

ORDINANCE NO. 75-1995

AN ORDINANCE TITLED "THE AMENDED TOWNSHIP OF CENTRE POLICE PENSION ORDINANCE WITH 1995 AMENDMENT" OF THE TOWNSHIP OF CENTRE, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCES 42-1990<sup>and</sup> WHICH ESTABLISHED A POLICE PENSION SYSTEM UNDER ACT 120, AND FURTHER PROVIDING FOR THE ESTABLISHMENT OF A POLICE PENSION FUND UNDER ACT 120, PROVIDING FOR FUNDING, MANAGEMENT OF FUNDS, ACTUARIAL STUDIES, ESTABLISHING STANDARDS FOR PARTICIPATION IN PENSION, INCLUDING HOURS PER WEEK OF WORK, PROVIDING AGE AND SERVICE REQUIREMENTS OF TWENTY (20) YEARS SERVICE ESTABLISHING A MILITARY LEAVE CREDIT FOR OFFICERS EMPLOYED AT LEAST SIX (6) MONTHS AND WHO RETURNS TO TOWNSHIP WITHIN SIX (6) MONTHS FROM SEPARATION FROM MILITARY SERVICE, ESTABLISHING NORMAL RETIREMENT BENEFITS EQUAL TO THREE QUARTERS (3/4) OF HIGHEST CONSECUTIVE TWELVE MONTH' S SALARY AS RE-DEFINED, PLUS SERVICE INCREMENT AS RE-DEFINED, ESTABLISHING DISABILITY BENEFITS AS A PERCENTAGE OF RETIREMENT BENEFITS, PROVIDING BENEFITS IN THE EVENT OF DEATH FOR SURVIVING SPOUSE OR CHILDREN AS RE-DEFINED, PROVIDING FOR A RETURN OF INELIGIBLE MEMBER CONTRIBUTIONS WITH INTEREST AT FOUR PERCENT (4%), PROVIDING FOR VESTING AFTER TEN (10) YEARS, PROVIDING FOR PAYMENTS INTO FUND BY MEMBER CONTRIBUTIONS, PROVIDING FOR PAYMENTS INTO FUND BY TOWNSHIP, PROVIDING FOR PAYMENT OF ADMINISTRATIVE EXPENSES, PROVIDING THAT PENSIONS ARE NOT SUBJECT TO ATTACHMENT OR EXECUTION, PROVIDING FOR POLICE RESERVE SERVICE IN TIME OF EMERGENCY, PROVIDING FOR MODIFICATION OF EXISTING PLAN AND ESTABLISHING AN EFFECTIVE DATE FOR IMPROVED BENEFITS AS OF JANUARY 1, 1995, PROVIDING FOR SEVERABILITY IN THE EVENT OF ILLEGALITY, PROVIDING FOR REPEAL OF INCONSISTENT ORDINANCES, PROVIDING FOR REVERTER TO PREVIOUS PENSION SYSTEM UPON HAPPENING OF CERTAIN EVENTS AND SETTING AN EFFECTIVE DATE AS THE EARLIEST DATE ALLOWED BY LAW. 61-1992

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF CENTRE HEREBY ENACTS  
AND ORDAINS AS FOLLOWS:

SECTION 1. Title. This Ordinance shall be known as "The Amended Township of Centre Police Pension Ordinance with 1995 Amendments".

(a) The Board of Supervisors of the Township and the Township Secretary shall constitute the Police Pension Fund Committee ("Committee").

(b) The Committee shall keep full and accurate accounts of all transactions and may make rules for the transaction of business, the application, care, management, investment and disposal of the funds and property of the Fund and the time and place of meetings of said Committee.

(c) The Committee has created a Police Pension Investment Account ("Account") and shall invest for the credit of the Account the surplus money accumulated in the Fund in excess of such sums as may be determined by the Committee to be necessary to pay expenses of one year and to pay such pensions as required during the same year. If at any time, sufficient funds are not available for the payment of all pensions in full, the Committee may sell securities which it holds in the Account and use the proceeds thereof to meet such deficiencies. All moneys invested for the credit of the Account shall be in securities which are legal for the investment of trust funds under the laws of the Commonwealth of Pennsylvania. All such securities shall be deposited with the Treasurer of the Committee for the credit of the Account.

(d) The Fund may be funded in whole or in part by the purchase from funds available in the fund of such annuity or endowment insurance contracts as are issued by any reputable life insurance company as shall be designated from time to time by the Committee, the ownership whereof shall remain in the name of the Township or the Fund. No such annuity or endowment insurance contracts shall be purchased that are not permitted to be acquired by law or regulation of any State, or Federal law, or agency applicable to or having jurisdiction over such Fund.

(e) The Committee may appoint an Investment Advisor, Trustee and/or Custodian for the investment and/or custody of all or part of the Fund.

SECTION 5. Actuarial Study. Whenever the Committee shall determine or the law requires that an actuarial study is necessary or is required by law, the Committee shall have the power to so recommend.

SECTION 6. Eligibility for Participation in Program. All full-time police officers employed by the Township are participating members of the Fund. All full-time police officers hired by the Township after the effective date of this Ordinance shall become participating members thereof as of the date of their employment upon the conclusion of their probationary period of employment which in no event shall exceed one (1) year after their employment as a full-time police officer. The term "full-time police officer" for the purpose of this section shall mean those police officers who devote at least forty (40) hours per week to the duties of the police force. All such police officers on full-time service shall be deemed to be members of the Fund.

SECTION 7. Age and Service Requirements. Each participant who has been in the employ of the Township as a full-time police officer as above set forth for twenty (20) years in the aggregate or has attained the age of fifty-five (55) years and is vested may retire and shall, upon his actual retirement from employment with the Township, be entitled to receive pension or retirement benefits as are hereinafter provided.

SECTION 8. Military Leave Credit. Any police officer employed by the Township who has been a full-time police officer of the Township for a period of at least six (6) months and who thereafter shall enter into the military service of the United States shall have credited to his

employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment as a full-time police officer within six (6) months after his separation from the military service.

SECTION 9. Retirement or Pension Benefits. Each eligible participant shall be entitled to normal retirement benefits as herein provided, by making written application to the Committee advising that he or she desires to retire and receive such normal retirement benefits to which he or she is then entitled. The pension or retirement benefits shall be payable during the balance of the participant's life following actual retirement, and after fulfillment of the service requirements set forth in section 7. The monthly benefit shall be a sum equal to three-quarters (3/4) of the highest twelve (12) consecutive months of earnings which shall include regular pay, overtime pay, compensatory time pay, longevity pay, holiday pay, equipment or clothing allowance, accrued vacation days up to a maximum of thirty-five (35) days, and accrued sick days up to a maximum of thirty-five (35) days. Any member shall accrue an additional pension benefit of One Hundred and 00/100 Dollars (\$100.00) per month for each additional year of service over Twenty (20) years with a maximum benefit for this service increment of Five Hundred and 00/100 Dollars (\$500.00) per month. Payments shall be made under this plan on the first day of the month.

SECTION 10. Disability Benefits. Whenever the Committee shall determine that any full-time police officer, who shall have been in continuous service since his appointment, has become totally and permanently disabled physically and/or mentally, such police officer shall receive the following pension during his lifetime so long as the Committee shall determine such incapacity does exist. "Total and permanent disability" shall mean a physical and/or mental condition of a participant

which qualifies the participant for continuous disability benefits under the Social Security law of the United States. Continuing to receive Social Security disability benefits is a requirement for continuing to receive a pension based on disability.

(a) Thirty-five percent (35%) of average monthly salary to such police officer who shall have served continuously for less than five (5) years, based on the police officer's average salary over the period of service following appointment as a full-time police officer in the Township.

(b) Forty percent (40%) of average monthly salary to such full-time police officer who shall have served continuously for more than five (5) years but less than eight (8) years, based on his average salary over the last thirty-six (36) months of service as a Township police officer.

(c) Forty-five percent (45%) of average monthly salary to such full-time police officer who shall have served continuously for more than eight (8) years but less than twelve (12) years, based on average salary over the last thirty-six (36) months of service.

(d) Seventy-Five percent (75%) of average monthly salary to such full-time police officer who shall have served continuously for twelve (12) years or more, based on the method of calculation set forth in Section 9, Retirement or Pension Benefits, for a police officer with twenty (20) years of service.

Provided, however, that the Fund payments shall be offset by all monies received by such former full-time police officer from or on behalf of the Township or any other governmental agency or unit, including Social Security Disability, by insurance, heart and lung benefits, workmen's compensation or otherwise for such disability. And further provided that in the event a full-time police officer becomes eligible to retire from active duty, pursuant to the provisions hereof, and such

full-time police officer does not retire but continues on active duty as a full-time police officer, if such police officer shall subsequently become disabled, the provisions of this section regarding disability benefits shall not apply, but such full-time police officer shall receive normal retirement as provided herein.

SECTION 11. Surviving Spouse and/or Children's Benefits.

(a) In the event of the death of a member who was receiving a pension benefit or who had qualified for a retirement pension benefit but had not retired, the surviving spouse shall be entitled, during the surviving spouse's lifetime or so long as she does not remarry, to receive a pension equal to seventy-five (75%) per cent of the pension the member was receiving or would have been receiving had the member been retired at the time of death. If no spouse survives, or if the spouse survives and subsequently dies or remarries, then the child or children of the deceased eligible participant for the period until the later of age eighteen (18) or for a period of ten (10) years following the death of the police officer shall be entitled to collectively receive a pension calculated at fifty (50%) per cent of the pension to which the member is entitled. In the case of more than one child, the said benefit shall be divided equally among the children and when a child attains eighteen (18) years of age, the portion of the benefit which the eighteen year old was receiving shall be divided among the children under eighteen (18) years old, unless a different designation is made on the beneficiary form in regard to the division of the benefit among or between surviving children. For example, if the retired police officer or eligible for retirement police officer dies survived by a widow who either dies or remarries five (5) years later, then, depending on the age of the children, the benefits continue for either five (5) years or until the youngest child living attains age eighteen (18). An adopted child of the police officer shall

be considered a child, provided the adopted child is the child of a spouse and was adopted at least five (5) years prior to the first pension payment to the member or the member's widow or member's children.

(b) The term "surviving spouse" as used herein shall not be construed to include the spouse of any member who shall be legally separated or divorced from the police officer at the time of the police officer's death. Payment to the surviving spouse shall cease if the spouse is remarried or is living with another person in the status of a common law marriage or any type of meretricious relationship. The Committee is hereby empowered to hear and consider the application of any person claiming as a surviving spouse, and the decision as to whether such claimant comes within any of the provisions of this Ordinance and section shall be final and conclusive. All hearings under this Section shall be held under the Local Agency Law.

SECTION 12. Return of Member Contributions With Interest. Any member of the police force who, for any reason whatsoever, shall be ineligible to receive a pension after having contributed any monies to the Fund established pursuant to this Ordinance and/or to a police pension fund of the Township existing prior to the effective date of this Ordinance shall be entitled to a refund of all such moneys paid by the police officer into such police pension fund, plus interest earned on such monies calculated at the rate of four percent (4%) immediately upon discontinuance of employment with the Police Department. If any former police officer who received said refund is again employed by the Township as a full-time police officer, the police officer shall be reinstated as a participating member of the Fund and receive credit for past service upon contributing to the Fund the amount of the refund and interest, if any, received by him when employed.

SECTION 13. Vesting. Any full-time police officer shall be one hundred percent (100%) vested after ten (10) years of service in the benefit accrued to the date of termination. The monthly benefit shall be a sum equal to one-half (1/2) of the average monthly salary of the participant during the last thirty-six (36) months of employment times a percentage computed by dividing the police officer's years of actual service by twenty (20). For example, a police officer with ten (10) years of service would be eligible for fifty (50%) per cent of the average for the last thirty-six (36) months times fifty (50%) per cent of that amount. Vesting is not retirement.

SECTION 14. Contributions by Participants. All participants shall make contributions which shall be five percent (5%) of their total compensation, but may be reduced or eliminated if permitted by law and if an actuarial study indicates that if such contributions were reduced or eliminated, contributions by the Township will not be required to keep the Fund actuarially sound. Any reduction or elimination of contributions shall be authorized on an annual basis by Resolution or Ordinance of the Board of Supervisors of the Township.

SECTION 15. Township Funding. The Township shall comply with all funding standards set forth in the Act of December 18, 1984, P.L. 1005, No. 205, 53 P.S. Section 895.101 et seq.

SECTION 16. Administrative Expenses. All expenses of managing and administering the Police Pension Fund, shall be paid from the Fund.

SECTION 17. Pension Benefits not Subject to Legal Process Generally. 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 his designated beneficiary and shall not be subject to assignment or transfer.



SECTION 18. Police Reserve. Any participating member who shall retire from the Township police force and qualify for pension benefits as provided herein, shall be subject to service, from time to time, as a police reserve in case of riot, tumult or preservation of the public peace until such time as he or she becomes unfit for such service by reason of mental or physical disability.

SECTION 19. Effective Date of Benefits. The effective date of these improved benefits shall be January 1, 1995.

SECTION 20. Violation of Federal, State, IRS. Regs. Etc. In no event will the pension to be paid to any pensioner violate any provision of any federal or state law including the Internal Revenue Code, ~~and the Employee Retirement Income Security Act of 1974, as amended, or cause the municipality to be subject to regulation by the I.R.S. for violation of the Section 415 or its successor section.~~

SECTION 21. Severability. All provisions of this Ordinance shall be deemed severable, and if any of the provisions shall be held unconstitutional, illegal or invalid, such decisions shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent of the Board of Supervisors of the Township that such unconstitutional, illegal or invalid provisions have not been included herein. If such illegality or invalidity renders any of the benefits authorized herein illegal or invalid or causes the whole or any portion of the Fund to be returned to the Commonwealth, then this entire Ordinance is a nullity and the Township reverts to the Act 600 resolution which was in effect immediately prior to the passage of this Ordinance, and the prior Act 120 Ordinance.

SECTION 22. Inconsistent Ordinances. All prior inconsistent ordinances or resolutions are hereby repealed except that such repeal shall not invalidate the provision of severability herein.

SECTION 23. Effective Date. This ordinance shall be effective on the earliest date allowed by law.

ENACTED AND ORDAINED AS AN ORDINANCE OF THE TOWNSHIP OF CENTRE  
THIS 28TH DAY OF DECEMBER, 1995.

Albert W. Benning  
Chairman

Attest:

George C. Seifert  
Secretary

Wilmer H. Phillips  
Supervisor

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Supervisor