

ORDINANCE NO. 3 OF 2023

**AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE PENSION
PLAN FOR THE POLICE OFFICERS OF NEWPORT TOWNSHIP
IN ACCORDANCE WITH ACT 600**

WHEREAS, the Act of May 29, 1956, (1955 P.L. 1804, No. 600) (“Act No. 600”), as amended and supplemented (hereinafter referred to as “Act 600”), established regulations for Townships with police forces of three (3) or more full-time members to elect and to provide a Police Pension Fund or Annuity for the benefit of their police officers;

WHEREAS, Newport Township (the “Township”), by previous Ordinance No. 6 of 2000, and amendments thereto, established a Police Pension Fund;

WHEREAS, the Police Pension Fund established pursuant to Ordinance No. 6 of 2000, and amendments thereto, was not subject to the requirements of Act 600 inasmuch as the Township, at the time of adoption of said Ordinance, maintained a police force of only two (2) full time police officers;

WHEREAS, the Township has, since the adoption of Ordinance No. 6 of 2000, and amendments thereto, expanded its police force and currently employs five (5) full time police officers;

WHEREAS, a compliance audit of the Township’s Police Pension Fund for the period of January 1, 2018 through December 31, 2021, was recently conducted by the Commonwealth of Pennsylvania, Department of the Auditor-General, pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act, Act 205 of 1984, as amended, 53 P.S. §895.402(j);

WHEREAS, the Commonwealth of Pennsylvania, Department of the Auditor-General issued a report of its compliance audit in March 2023, pursuant to which it has determined that Township’s Police Pension Fund is fundamentally sound, except for certain findings and recommendations noted therein, among which was that the Township amend its Police Pension Fund to bring same into compliance with the provisions of Act 600, as amended and supplemented; and

WHEREAS, the Township desires to amend the previous Police Pension Fund Ordinance in order to incorporate the findings and recommendations of the audit conducted by the Commonwealth of Pennsylvania, Department of the Auditor-General including but not limited to, bringing said Police Pension Fund into compliance with the provisions of Act 600, as amended and supplemented.

NOW, THEREFORE, BE IT RESOLVED that Board of Commissioners of Newport Township hereby adopts the following regulations governing its Police Pension Fund:

ITEM 1 ADMINISTRATION AND PURPOSE OF FUND

The Police Pension Fund of Newport Township shall be under the direction of the Board of Commissioners of the Township of Newport. The Police Pension Fund shall exist for the benefit of full time members of the Police Force of Newport Township and in the event of the death of said police officer, the families of said officer in accordance with the regulations hereinafter set forth.

ITEM 2 DEFINITIONS

For the purpose of this Ordinance the following words shall have the following meanings:

- (a.) "Member" shall refer to present or hereinafter appointed full time police officer who are employed on a full time basis as a member of the Newport Township Police Force. The designation "member" shall not include part time, special, school, fire or auxiliary police.
- (b.) "Board" shall refer to the Board of Commissioners of Newport Township.
- (c.) "Fund" shall refer to the Newport Township Police Pension Fund established by this Ordinance.
- (d.) "Children" shall refer to natural and/or legally adopted children only. It shall not refer to foster children or stepchildren.
- (e.) "Attending college" shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of seven (7) credit hours per semester.

ITEM 3 NORMAL RETIREMENT

Every full-time member of the Newport Township Police Force upon attaining age Fifty-Five (55) may retire from the police force and shall thereafter be entitled to the Normal Retirement Benefit which shall be computed at one-half of the average monthly salary of such member during not more than the last thirty-six (36) months of the member's employment.

ITEM 4 SERVICE-RELATED DISABILITY BENEFIT

If an actively employed member suffers a service-connected disability and is unable to perform his normal duties prior to his/her normal retirement date, he/she may receive a disability benefit under the plan. Such disabled participant shall be entitled to an annual disability benefit equal to sixty (60%) percent of the member's salary at the time the disability was incurred. The disability retirement benefit otherwise payable under this plan shall be offset by any Workers' Compensation, Heart and Lung, Social Security disability or any other occupational disease benefits received by the participant for the same injury.

Receipt of a disability benefit is contingent and subject to the certification by a physician(s) designated by the Board pursuant to a medical examination that the member of the police force is physically or mentally incapable of performing duties as a member of the police

force. The cost of said medical examination by the physician(s) selected by the Board shall be at the expense of Newport Township.

The Board may require any member of the police force receiving a disability benefit, pursuant to this ordinance, to undergo an annual medical examination by a physician (s) designated by the Board. Said examination shall be at the expense of Newport Township.

ITEM 5 PRE-RETIREMENT DEATH BENEFIT

In the event of the death of a current member of the Newport Township police force before his/her pension has vested, the surviving spouse or, if no spouse survives or, if he or she survives and subsequently dies, the child or children under the age of eighteen (18) years or, if attending college, under or attaining the age of twenty-three (23) years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in the value of the member's investment in the pension, unless the member has designated another beneficiary for this purpose.

ITEM 6 POST RETIREMENT DEATH BENEFIT

In the event of the death of a member of the police force who dies after having obtained eligibility to receive a pension benefit, the benefit to the surviving spouse who has not remarried or, in the event of no surviving spouse, the benefit to the surviving minor child(ren) who have not attained age Eighteen (18) or, if attending college, under or attaining the age of twenty-three (23) years, shall be set at Fifty (50%) percent of the pension that the police officer was receiving or would have been entitled to receive had he/she been retired at the time of his/her death.

ITEM 7 LIMITATION ON BENEFITS

In no case may a member's total pension benefits exceed seventy-five (75%) percent of the members compensation used for computing retirement benefits.

ITEM 8 VESTING OF BENEFITS

To be eligible for vested benefits, the Member must have completed at least Twelve (12) years of total service as a full-time member of the Newport Township Police Force and must have filed a written notice with the Township of Newport of his/her intention to vest within ninety (90) days after termination from the police force.

ITEM 9 CHARGES AGAINST MEMBERS

Every member shall be responsible for the payment of a monthly sum equal to Five (5%) percent of his/her monthly compensation as a member of the Newport Township Police Force

into the Police Pension Fund so long as the member is employed by the Newport Township Police Force. The Board shall have the right and power to withhold such monthly contribution from the member's salary.

The Board may provide for exemption from the member contribution if the Actuary determines that the pension fund is actuarially sound and that contributions by members are not required.

The Pension payment herein provided for shall not be subject to attachment, assignment, execution, levy, garnishment or other legal process.

ITEM 10 COST OF LIVING ADJUSTMENTS

The Board has sole discretion in granting annual Cost of Living Adjustments ("COLA"). The COLA shall not exceed the percentage increase in the Consumer Price Index from the year in which the member last worked. The total benefit plus COLA shall not exceed seventy-five (75%) percent of the average salary used for computing retirement benefits. A retired member's total COLA shall not exceed thirty (30%) percent of that member's original pension benefit. In no event shall a COLA be granted that would impair the actuarial soundness of the Police Pension Fund.

ITEM 11 WITHDRAWAL

Any member, who, for whatever reason whatsoever, shall be ineligible to receive his/her pension after having contributed to the Police Pension Fund shall be entitled to a refund of all such monies contributed as charges to the fund along with interest at Seven (7%) per annum immediately upon discontinuance of his employment with the Newport Township Police Force.

If such discontinuance of employment is due to death, said monies shall be paid to the members designated beneficiary, or in the absence of a designated beneficiary, to his/her Estate, provided however that should any death benefits be paid or payable in accordance with this Ordinance, no refund of a member's contribution shall be allowed.

ITEM 12 PROCEDURE

Application for normal retirement shall be made in writing to the Board at least 120 days before the date of member's actual retirement.

The Board may require any applicant to submit such evidence as it might deem helpful in the determination of his/her claim. Any applicant who fails to provide such evidence upon demand of the Board shall forfeit his/her rights to any retirement or pension benefits.

Furthermore, the Board shall be empowered to make such investigation as it deems necessary to ascertain the truth of the averments upon which any claim for benefits is based.

ITEM 13 MISCELLANEOUS PROVISIONS

(a) Payments made pursuant to the Newport Township Police Pension Ordinance shall not be a charge on any other fund in the treasury of the Township or under its control, save the Police Pension Fund.

(b) Where pursuant to this Ordinance, a minor child(ren) or any incompetent person shall be eligible to receive a monthly pension, the Board may pay such pension to said person(s) or may pay such pensions directly to the person(s) caring for said person(s) or may apply the same for said person(s) support and maintenance without the necessity of having a Guardian appointed.

(c) The Board may appoint any financial institution doing business in the State of Pennsylvania as Custodian of the Police Pension Fund provided that all investments must be of a type legal for fiduciaries in Pennsylvania and that the Board complies with all current laws that may affect such investments.

ITEM 14 INTERVENING MILITARY SERVICE

Police officers shall be credited with time spent in the Military service of the United States, as set forth in Section 4, Act of Dec. 19, 1990 (P.L. 1238, No. 205).

ITEM 15 REPEALER

All Ordinances, parts of Ordinances or Amendments thereto inconsistent with this Ordinance are hereby repealed, except as follows: Ordinance No. 6 of 2000, and all amendments thereto prior to the enactment of this Ordinance, shall continue to apply with full force and effect to full-time police officers Jeremy Blank and Thomas Nalbone. Nothing contained in this Ordinance shall be construed to diminish in any respect the rights and benefits which were previously provided to and enjoyed by Officers Blank and Nalbone under the previously existing Police Pension Plan.

ITEM 16 SEVERABILITY

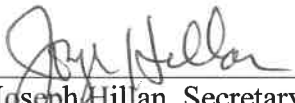
If any sentence, provision, section or part of this Ordinance is, for whatever reason determined to be invalid or unconstitutional, such determination shall not affect or impair any of the remaining provisions or parts of this Ordinance.

ITEM 17 EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval.

ENACTED AND ORDAINED THIS 5TH DAY OF JUNE 2023.

ATTEST:



Joseph Hillan, Secretary

NEWPORT TOWNSHIP
BOARD OF COMMISSIONER:

Vice Chairman 

Paul Czapracki, Chairman