

ORDINANCE NO. 1079,
New Series

AN ORDINANCE ESTABLISHING A RELIEF, PENSION AND INSURANCE
SYSTEM FOR MEMBERS OF THE POLICE AND FIRE DEPARTMENTS OF
THE CITY OF ALAMEDA, AND REPEALING ORDINANCE NO. 276, NEW
SERIES, AS AMENDED

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALAMEDA as follows:

Section 1. Purpose. The purpose of this ordinance is to establish a relief, pension and insurance system for members of the Police and Fire Departments of the City of Alameda who shall be in regular employment of the City in either of said departments on January 1, 1953, and to continue in force and make effectual and provide for pensions and retirement payments to the persons now receiving pension or retirement payments pursuant to Ordinance No. 276, New Series, as amended.

Section 2. Definitions. The following words and phrases used in this ordinance, unless a different meaning is plainly indicated in the context, shall have the following meanings:

(a) "Accumulated contributions" shall mean the sum of all contributions deducted from the compensation of a member from and after January 1, 1953, together with interest thereon at the rate declared by the Pension Board.

(b) "Board" shall mean the Pension Board as created by this ordinance.

(c) "Member" shall mean the holder, on January 1, 1953, of any position in the Police or Fire Department of the City of Alameda which was on said date included within the pension plan of said departments.

(d) "City" shall mean the City of Alameda.

(e) "Pension Fund" shall mean the City of Alameda Police and Fire Pension Fund as established by this ordinance.

(f) "Adjusted pension" shall mean the amount of any pension granted hereunder adjusted to conform to future adjustments, whether increases or decreases, in the salaries of active members of the rank for which the pension was granted.

(g) "Pension System" shall mean the City of Alameda Police and Fire Pension System as established by this ordinance.

(h) Words used in the masculine gender shall include the feminine and neuter genders; singular numbers shall include the plural and the plural the singular, and widow shall include widower.

(i) "Years service" as used in Sections 10 and 17 of this ordinance is intended to mean and does mean the total period of service, both before and after the effective date of this ordinance, and commencing as of the date on which the member first entered the service of the Police or Fire Department in any rank or capacity.

Section 3. Pension System Established -- Pension Board. A relief and pension system is hereby established for members of the Police and Fire Departments of the City of Alameda who, on January 1, 1953, shall hold positions of employment in either of said departments which were, on said date, included within the pension system of said departments.

To administer the relief and pension system hereby established, there shall be a Board of Trustees to be known as the Pension Board, hereinafter referred to as Board, which shall be composed of five (5) Trustees. The Mayor and City Manager and their successors in office shall be Trustees, ex-officio. The Mayor shall be Chairman of the Board and the City Manager shall be Secretary thereof.

The three remaining Trustees, who shall be required to meet the qualifications established for membership on other City Boards, shall be selected and appointed in the following manner, to-wit: The membership of the Police Department and the membership of the Fire Department shall each select, by secret ballot, one person to become a Trustee of the Board and shall submit the name of such person to the City Council for approval and appointment to the Board. The Mayor shall nominate one Trustee for appointment by the City Council to the Board, which nominee shall meet the qualifications hereinbefore referred to. The three appointive Trustees shall first be appointed one for a term of one year, one for a term of two years, and one for a term of three years, or until the successor or successors of such appointees shall be appointed and qualified. Appointment for the respective terms shall be determined by the City Council by lot. Thereafter, Trustees shall be appointed for a term of three years, or until their successors are appointed and qualified. All terms shall begin on the first day of January.

Appointive Trustees may be removed from the Board by the vote of four (4) members of the City Council. Vacancies in the appointive membership of the Board shall be filled for the unexpired term, and appointees to such vacancies shall be selected in the manner hereinbefore provided, by the group or person (Police or Fire Department membership or Mayor) whose nominee has failed to serve his full term on the Board. The vote of three (3) members of the Board shall be necessary for any act of or by the Board.

Section 4. Duties and Powers of Pension Board. The management and control of the pension system shall be vested in the Board and, in addition to the powers elsewhere herein granted, the Board shall have the following duties and powers:

1. To make any and all rules and regulations necessary or proper to carry out the provisions of this ordinance.
2. To keep, in convenient form, such data as shall be necessary for the actuarial valuation of the Pension Fund created by this ordinance.
3. To employ actuaries for the purpose of making such studies and surveys of the Pension Fund and pension system as may be required.
4. In addition to other records and accounts, the Board shall keep such records and accounts as shall be necessary to show at any time.
 - (a) The total accumulated contributions of the members.
 - (b) The contributions of the City, with interest thereon, for the benefit of members on account of service rendered as members of the pension system.
 - (c) All other contributions of the City, with the interest thereon, which shall include the amounts available to meet the obligations of the City on account of pensions that have been granted.
5. The Board shall, from time to time, declare the rate of interest to be credited to contributions of members, which rate shall not exceed the net rate currently earned on the assets of the Pension Fund.
6. To compel the attendance of witnesses to testify before it in all matters connected with the administration of this ordinance in the same manner as is now or may hereafter be provided by law for the taking of testimony before notaries public, and the chairman or any member of the Board may administer the oath to such witnesses.
7. To provide for the payment from the Pension Fund of all its necessary expenses, provided, that no compensation shall be paid to any member of the Board for any duty required or performed under this ordinance.
8. To hold meetings for the transaction of its business, and regular meetings of the Board shall be held on the last Wednesday of each month in the office of the City Manager.
9. To issue warrants, drawn against the Pension Fund, which warrants shall be signed by two (2) of its members and shall show upon the face thereof the amount of payment and the purpose for which it is made.
10. To render annually to the City Council on or before July 31st a report showing the financial condition of the Pension Fund at the close of the preceding fiscal year, detailing receipts and disbursements, the names of persons receiving pension allowances and the amounts paid each such person.

Section 5. Creation of Pension Fund. A fund is hereby created and established which shall be known as the "City of Alameda Police and Fire Pension Fund". It shall consist of all money or securities paid into it in accordance with the provisions of this ordinance or any other ordinance or ordinances hereafter enacted and dealing with the subject of police and fire pensions. All moneys or securities presently in the City fund known as the "Pension Fund" are hereby transferred to the City of Alameda Police and Fire Pension Fund. It is the intention and purpose of this ordinance to continue in force and make effectual, and to provide for the payment from said City of Alameda Police and Fire Pension Fund of all pensions and retirements already existing under Ordinance No. 276, New Series, as amended.

Section 6. Management of Pension Fund. The Board shall have exclusive control of the administration, investment and disbursement of said fund, subject to the restriction that no investment shall be made except upon the affirmative vote of at least three (3) members of the Board, and subject also to the terms, conditions, limitations and restrictions imposed by the laws of the State of California upon the making of investments by savings banks. The Board, subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, may deposit cash belonging to the Pension Fund in any licensed national bank or banks in this State, or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of this State. The Treasurer of the City shall be the custodian of the Pension Fund, subject to the exclusive control of the Board as to the administration, deposit and investment of said fund. Interest on any cash and on any investment constituting a part of the said fund shall be paid into said fund as received.

Except as herein provided, no member and no employee of the Board shall have any interest, direct or indirect, in the making of any of said investments, or in the gains or profits accruing therefrom. No members or employee of the Board, directly or indirectly, for himself or as agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the Board; nor shall any member or employee of the Board become an endorser or surety or become in any manner an obligor for moneys invested by the Board.

Section 7. Contributions to Pension Fund by the City. There shall be paid into the Pension Fund by the City of Alameda annually, from and after July 1, 1953, an amount which, together with the assets of the Pension Fund, including the contributions to be made by the remaining active members, shall be sufficient to meet all current claims against said Pension Fund, and an amount which is determined actuarially to be sufficient to amortize by July 1, 1983, the accrued and prospective liabilities pertaining to the active and retired members covered by the provisions of this ordinance and all other claims against said Pension Fund. The present and future claims of all persons now receiving pension or disability payments pursuant to the provisions of Ordinance No. 276, New Series, as amended, are and shall continue to be claims against, and shall be paid from, said Pension Fund created by this ordinance. The City shall further appropriate and pay annually a sum sufficient to pay the administrative expenses of the Board, the amount of which appropriation shall be based on estimates of such expense furnished by the Board.

The amount to be due from and paid annually by the City to the Pension Fund under the terms of this section shall be the amount fixed and determined by the Board each year. In fixing and determining said amount, the Board shall give due consideration to the valuation of the Pension Fund made by the actuary prior to the commencement of the amortization period and the revised periodical valuations which the Board shall cause to be made at the end of each fifth (5th) year of the amortization period. Said valuations so made by the actuary shall take into account the present liabilities accrued and to accrue to persons now drawing pension or retirement payments under Ordinance No. 276 New Series, as amended, the contributions of members, the interest to accrue to the fund, the compensation experience of members, the probabilities of separation by all causes, of members from service, and of death after retirement.

Section 8. Monthly Contributions by Members. The City Treasurer is hereby authorized and directed to retain monthly from the compensation of each member four per cent (4%) of each month's salary, which shall be deposited in the Pension Fund.

Section 9. Other Moneys to be Deposited in the Pension Fund. All moneys derived from the imposition of fines or penalties upon members for violation of the rules and regulations of the Police or Fire Department shall be paid into and deposited in the Pension Fund.

Section 10. Retirement After 25 Years Service - Monthly Pension. Whenever any member shall have served for a period of twenty-five (25) years or more, in the aggregate, in any rank or capacity, the Board shall, upon the written request of said member, or his guardian, or without such request if it deem it for the good of the service, order that such member be retired from active service. From the date of making of such order by the Board the active service of such member shall cease. The member thus retired shall thereafter be paid from said Pension Fund, during his lifetime, a monthly pension equal to one-half ($\frac{1}{2}$) the monthly salary paid to members of the rank held by him at a date one (1) year prior to the date of his retirement. In determining the period of service under this section, the time of service of any member from the time he first entered the service of the Police or Fire Department of the City, if that occurred prior to January 1, 1953, shall be counted and considered as a part of said twenty-five years of service.

Section 11. Pension to Dependents Upon Death of Service Retired Pensioner. Upon the death of any person receiving a pension under the provisions of Section 10 of this ordinance, the pension theretofore payable to the deceased pensioner shall be paid to the widow of said pensioner during her lifetime, or until her remarriage, except as otherwise hereinafter provided. If there be no widow, then each unmarried child of the deceased pensioner under the age of eighteen (18) years shall receive twenty per cent (20%) of said pension until attaining the age of eighteen (18) years, provided, that the aggregate amount paid such child or children shall in no event exceed the amount of said pension. If there be no such child or children of the deceased pensioner, one-third ($\frac{1}{3}$) of said pension shall be paid to his dependent father and mother, or, if only one of them is dependent, to such dependent person, said payments to continue during the lifetime of such dependent person or persons.

Upon the death of a service retired pensioner, the widow, if any, shall be entitled to no part of his pension unless she was married to the pensioner three (3) years prior to the date of his retirement. Any child or children born of such marriage shall be entitled to benefits in the amount and subject to the conditions provided for children by this ordinance.

Section 12. Retirement for Physical Disability -- Monthly Pension. Should any member become physically disabled by reason of any injury received in or illness caused by or arising out of the performance of duty, the Board shall, upon the written request of said member, or his guardian, or without such request it deem it for the

good of the service, order that such member be retired from active service. From the date of the making of such order by the Board the active service of such member shall cease. The member thus retired shall thereafter be paid from said Pension Fund during his lifetime a monthly pension equal to one-half ($\frac{1}{2}$) the monthly salary paid to members of the rank and salary step bracket held by him at the time of his retirement. In the event such disability shall cease, the member retired, as in this section provided, shall, upon the recommendation of the Chief of the department in which he was serving at the time of his retirement, be restored to active duty with the rank or rating equal to that held by him at the time of such retirement. Upon such restoration to duty, pension payments shall cease.

Section 13. Pension to Dependents Upon Death of Disability Retired Pensioner. Upon the death of any person receiving a pension under the provisions of Section 12 of this ordinance, the pension theretofore payable to the deceased pensioner shall be paid to the widow of said pensioner during her lifetime or until her remarriage, except as hereinafter provided. If there be no widow, each unmarried child of the deceased pensioner under the age of eighteen (18) years shall receive twenty per cent (20%) of said pension until attaining the age of eighteen (18) years, provided, that the aggregate amount paid to said child or children shall in no event exceed the amount of the pension. If there be no such child or children of the deceased pensioner, then one-third ($\frac{1}{3}$) of said pension shall be paid to the deceased pensioner's dependent father and mother, or, if only one of them is dependent, to such dependent person, said payments to continue during the lifetime of such dependent person or persons.

Upon the death of any disability retired pensioner who shall marry after being so retired, the widow and any child of such marriage shall not be entitled to any of the benefits provided by this ordinance.

Section 14. Proof of Disability. No member shall be retired for disability or receive any disability pension as provided for by this ordinance unless proof of such disability is presented to the Board, and the Board finds that such member is in fact disabled. In determining such question, the Board may receive and consider the sworn certificates of the City Physician or any other physicians and may require such other and further proof of disability as it may deem necessary before ordering such retirement.

Section 15. Compensation Insurance Cases. (a) The monthly pension payable under this ordinance to a member retired for disability shall be reduced by an amount equal to the monthly amount of any benefits paid or payable to him for the same period under any workmen's compensation insurance and safety laws of the State of California because of disability resulting in his retirement. In case any or all of the benefits to which any such member may be entitled under workmen's compensation insurance and safety laws shall be awarded or paid in a lump sum, the monthly pension thereafter payable under Section 13 hereof shall be reduced, for that portion of the total period of time on which the award was based which remains after retirement is granted, by an amount equal to the monthly rate on which such lump sum was computed.

(b) In the case of a compensable death award, the pension payable to the dependents of the deceased member shall be reduced by an amount equal to the monthly payments received by the dependents under the award made for the death of the member, until such time as the entire amount so awarded shall have been paid. When full payment of the death award has been made the dependents of the deceased member shall thereafter be paid the full amount of the pension provided for by Section 12 of this ordinance, subject to the conditions of Section 13 hereof.

(c) The combined amount of compensation insurance and the pension allowed by the Board hereunder shall in no event exceed one-half ($\frac{1}{2}$) the member's salary at the time of his retirement or death.

Section 16. Pension to Dependents of Member on Death Incurred in Line of Duty. Should any member lose his life by reason of any injury received in or illness caused by or arising out of the performance of his duty, his widow or minor children or dependent father or mother, as the case may be, shall be paid the same pension as is provided for them upon the death of a disabled member pursuant to Sections 12 and 13, subject to the conditions, limitations and restrictions set forth in sub-paragraphs (b) and (c) of Section 15.

Section 17. Rights of Members Removed After Ten Years Service. If any member who has served ten (10) years or more be dismissed or discharged from said Police or Fire Department for any reason except neglect of duty, insubordination, conviction of a felony, conviction of a misdemeanor involving moral turpitude, or any act or conduct which impairs the efficiency or discipline of the department, such member shall be entitled to all the benefits of Section 10 of this ordinance in the proportion that the number of years of service shall bear to twenty-five (25) years. Any person who has voluntarily or involuntarily resigned shall not be entitled to a pension under any of the provisions of this ordinance. If a member with ten (10) or more years of service to his credit be dismissed or discharged for any of the reasons hereinabove excepted, he shall be paid and refunded his accumulated contributions within sixty (60) days after the termination of his service. In determining the period of service under this section, the time of service of any member from the time he first entered the service of the Police or Fire Department of the City, if that occurred prior to January 1, 1953, shall be counted and considered as a part of said ten (10) years of service.

Section 18. Pension Payable Upon Death of Member Eligible For But Before Being Granted Service Retirement. Should a member die from any cause after becoming eligible for service retirement under Section 10 of this ordinance, but before having applied for or being granted a pension, the pension to which said member would have been entitled had he been granted retirement effective as of the date of his death shall be paid in accordance with the provisions of Section 11 hereof.

Section 19. Application to Existing Pensioners. Former members of the Police or Fire Department, or their beneficiaries, on pension on the effective date of this ordinance shall be entitled to all the benefits and privileges and subject to all the conditions of this ordinance.

Section 20. Adjustment of Pensions Payable Under This Ordinance. Should the salary step pay plan presently in effect for members of the pension system hereby created be amended or revised by increasing or decreasing the salaries payable under the several steps of said pay plan, then the pensions payable under the terms of this ordinance shall be proportionately increased or decreased, within the pay step at which the pensioner was retired and the persons entitled to such pensions shall be paid "adjusted pensions" as herein defined.

Section 21. Payments in Case of Total Disability or Death Not Resulting From Performance of Duty. Any member who shall become totally disabled as the result of any illness, accident or other cause not connected with the performance of his duties in the Police or Fire Department shall be refunded his accumulated contributions or be paid from the Pension Fund the sum of One Thousand (\$1,000.00) Dollars, whichever is the greater.

The widow or other dependents of any member who shall die as the result of any such illness, accident or other cause shall, in the order of succession hereinbefore provided for, be paid from the Pension Fund the deceased member's accumulated contributions or the sum of One Thousand (\$1,000.00) Dollars, whichever is the greater.

Section 22. Refund of Members' Accumulated Contributions. Any member having less than ten (10) years service to his credit who shall be dismissed or discharged from the City service for any reason, including those reasons specifically referred to in Section 17 hereof, or who shall voluntarily or involuntarily resign from said service, shall be paid and refunded his accumulated contributions within sixty (60) days after the termination of his service.

Any member who shall become entitled to a pension under any of the provisions of this ordinance may, before or at any time after an order for his retirement is made by the Board but before the first pension payment becomes due and payable, make a written request of the Board that his accumulated contributions be paid and refunded to him. In such case, the Board shall, within sixty (60) days after the termination of his service, pay and refund to such applying member his accumulated contributions and the right of such member to any pension under the provisions of this ordinance shall thereupon cease and determine.

Section 23. Division of Pension. In the event a widow receiving a pension under this ordinance shall fail or refuse to provide for a child or children of the deceased pensioner, the Board, upon satisfactory proof of such failure and refusal, shall have the right and authority to divide the pension between the widow and said child or children in such manner as it may deem proper.

Section 24. Discontinuance or Suspension of Pension. -- Transfer to Dependents. In the case of any pensioner who shall fail to report to the Chief of his former department, as required, after having received notice of such failure, and upon satisfactory proof that said pensioner received such notice, or shall disobey the requirements of the Board, or become insubordinate, or shall be convicted of a felony, or shall become dissipated, or shall become a non-resident of the State of California except by written permission of the Board, said Board may order that the pension allowance of said pensioner shall immediately cease. In such case the payment of said pension shall be transferred to the dependents of said pensioner in the order of succession, as provided in Sections 11 and 13 hereof. In cases of insubordination the Board may suspend said pension entirely for a period of not to exceed three (3) months for each offense.

Section 25. Reinstatement Upon Termination of Military Leave of Absence. Any member who is now on leave of absence or who may hereafter be lawfully granted a leave of absence to enter the services of any branch of the armed forces of the United States in time of war or declared national emergency, and who, upon being honorably discharged therefrom, reenters the City service within the period of said leave, may elect, within sixty (60) days from the effective date of this ordinance or within sixty (60) days from the date of reentry into City service, whichever is the later date, to deposit in the Pension Fund a sum of money equal to the contributions which would have been withheld from his compensation if he had remained in active City service in the position which he held at the time such leave was granted. Such deposit may be made by said member either in one sum or in as many monthly installments as equal the number of months, or fractions thereof, that said member was on said leave of absence. Whenever a member has been lawfully granted a leave of absence to enter the service of any branch of the armed forces, as aforesaid, and reenters the active service of the City within the period of such leave, he shall be credited with the time he was on such leave of absence in the same manner as though he had been actually in active service in said Fire or Police Department.

Section 26. Examination of Disability Retired Pensioners -- Quarterly Reports -- Assignment to Duty in Emergency. Any person retired for disability under this ordinance may be summoned before the Board at any time and shall submit himself for examination as to his fitness for duty. The findings of the Board in such cases shall be final and conclusive and the disability retired pensioner shall be bound thereby. All persons who shall have been retired under any of the provisions of this ordinance shall report to the Chief of their respective department in person, or in writing, on the first Wednesday of January, April, July and October of each year, and in case of great public emergency may be assigned to and shall perform such duties as the Chief of their respective department shall direct. No pensioner shall be so assigned to work in any department except that from which he shall have been retired.

Section 27. Constitutionality -- Repeal of Existing Pension Ordinance. If any section or sections, or part of any section of this ordinance shall be found to be unconstitutional or invalid for any reason, the remainder of the ordinance shall not thereby be invalidated but shall remain in full force and effect. Ordinance No. 276 New Series, as amended, and all other ordinances or parts thereof in conflict with the provisions hereof, are hereby repealed, but the repeal of said Ordinance No. 276 New Series, as amended, shall in no way prejudice or curtail the rights of persons now receiving disability or pension payments thereunder to continue to receive such payments.

Section 28. Effective Date of Ordinance. This ordinance shall be in full force and effect from and after January 1, 1953, if adopted by the vote of the people of the City of Alameda.

I, the undersigned, hereby certify that the foregoing Ordinance was adopted by the people of the City of Alameda at the Special Municipal Election held November 4, 1952, by the following vote.

Yes: 16,552

No: 5,489

(SEAL)

SHIRLEY H. TENNIER

City Clerk of the City of Alameda
