

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 494

(Duly Adopted December 29, 2010)

**AN ORDINANCE AMENDING CHAPTER 17 OF THE ALBURTIS  
CODIFIED ORDINANCES (RELATING TO POLICE PENSION PLAN)  
TO ELIMINATE THE KILLED IN SERVICE DEATH BENEFIT.**

**WHEREAS**, Boroughs with three (3) or more full-time police officers must provide pension benefits to such employees in accordance with the provisions of Act 600 of 1955, 53 PA. STAT. ANN. § 767-778; and

**WHEREAS**, the Borough of Alburtis has previously established a pension plan for its full-time police officers in accordance with Act 600, which plan has been codified to Chapter 17 of the Alburtis Codified Ordinances (the “**Plan**”); and

**WHEREAS**, until recently, section 5(e)(2) of Act 600, 53 PA. STAT. ANN. § 771(e)(2), required that the Plan provide a “killed in service” death benefit calculated at one hundred percent of a participant’s salary at the time of death, and such a benefit is provided under the Plan at § 17-305(b.1); and

**WHEREAS**, effective October 9, 2009, Pennsylvania Act 51 of 2009 repealed section 5(e)(2) of Act 600, and amended section 1 of the Emergency and Law Enforcement Personnel Death Benefits Act, 53 PA. STAT. ANN. § 891, to replace the “killed in service” municipal pension death benefit with an additional state death benefit payable to the same beneficiaries, but not to the extent the beneficiaries receive other pension or retirement benefits; and

**WHEREAS**, Council desires to amend the Plan to conform to Act 600 as amended by Act 51 of 2009, and to provide killed in service salary continuation death benefits

through direct payments from the Commonwealth rather than from the Borough's police pension plan; and

**WHEREAS**, prior to the adoption of this Ordinance the Council reviewed a cost estimate of the effect of the changes made herein prepared by the plan's actuarial firm in accordance Section 305 of the Municipal Pension Plan Funding Standard and Recovery Act, 53 PA. STAT. ANN. § 895.305 (see attached); and

**WHEREAS**, prior to the adoption of this Ordinance, the terms of this ordinance were negotiated with and accepted by the Alburdis Police Officers' Association;

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, as follows:

**SECTION 1.** Codified Ordinances § 17-128.1 (relating to Police Pension Plan—Title & General Definitions—Salary) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 17-128.1 Salary.**

The monthly "Salary" of a Qualified Employee as of any given date on or after April 17, 2002 shall mean the Qualified Employee's base hourly rate of compensation as of that date, multiplied by 2080 and divided by 12. {The term "Salary" is defined for purposes of the new Pa. Act 2002-30 minimum disability ~~and killed-in-service~~ benefits which are based on salary at the time of the injury causing disability ~~or death~~, in contrast to the pre-existing Act 600 benefits which are based on compensation averaged over a 36-month period—"Final Monthly Average Compensation".}

**SECTION 2.** Codified Ordinances § 17-305 (relating to Police Pension Plan—Benefits—Death Benefits) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 17-305 Death Benefits.**

(a) **Qualification for Normal Death Benefit.** The Beneficiaries of a Participant shall be entitled to receive a Normal Death Benefit if they are not entitled to receive a ~~Killed in Service Death Benefit~~ under subsection (b.1) and if the Participant dies—

\* \* \*

\* \* \*

~~(b.1) Killed in Service Death Benefit.~~ The Beneficiaries of a Participant who dies on or after April 17, 2002 due to injuries incurred while performing the duties of his/her employment as a Qualified Employee shall be entitled to receive a Killed in Service Death Benefit, which shall consist of a series of monthly payments—

(1) ~~beginning on the first day of the month following the month of the Participant's death, and~~

(2) ~~continuing on the first day of each succeeding month until there is no person who qualifies as a Beneficiary,~~

(3) ~~in a monthly amount equal to one hundred percent (100%) of the Participant's monthly Salary as of the Participant's date of death.~~

(c) **Beneficiaries.**

(1) **In General.** Any given payment in a series of payments which constitutes the Normal Death Benefit ~~or Killed in Service Death Benefit~~ shall be paid to the person(s) who is/are a Beneficiary as of the date for which the payment is being made.

\* \* \*

**(2.1) Definition—On or After April 17, 2002.** In the case of a Participant who dies on or after April 17, 2002, for purposes of the Normal Death Benefit and ~~Killed in Service Death Benefit~~, a person is a “Beneficiary” of a Participant as of the date of any given payment if:

\* \* \*

**(3) Multiple Beneficiaries.** For purposes of the Normal Death Benefit and ~~Killed in Service Death Benefit~~, if there is more than one Beneficiary at the time of any given payment, the amount of the payment shall be split into equal shares, one for each Beneficiary.

**(d) Death Benefit Return of Accumulated Contributions.**

**(1) In General.** If a Participant—

**(A)** dies at a time when his/her Beneficiaries are not eligible to receive a Normal Death Benefit ~~or a Killed in Service Death Benefit~~ **or** has no Beneficiaries, **and**

**(B)** did not receive any payments under a Normal Retirement Benefit, Disability Retirement Benefit, Transition Disability Retirement Benefit, Vested Benefit, or Transition Vested Benefit during his/her lifetime,

then the Plan shall distribute an amount equal to the amount of the Participant’s Accumulated Contributions *plus* interest to the person(s) designated by the Participant in writing on forms prescribed by the Administrator. Recipients may be designated contingently and/or concurrently. If the Participant failed to designate a recipient or if no designated recipient shall have survived the Participant, the distribution shall be made to the estate of the Participant.

\* \* \*

\* \* \*

**SECTION 3.** Codified Ordinances § 17-306(a)(6)(G) (relating to Police Pension Plan—Benefits—Limitation on Benefits—Definitions—Dollar Limitation) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 17-306 Limitation on Benefits.**

(a) **Definitions.** For purposes of this Section, the following words and phrases shall have the meanings provided in this subsection (a):

\* \* \*

(6) **Dollar Limitation.** The term “Dollar Limitation” shall mean, for any Participant in any Limitation Year, the dollar amount in effect under Code § 415(b)(1)(A) for such Limitation Year as adjusted under Code § 415(d) (\$165,000 for Limitation Years ending in 2004; 160,000 for Limitation Years ending in 2002 or 2003; \$140,000 for 2001; \$135,000 for 2000; \$130,000 for 1998 or 1999; \$125,000 for 1997; \$120,000 for 1995 or 1996; \$118,800 for 1994; \$115,641 for 1993; \$112,221 for 1992; \$108,963 for 1991; \$102,582 for 1990; \$98,064 for 1989; \$94,023 for 1988; and \$90,000 for 1987) (“**Standard Adjusted Dollar Limitation**”), with the following modifications, as applicable—

\* \* \*

(G) In the case of a Participant receiving a Disability Retirement Benefit, or a Beneficiary receiving a Normal Death Benefit ~~or Killed in Service Death Benefit~~, subparagraphs (B) and (D) shall not apply.

\* \* \*

\* \* \*

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Al-  
burtis, this 29<sup>th</sup> day of December, 2010, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

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Steven R. Hill, President

Attest:

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Sharon Trexler, Executive Secretary

**AND NOW**, this 29<sup>th</sup> day of December, 2010, the above Ordinance is hereby  
APPROVED.

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Robert W. Mader, Mayor



June 8, 2010

**PERSONAL AND CONFIDENTIAL**

Mr. David Knerr  
Attorney at Law  
P.O. Box 3556  
Allentown, PA 18106-0556

**RE: Borough of Alburty Police Pension Plan**

Dear Mr. Knerr:

We have evaluated the financial impact on the pension plan of eliminating the killed-in-service survivor benefit pursuant to Act 51 of 2009.

Based on the January 1, 2009 actuarial valuation, eliminating the killed-in-service survivor benefit would reduce the Unfunded Actuarial Accrued Liability of the plan by approximately \$5,800 and would reduce the annual Minimum Municipal Obligation (MMO) by about \$1,300.

If the change is made in 2010, it will be reflected in the January 1, 2011 actuarial valuation report. The first MMO that could be based on that report would be for 2012.

Should you have any questions regarding the reports, feel free to contact me toll free at (800) 405-3620 or on my direct line at (412) 394-9333.

Sincerely,

A handwritten signature in blue ink, appearing to read "Colleen A. Deer".

Colleen A. Deer  
Vice President

Certified by:

A handwritten signature in black ink, appearing to read "David H. Stimpson".

David H. Stimpson  
E.A., M.A.A.A.

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c: Sharon Trexler