK-UP PLAN

Effective after February 3, 2000, 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 153.04 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 153.20 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 153.20 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 153.20 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 153.20 instead of having them paid to the Police Pension Fund.

(d) For the purposes of this Section 153.20, the term "affected employees" shall mean those officers and employees of the Department of Police whose terms and conditions of employment are governed by the collective bargaining agreement entered into between the City and Fraternal Order of Police - Star Lodge #20. (Ord. 3944. Passed 3/16/99.)