

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 466

(Duly Adopted December 26, 2007)

AN ORDINANCE AMENDING CHAPTER 17 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO POLICE PENSION PLAN) TO REDUCE THE MINIMUM RETIREMENT AGE REQUIREMENT FROM FIFTY-FIVE (55) YEARS TO FIFTY (50) YEARS, AND TO PROVIDE THAT A PERSON BECOMES AN ACTIVE PARTICIPANT AS OF THE DATE HE BECOMES A QUALIFIED EMPLOYEE; AND AMENDING CHAPTER 18 OF THE ALBURTIS CODIFIED ORDINANCES TO ELIMINATE MINIMUM COVERAGE REQUIREMENTS WHICH ARE NO LONGER REQUIRED BY FEDERAL LAW, AND TO PROVIDE THAT IF THE AMOUNT OF FORFEITURES AND THE AMOUNT IN THE SUSPENSE ACCOUNT AS OF THE LAST DAY OF A PLAN YEAR EXCEED THE AMOUNT NECESSARY TO PROVIDE THE REQUIRED 7.00% CONTRIBUTION FOR QUALIFIED RECIPIENTS THAT PLAN YEAR, THEN THE CONTRIBUTION PERCENTAGE FOR THAT PLAN YEAR SHALL BE INCREASED TO THE PERCENTAGE AT WHICH THE AMOUNT OF TOTAL CREDITS TO QUALIFIED RECIPIENTS EQUALS THE TOTAL AMOUNT OF FORFEITURES AND THE AMOUNT IN THE SUSPENSE ACCOUNT.

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 Alburdis 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 Alburdis Codified Ordinances; and

WHEREAS, in their collective bargaining agreement for the years 2008 through 2011, the Borough and the Alburdis Police Officers' Association agreed to amend the police pension plan as provided in this Ordinance, in order to reduce the minimum retirement age requirement from age fifty-five (55) to age fifty (50), as permitted under Act 600, and to provide for entry into the plan immediately upon becoming a Qualified Employee, which is now required under Act 600 as amended in 2002 due to the mandatory

provision of benefits for certain deaths and disabilities which occur during employment as a full-time police officer; and

WHEREAS, prior to the adoption of this Ordinance the Council reviewed a cost estimate of the effect of the changes made herein to the police pension plan, 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; and

WHEREAS, the Borough of Alburdis has also established a pension plan for its nonuniformed employees; and

WHEREAS, the provisions of that plan have been codified to Chapter 18 of the Alburdis Codified Ordinances; and

WHEREAS, the Borough Council desires to insure that all forfeitures in that plan during a Plan Year are allocated to the accounts of active participants as of the last day of the Plan Year, even if the total amount of credits to be received by those participants is greater than seven percent (7.00%) of compensation paid in that Plan Year, and to amend the Plan to remove federal minimum coverage requirements which no longer apply to governmental plans; and

WHEREAS, prior to the adoption of this Ordinance the Council reviewed the following cost estimate provided by the Borough Solicitor of the effect of the changes made herein, as required by Section 305(d) of the Municipal Pension Plan Funding Standard and Recovery Act, 53 PA. STAT. ANN. § 895.305(d):

Under the existing Plan, each qualified nonuniformed employee of the Borough has an account under the Plan, and each Plan Year an amount is credited to such an employee's account in the Plan equal to seven percent (7.00%) of the employee's compensation paid during the time the employee was an active plan participant. Generally, the entire amount of these credits is paid by contributions made to the Plan by the Borough, whether from general Borough funds and/or from aid received from the Commonwealth. However, if an employee's employment with the Borough terminates before the employee becomes 100% vested in his plan account balance, the employee forfeits the nonvested portion of his plan account balance. These forfeitures are used to reduce the amount of employer contributions to the Plan for the year of the forfeiture; qualified

employees are still credited with an amount equal to 7.00% of compensation, but some of this amount is paid from the forfeitures, and the remainder by Borough contributions.

It is possible in some years that the amount of the forfeitures will exceed the 7.00% amount for all qualified participants, so that there would be excess forfeitures not allocated to the account of any participant. That would not be appropriate since some of the forfeited amount may include amounts derived from state aid, and the state aid cannot remain unallocated. Thus, the amendment provides that in such cases, the excess forfeitures will be allocated among the qualified plan participants by increasing the 7.00% figure to the extent necessary to fully allocate the excess forfeitures. The amendment will not have any effect except in the case of a plan year where there would be such excess forfeitures. Under the current plan provisions, the excess would be carried into the following year and used to reduced Borough contributions for the following year, whereas under the proposed amendment, they would be used in the year of forfeiture and would not reduce Borough contributions in the following year. However, the Borough would be penalized by the Commonwealth if it did not allocate all forfeitures to plan participants in the year of the forfeiture, and so while the financial requirements of the plan are technically increased for any year with excess forfeitures (although not the amount of Borough contributions to the plan for that year), and while the amount of contributions required to be made by the Borough to the plan for the following year are increased (although not the financial requirements of the plan), the actual cost to the Borough really does not increase as a result of the proposed amendment. The Borough has never had such excess forfeitures in past years and does not anticipate excess forfeitures in 2007.

The amendment also eliminates minimum coverage requirements which the federal government no longer imposes on qualified plans of government entities. These requirements could have required contributions for additional employees in years where the minimum coverage requirements otherwise would not be satisfied. Thus, for such years, the amendment results in a reduction in the financial requirements of the plan.

WHEREAS, on December 19, 2007, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Alburdis, of its intention to consider and adopt on this Ordinance on December 26, 2007;

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

SECTION 1. Effective April 17, 2002, Codified Ordinances § 17-201(a)(2)(B) (relating to Police Pension Plan—Participation & Service—Participation—Entry Dates—New Employees) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 17-201 Participation.

(a) Active Participants.

* * *

(2) Entry Dates.

* * *

(B) New Employees. ~~After the Effective Date, a person shall become an Active Participant as of the first Anniversary Date that he satisfies all of the conditions described in paragraph (1). A person shall become an Active Participant as of the date he becomes a Qualified Employee.~~ A person shall become an Active Participant as of the date he becomes a Qualified Employee.

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SECTION 2. Effective January 1, 2008, Codified Ordinances § 17-301(a) (relating to Police Pension Plan—Benefits—Normal Retirement Benefit—Qualification) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 17-301 Normal Retirement Benefit.

(a) Qualification. A person shall be entitled to receive a Normal Retirement Benefit if he/she incurs a Separation from Service—

(1) after having attained the age of ~~fifty-five (55)~~ fifty (50) years, and

(2) at a time when he/she has credit for at least twenty-five (25.0000) Years of Service.

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SECTION 3. Effective January 1, 2008, Codified Ordinances § 17-305(a) (relating to Police Pension Plan—Benefits—Death Benefits—Qualification for Normal Death Benefit) 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—

(1) after he/she has begun receiving benefits under a Normal Retirement Benefit, a Vested Benefit, or a Transition Vested Benefit;

(2) after he/she has begun receiving Disability Retirement Benefits or Transition Disability Retirement Benefits, *provided* that such benefits did not terminate prior to his/her death because he/she ceased to be Disabled; or

(3) while still employed by the Employer (or any Related Employer) **and**—

(A) after having attained the age of ~~fifty-five (55)~~ fifty (50) years, and

(B) at a time when he/she has credit for at least twenty-five (25.0000) Years of Service.

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SECTION 4. Codified Ordinances § 18-501 (relating to Nonuniformed Employees Pension Plan—Additions to Employer Contribution Accounts—Annual Allocation) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 18-501 Annual Allocation.

Subject to the provisions of Article VII (relating to Maximum Additions), § 18-504(b) (relating to Uniformed Service), and § 18-505 (relating to Suspended Employer Contribution Account), as of the last day of each Plan Year, the Employer Contribution Account of each Qualified Recipient (*see* § 18-502(a)) shall be credited with an amount equal to:

(a) For the 1996, 1997, and 1998 Plan Years: **4.65%** of the Qualified Recipient's Compensation *for the portion* of the Plan Year during which he was an Active Participant; ~~or~~

(b) For the 1999 ~~and Subsequent~~ through 2006 Plan Years: **7.00%** of the Qualified Recipient's Compensation *for the portion* of the Plan Year during which he was an Active Participant;

(c) For the 2007 and Subsequent Plan Years: 7.00% of the Qualified Recipient's Compensation *for the portion* of the Plan Year during which he was an Active Participant. However, the percentage shall be increased above 7.00% for any given Plan Year if and to the extent necessary so that the total amount of credits provided for that Plan Year under this Section and § 18-504(b) (relating to Payment of Employer Contributions—Uniformed Service) is not less than the maximum amount of withdrawals able to be made for that Plan Year from the Suspense Account and the Forfeiture Account under § 18-503 (relating to Funding of Credits).

SECTION 5. Codified Ordinances § 18-502(a) (relating to Nonuniformed Employees Pension Plan—Additions to Employer Contribution Accounts—Qualified Re-

ipients—In General) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 18-502 Qualified Recipients.

(a) **In General.** ~~Except as provided in subsection (b), for~~ For purposes of this Article V, a “Qualified Recipient” for any Plan Year shall mean—

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SECTION 6. Codified Ordinances § 18-502(b) and (c) (relating to Nonuniformed Employees Pension Plan—Additions to Employer Contribution Accounts—Qualified Recipients—Compliance With Minimum Coverage Rules; Minimum Coverage Requirements), is hereby deleted and repealed.

SECTION 7. Codified Ordinances § 18-503 (relating to Nonuniformed Employees Pension Plan—Additions to Employer Contribution Accounts—Funding of Credits; Employer Contributions) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 18-503 Funding of Credits; Employer Contributions.

The credits described in § 18-501 and § 18-504(b) shall be funded—

(a) First, by withdrawals from the Suspense Account;

(b) Second, ~~if necessary,~~ by withdrawals from the Forfeiture Account (including amounts forfeited on the last day of the Plan Year); **and**

(c) Finally, if necessary, by contributions to the Plan and Trust Fund from the Employer, *which the Employer hereby covenants and agrees to make*, which may be from funds of the Employer and/or grants from the Commonwealth of Pennsylvania and/or others.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 26th day of December, 2007, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 26th day of December, 2007, the above Ordinance is hereby
APPROVED.

Robert W. Mader, Mayor