

Chapter 31

PENSIONS

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[**HISTORY:** Adopted by the Board of Supervisors of the Township of West Earl as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Salaries and compensation — See Ch. 42.

ARTICLE I

Nonuniformed Employees Pension Plan [Adopted 12-30-1985 by Res. No. 1985-28]

§ 31-1. Pension plan established; applicability.

A pension plan is hereby established for all nonpolice employees of West Earl Township who work full time at least 40 hours a week and who are permanent employees.

§ 31-2. Eligibility for benefits. [Amended 10-18-1988 by Res. No. 1988-26]

All such employees shall be eligible for said pension benefits upon 10 years of service as employees or upon attaining age 62, whichever shall be later.

§ 31-3. Computation of benefits. [Amended 12-19-1990 by Res. No. 1990-43; 12-18-1995 by Ord.No. 110]

For all eligible employees who retire after January 1, 1996, the pension benefits shall consist of one and 1 1/2% of the final average monthly salary, averaged over the final 60 months of employment, multiplied by the years of service at retirement. Pension benefits for employees who retired prior to January 1, 1996, shall consist of those authorized by the ordinances or resolutions in effect at the time the employee retired.

§ 31-4. Vesting of benefits. [Amended 10-18-1988 by Res. No. 1988-26; 11-8-2004 by Ord.No. 180]

A. Pension benefits shall vest in accordance with the following schedule:

Vesting Service (Whole Years)	Vesting Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6 or more	100%

B. An employee shall be entitled to such benefits on retirement or at the age of 62, whichever is the later date. In no event may an employee receive any such benefit until at least age 62.

C. If an employee dies before his or her retirement date, death benefits may be paid in the form of a preretirement survivor annuity if the employee is survived by a spouse to whom he or she was continually married throughout the one-year period ending on the date of death of the employee and if the employee's vesting percentage on the date of death was greater than zero. An employee may waive the preretirement survivor annuity by electing to have a vested benefit distributed under any of the option forms of death benefit administered by the fiduciary.

§ 31-5. Standard form of annuity.

On retirement, the standard form of annuity shall be a life annuity.

§ 31-6. Administration. [Amended 3-11-2002 by Ord. No. 155; 9-28-2015 by Ord. No. 232]

- A. The Nonuniformed Employee Pension Plan and Fund shall be under the direction of the Board of Supervisors and under such regulations as the Board of Supervisors may by ordinance or resolution from time to time prescribe for the benefit of the Township's nonuniformed employees.
- B. The Township Manager shall be the Chief Administrative Officer pursuant to Pennsylvania Act 205, the Municipal Plan Funding Standard and Recovery Act.
- C. The Board of Supervisors may appoint a Pension Advisory Committee, which shall be subject to the following terms regarding organization and scope of responsibilities:
- (1) The Committee shall consist of up to nine members who shall be appointed by Board of Supervisors;
 - (2) Each member shall serve on the Committee until the Board of Supervisors replaces him or her with another member.
 - (3) The Committee shall meet when requested by the Board of Supervisors to make recommendations to the Board of Supervisors regarding administration of the Nonuniformed Employee Pension Plan and/or Police Pension Plan.
 - (4) Among other advisory duties assigned to it by the Board of Supervisors at their discretion, the Committee shall assist in the preparation of requests for proposals and review proposals submitted by prospective professional service providers to the pension plans in accordance with Act 44 of 2009, as amended and make recommendations to the Board of Supervisors.
 - (5) The committee established under this section shall be the same committee as established under § 31-9, under Article II of this chapter.
- D. The Board of Supervisors may enter into agreements with a fiduciary or fiduciaries which agreements shall permit the fiduciary to manage and operate the nonuniformed employee pension fund and to receive, hold, invest and disburse any sum or sums as may be necessary to carry out the purposes of the nonuniformed employees' pension fund. The Board of Supervisors shall determine the form and terms of any such agreements. The fiduciary shall administer the nonuniformed employee pension fund in accordance with the terms of this article, applicable laws and regulations, and any agreements with the Township. The fiduciary may be given all of the powers necessary to accomplish that purpose, including, but not limited to, determination of all questions relating to eligibility of nonuniformed employees; computation and certification of the amount and kind of benefits payable to a nonuniformed employee; holding, investing and reinvesting all funds in the nonuniformed employee pension fund in investments authorized under the laws of the Commonwealth of Pennsylvania; and to take all action that may be legally authorized in the administration of the nonuniformed employee pension plan by all applicable federal and state laws and regulations and Township ordinances and resolutions. For the purposes of this article, a fiduciary shall be considered a corporate trustee, investment advisor, investment manager, administrator and/or custodian with

whom the Township has entered into an agreement relating to the nonuniformed employee pension plan and fund.

ARTICLE II
Police Pension Plan and Fund
[Adopted 4-21-1987 by Ord. No. 63]

§ 31-7. Plan and fund established.

There is hereby established, in accordance with the provisions of the Act of Assembly of the Commonwealth of Pennsylvania, approved the 29th day of May 1956, P.L. 1804, known as "Act No. 600," its amendments and supplements,¹ a police pension plan and fund for the benefit of all full-time members of the police force of West Earl Township (hereinafter "the Township"). The pension plan shall be known as the "West Earl Township Police Pension Plan," and the pension fund shall be known as the "West Earl Township Police Pension Fund," hereinafter referred to as the "plan" and the "fund," respectively.

§ 31-8. Administration.

The administration, management, operation and application of the plan and the fund, including the care, management, investment and disposal of any money or property received by the Township in trust for the benefit of the fund, shall be vested in the Board of Supervisors of West Earl Township (hereinafter "the Board"), subject to such regulations as the Board may from time to time prescribe. The fund shall be audited and the moneys therein shall be deposited as in the case of other funds of the Township.

§ 31-9. Pension Committee. [Amended 9-28-2015 by Ord. No. 232]

The Board of Supervisors may appoint a Pension Advisory Committee, which shall be subject to the following terms regarding organization and scope of responsibilities:

- A. The Committee shall consist of up to nine members who shall be appointed by Board of Supervisors;
- B. Each member shall serve on the Committee until the Board of Supervisors replaces him or her with another member.
- C. The Committee shall meet when requested by the Board of Supervisors to make recommendations to the Board of Supervisors regarding administration of the Nonuniformed Employee Pension Plan and/or Police Pension Plan.
- D. Among other advisory duties assigned to it by the Board of Supervisors at their discretion, the Committee shall assist in the preparation of requests for proposals and review proposals submitted by prospective professional service providers to the pension plans in accordance with Act 44 of 2009, as amended, and make recommendations to the Board of Supervisors.

1. Editor's Note: See 53 P.S. § 767 et seq.

- E. The committee established under this section shall be the same committee as established under § 31 -6C, under Article I of this chapter.

§ 31-10. Trustees.

The Board or any Pension Committee appointed by the Board pursuant to § 31-9 of this article is authorized to appoint a Trustee or Trustees (hereinafter called "Trustee") and to enter into a trust agreement with said Trustee, upon such term or terms as the Supervisors or the Pension Committee, as the case may be, shall establish, to invest and reinvest the fund and to make payments out of the fund in accordance with the provisions of the plan and the trust agreement. The Trustee may be a natural person or persons, a corporation or the Board of Supervisors.

§ 31-11. Receiving of funds; investment.

The Board of Supervisors or any Trustee appointed hereunder shall receive from the Township Treasurer any allocations received by the Township from the Commonwealth of Pennsylvania, from the Township itself, from police employees and from gifts, grants, devises or bequests made pursuant to § 31-12 of this article and shall invest such sums in the manner it deems most beneficial to the fund so as to provide retirement and other benefits as shall be required by law or by this article or as shall be established from time to time by resolution of the Board.

§ 31-12. Donations to fund; management.

The Township shall be authorized to take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of the plan and the fund, and the care, management, investment and disposal of such trust fund or property shall be vested in the person or persons having the management of the West Earl Township Police Pension Plan and Fund, and said trust fund shall be governed thereby subject to such directions not inconsistent therewith as the donors of such fund and property may prescribe.

§ 31-13. Eligibility.

All full-time police employees of the Township shall participate in the West Earl Township Police Pension Plan and Fund from the date of employment with the Township police force and shall be eligible to retire upon 25 years' service in the Township or upon attaining the age of 55 years, whichever shall be later. Such members as are retired shall be subject to service, from time to time, as police reserves in cases of riot, tumult or preservation of the public peace until unfit for such service, when they may be finally discharged by reason of age or disability.

§ 31-14. Computation of benefits. [Amended 6-22-1992 by Ord. No. 94; 8-9-1993 by Ord. No. 101; 7-24-1995 by Ord. No. 108]

- A. The amount of pension or retirement benefits payable under this article shall be as follows: Monthly pension or retirement benefits shall be 112 of the monthly average compensation of the member during the last 36 months of employment. Such retirement benefits shall be paid monthly during the balance of the member's life following actual retirement.

- B. Pension payments made under the provisions of this article shall not be a charge on any other fund of the Township or under its control save the Police Pension Fund.
- C. It is the intention of this Township that the pension benefits to be paid under this article shall be consistent with the statutory and decisional law of the Commonwealth of Pennsylvania at the time a police officer is first entitled to receive such benefits.
- D. There is hereby established an early retirement benefit which shall be available to a full-time police officer with 20 or more years of continuous service who terminates employment prior to the completion of superannuation retirement age and service requirements and who files a written application for an early retirement benefit with the Board of Supervisors. The early retirement benefit shall become effective as of the date the application is filed with the Board of Supervisors or the date designated on the application, whichever is later, and shall be actuarial equivalent of a partial superannuation retirement benefit calculated as follows: **[Added 1-26-2009 by Ord. No. 201]**
- (1) A partial superannuation retirement benefit shall be determined by applying the percentage that the participant's years of service bear to the years of service that the participant would have rendered had the participant continued to be employed until his or her superannuation retirement date to the gross pension amount calculated using the monthly average salary during the appropriate period prior to his or her termination of employment.
 - (2) The actuarial equivalent of the partial superannuation retirement benefit shall be determined by actuarially reducing the partial superannuation retirement benefit to reflect that it will commence on the effective date of the early retirement rather than on the date on which the participant would have completed superannuation age and service requirements. The actuarial reduction shall be calculated using the actuarial assumptions reported in the last actuarial valuation report filed with the Public Employee Retirement Commission under the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act" or "Act 205," 53 P.S. § 895.101 et seq.

§ 31-15. Survivor's benefits. [Added 6-22-1992 by Ord. No. 94; amended 11-11-2002 by Ord. No. 160; 5-24-2010 by Ord. No. 212]

- A. Upon the death of a participant who is receiving a retirement benefit or upon the death of a participant who is eligible to receive retirement benefits (other than a participant who is killed in the performance of police duties), the surviving spouse shall be entitled, during his or her lifetime, to receive a pension equal to 50% of the pension the participant was receiving or would have been receiving had the participant been retired at the time of the participant's death. If there is no surviving spouse, or if the surviving spouse subsequently dies, then the child or children of the participant under the age of 18, or, if attending college, under the age of 23 years, shall be entitled to receive a pension equal to 50% of the pension the participant was receiving or would have been receiving had the participant been retired at the time of death. Such pension to the child or children

shall continue until the child or children reach the age of 18 years or, if attending college, reach the age of 23 years.

- B. Upon the death of a participant who has attained a vested benefit in accordance with § 31-17 herein (other than a participant who is killed in the performance of police duties), the surviving spouse shall be entitled, during his or her lifetime, to receive a pension equal to 50% of the pension the participant would have been eligible to receive in accordance with § 31-17 if such participant had voluntarily terminated his or her employment at the time of the participant's death. If there is no surviving spouse, or if the surviving spouse subsequently dies, then the child or children of the participant under the age of 18 years, or, if attending college, under the age of 23 years, shall be entitled to receive a pension in the amount that the surviving spouse would have received. Such pension to the child or children shall continue until the child or children reach the age of 18 years, or, if attending college, the age of 23 years. The pension benefit to the surviving spouse or to the child or children of the participant shall become payable on the date that the pension would have become payable to the participant if the participant had voluntarily terminated his or her employment at the time of the participant's death.
- C. Upon the death of a participant who dies before his or her pension has vested in accordance with § 31-17 herein, the surviving spouse shall be entitled to receive repayment of all money which the participant invested in the Police Pension Fund plus interest as provided in § 31-17 or other increases in value of the participant's investment in the Police Pension Fund unless the participant has designated another beneficiary for this purpose. If there is no surviving spouse, or if the surviving spouse subsequently dies, then the child or children of the participant under the age of 18, or, if attending college, under the age of 23 years, shall be entitled to receive repayment of all money which the participant invested in the Police Pension Fund plus interest as provided in § 31-17 or other increases in value of the participant's investment in the Police Pension Fund unless the participant has designated another beneficiary for this purpose.
- D. For the purposes of this § 31-15, the phrase "attending college" shall mean the eligible child is registered at an accredited institution of higher learning and is carrying a minimum course load of seven credit hours per semester.
- E. Participants who are killed in the line of service shall receive benefits pursuant to the Act of October 9, 2009 (P.L. _____, No. 51),³ which amended the Act of June 24, 1976 (P.L. 424, No. 101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act, as previously amended April 2, 2002 (P.L. 213, No. 20), October 6, 2005 (P.L. 319, No. 59) and July 2, 2007 (P.L. 68, No. 21).

§ 31-16. Disability benefits. [Added 6-22-1992 by Ord. No. 94]

- A. Any participant who is permanently disabled from permanent injuries incurred in service as a police officer of the Township shall be entitled to monthly disability benefits equal to 50% of his or her monthly salary at the time of the total and permanent disability.. **[Amended 11-11-2002 by Ord. No. 160]**

3. Editor's Note: See 53 P.S. § 891.

- B. Such monthly disability payments shall be first composed of federal social security and state workers compensation benefits, if any, and then composed of benefits from the Police Pension Fund established pursuant to this article to the extent necessary to bring the total benefits for any month up to the percentage of the police officer's monthly salary as set forth above. Monthly disability payments shall commence on the 121st day following the inception of such total and permanent disability.

§ 31-17. Vesting of benefits.

- A. A vested benefit as described in this section is hereby authorized, provided that such vested benefit does not impair the actuarial soundness of the fund as determined by an actuary. For the purposes of this article, "actuary" shall mean:
- (1) A member of the American Academy of Actuaries.
 - (2) An individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he or she has the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience.
 - (3) A firm, partnership or corporation of which one or more members meet the requirements of Subsection A(1) or (2) above.
- B. Under the provisions of such benefit, should a police officer, before completing superannuation retirement age and service requirements but after having completed 12 years of total service, for any reason cease to be employed as a full-time police officer by the Township, he or she shall be entitled to vest his or her retirement benefits by filing with the Board of Supervisors, within ninety (90) days of the date he or she ceases to be a full-time police officer, a written notice of his or her intention to vest. Upon reaching the date which would have been his or her superannuation retirement date if he or she had continued to be employed as a full-time police officer, he or she shall be paid a partial superannuation retirement allowance determined by applying the percentage of his or her years of service to the years of service which he or she would have rendered had he or she continued to work until his or her superannuation retirement date to the gross pension established by § 31-14 of this article, using, however, the monthly average salary during the appropriate period prior to his or her termination of employment. Such pension or retirement benefits for any month shall be as provided in § 31-14 of this article to the extent necessary to bring the total benefits in any month up to his or her partial superannuation retirement allowance as outlined herein. It is the intention of this section to provide a vested benefit as and to the extent authorized by Act No. 1979-99. An example of such vesting is set forth in Exhibit A attached hereto and made a part hereof.

4. Editor's Note: See 53 P.S. § 771.

5. Editor's Note: Exhibit A is on file and available for inspection in the office of the Township Secretary.

§ 31-18. Maintenance of plan and fund. [Amended 6-22-1992 by Ord. No. 94]

The Police Pension Plan and Fund established under the provisions of this article shall be maintained by:

- A. A charge against each full-time member of the police force.
- B. Annual appropriations made by the Township.
- C. Payments made by the State Treasurer to the Township Treasurer for purposes of pension benefits for police officers.
- D. Gifts, grants, devises or bequests granted to the Police Pension Plan and Fund.

§ 31-19. Employee contributions. [Added 6-22-1992 by Ord. No. 94]

Contributions to the plan and fund by members of the police force shall be determined as follows:

- A. A full-time police officer shall become a participant in the fund and liable for contributions immediately upon employment.
- B. Each police officer shall contribute monthly into the Police Pension Fund established hereunder an amount equal to 5% of the police officer's total monthly compensation. All such contributions by an officer shall be deducted by the Township from the police officer's salary. Any balance of needed annual contributions shall become the obligation of the Township and shall be paid to the pension fund by annual appropriations.
- C. If an actuarial study shows that the condition of the Police Pension Fund of the Township is such that payments into the fund by members may be reduced below the minimum percentages hereinbefore prescribed or may be eliminated and that, if such payments are reduced or eliminated, contributions by the Township will not be required to keep the fund actuarially sound, the Board of Supervisors may on an annual basis, by resolution, reduce or eliminate payments into the fund by police officers.
- D. Any payments made by the Commonwealth of Pennsylvania to the Township for police pension purposes shall be used as follows: to reduce the unfunded liability of the Township on account of pensions payable hereunder and, after such liability has been funded, to apply against the annual obligation of the Township for future service cost or, to the extent that the payment may be in excess of such obligation, to reduce the police officer's contributions as provided for by Subsection C herein.

§ 31-20. Refund of contributions; interest.

Any member of the police force who, for any reason whatsoever, shall be ineligible to receive a pension after having contributed any charges to the Police Pension Fund established pursuant to the provisions of this article shall, immediately upon discontinuance of his or her employment with the police force, be entitled to a refund of all such moneys paid by him or her into such fund, plus interest earned on such moneys while in the Police Pension Fund calculated at the rate of 4 1/2% per annum or at such other rate as may be established from time to time by resolution of the Board of Supervisors. If such discontinuance is due to death, such money shall be paid to his or her designated beneficiary or, in the absence thereof, to his or her estate.

§ 31-21. Conditions and exclusions.

Such of the foregoing benefits as are provided through insurance policies shall be subject to any customary conditions or exclusions of such policies.

§ 31-22. Actuary.

The Board of Supervisors may employ an actuary and may fix his or her compensation.

§ 31-23. Administration costs and expenses.

All costs and expenses incurred in administering the Police Pension Plan and Fund, including but not limited to the compensation paid to an actuary and to the Trustee, may be paid from the assets of the Police Pension Fund.

§ 31-24. Payment of benefits.

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 entitled thereto and shall not be subject to assignment or transfer.

§ 31-25. Discontinuance or modification.

The West Earl Township Police Pension Plan and Fund established by this article may be discontinued or modified according to law by an ordinance duly enacted by the Board of Supervisors.

§ 31-26. Legislative intent.

It is the intention of the Board of Supervisors of West Earl Township, Lancaster County, Pennsylvania, to establish the pension plan and fund in accordance with the applicable laws of the Commonwealth of Pennsylvania, as amended from time to time.

§ 31-27. Police officers hired prior to July 1, 1974. [Amended 6-22-1992 by Ord. No. 94]

Any police officer whose age and service requirements were established by Ordinance No. 625 shall be entitled to retire and receive benefits in accordance with the terms of Ordinance No. 62. To the extent that this article, as amended, provides for greater pension benefits than those set forth in Ordinance No. 62, officers whose age and service requirements were established by Ordinance No. 62 shall receive such greater pension benefits as established by this article, as amended, but shall remain eligible to retire in accordance with the age and service requirements established by Ordinance No. 62.

5. Editor's Note: Ordinance No. 62 established a police pension plan and fund for members hired on or before July 1, 1974.

§ 31-28. Definitions. [Added 11-11-2002 by Ord. No. 160]

The following terms shall have the following meanings when used in this article II:

ACT 600 — The act of May 29, 1956, P.L. (1955) 1904, No. 600, as amended, 53 P.S. § 767 et seq.

BOARD OF SUPERVISORS — The governing body of the Township.

OFFICER or POLICE OFFICER — All full-time uniformed employees of the West Earl Township Police Department.

MEMBER — A police officer of the Township who is eligible to participate in the Police Pension Fund, i.e., a full-time police officer of the Township.

PARTICIPANT — A police officer of the Township who is eligible to participate in the Police Pension Fund, i.e., a full-time police officer of the Township.

SALARY — The fixed, stated amount paid at periodic intervals together with overtime earnings and longevity paid to a full time police officer by the Township. It is the intent that the term "salary" shall be interpreted in accordance with the historic procedure of the Township to base the calculation of pensions and the withholding of contributions from full-time police officers on the hourly rate as established by police collective bargaining agreements and arbitration awards together with longevity and overtime compensation. The term "salary" shall not include any other payments made by the Township to a full-time police officer, including, but not limited to, longevity, or payments for unused vacation time, personal days, etc.

TOWNSHIP — The Township of West Earl, Lancaster County, Pennsylvania.

5. Editor's Note: Ordinance No. 62 established a police pension plan and fund for members hired on or before July 1, 1974.