

CITY OF JOHNSTOWN, PENNSYLVANIA

ORDINANCE NO. 5355

Bill No. 4 of 2023

Introduced in Council: May 10, 2023

AN ORDINANCE OF THE CITY OF JOHNSTOWN TO AMEND CERTAIN PROVISIONS OF THE PENSION PLANS ESTABLISHED FOR THE BENEFIT OF CITY UNIFORMED AND NON-UNIFORMED OFFICERS AND EMPLOYEES TO PROVIDE FOR THE ESTABLISHMENT AND MAINTENANCE OF PENSION AND RETIREMENT BENEFITS IN ACCORDANCE WITH APPLICABLE LAW

WHEREAS, the City of Johnstown, Cambria County, Pennsylvania established the City of Johnston New Officers' and Employees' Pension Plan, effective January 1, 1988, pursuant to Ordinance Number 4440 of 1987 ("Non-Uniformed Plan"), the City of Johnstown Police Pension Fund, effective June 4, 1968, pursuant to Ordinance Number 3785 of 1968 ("Police Pension Fund"), the City of Johnstown New Police Pension Plan, effective January 1, 1988, pursuant to Ordinance Number 4442 of 1987 ("Police Pension Plan), and the City of Johnstown New Firemen's Pension Plan, effective January 1, 1988, pursuant to Ordinance Number 4441 of 1987 ("Firemen's Pension Plan") (collectively "the Pension Plans" or "the Plans"), for the benefit of City employees, police officers, firefighters, and their beneficiaries, with such plans comprising part of the City of Johnstown Comprehensive Municipal Pension Trust Fund ("Pension Trust Fund");

WHEREAS, the City Pension Plans have been amended thereafter from time to time pursuant to various Ordinances, with the City retaining the right to amend the Plans;

WHEREAS, in February of 2020, and thereafter in March 2023, the Commonwealth of Pennsylvania Department of the Auditor General ("Auditor General") completed a compliance audit ("Compliance Audit") of the Pension Trust Fund pursuant to its obligations under the Municipal Pension Funding Standard and Recovery Act, 53 P.S. § 895.101 *et seq.* ("Act 205");

WHEREAS, the Compliance Audit concluded with the issuance of various findings based upon benefits and/or terms of the Pension Plans determined to be not in compliance with applicable law, being the pension provisions of the Third Class City Code, 53 P.S. § 35101 *et seq.* ("the Code"), or which were otherwise determined to be inconsistent with the collective bargaining agreements pertaining to the employees participating in the Plans;

WHEREAS, pursuant to the City's obligations under the Public Employee Relations Act, 43 P.S. § 1101.101 *et seq.* ("Act 195") and the Policemen and Firemen's Collective Bargaining Act, 43 P.S. § 217.1 *et seq.* ("Act 111") the City thereafter reached agreement with the bargaining units representing employees participating in the Pension as necessary to, *inter alia*, resolve the findings of the Auditor General by bringing non-compliant provisions of the Pension Plans into compliance with the Code and with otherwise resolving existing discrepancies between the collective bargaining agreements and Plan documents; and

WHEREAS, having completed that mandatory process, the City of Johnstown is now amending the Pension Plans so as to ensure consistency between the applicable collective

bargaining agreements and the Plan's governing documents and to otherwise bring the provisions of the Pension Plans into compliance with the Code.

BE IT ORDAINED AND ADOPTED by the Council of the City of Johnstown and it is hereby ORDAINED AND ADOPTED by authority of the same:

Effective immediately, the Pension Plans shall be amended as follows:

SECTION 1 - FIREMEN'S PENSION PLAN

Chapter 291, Section 291.05(e) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(e) If a member who is active or who is eligible to receive or is receiving pension benefits dies, the spouse of the deceased member shall, during the spouse's lifetime, receive a monthly pension which shall be equal to fifty percent (50%) of the amount which the member was receiving or would have received prior to the member's date of death. For members with a hire date prior to January 1, 2018, the survivor's benefit shall be one hundred percent (100%).

Chapter 291, Section 291.06 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(a) Except as otherwise set forth in Section 291.06(b), if a member who makes contributions to the Pension Fund ceases employment before the member becomes entitled to receive a pension benefit, the total amount of the member's contributions paid to the Pension Fund shall be refunded, in full, without interest.

If a member terminates his or her employment and is later re-employed by the employer as a member of its Department of Fire, the member shall receive credit for the years of continuous service earned prior to the member's date of termination only if the member repays the amount the member received at the time the member terminated employment with the employer.

If a member dies at a time prior to the member's eligibility to receive a pension benefit from the Pension Fund, the member's surviving spouse shall receive any death benefits payable to survivors as provided in Section 291.05. If such member is not survived by a spouse, however, then the total contribution paid into the Pension Fund by the member shall be paid to the member's estate.

(b) In lieu of a return of member contributions, a member who ceases employment for any reason other than death or total and

permanent disability prior to meeting the age and years of service requirements applicable to the member to be eligible for immediate receipt of a full, unreduced normal retirement benefit, but after completing at least twelve (12) years of continuous service, shall be entitled to vest the member's retirement benefits subject to the following conditions:

- (1) The member must file with the Board of Trustees a written Notice of the Member's intention to vest.
- (2) The member must include in the Notice the date the member intends to terminate the member's employment, and must include an irrevocable letter of resignation effective on the selected termination date.
- (3) The termination date shall be at least thirty (30) days, but no later than sixty (60) days, following the date of the Notice to vest.
- (4) The member must be in good standing with the Department of Fire on the date of the Notice to vest.
- (5) The Board of Trustees shall indicate on the Notice to vest the final monthly average salary of the member as of the date of the notice to vest.

(c) For members electing a deferred vested benefit in accordance with Section 291.06(b), upon reaching the date that would have been the date that the member became eligible for an immediate receipt of a full, unreduced normal retirement benefit if the member had continued in the full-time employment of the City, the member shall notify the Board of Trustees, in writing, that the member desires to collect the member's pension.

The amount of retirement benefits the member is entitled to receive under this Section shall be computed as follows:

- (1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the Notice to vest pursuant to Section 291.06(b)(5) above.
- (2) For members hired on or after January 24, 2001, the portion of the base retirement benefits due to the member shall be determined by applying to the base amount the percentage that the members years of service actually rendered bears to the years of service which would have been

rendered had the member continued to be employed by the Department of Fire until reaching the date that the member would have been eligible for immediate receipt of a full, unreduced normal retirement benefit.

Chapter 291, Section 291.05(a) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(a) Members hired before January 1, 2018 shall be entitled to receive a normal retirement benefit, provided the member has completed at least twenty (20) years of continuous service with the employer. Members hired on or after January 1, 2018 shall be entitled to a normal retirement benefit upon attainment of the age of fifty-five (55) and the completion of twenty-five (25) years of continuous service. Payment of pension benefits upon retirement shall be conditioned upon a member being subject to service, from time to time, as a firemen's reserve, until unfitted for service, at which time such member shall be finally discharged by reason of age or disability. In no case, however, shall a member's retirement be later than the date when he or she attains age sixty-five (65).

Chapter 291, Section 291.05(f) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(f) If a member who has completed at least fifteen (15) years of continuous service with the employer incurs a disability, or if a member who has completed less than fifteen (15) years of continuous service with the employer incurs a disability while in the line of duty, and the member is unable to perform the duties of a member, the member shall be entitled to receive a disability pension benefit equal to the member's pension benefit calculated as of the member's date of disability.

Chapter 291, Section 291.05(c) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(b) Each member who becomes entitled to a pension benefit shall also become entitled to payment of a service increment benefit equal to the number of whole years in excess of twenty (20) of continuous service, or twenty-five (25) years for members hired on or after January 1, 2018, (including any credit for military service as provided in Section 291.04) multiplied by one-fortieth of the pension benefit which the member is entitled to receive. No service increment which is in excess of five hundred dollars (\$500.00) per month, or one hundred dollars (\$100.00) per month in the case of a member hired on or after January 1, 2018, shall be paid to a member,

nor shall such increment reflect any employment after the member has reached sixty-five (65) years of age.

Chapter 291, Section 291.04 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

Each member hired before January 1, 2018 shall contribute five percent (5%) of the member's compensation each month to the Pension Fund, plus five dollars (\$5.00) per month. Members hired on or after January 1, 2018 shall contribute seven percent (7%) of the member's compensation each month to the Pension Fund, plus one dollar (\$1.00) per month.

With the approval of Council, a member who is making contributions and who served in the Armed Forces of the United States after September 1, 1940, and who was not a member of the Firemen's Pension Fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five (5) years of continuous service, upon the member's payment to the Pension Fund of an amount equal to that which the member would have paid had the member been a member during the period for which the member desires credit, and upon the member's payment to the Pension Fund of an additional amount as the equivalent of the contribution of the employer, plus any interest the employer would have been required to pay on the contributions, on account of such military service.

Chapter 291, Section 291.01(c) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(c) "Compensation" means the base salary plus longevity paid by the employer.

SECTION 2 - POLICE PENSION PLAN

Chapter 289, Section 289.10 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(a) In lieu of a return of member contributions pursuant to Section 289.06, a member hired on or after January 24, 2001 who ceases employment for any reason other than death or total and permanent disability prior to meeting the age and years of service requirements applicable to the member to be eligible for immediate receipt of a full, unreduced normal retirement benefit, but after completing at least twelve (12) years of continuous service, shall be

entitled to vest the member's retirement benefits subject to the following conditions:

- (1) The member must file with the Board of Trustees a written Notice of the Member's intention to vest.
- (2) The member must include in the Notice the date the member intends to terminate the member's employment, and must include an irrevocable letter of resignation effective on the selected termination date.
- (3) The termination date shall be at least thirty (30) days, but no later than sixty (60) days, following the date of the Notice to vest.
- (4) The member must be in good standing with the Police Department on the date of the Notice to vest.
- (5) The Board of Trustees shall indicate on the Notice to vest the final monthly average salary of the member as of the date of the notice to vest.

(b) For members electing a deferred vested benefit in accordance with this Section, upon reaching the date that would have been the date that the member became eligible for an immediate receipt of a full, unreduced normal retirement benefit if the member had continued in the full-time employment of the City, the member shall notify the Board of Trustees, in writing, that the member desires to collect the member's pension.

The amount of retirement benefits the member is entitled to receive under this Section shall be computed as follows:

- (1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the Notice to vest pursuant to Section 289.10(a)(5) above.
- (2) The portion of the base retirement benefits due to the member shall be determined by applying to the base amount the percentage that the members years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the Police Department until reaching the date that the member would have been eligible for immediate receipt of a full, unreduced normal retirement benefit.

Chapter 289, Section 289.05 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(a) Each member shall be entitled to receive a pension benefit as follows:

(i) For police officers hired on or after January 1, 1988 but before January 1, 1989, upon accruing twenty (20) years of service with the Department of Police without regard to age.

(ii) For police officers hired after January 1, 1989 but before March 11, 2010, upon having attained the age of fifty (50) and the completion of twenty (20) years plus one (1) day of service with the Department of Police.

(iii) For police officers hired after March 10, 2010, upon having attained the age of fifty (50) and the completion of twenty-five (25) years of service with the Department of Police.

Payment of pension benefits upon retirement shall be conditioned upon a member being subject to service, from time to time, as a police reserve, until unfitted for such service, at which time such member shall be finally discharged by reason of age or disability. In no case, however, shall a member's retirement date be later than the date when the member attains sixty-five (65) years of age.

(b) A member entitled to a pension benefit shall receive, during the member's lifetime, a monthly retirement income equal to one-half of the member's final monthly average salary.

(c) Each member who becomes entitled to a pension benefit shall also become entitled to payment of a service increment benefit equal to the number of whole years in excess of twenty (20) of continuous service, or twenty-five (25) years for members hired on or after January 1, 2018, (including any credit for military service as provided in Section 289.04) multiplied by one-fortieth of the pension benefit which the member is entitled to receive. No service increment benefit which is in excess of five hundred dollars (\$500.00) per month, or one hundred dollars (\$100.00) per month in the case of a member hired on or after January 1, 2018, shall be paid to a member, nor shall such increment reflect any employment after the member has reached sixty-five (65) years of age.

(d) The pension payments herein provided for shall not be subject to attachment, execution, levy, garnishment or other legal

process, and shall be payable only to the member or the member's survivors, nor shall they be subject to assignment or transfer.

(e) If any member, whether active or retired, dies, the member's spouse, or if no spouse survives or if a spouse survives and subsequently dies or remarries, a member's child or children under eighteen (18) years of age, shall receive a monthly income equal to fifty percent (50%) of the pension benefit the member was receiving under the Plan, or would have received if the member's pension had been in pay status at the time of the member's death. For members with a hire date prior to January 1, 2018, this survivor's benefit shall be one hundred percent (100%).

(f) If a member of the employer who has completed at least fifteen (15) years of continuous service with the employer incurs a disability, or if a member who has completed at least ten (10) years of continuous service with the employer incurs a disability while in the line of duty, and the member is unable to perform the duties of a member, the member shall be entitled to receive a disability pension benefit which shall be equal to the member's pension benefit calculated as of the member's date of disability.

(g) Each member who becomes entitled to receive a disability pension benefit from the Pension Fund shall be required to submit to medical examinations by three physicians designated by the employer. Thereafter, the employer may annually require the member to have a medical examination to certify such member's continued disability and, if the member refuses to comply with such requirement, payment of the member's disability pension benefit shall cease.

If a member dies while receiving a disability pension benefit from the Pension Fund, such benefit payments, in an amount equal to fifty percent of the disability pension benefit, may be continued to the member's surviving spouse, or if no spouse survives or if the spouse survives and subsequently dies or remarries, then to the child or children under eighteen years of age of the deceased member.

Chapter 289, Section 289.01(i) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(i) "Final monthly average salary" means, for a member hired before March 11, 2010, the rate of monthly pay of a member as of the date of retirement, including base pay, longevity pay, sick leave incentive, and educational pay. For members hired after March 10, 2010, "final monthly average salary"

shall mean the highest average annual salary, including base pay, longevity pay, sick leave incentive, and educational pay, which a member received during any five (5) years of continuous service preceding the member's date of retirement.

Chapter 289, Section 289.04 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

Each member shall contribute five percent (5%) of the member's base salary and longevity each month to the Pension Fund. Members hired before January 1, 2018 shall also contribute an additional five dollars (\$5.00) per month and members hired on or after January 1, 2018 shall contribute an additional one dollar (\$1.00) per month.

With the approval of Council, a member who is making contributions and who served in the Armed Forces of the United States after September 1, 1940, and who was not a member of the Police Pension Fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five (5) years of service, upon the member's payment to the Pension Fund of an amount equal to that which the member would have paid had the member been a member during the period for which the member desires credit, and upon the member's payment to the Pension Fund of an additional amount as the equivalent of the contribution of the employer on account of such military service.

SECTION 3 - POLICE PENSION FUND

Chapter 288, Section 288.08 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

Every police officer or other employee in the Department of Police hired prior to January 1, 1988 and not, therefore, subject to the terms and conditions of the City of Johnstown New Police Pension Plan, Ordinance 4442 of 1988 as amended, Chapter 289 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 who has served continuously for twenty years shall be entitled to be retired on his or her own request on a pension. However, a police officer or other employee in the Department who was employed as of June 4, 1968, shall be entitled to be retired on his or her own request on a pension after he or she has served continuously for twenty years, without regard to his or her age. The pension shall date from the time the police officer or employee filed his or her application with

Council. However, Council may retire any police officer or member of the Department who has served fifteen (15) years or more, or who has completed at least ten (10) years of continuous service for a disability incurred while in the line of duty, if, in its opinion, the officer or employee is physically or mentally incapacitated from performing his or her duty in the Department. Further, the age of sixty-five years is hereby established as the age at which retirement from duty is mandatory for all members of the Department.

Chapter 288, Section 288.04 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

In addition to the sum provided for the Police Pension Fund Association, and for the further support and increase of the Association, all regular salaried police officers of the City, namely the Director/Chief of Police, the Sergeants of Police, the Captain of Detectives, the Detectives, the Lieutenants of Police and all patrolmen and other officers attached to the Department of Police, shall pay to the Treasurer of the Association, on or before the second day of each month, three percent of the regular monthly salary received by such officers from the City for the preceding month. In addition, the officers shall also pay to the Treasurer, on or before the second day of each month, an additional one percent of the regular monthly salary received by such officers from the City for widows and/or dependents as required by Sections 288.05, 288.07 and 288.09.

With the approval of Council, a member who is making contributions and who served in the Armed Forces of the United States after September 1, 1940, and who was not a member of the Police Pension Fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of service, upon his or her payment to the Pension Fund of an amount equal to that which he or she would have paid had he or she been a member during the period for which he or she desires credit, and upon his or her payment to the Pension Fund of an additional amount as the equivalent of the contribution of the employer on account of such military service.

SECTION 4 - NON-UNIFORMED PLAN

Chapter 287, Section 287.05 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(a) Each member hired before January 1, 2017 shall be entitled to receive a pension benefit, provided the member has completed at least twenty (20) years of credited service with the employer and has attained fifty-five (55) years of age. A member hired on or after January 1, 2017 shall be required to have completed at least fifteen (15) years of credited service with the employer and to have attained sixty (60) years of age.

(b) A member entitled to a pension benefit shall receive monthly income payments during the member's lifetime. For members hired before January 1, 2017, the total amount payable per month shall be equal to one-half of the member's final monthly average salary reduced by 50% of the member's monthly social security benefit. For members hired on or after January 1, 2017, the monthly benefit shall be calculated at one and a half percent (1.5%) of final monthly average salary for each year of service completed with no social security offset.

(c) The normal form of payment of benefits shall be as a series of monthly payments continuing throughout the life of the member. In lieu of the normal form, a member may elect to receive a reduced benefit during the member's life, so that benefit payments will be continued to a contingent annuitant following the member's death. The amount of benefit payable to the contingent annuitant shall be elected by the member and shall be equal to 50%, 66.67% or 100% of the amount of the member's benefit. The value of the contingent annuitant option shall be the actuarial equivalent of the normal form of payment. If a member makes an election of this optional form of payment within the six-month period before the member's retirement date, he or she shall supply satisfactory evidence of good health to the employer in order to be eligible to receive such optional form of payment.

If a member elects to receive the member's benefit in the optional form and the member's designated contingent annuitant dies after the member's payments have commenced, the member may not change the member's election and the member's payments shall continue in the same reduced monthly amount, with no benefit payable to any other person upon the member's death. A member may change or rescind the member's election, without the consent of any designated beneficiary chosen earlier by such member.

(d) Each member hired before January 1, 2017 who retires after age fifty-five (55) who becomes entitled to a pension benefit shall also become entitled to payment of a service increment benefit equal to the number of whole years of service completed in excess of twenty (20) multiplied by one percent (1%) of final monthly average

salary, to a maximum of twenty percent (20%) of final monthly average salary. Members hired on or after January 1, 2017 shall not be eligible for this benefit.

Chapter 287, Section 287.04 of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

Each member shall make regular monthly contributions to the Plan at a rate of five percent (5%) of the member's monthly compensation.

Chapter 287, Section 287.01(j) of the Codified Ordinances of the City of Johnstown, Pennsylvania, 1986 is amended to provide as follows:

(j) "Final monthly average salary" means, for employees hired before January 1, 2017, the monthly equivalent of a member's average annual salary that the member received during the final twenty-four (24) month period prior to the employee's retirement, or during any sixty (60) month period of the member's employment with the employer, whichever is greater. For employees hired on or after January 1, 2017, "final monthly average salary" shall be calculated based on the final thirty-six (36) month period prior to the employee's retirement.

ORDAINED AND ENACTED THIS 14th DAY OF June 2023

By the following vote:

Yeas: Mr. Capriotti, Ms. Huchel, Mr. Arnone, Mr. Britt, Mrs. Mock, Mayor Janakovic, Rev. King

Nays:

Absent:



Frank Janakovic, Mayor
Michael Capriotti, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Ordinance No.5355 as the same was passed finally by City Council and signed by the Mayor and/or Deputy Mayor of the City of Johnstown, Pennsylvania.



Ethan Imhoff, City Manager