

ORDINANCE NO.77- 1997

AN ORDINANCE TITLED "THE ACT 600 TOWNSHIP OF CENTRE POLICE PENSION ORDINANCE, REPEALING ORDINANCE 42-1990 WHICH ESTABLISHED A POLICE PENSION SYSTEM UNDER ACT 120, AND REPEALING ALL SUBSEQUENT ACT 120 AMENDMENTS, AND FURTHER 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, 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, ESTABLISHING DISABILITY BENEFITS, PROVIDING BENEFITS IN THE EVENT OF DEATH, PROVIDING FOR A RETURN OF INELIGIBLE MEMBER CONTRIBUTIONS, PROVIDING FOR VESTING, 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 BENEFITS EXCEPT FOR THESE VESTED IN THE BENEFITS, PROVIDING FOR SEVERABILITY IN THE EVENT OF ILLEGALITY, PROVIDING FOR REPEAL OF INCONSISTENT ORDINANCES, AND SETTING AN EFFECTIVE DATE AS THE EARLIEST DATE ALLOWED BY LAW.

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 1997 Township of Centre Police Act 600 Pension Ordinance".

SECTION 2. Background and History. Township of Centre ("Township") established in 1976 a police pension plan by resolution under Act 600 which resolution has been amended and revised on several occasions as follows: Resolution of October, 1976, Resolution of July 11, 1984, Resolution of March 9, 1988, Ordinance No. 42-1990, the 1995 Ordinance, and this amendment

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being the 1997 - Act 600 Ordinance. In 1990, the Township placed its pension plan and pension fund under Act 120. In 1990 certain changes were made to the plan which are set forth in Ordinance No. 42-1990. Any vested police officer, including the former Police Chief, who are no longer working for the Township and are eligible for or collecting a pension shall have benefits determined by the provisions of the ordinance effective at the time the officer or Police Chief ceased working for the Township. The Centre Township Police Department is now a full-time officer department and under Act 600 jurisdiction for pension purposes. The two (2) police officers hired in August of 1997 are covered by the provisions of this 1997 Ordinance and not any prior Resolutions or Ordinances.

SECTION 3. Establishment of Police Pension Fund. A Municipal Police Pension Fund ("Fund") be and the same is hereby established for the Township of Centre, Berks County, Pennsylvania, pursuant to the terms and provisions of the Act 600, the said Fund to be maintained by (1) a charge against each " full time police officer", as that term is defined herein, (2) by annual appropriations made by the Township, (3) by payments made by the State Treasurer to the Treasurer of the Township from moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension retirement for policemen, and (4) by gifts, grants, devises or bequests granted to the said Fund.

SECTION 4. Management.

(a) The Board of Supervisors of the Township and the Township Secretary shall constitute the Police Pension Fund Committee ("Committee"). The Committee shall hire such Investment Advisor and other professionals as required.

(b) The Committee, with the assistance of the Investment Advisor, 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, with the assistance of the Investment Advisor, 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. The Treasurer of the Committee shall receive periodic reports from the Investment Advisor.

(d) 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. Payments into Fund. The following moneys shall be paid into the fund:

(a) Contributions by Participants. Contributions by participants shall be five percent (5%) of their total compensation, but may be reduced or eliminated if an actuarial study indicates that the condition of the Plan is such that contributions may be reduced or eliminated. Any reduction or elimination of contributions shall be authorized on an annual basis by resolution.

(b) All gifts of contributions to the Fund.

(c) The payments by the State Treasurer to the Township from the moneys received from taxes paid upon the premises of foreign casualty insurance companies for purposes of pension retirement shall be used in the following order:

(1) To reduce the unfunded liability, or after such liability has been funded;

(2) To apply against the annual obligation of the municipality for future service costs, and then,

(3) To reduce participant contributions.

(d) Payments by the Township.

SECTION 6. 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 7. Eligibility for Participation in Program. All full-time police officers, including the Police Chief, 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 8. 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-five (25) years in the aggregate and has attained the age of fifty-five (55) years may retire and shall, upon his actual retirement from employment with the Township as a police officer or Police Chief, be entitled to receive pension or retirement benefits as are hereinafter provided.

SECTION 9. 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 10. 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. The monthly benefit shall be a sum equal to one-half ($\frac{1}{2}$) of the average monthly salary of the participant during the last thirty-six (36) months of employment.

SECTION 11. 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, while in service as a police officer, 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. The benefits are, as follows:

(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 monthly 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 the police officer's average monthly salary over the last thirty-six (36) months of service as a police officer.

(c) Forty percent (40%) 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 the average monthly salary over the last thirty-six (36) months of service.

(d) Fifty percent (50%) of average monthly salary to such full-time police officer who shall have served continuously for twelve (12) years or more, based on the average monthly salary over the last thirty-six (36) months of service..

Provided, however, that the Fund's obligation to make payments shall be offset and reduced or eliminated 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, insurance company or other entity, paying Heart and Lung or Workers Compensation benefits, including Social Security Disability, 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 12. 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 the surviving spouse does not remarry, to receive a pension equal to Fifty (50%) 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, under the age of eighteen (18) years shall be entitled to receive a pension calculated at Fifty percent (50%) of the pension to which the member was entitled which ends at the eighteenth birthday of the youngest surviving child.

(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 remarries or is living with another person in the status of a common law marriage or any type of meretricious relationship as defined in the Pennsylvania Workers Compensation Act and case law thereunder. The Committee

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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 13. 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 14. Vesting. Any full-time police officer shall be one hundred percent (100%) vested after twelve (12) years of service in the benefit accrued to the date of termination. The monthly benefit shall be a sum equal to one-half ($\frac{1}{2}$) 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 years of service to normal retirement date. Vesting is not retirement.

SECTION 15. 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 16. 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 17. Administrative Expenses. All expenses of managing and administering the Police Pension Fund, shall be paid from the Fund.

SECTION 18. 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 19. 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 20. Effective Date of Benefits. The effective date of the pension benefits as set forth herein shall be July 1, 1998.

SECTION 21. 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.

SECTION 22. 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.

SECTION 23. Effective Date. This Ordinance shall be effective ten (10) days from date hereof.

ENACTED AND ORDAINED AS AN ORDINANCE OF THE TOWNSHIP OF CENTRE
this 22nd day of December, 1997.

Attest:

Nancy E Kachel
Secretary

Nancy E Kachel
Chairman

Wilmer H. Phillips
Supervisor

Supervisor