

ORDINANCE NO. 1311

AMENDMENT TO THE

**BOROUGH OF DONORA POLICE PENSION PLAN
(as amended and restated, effective January 1, 1989)**

AN ORDINANCE OF THE BOROUGH OF DONORA RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF EMPLOYEES PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE EMPLOYEES OF SAID BOROUGH:

WHEREAS, the Borough of Donora (the "Borough") has previously enacted an Ordinance establishing the Borough of Donora Police Pension Plan (the "Plan"); and

WHEREAS, the Plan was totally amended and restated, effective January 1, 1989; and

WHEREAS, the Borough reserved the right to amend the Plan pursuant to Section 10.01; and

WHEREAS, the Borough now desires the Plan to be further amended to comply with certain provisions of the Internal Revenue Code and to clarify and consolidate certain provisions contained in the collective bargaining agreement effective January 1, 1993 through December 31, 1997 concerning the modification of pension benefits provision at Article 20 entitled "Pension", Section 1(b); and

WHEREAS, the parties to such collective bargaining agreement shall hereby incorporate the language of the Memorandum of Understanding between the Borough of Donora and Teamsters Local Union No. 205; and

WHEREAS, the parties hereby confirm their intention at the time they entered into the Agreement to have the elimination of the Social Security offset applied to each Police Officer who was active on the effective date of the Agreement implementing this provision, or January 1, 1993; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL AND IT IS HEREBY ORDAINED AND ENACTED by authority of the same:

Effective January 1, 2001, sections 5.02 and 8.03 shall be amended by deleting said sections in their entirety and adding new sections 1.22, 5.02, 5.07 and 8.03 as follows:

1.22 "Employment" shall mean for the purpose of determining Aggregate Service pursuant to section 1.05:

- (a) The period of time for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties as a police officer;
- (b) Any period of time for which an Employee is paid a fixed, periodic amount in the nature of salary continuation payments for reasons other than the performance of duties (such as vacation, holidays, sickness, entitlement to benefits under workers' compensation or similar laws), either directly by the Employer or through a program to which the Employer has made contributions on behalf of the Employee;
- (c) Any period during which an Employee is entitled to disability benefits under this Plan, provided that the Employee returns to Employment within three months of the date on which it is determined that he is no longer Totally and Permanently Disabled if such determination occurs prior to the date a Participant attains Normal Retirement Age; and
- (d) Any period of voluntary or involuntary military service with the armed forces of the United States of America, provided that the Participant has been employed as a regular, full-time member of the Employer's police force for a period of at least six months immediately prior to the period of military service; and the Participant returns to Employment within six months following discharge from military service or within such longer period during which employment rights are guaranteed by applicable law or under the terms of a collective bargaining agreement with the Employer.
- (e) Any period of qualified military service as determined under the requirements of Chapter 43 of Title 38, United States Code, provided that the Participant returns to Employment following such period of qualified military service, and the Participant makes payment to the Plan in an amount equal to the Participant Contributions that would otherwise have been paid to the Plan during such period of qualified military service. The amount of Participant Contributions shall be based upon an estimate of the Compensation that would have been paid to the Participant during such period of qualified military service as determined by the average Compensation paid to the Participant during the twelve (12) months immediately preceding the period of qualified military service. The amount of Participant Contributions so calculated must be paid into the Plan before the end of the period that begins on the date of re-employment and ends on the earlier of the date that ends the period that has a duration of three (3) times the period of qualified military service, or the date that is five (5) years after the date of re-employment.

5.02 Normal Retirement Benefit – Each Participant who shall become entitled to a benefit pursuant to section 5.01 shall receive a benefit paid monthly in an amount equal to fifty percent (50%) of the Participant's Final Monthly Average Salary as determined under this Plan. Any Participant in active employment on or after January 1, 1993 shall not have such Participant's Normal Retirement Benefit offset by (50%) of the Participants Social Security benefit, if the Participant is not eligible to begin receiving Social Security retirement benefit payments prior to January 1, 1997.

5.07 Maximum Benefit Limitations - Notwithstanding any provision of this Plan to the contrary, no benefit provided under this Plan attributable to contributions of the Employer shall exceed, as an annual amount, the amount specified in Code Section 415(b)(1)(A) as adjusted pursuant to Code Section 415(d), assuming the form of benefit shall be a straight life annuity (with no ancillary benefits). The limitations described in this section 5.07 shall be governed by the following conditions and definitions:

- (a) benefits paid or payable in a form other than a straight life annuity (with no ancillary benefits) or where the Employee contributes to the Plan or makes rollover contributions shall be adjusted on an actuarially equivalent basis to determine the limitation contained herein;
- (b) in the case of a benefit which commences prior to the attainment of age sixty-two (62) by the Participant, the limitation herein shall be adjusted on an actuarially equivalent basis to the amount determined pursuant to this section commencing at age sixty-two (62); however, the reduction shall not reduce the limitation below seventy-five thousand dollars (\$75,000.00) for a benefit commencing at or after age fifty-five (55), or if the benefit commences prior to attainment of age fifty-five (55) the amount which is actuarially equivalent to a benefit of seventy-five thousand dollars (\$75,000.00) commencing at age fifty-five (55); however, in the case of a qualified Participant (a Participant with respect to whom a period of at least fifteen (15) years of service, including applicable military service, as a full-time employee of a police or fire department is taken into account in determining the amount of benefit), the limitation contained herein shall not reduce the limitation to an amount less than the amount specified pursuant to Code Section 415(b)(2)(G) and such amount shall be adjusted pursuant to Code Section 415(d);
- (c) in the case of a benefit which commences after attainment of age sixty-five (65) by the Participant, the limitation herein shall be adjusted on an actuarially equivalent basis to the amount determined commencing at age sixty-five (65);
- (d) benefits paid to a Participant which total less than ten thousand dollars (\$10,000.00) from all defined benefit plans maintained by the Employer expressed as an annual benefit shall be deemed not to exceed the limitation of this section provided that the Employer has not at any time maintained a defined contribution plan in which the Participant has participated; however, in the case of a Participant who is not receiving a Disability Retirement Benefit pursuant to section 6.01, with fewer than ten (10) years of participation the limitation expressed in this subsection (d) shall be reduced by one-tenth (1/10) for each year of participation less than ten (10) but in no event shall this limitation be less than one thousand dollars (\$1,000.00);
- (e) the limitations expressed herein shall be based upon Plan Years for calculation purposes, shall be applied to all defined benefit plans maintained by the Employer as one (1) defined benefit plan and to all defined contribution plans maintained by the Employer as one (1) defined contribution plan, and shall be applied and interpreted

consistent with Code Section 415 and regulations thereunder as applicable to government plans in general and this Plan in particular; and

- (f) in the case of a Disability Retirement Benefit under section 6.01 or a Survivor Benefit under section 7.02, the adjustment under subsection (b) hereof shall not apply and the applicable limitation shall be the limitation contained herein without regard to the age of the benefit recipient.

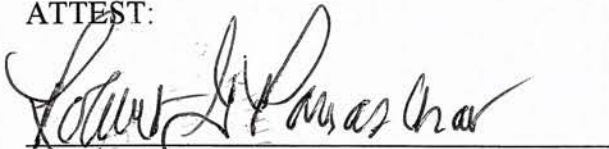
8.03 Deferred Vested Benefit – A Participant who has completed at least twelve (12) years of Aggregate Service and whose employment as an Employee of the Employer shall terminate for any reason other than death prior to attainment of Normal Retirement Date shall be entitled to elect to receive a deferred vested benefit in lieu of a distribution of Accumulated Contributions under section 8.02. Such a deferred vested benefit shall be in an amount equal to the Participant's Accrued Benefit as of the date employment terminates and shall commence after application as of the first day of the month coincident with or next following the date on which the Participant's Normal Retirement Date would be attained if the Participant continued in employment until such date. A Participant who is in active employment on or after January 1, 1993, who shall become eligible for a deferred vested benefit hereunder shall receive the benefit without any Social Security offset.


Any election made under this section 8.03 must be made in writing acceptable to the Plan Administrator within ninety (90) days of the date which was the last day of employment. If no election is made hereunder within the applicable election period the Participant shall be deemed to have forever waived this election and shall receive a distribution of Accumulated Contributions pursuant to section 8.02 hereof.

ORDAINED AND ENACTED this 13th day of DECEMBER, A.D., 2001.

ATTEST:

BOROUGH OF DONORA


Secretary of Council


President of Council

EXAMINED AND APPROVED this 13th day of DECEMBER, A.D., 2001.


Mayor