

ORDINANCE NO. 194

ESTABLISHING A POLICE PENSION FUND AND SETTING STANDARDS AND CONDITIONS FOR THE OPERATION OF A POLICE PENSION FUND IN THE BOROUGH OF ALBURTIS

BE IT ORDAINED by the Council for the Borough of Alburtis, and it is hereby ordained by authority of the same:

SECTION 1. The Borough of Alburtis, pursuant to Sections 1131 to 1137 of the Borough Code as amended, 1966 P.L. 581, and the act of May 12, 1943, P.L. 259, as amended, hereby establishes a Police Pension Fund, hereinafter to be referred to as "the Fund".

SECTION 2. The Fund shall exist and be managed for the benefit of all full time members of the police force who elect to become members thereof, authorize the deduction of the applicable individual contribution into the Fund, and thereafter continue to conduct himself or themselves as law abiding citizens not within the class of activities hereinafter prescribed as a basis for the denial of the right to share in the Fund.

SECTION 3. The Fund shall be derived from the following sources:

(a) Such percentum(%) of the salary of each officer and member of the Police Force, as the member may elect to have deducted from his or their respective salaries, and paid into said Fund.

(b) Any sum or sums paid to the Borough and inuring to the Fund from any official or department of the Commonwealth of Pennsylvania under any present or future law pertaining thereto.

(c) Any money or property whether real or personal, which the Borough may by gift, grant, devise or bequest, receive for the benefit of the Fund.

(d) Any and all contributions that may be lawfully made by the Borough to the Fund.

(e) Receipts from investments of said Fund.

SECTION 4. The management of the Fund may be handled by a committee to be appointed by Borough Council. That committee shall be comprised of no less than three (3) members, chosen as follows:

(a) One (1) member, either the Borough Treasurer or the Borough Secretary, to be selected by the Council.

(b) A Council member to be selected by the Council.

(c) One (1) member to be chosen by the Police Department. This member may be a policeman or a nominee of the Police Department, as a group.

SECTION 5. The term of service of the members of the committee administering the fund shall be for a period of one (1) year. These appointments shall be confirmed annually at the initial business meeting of Borough Council in the month of January of each year.

SECTION 6. The committee shall act by Roberts' Rules of Procedure. All decisions shall be by majority vote. The committee may authorize one of its members to execute any document or documents on behalf of the committee.

Ord. 194

The committee may adopt by-laws and regulations as it deems necessary for the conduct of its affairs; and, may appoint such accountants, counsel, specialists or other persons, as it may deem necessary for the proper administration of the Police Pension Fund. Provided that: no such regulation by-law or appointment shall be effective until submitted to and approved by Borough Council.

SECTION 7. The committee shall keep a record of all its proceedings and acts, and shall keep all such books of account, records and other data, as shall be necessary for the proper administration of the fund. All actions of the committee shall be communicated to Council, and a report of the condition of the fund shall be submitted to Borough Council in October of each calendar year.

SECTION 8. The members of the committee shall serve without compensation for their services. Reasonable expenses may be incurred in the administration of the fund provided that such expenses be submitted, in advance, and approved, to and by Borough Council.

SECTION 9. No member of the committee shall incur any liability for any action or failure to act, except only for gross negligence or willful misconduct.

SECTION 10. The assets of the fund shall be held by the Borough Treasurer who shall serve as treasurer of the fund. The assets of the fund shall be kept separate and apart from other funds, and shall be separately protected by a surety bond to the Borough in a sum not less than the amount of money that shall come into the hands of the treasurer of the fund. Any part of the fund may be ^{be loaned to} invested in the manner and in the same kind of securities as sinking funds of the Borough may be invested.

(a) Separate books of account and records shall be kept for the fund, which shall be open for inspection by any interested party. The books of account shall be audited yearly at the time of the annual borough audit.

SECTION 11. Every officer and full-time member of the police force of the Borough of Alburtis who shall have served for a total period of twenty-five (25) years, and shall have reached the age of sixty (60) years, shall be entitled to be honorably discharged and retired on a pension.

(a) Every participant in the fund shall retire at the age of sixty-five (65)

(b) Persons retired as members of the police force, for the Borough of Alburtis, may be subject to service as police reserve until unfitted therefore by age or disability, at which time they may be discharged finally. While on duty as police reserve officers, such persons may be paid wages, in addition to their regular pension as Council may in each case determine.

(c) Each participant in the fund who shall complete the age and service eligibility requirements shall receive a pension for life payable in equal monthly installments in an amount equal to one-half the participant's average monthly salary, based on his or her last sixty (60) months of salary or that percentage, and based on that number of months, as shall be prescribed by statute of the Commonwealth of Pennsylvania subsequent to the adoption of this ordinance.

(d) Pension benefits shall be payable from the assets of the fund established pursuant to this ordinance. Provided that: the amount of the pension shall be reduced by not more than fifty (50) percent of the amount of primary Social Security benefits that the participant may be entitled to because of age; provided further that: such offset shall not commence until the participant becomes eligible for such social security benefits.

(e) Beneficiaries designated by the participant shall be entitled to the death benefit incidental to a policy of insurance purchased primarily to fund the pension of the participant. Provided that the participant at the time of his death is not retired.

(f) If any participant is permanently injured in service or is killed in service, and upon the representation and certification of the physician designated by the committee that such injury is permanent and service connected, then such member, in the case of injury, or his beneficiaries, in the case of death, is entitled to a pension in an amount based on a uniform scale established by the committee subject to prior approval of such scales by the Council.

(g) Each participant shall have the right to name the beneficiary or beneficiaries for pre-retirement death benefits incidental to policies of insurance purchased primarily to fund the participant's pension. Provided that: the ownership of such policies shall remain in the municipality's governing body and shall be endorsed to prevent the assignment of ownership to the insured. If the participant shall fail to name a beneficiary, such benefits that would have accrued to his beneficiaries shall be paid to the participant's estate. Each participant may from time to time change the beneficiaries in such form and manner as shall be prescribed by the committee.

(h) In lieu of the retirement benefits contained herein, the participant may elect, in writing, an actuarial equivalent as may be provided for by regulation. Provided that: no such equivalent benefits may work the effect of providing a lump sum amount of money or provide for a pension for a period less than life, or provide for a pension less than the amount established by law.

(i) No benefit under the plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge. Nor shall any such benefits be in any manner liable for or subject to garnishment, attachment, execution, levy, or other legal process.

(j) All benefits granted herein shall vest in the participant upon completion of the requirements for eligibility, and his benefits shall continue in the amount and in the form in which he first became entitled to them.

SECTION 12. Termination of employment with the Borough:

(a) If for any reason a member of the police force of the Borough of Alburtis shall terminate service with the Borough, that member shall be entitled to a refund of his contributions, if any, plus interest at a rate set by the committee, subject to approval by the Council. Such interest shall be at a rate which is uniform for all participants.

ORD. 194

(b) Should a member of the police force of the Borough of Alburdis be discharged from the police force, he shall be paid from the fund the full amount of the deductions from his pay, if any, with interest.

(c) Should a member of the police force not eligible for pension but in good standing with the fund, be honorably discharged because of disability, he shall likewise be paid from the fund the full amount of the deductions from his pay, with interest.

(d) Upon application in writing, stating a reason deemed good and sufficient to it, the Borough Council may grant any officer or member of the police force a leave of absence without pay for a period not exceeding six (6) months, unless such period may be extended by majority vote of the entire council, during which period such members shall be considered in relation to the fund as being in active service, and he shall not lose any rights to pension or benefits hereunder. The provisions of this section shall likewise apply where any member is prevented by injury or illness from performing his regular duties, if he remains a member of the police force and of the fund. Provided: such leave of absence shall not affect any law, ordinance, or action of council providing for sick leave or vacation pay.

(e) If a member of the police force subsequent to prior termination of employment shall return to service, he shall be entitled to credit in the fund for the prior years of service with the Borough, providing he returns the contribution he received plus interest on those contributions which would have been earned had they remained in the fund.

(f) Any member of the police force of the Borough for at least six (6) months, who shall thereafter enter military service of the United States of America, shall have credited to his employment record for pension benefits, all the time spent by him in such military service, if such person returns to his employment with the Borough within six (6) months time after his separation from the service.

SECTION 13. No person participating in the fund and becoming entitled to receive a benefit therefrom shall be deprived of his right to an equal and proportionate share therein, upon the basis upon which he first became entitled thereto, except for one or more of the following causes:

(a) Conviction of a crime or a misdemeanor involving moral turpitude.

(b) Becoming an habitual drunkard.

(c) Failing to comply with a general regulation relating to the management of the fund, which by its own terminology provides for termination of the right to participate in the fund after notice and hearing on said alleged failure.

(d) Refusal to report for duty and perform the duties prescribed as a police officer or member of the police force unless in the opinion of Borough Council, good and sufficient reasons are shown for such failure or neglect.

(e) If any of the foregoing four (4) causes be found to exist, having occurred subsequent to the accrual to the right to receive pension, or should it be found that a pensioner fails to support his wife, children, or other dependents, the Borough Council may, in its discretion, order a full investigation and hearing in the matter and, if convinced of the truth of the allegations, may further, in its discretion, make subsequent pension payments payable to the wife, children, or other dependents of the pensioner.

SECTION 14. Any member of the police force aggrieved by any ruling or action of the committee or the Borough Council, regarding the administration of the fund and his relation thereto, shall have the right to a hearing before Borough Council within ten (10) days following his written request therefore directed to the Borough Secretary. At the time of said hearing, the person aggrieved may attend in person and be represented by Counsel and may further require the attendance of any witnesses on his behalf by subpoena to be issued by the Borough Council on his written request. Minutes and records shall be kept of the testimony and of the facts produced, and Council may thereupon make such order and ruling in the matter, as may be deemed just or lawful.

SECTION 15. No payments made under this ordinance may be assigned or attached in any manner or for any purpose, reason or cause, or under any circumstances.

SECTION 16. The provisions of this ordinance, insofar as they are the same as statutory provisions, shall be subject to change or repeal in order to comply with any future statutory provisions, and the provisions of this ordinance may be amended or repealed if statutory authority be granted therefore, or statutory restrictions or mandates are eliminated and discretion vested in Borough authorities.

SECTION 17. All policemen or policewomen applying for membership in the Fund agree to be bound by the provisions of this ordinance and by any future laws or ordinances pertinent to the subject matter of this ordinance.

SECTION 18. Nothing in this ordinance shall be deemed to invalidate any present contract of insurance or annuity contract owned by the Borough of Alburdis, insuring a member or members of the Police Force of the Borough of Alburdis as of the date of the passage of this ordinance. The committee administering the Police Pension Fund is hereby further authorized, in conformity with Section 1131 of the Borough Code, to continue the purchase of annuity contracts for members of the Police Force, if in the discretion of the committee, the size of the Police Force currently does not warrant a different procedure or method of investment.

SECTION 19. All ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

ORDINANCE 194

ENACTED AND ORDAINED this 21st day of November A.D., 1978.

Allen P. Small
President

ATTEST:

Jaye Schodler
Secretary

APPROVED this 21st day of November A.D., 1978.

Francis Reppert
Mayor