

ORDINANCE NO. 2022-1

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, SPECIFICALLY ORDINANCE NO 2008-11, AS AMENDED BY AMENDING THE CALCULATION OF DISABILITY RETIREMENT BENEFITS, AND OTHER MATTERS ASSOCIATED WITH THE ESTABLISHMENT AND CONTINUATION OF THE POLICE PENSION PLAN PURSUANT TO THE TERMS AND CONDITIONS OF THE RESTATEMENT AND AMENDMENT OF THE BOROUGH OF NESQUEHONING POLICE PENSION PLAN.

BE IT ORDAINED and Enacted by the Council of the Borough of Nesquehoning as follows:

As authorized by Section 9.2 of the Borough of Nesquehoning Police Pension Plan("Plan") as amended and restated effective January 1, 2008, the employer, Borough of Nesquehoning, hereby amends the Plan in compliance with Act 600 of 1956, as amended. This amendment shall be effective as provided herein. This amendment shall supercede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment. The employer hereby amends the Plan in the following manner"

**FIRST:**

**Section 3.6— Disability Retirement**

If an actively employed participant suffers a service-connected disability and is unable to perform his normal duties prior to his normal retirement date, he may receive a disability benefit under the plan. Such disabled participant shall be entitled to a monthly disability benefit equal to 70% of an average of the last twelve (12) months of active duty pay excluding any buy back or paid time off.

Effective for an active participant becoming disabled on or after April 17, 2002, such disabled participant shall be no less than 50% of the participant's monthly rate of pay at the time the disability was incurred. The disability retirement benefit otherwise payable under this plan shall be offset by any social security disability benefit received by the participant for the same illness or injury.

Disability benefit payments shall cease upon death or upon recovery from disability prior to the date on which the disabled participant would have reached his normal retirement date if he had continued as an active participant under the plan. If disability benefits cease due to death before the participant's attainment of his normal retirement date, the death benefit shall be the

appropriate preretirement death benefit described in Section 4.2, without any reduction with respect to disability payments that have been made. For the purpose of determining whether there has been a recovery, the plan administrator may require evidence of continued disability. Such evidence may include examination by a doctor selected by the plan administrator. The participant's refusal to submit to medical examinations shall render him ineligible for disability benefits.

If disability continues until attainment of normal retirement date, the disability benefit shall continue until death.

Disability means inability to engage in any substantial gainful activity for which the participant is reasonably fitted through training, education, and experience by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months and that is the result of the performance of police services for the employer.

The permanence and degree of the impairment shall be supported by medical evidence. The plan administrator shall determine whether the participant is disabled as defined hereunder after consultation with a physician chosen by the plan administrator. The physician shall examine the participant at the participant's place of residence or at a place mutually agreed upon. In the administration of this Section, all employees shall be treated in a uniform manner in similar circumstances.

**SECOND: Effective Date**

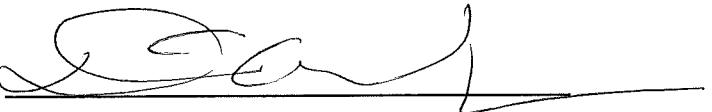
This amendment is made effective upon adoption hereof

**THIRD: Remaining Plan Provisions**

All other provisions of the Plan remain in full force and effect.

ORDERED AND ENACTED this 14<sup>th</sup> day of January, 2022.

**BOROUGH OF NESQUEHONING**

BY: 

ATTEST:   
Secretary

Examined and Approved this 12<sup>th</sup> day of January, 2022.



\_\_\_\_\_  
Mayor

nesq. 2010 police pension ord