

ORDINANCE NO. 40

AN ORDINANCE ESTABLISHING A POLICE PENSION FUND FOR THE TOWNSHIP OF WESTFALL, PIKE COUNTY, PENNSYLVANIA, PROVIDING FOR THE ADMINISTRATION, RETIREMENT ELIGIBILITY AND BENEFITS, CONTRIBUTIONS, TERMINATION OF EMPLOYMENT, CREDIT FOR MILITARY SERVICE, TERMINATION OF THE FUND AND INVESTMENTS FOR SAME.

SECTION I: Definition of Terms

- 1.1. COMMITTEE means the persons appointed to administer the Police Pension Fund established pursuant to this Ordinance.
- 1.2. SUPERVISORS means the Supervisors of Westfall Township.
- 1.3. EMPLOYER means the Township of Westfall, Pike County, Pennsylvania.
- 1.4. PARTICIPANT means every person duly appointed from time to time by the municipality as a full time paid policeman working at least forty (40) hours a week at a definite salary, subject to vacation and sick leave.
- 1.5. SERVICE IN THE AGGREGATE means total service, not necessarily continuous.
- 1.6. MONTHLY COMPENSATION means the rate of monthly pay of the Participant immediately preceding retirement, including overtime, longevity pay and service increments, if any.
- 1.7. FUND means the Police Pension Fund established pursuant to this Ordinance.
- 1.8. UNFUNDED LIABILITY means the present value of any Participant's benefits accrued prior to the enactment of this Ordinance by virtue of his/her prior service in the aggregate.
- 1.9. FUTURE SERVICE LIABILITY means the present value of any Participant's benefits which shall accrue by virtue of the service in the aggregate rendered subsequent to the enactment of this Ordinance.
- 1.10. ACTUARIAL EQUIVALENT means a benefit determined by an actuary to be equivalent in value to the Participant's normal retirement benefit as defined herein; provided that such actuarial equivalent is within the limitations provided herein.
- 1.11. TERMINATION means the cessation of services by the Participant for any reason including disability, death, resignation and employer termination. Voluntary leaves of absence without pay shall not be a termination for purposes of this Ordinance; but no period of such leave shall be computed in the total service in the aggregate for Pension benefit purposes. Leaves of absence with pay shall not be considered a termination within the meaning of this Ordinance, and such leaves may be computed in the total service in the aggregate for pension benefits purposes. Provided that the municipality is able to certify to the Department of the Auditor General that such Participant on a leave of absence with pay is within the definition of Participant herein.

1.12 MUNICIPALITY means Township of Westfall, Pike County, Pennsylvania.

SECTION II: Administration

- 2.1 The Supervisors shall administer the Police Pension Fund established by this Ordinance by such regulations and Ordinances as shall from time to time be necessary for the effective maintenance of the Fund, provided, that no regulation shall be contrary to the statues of the Commonwealth of Pennsylvania pursuant to which this Fund is established.
- 2.2. The Supervisors may appoint a committee which shall administer the Police Pension Fund established by this Ordinance according to the regulations established pursuant to this Section.
- 2.3 The Committee appointed by the Supervisors shall consist of not less than three (3) members. One member of the committee shall be a Supervisor of Westfall Township.
- 2.4 All persons designated to serve on the Committee as aforementioned shall serve at the pleasure of the Supervisors. Any member of the Committee may resign upon written notice to the Supervisors and the Committee. Any vacancies in the Committee shall be filled by the Supervisors.
- 2.5 The Committee shall act by such procedure as the Committee shall establish, provided that, 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. The Committee may adopt regulations as it deems necessary for the conduct of its affairs and may appoint such accountants, counsel, specialists and such other persons as it may deed desirable for the proper administration of the Pension Fund, provided that, no such regulations or appointments shall be effective until such is approved by the Supervisors.
- 2.6 The Committee shall keep a record of all its proceedings and acts, and shall keep all such books of accounts, records and other data as shall be necessary for the proper administration of the Pension Fund. All actions of the Committee shall be communicated to the Supervisors.
- 2.7 ✓ The members of the Committee shall serve without compensation for their services. The Municipality shall pay for all rasonable expenses incurred in the administration of the Fund including but not limited to fees for the services of specialists including actuaries, accountants and legal counsel, provided however that such expenses shall be subject to the prior approval of the Supervisors.
- 2.8 No member of the Committee shall incur any liability for any action or failure to act, incurring only liability for their own gross negligence or wilful misconduct. The Employer shall indemnify each member of the Committee against any and all claims, loss, damages, expenses and liability arising from any act or failure to act, except for such that is the result of gross negligence or willful misconduct of such member.

Section III. Retirement Eligibility and Benefits

3.1 Eligibility For Retirement

- (A) A Participant in the Police Pension Fund may retire from active duty, provided that the Participant has attained the age of fifty-five (55)
- ✓ (B) A Participant shall retire at the age of sixty-five (65)
- (C) A Participant upon retirement shall be subject to service from time to time as a Police reserve in cases of riot, tumult or the preservation of the public peace until such time as the Participant shall be unfit for such service by reason of age or disability at which time the Participant shall be finally discharged.

3.2 Retirement Benefits

- (A) A Participant in the Police Pension Fund, upon retirement as aforementioned, shall receive benefits, which benefits shall be determined as follows: 2% credit for each of the first ten (10) years of service and 1% credit per year for all subsequent years times the rate of monthly compensation of the Participant immediately preceding retirement. Such benefits shall be payable monthly during the balance of the Participants life following retirement.
- ✓ (B) Should a Participant elect to retire at his or her normal retirement date, or at a later date but prior to age 65, the Participant will receive an additional monthly pension equal to the estimated primary social security amount to which the Participant would be entitled at age 65, or five hundred (\$500.00) dollars per month, whichever is less. This benefit would only be payable from the Participants date of actual retirement until the Participant reaches the age of 65 and would not be payable to any Participant after attainment of age 65.

3.3 Death prior to Retirement

A Participant shall have the right under this Ordinance as hereinafter stated to name a beneficiary or to name beneficiaries. The beneficiaries designated by the Participant, and in accordance with the provisions of this Ordinance as hereinafter stated, 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 death is not retired.

3.4 Disability Benefits

- (A) If the Participant is permanently disabled, whether or not service connected, and said disability is certified by a physician designated by the Supervisors, the Participant will be given a disability retirement and will be entitled to receive for life a pension computed pursuant to the formula set forth under Paragraph 3.2 (A) of this Ordinance.
- (B) If the Participant is killed in service, his or her spouse shall receive for life a pension, based on the Participants years of service, and computed pursuant to the formula set forth under paragraph 3.2 (A) of this Ordinance. If the participant has no spouse, or if said spouse remarries or dies, each of the

participant's surviving children shall share equally in said pension until said child reaches the age of eighteen (18), at which time his or her interest in the pensions shall cease.

3.5. Designated of Beneficiaries

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 Township of Westfall and shall be endorsed to prevent the assignment of ownership. If the Participant shall fail to name a beneficiary, such benefits that would have accrued to any beneficiary shall be paid to the Participant's estate. Each Participant may from time to time change the beneficiary in such form and manner as shall be prescribed by the Supervisors.

3.6 Actuarilly Equivalent Benefits

In Lieu of the retirement benefits contained herein the Participant may elect in writing an actuarial equivalent as may be provided for by an actuary, provided however, that no equivalent benefits may work the effects of providing a lump sum amount of money or provide for a pension for a period less than the amount established by law, unless such amount is reduced to pay the cost of any additional benefit such as one hundred twenty (120) month certain benefits.

3.7 Non Alienation of Benefits and Vesting

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.

Further, 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 the Participant first become entitled to them.

Section IV: Contribution

4.1 It shall be the liability of the Municipality to pay the administrative expenses incurred in the management of the Fund.

4.2 Allocation of commonwealth Funds.

The payments made by the State Treasurer to the Municipality from the monies received from the taxes paid on the premiums of foreign casualty insurance companies for purposes of pension benefits for policeman shall be used as follows:

- (A) To reduce the unfunded liability, or after such liability is funded,
- (B) To apply toward the future service liability of the Pension Fund.

4.3 Gifts, Bequests and Grants

All other monies and property received by the Township of Westfall including gifts, bequests, devises and grants shall be cared for, managed, invested and disposed of by the Supervisors, or by the hereinbefore mentioned Committee, if such a Committee is appointed by the Supervisors.

Section V: Credit For Military Service

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

Section VI: Termination Of The Fund

- 6.1 Upon Termination of the Fund the assets shall be distributed as follows:
- (A) Sufficient funds shall be maintained to provide the pension benefits required to be paid pursuant to the terms of this Ordinance..
  - (B) All funds in excess of the funds described in paragraph A above shall be returned to the Commonwealth as unused funds pursuant to the Act of May 12, 1943, P.L. 259, as amended, 72 P.S. 2263.3.

Section VII: Participant's Rights and Municipality's Right to Terminate

- 7.1 Neither the establishment of the Plan hereby created, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the municipality, or any officer or employee thereof, or the Committee, except as herein provided. Under no circumstances shall the fund created hereby constitute a contract for continuing employment for any Participant or in any manner obligate the Municipality to continue or discontinue the services of any Participant.

The Plan has been established and shall be maintained by the Municipality in accordance with the law of the Commonwealth of Pennsylvania. Upon termination, the Municipality shall have no liability hereunder other than that imposed by law.

Section VIII: Investments

- 8.1 All investments of the assets of this Fund shall comply with the requirements as provided by law. Investments made by a Committee are subject to approval by the Township.

The Township may also purchase annuities, or other contracts of insurance, which provide a cash value with which to fund pensions provided that the Township shall determine the value of any policies purchased, the company with which the contracts shall be made, and the time to purchase such policies. The Township shall also have the obligation to insure that the policies purchased provide benefits on a uniform scale and that such policies are endorsed to the ownership of the Municipality.

Section IX: Amendments

- 9.1 The Township reserves the right to amend at any time, in whole or in part, any or all of the provisions of this Fund. However, no such amendment shall authorize or permit any part of the Fund to be used or diverted to purposes other than for the exclusive benefit of the Participants, their beneficiaries or their estates. Nor shall any amendment divest a Participant of benefits vested by Section III.

Section X: Construction of Plan

- 10.1 This Plan shall be constructed according to the laws of the Commonwealth of Pennsylvania and all provisions hereof shall be administered according to the laws of such Commonwealth.

Whenever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine gender in all cases where they would so apply, and whenever words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

Headings of sections and paragraphs of this instrument are inserted for convenience of reference. They constitute no part of this Plan and are not to be considered in the construction hereof.

Section XI: Repealor

- 11.1 This Ordinance repeals all other ordinances prior to the date of its enactment which ordinances establish, maintain, govern or regulate a police Pension Fund of the Township of Westfall.

Section XII : Severability

- 12.1 The provisons of this Ordinance shall be severable, and if any section, paragraph, sentence or words of this Ordinance hereby adopted be declared, for any reason, invalid, unlawful or

unconstitutional, it is the intent of the Municipality that it had passed all other sections, paragraphs or clauses of this Ordinance hereby adopted independent of the limination herefrom of any such portion as may be declared invalid, unlawful or unconstitutional.

ORDAINED AND ENACTED THIS 16 DAY OF March, 1982.

TOWNSHIP OF WESTFALL

Attest: Kenneth H. LaBarr  
Secretary

By: George Campbell  
Supervisor  
Carlton J. Shaw  
Supervisor  
Kenneth H. LaBarr  
Supervisor