

**Ordinance No. 1-19**

**AN ORDINANCE ESTABLISHING A DEFERRED RETIREMENT  
OPTION PROGRAM (DROP) FOR FULL TIME POLICE OFFICERS**

**WHEREAS**, the 2019-2022 Contract between Millersburg Borough and the Millersburg Police Patrol Officers Association requires the establishment of a Deferred Retirement Option Program (DROP); and

**WHEREAS**, Millersburg Borough has elected to entrust its pension plan to the Pennsylvania Municipal Retirement System (PMRS); and

**WHEREAS**, Pennsylvania law requires municipalities to amend retirement programs by ordinance;

**THEREFORE BE IT ENACTED AND ORDAINED AS FOLLOWS,**

Definitions:

DROP – Deferred Retirement Option Program

DROP Account – Separate account created to accept DROP participants' monthly pension check while a DROP participant.

Retirement Date – Day before DROP begins.

Resignation Date – Day of final service to Millersburg Borough.

Background: This ordinance establishes the Millersburg Borough DROP, which incorporates the benefits and requirements established by the Borough's pension plan provider PMRS in their Policy Statement 10-5. As of the effective date of this ordinance, Jan. 1, 2019, Policy Statement 10-5 was adopted September 16, 2010 and amended on May 17, 2012. Future amendments to PMRS Policy Statement 10-5 shall be incorporated into this ordinance, without amendment, upon their effective implementation dates. (Refer to Appendix A for the above referenced current PMRS Policy Statement 10-5.)

Millersburg Borough DROP Policy Agreement in addition to the policy benefits and requirements outlined in PMRS Policy Statement 10-5:

*Eligibility.* Effective January 1<sup>st</sup>, 2019, currently employed full-time Officers serving in the Millersburg Borough Police Department who have not retired prior to the implementation of the DROP program, may enter into DROP on the first day of any month following completion of 25 years of credited service and attaining the age of 51.

*Accrual of Non-Pension Benefits.* After an Officer elects to participate in the DROP, all other contractual benefits shall continue to accrue with the exceptions of those provisions relating to PMRS and the buyback of accrued, but unused, sick or vacation time. Prior to participating in the DROP, an Officer may request payment for any accrued but unused sick or vacation time which the Borough would be obligated to buyback from the Officer upon retirement. An Officer may utilize leave time during the DROP period, but the Borough shall not be required to buyback any such unused leave time at the end of the DROP period.

*Disability During DROP.* If a Member becomes temporarily disabled during their participation in DROP, the Member shall receive disability pay in the same amount as disabled Police Officers that are not participating in the DROP. In no event shall a Member on temporary disability have the ability to draw from their DROP account. However, notwithstanding any provision in this paragraph, if an Officer is disabled and has not returned to work as of the date of their required resignation, then such resignation

shall take precedence over all other provisions herein and said Officer shall be required to resign. Nothing contained in this Plan shall be construed as conferring any legal rights upon any Police Employee or other person to a continuation of employment nor shall participation in the DROP supersede or limit in any way the right of the Borough to honorably discharge a Police Employee based upon an inability to perform their full duties as a Police Officer.

*Forfeiture of Benefits.* Notwithstanding an Officer's participation in the DROP, an Officer who pleads guilty or is convicted of engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania's Pension Forfeiture Act, 43 P.S. §§ 1311-1314, shall forfeit their right to receive a pension, including any amounts currently deposited in the DROP account. In such case, the Member shall only be entitled to receive the contributions, if any, made by the Member to the Fund, without interest.

*Account Manager.* The Borough and the Millersburg Police Patrol Officers' Association agree upon PMRS as the investment manager to administer the DROP accounts. The Borough and the Association further agree that the Borough shall not be responsible for any investment loss incurred in the Plan or for the failure of an investment to earn a specific or expected return or to earn as much as any other opportunity, whether or not such other investment opportunity was offered or available to participants in the Plan.

*Cost of Management for DROP Program.* The Association and the Borough agree that any costs or fees associated with the management of the DROP accounts shall be paid directly from the Police Pension Fund and not by the Borough.

*Amendment.* Any amendments to the DROP Ordinance shall be consistent with the provisions covering Deferred Retirement Option Plans as set forth in any applicable collective bargaining agreement and shall be binding upon all future DROP participants and upon all DROP participants who have balances in their DROP accounts. The DROP may only be amended by a written agreement, not by any oral agreement or past practice.

*Effective Date.* The Effective Date of this Ordinance is January 1<sup>st</sup>, 2019; however, the implementation of the DROP will be provided as it is presented in this Ordinance.

*Construal of Provisions.* An Officer's election to participate in the DROP shall in no way be construed as a limitation on the Borough's right to suspend or terminate an Officer for just cause or to grant the Officer an honorable discharge based upon a physical or mental inability to perform their duties.

*Severability.* The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any of the remaining provisions of the Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions not been included herein. In the event that the DROP is declared invalid or illegal by a Court of appropriate jurisdiction or through an administrative determination of the Pennsylvania State Office of the Auditor General, the Association shall have the right to bargain in accordance with Act 111 over the discontinuation of this benefit. It is expressly understood that this shall not involve bargaining over a replacement provision.

ENACTED AND ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MILLERSBURG BOROUGH  
DAUPHIN COUNTY, PENNSYLVANIA

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

\_\_\_\_\_  
Mayor

SEAL



Purpose: To establish a Deferred Retirement Option Program (“DROP”) as an optional form of payment upon a member’s retirement from a municipality participating in the Pennsylvania Municipal Retirement System (“PMRS”).

Authority: Act 15 of 1974, 53 P.S. §§ 881.101-881.501, the “Pennsylvania Municipal Retirement Law,” (“PMRL”) as amended by the act of July 9, 2010 (P.L. 434, No. 56) (“Act 56 of 2010”) and Act 205 of 1984, 53 P.S. §§895.1101 - 895.1131, the “Municipal Pension Plan Funding Standard and Recovery Act,” as amended by the act of September 18, 2009 (P.L. 396, No. 44) (“Act 44 of 2009”),

Introduction: Act 44 of 2009 requires the PMRB to establish a uniform DROP for all member municipalities of the PMRS as further authorized through Act 56 of 2010. All capitalized terms herein shall have the meaning set forth in the PMRL and the pension agreement between the member municipality and the PMRB as authorized and governed by Article IV of the PMRL (hereinafter referred to as “Contract”). All filings required under this policy shall be subject to Article XIII, Section 13.8 of the Contract.

Applicability: All member municipalities of the PMRS shall have the option to offer the DROP to its members as an optional payment plan at the time of retirement from the Municipality. The DROP shall only be available to the Municipality’s Members if the Municipality has included the DROP in its Contract. If the Municipality elects to offer the DROP, the Contract shall incorporate the terms of this policy as Appendix A. The terms of the DROP, as set forth in this policy, shall be applicable to all municipalities electing to offer the DROP to its Members in its Contract, the terms of which shall not be negotiable.

Policy: *Eligibility:* A Member shall be eligible to elect the DROP as an optional payment plan at the time of the Member’s retirement provided the Member is:

- (1) eligible for a Superannuation Retirement Benefit as of the Member’s Effective Date of Retirement; and
- (2) not enrolled under the Contract as an elected official.

*Member Election:* To elect the DROP, a Member must file a written application on a form provided by the PMRB at least 30 days before the Member’s Effective Date of Retirement. The written application must include the following:

- (1) The Member's agreement to forgo:
  - a) active membership under the Contract;
  - b) any growth in the salary base used for calculating the Basic Benefit, and
  - c) any additional benefit accrual for retirement purposes, including length-of-service increments.
- (2) The Member's election of an annuity calculated in accordance with one of the optional forms of payment provided in Article VII, Section 7.2 of the Contract, excluding Option 4, if one is provided in Article VII, Section 7.2(b)(iv).
- (3) Any other information that may be requested by PMRS.

The Member must include with the written application a copy of the letter of resignation sent to the Municipality stating the Member's intent to retire and specifying the Member's Effective Date of Retirement. Such letter of resignation shall be binding and irrevocable.

*Duration:* Participation in the DROP shall be no more than 36 months. The effective date of DROP participation shall be the day after the Member's Effective Date of Retirement. Except in the event of the death of the DROP participant, the DROP termination date shall be the last calendar day of the 37<sup>th</sup> month.

A DROP participant may elect at the time of retirement to participate in the DROP for a period of less than 36 months or may change the DROP termination date during DROP participation to an earlier date. In all cases, the earlier termination date shall be the last calendar day of a month and must be approved by PMRS.

In the event a Member's employment is terminated prior to the expected DROP termination date, the Member's participation in the DROP shall cease as of the last calendar day of the month in which the Member's employment was terminated or the last calendar day of the month PMRS was notified of such termination, whichever is later.

A Member and the Municipality shall immediately inform PMRS of any early termination of a DROP Participant prior to the DROP termination date. No penalty shall be imposed for early termination of DROP participation.

*Subsidiary DROP Participant Accounts:* Beginning on the effective date of DROP participation and ending on the last day of the month PMRS has been officially notified of the DROP termination date or the actual DROP termination date (whichever is most recent), all monthly annuity payments payable to a DROP Participant

shall be deposited into a Subsidiary DROP Participant Account established by the PMRB. The assets of the Subsidiary DROP Participant Account shall be invested in the State Treasurer's "Liquid Asset Pool" commonly referred to as "Pool 99." Each Subsidiary DROP Participant Account shall be credited with DROP Interest, compounded on a monthly basis in accordance with the PMRL. PMRS shall provide an annual benefit statement to each DROP participant showing the balance of the Subsidiary DROP Participant Account.

*DROP Interest:* The monthly DROP Interest credited shall be dependent on the monthly rate of return credited to the Liquid Asset Pool as determined by the Treasurer. The DROP Interest credited each month shall not be less than zero percent (0.0%) nor more than 0.367 percent (0.367%) per month, and in no event shall it exceed the statutory limit of four and five tenths percent (4.5%) annually. In the event the Liquid Asset Pool earns in any one month less than zero percent (0.0%), the monthly DROP Interest credited to each Subsidiary DROP Participant Account shall be zero percent (0.0%). In the event the Liquid Asset Pool earns in any one month more than 0.367 percent (0.367%), the DROP Interest credited to the Subsidiary DROP Participant Account shall be 0.367 percent (0.367%).

Investment earnings in excess of the 0.367 percent in any one month shall be maintained in the Liquid Asset Pool as unallocated investment earnings that shall be used to offset any unfunded liability resulting from the Liquid Asset Pool earning less than what is necessary to credit DROP Interest at zero percent (0.0%).

*DROP Termination:* The Municipality shall terminate the DROP participant from employment upon the DROP termination date.

Upon either early or regular termination of DROP participation, a terminated DROP Participant shall be:

- (1) ineligible to reenroll in the DROP even if the former DROP Participant is reemployed by the Municipality as an Active Member and eligible for a Superannuation Retirement Benefit;
- (2) subject to such reemployment limitations as other Annuitants; and
- (3) eligible for renewed membership as an Active Member as may be provided under the Contract.

*DROP Payout upon Termination:* Within 45 days of the DROP termination date determined in accordance with this policy, PMRS shall pay to the Member in a lump-sum the amount credited to the Member's Subsidiary DROP Participant Account as of the Member's DROP termination date less any required withholding of taxes.

The DROP Participant may elect to have such lump-sum payment paid directly into an Eligible Retirement Plan or in a check made payable to the DROP Participant. If the DROP Participant fails to elect a method of payment of the lump-sum within sixty (60) days after the DROP termination date, the lump-sum shall be paid directly to the DROP Participant.

*Disability:* In the event a DROP Participant becomes disabled and terminates employment with the Municipality, participation in the DROP shall be immediately terminated and a payout shall commence as provided for in the section of this policy entitled, “*DROP Payout upon Termination.*” The Member shall continue to receive a Superannuation Retirement Benefit or may elect to apply for a Disability Retirement if one is provided under Article VII, Section 7.3 of the Contract.

*Death:* Upon the death of a DROP Participant, participation in the DROP shall terminate effective as of the date of the Member’s death. The balance of the Member’s Subsidiary DROP Participant Account as of the Member’s date of death shall be paid to the Beneficiary who shall choose from one of the payment methods provided in the section of this policy entitled, “*DROP Payout upon Termination*” and the PMRL. Any death benefits or survivor annuity payments that may be payable by PMRS shall be paid in accordance with the payment option selected by the Member at the time of retirement.

*Alternate Payees:* Payment by PMRS under an Approved Domestic Relations Order to an Alternate Payee shall commence upon the DROP termination date.

*Rights and Benefits:* A DROP Participant shall be an Annuitant of PMRS and shall be entitled to all rights and benefits afforded an Annuitant under the Contract.

Effective Date: This rule is to be implemented effective January 1, 2011.

Adoption Date: Adopted at the September 16, 2010 meeting of the Pennsylvania Municipal Retirement Board with a technical amendment made at the May 17, 2012 meeting of the Board.



James B. Allen, Secretary