

Bill No.: 8 of 2022
Date Presented: November 9, 2022
Ordinance No:
Date Enacted:

AN ORDINANCE OF THE CITY OF MONONGAHELA, COUNTY OF WASHINGTON, COMMONWEALTH OF PENNSYLVANIA RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF MUNICIPAL POLICE PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE OF SAID MUNICIPALITY TO ADD A DEFERRED RETIREMENT OPTION PROGRAM ("DROP")

WHEREAS, the City of Monongahela, County of Washington, Commonwealth of Pennsylvania is a Third Class City, organized pursuant to the Pennsylvania Third Class Code, 111 PaC.S. 10001, et seq.: and

WHEREAS, the City Council desires to adopt a Deferred Retirement Option Program (DROP) for the City Police Department.

BE IT ORDAINED AND ENACTED, this ___ day of __, 2022, by the City Council of Monongahela as follows:

Effective June 15, 2022, except where a different date is specifically provided below, the City of Monongahela Pension Plan ("Plan") is amended Sub-Section 525 which shall provide as follows:

**CHAPTER 1 ADMINISTRATION AND GOVERNMENT
PART 5 PENSION AND RETIREMENT FUNDS
SECTION B POLICE PENSION FUND
SUB-SECTION 525 DEFERRED RETIREMENT OPTION PLAN ("DROP")**

525.1 **Definitions.** Unless otherwise specifically set forth in the Sub-Section 525 the defined terms used herein shall have the meaning assigned to them in the remainder of this Plan.

DROP. The Deferred Retirement Option Plan created as an optional form of benefit under the existing City of Monongahela Police Pension Plan.

DROP Account. A separate ledger account created to accumulate the DROP pension benefit for a DROP Participant.

DROP Participant. An employee and Participant in the Plan who attains the later of age 50 and 20 years of service, and who has elected to participate in the DROP program.

525.2. **Eligibility.** Effective January 1, 2023 until February 28, 2023, Participants in the City of Monongahela Police Pension Plan that have not retired prior to the implementation of the DROP Program, may enter into the DROP program following the attainment of the later of age 50 and 20 years of service. There shall be no employee eligible to enter the DROP program after February 28, 2023.

525.3. **Written Election.** An eligible Participant in the Plan electing to participate in the DROP program must complete and execute a “DROP Election Form” prepared by the City of Monongahela and/or the plan administrator, which shall evidence the DROP participant’s participation in the DROP program, the DROP participant’s election to forgo active membership in the plan and document the DROP participant’s rights in obligations under the DROP. The form must be signed by the DROP participant and the chief administrative officer of the plan and submitted to the employer, at least thirty (30) days prior to the date on which the DROP participant elects to enter the DROP (“Election Date”) The DROP election form shall include an irrevocable notice to the employer by the DROP participant that the DROP participant shall terminate from employment with the employer effective on a specific date not more than three (3) years from the effective date of the DROP participants entry into the DROP. In addition, all retirement documents required by the Plan Administrator must be filed and presented to the pension board for approval of retirement and commencement of the monthly pension benefit. Once the retirement application has been approved by the Pension Board, it shall become irrevocable. A DROP participant’s participation shall become effective the day following the DROP participant’s Election Date.

After a DROP participant enters the DROP program, contributions to the plan by the participant will cease, and the amount of the monthly benefits will be frozen except for any applicable cost-of-living adjustment (COLA) increases awarded to all pension recipients.

Participants may consult a tax advisor of their choice prior to considering the DROP program, as there may be serious tax implications and or consequences to participating in the DROP.

525.4. **Limitation on pension Accrual.** After the effective date of the DROP election, the participant shall no longer earn or accrue additional years of service for pension purposes including the calculation of any service increment should such a service increment become available to active Participants in the Plan. The DROP Participant shall also forgo any growth in salary after the Election Date for the purpose of calculating retirement benefits under the plan.

525.5. **Ineligibility for Re-enrollment in DROP.** Once a DROP participant’s DROP participation terminates, he shall be ineligible to re-enroll in the DROP even if the former DROP participant is reemployed by the local government with renewed active membership in the Plan.

525.6. **Benefit calculation.** For all plan purposes, service of a DROP Participant shall remain as it existed on the effective date of commencement of participation in the DROP program. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable to the Plan including any service increments that may be available. The Final Monthly Average Salary of the DROP Participant for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the DROP program. 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 benefits payable to the Participant shall increase only as a result of cost-of-living adjustments (“COLAs”) effective on or after the date of the DROP Participant’s participation in the DROP.

525.7. **Payments to DROP account.** The monthly retirement benefits that would have been payable had the drop participant elected to cease employment and receive a retirement benefit shall, upon the DROP participant commencing participation in the drop program, be credited to the fifteenth (15th) day of each month into a separate ledger account established by the Plan Administrator to track

and accumulate the participant's monthly pension benefits. This account shall be designated the DROP Account. The DROP Account shall not contain a guaranteed interest rate but shall be credited with interest at the actual rate earned by the DROP account but shall not be less than 0% nor greater than 4.5%, and shall be compounded annually based on the 10 year Treasury yield computed as the first day of each year following the initial year of participation in the DROP program.

The DROP shall at all times comply with the annual benefit limitations of Internal Revenue Code 415 and the regulations thereto.

525.8. **Early Termination.** A DROP participant may withdraw from the DROP program at any time and effectuate a complete retirement from service. No penalty shall be imposed for early termination of DROP participation. However, the DROP Participant shall not be permitted to make any withdrawals from the DROP account until DROP participation has ended.

525.9. **Payout.** Upon the termination date set forth in the DROP election form or on such date as the DROP Participant withdraws or is terminated from the DROP program, if earlier, the retirement benefits payable to the Participant shall be paid directly to the Participant and shall no longer be credited to the DROP account. Within a period not to exceed 45 days following the actual termination of a Participants employment with the city of Monongahela, the DROP Participant or the DROP Participants designated beneficiary, where applicable, select one of the following options: (1) The accumulated balance in the DROP Account, less any withholding taxes required to be remitted to the Internal Revenue Service, shall be paid to the DROP Participant or his designated surviving Beneficiary in a single lump sum payment; or (2) The balance of the DROP Participant's DROP Account shall be paid within forty-five (45) days directly to the custodian of an eligible retirement plan as defined in Section 402(C)(8)(B) of the internal revenue code of 1986 ("IRC") or in the case of an eligible rollover distribution to the surviving spouse of a deceased DROP participant, an eligible retirement plan that is an individual retirement account or an individual retirement annuity is described in IRC 402(C)(9). If the DROP Participant or designated Beneficiary fails to elect a method of payment within sixty (60) days after the DROP Participant's termination date, the DROP Participants DROP account shall be paid in a lump sum as provided above. All distributions of the DROP account shall comply with IRC 401(A)(9).

Under this section 525.9, a distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this section, a "distributee" includes a DROP Participant, a DROP Participant's survivor as provided by Act 600 of 1956, 53 P.S. 767 et seq. or in lieu thereof, the DROP Participant's designated Beneficiary and a DROP Participant's former spouse who is an alternate payee under a qualified domestic relations order. For purposes of this section, "eligible rollover distribution" has the meaning given the term by IRC space 402(F)(2)(A) except that a qualified trust shall be considered an eligible plan only if it accepts the distributees eligible rollover distribution and, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC 408(A) and (B).

525.10. **Death.** A DROP Participant's eligibility to participate in the DROP terminates upon the death of the DROP Participant. If a DROP Participant dies on or after the effective date of participation in the DROP but before the first monthly retirement benefit due the DROP Participant for that month has been credited to his DROP Account, the Plan shall pay the monthly retirement benefit as though the DROP Participant had not elected DROP participation and had died after the DROP Participants effective date of retirement but before receipt of the DROP Participant's first regular retirement benefit. If a DROP Participant dies while participating in the DROP and after his monthly retirement benefits have begun to have been credited to his DROP Account, the monthly retirement

benefit credited to the DROP Participant's DROP Account during the month of the DROP Participant's death shall be the final monthly retirement benefit from the plan credited to his DROP Account.

Except for those benefits specifically payable as a result of death incurred in the course of performing a hazardous public duty, the survivors of the DROP Participant who dies shall not be eligible to receive retirement system death benefits payable in the event of the death of an active member. The DROP Participant's survivor(s) shall be eligible to receive survivor benefits normally payable in the event of the death of a retired Participant.

525.11. **Disability.** If a DROP Participant becomes eligible for a disability benefit from the Plan and terminates employment, the monthly non-disability retirement benefit of the DROP Participant shall terminate.

525.12. **Eligibility for Other Benefits.** Except for benefits specifically foregone by the DROP Participant pursuant to Section 525.4, a DROP Participant shall be eligible for the employee benefits provided to active employees that is appended to this Ordinance as Appendix A.

525.13. **Eligibility for Statutory Benefits.** A DROP Participant shall be eligible for all preretirement benefits for employees otherwise provided by law including, but not limited to, the following:

- (A) The Workers' Compensation Act (The Act of June 2, 1915 (P.L. 736, No. 338))
- (B) The Enforcement Officer Disability Benefits Law (The Act of June 28, 1935 (P.L. 477, No. 193))
- (C) The Unemployment Compensation Law (The Act of December 5, 1936 (2nd SP.Sess., 1937 P.L. 2897, No. 11))
- (D) The Emergency and Law Enforcement Personnel Death Benefits Act (The Act of June 24, 1976 (P.L. 424, No. 101))
- (E) The Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. 90 Stat. 1347)

525.14. **Designation of Beneficiary.** A DROP Participant may designate a DROP Beneficiary who shall be entitled to apply for and receive the DROP Participant's DROP Account in the event of the DROP Participant's death while participating in the DROP. In the event that a DROP Participant does not designate a Beneficiary and dies while participating in the DROP, his DROP Account will be paid to his survivor(s) as determined Under Act 600 of 1956 and if no such survivors exist, then his estate.

525.15. **Amendment.** Any amendments to the DROP Ordinance shall be consistent with the provisions covering deferred retirement option plans set forth in any applicable collective bargaining agreement or state or federal law, and shall be binding upon all future Participants and upon all DROP Participants who have balances in their DROP Accounts.

525.16 **Taxation, Attachment and Assignment.** Except as provided in this Section the right to a DROP Participant to any benefit to right accrued or accruing under the provisions of this Sub-Section 525 and monies in the DROP Participant's DROP Account are exempt from any State or municipal tax, levy, and sale, garnishment, attachment, spouses

election or any other process whatsoever. Rights and benefits under this Sub-Section 525 shall be subject to forfeiture as provided by the Public Employees Forfeiture Act (the Act of July 8, 1978 (P.L. 752, No. 140)). Forfeitures under this section or under any other provision of law may not be applied to increase the benefits that any DROP Participant otherwise would receive under this Sub-Section 525. Rights under this Sub-Section 525 shall be subject to attachment in favor of an alternate payee as set forth in a qualified domestic relations order.

525.17. **Trust Requirement.** A DROP Participant’s DROP Account shall be held in trust for the exclusive benefit of Plan Participants who are or were DROP Participants and for their Beneficiaries.

525.18. **Severability.** The provisions of this Sub-Section 525 shall be severable, and if any of its provisions shall be held unconstitutional or illegal, the validity of any of the remaining provisions of this Sub-Section 525 shall not be affected thereby. It is hereby expressly declared as the intent of the City that this Sub-Section 525 has been adopted as if such unconstitutional or illegal provision or provisions have not been included herein.

525.19. **Auditor General Findings.** If the Auditor General issues a finding of non-compliance with the provisions of Act 44 of 2009 that govern the DROP, the City shall be authorized to reform this Sub-Section 525 to bring it into compliance with the DROP within ninety (90) days of the date the Auditor General’s finding becomes final.

DULY ENACTED AND ORDAINED this ___ day of _____, 2022, by the City of Monongahela, Pennsylvania’s Council, at a regularly scheduled meeting of the same date, duly advertised according to law.

ATTEST:

Tamie Gido, City Clerk
City of Monongahela

Greg Garry, Mayor
City of Monongahela