

Alameda, California

**Pension Ordinance
Police and Fire Departments
Ordinance No. 1082**

Published 1953

ORDINANCE NO. 1082

New Series

AN ORDINANCE ESTABLISHING A PENSION SYSTEM FOR THOSE MEMBERS OF THE POLICE AND FIRE DEPARTMENTS OF THE CITY OF ALAMEDA ENTERING CITY SERVICE AFTER JANUARY 1, 1953. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALAMEDA as follows:

Section 1. Purpose. The purpose of this ordinance is to establish a pension system for members of the Police and Fire Departments of the City of Alameda who shall enter the regular employment of the City of Alameda in either of said departments after January 1, 1953, and for members of the pension system established by Ordinance No. 1079 New Series, who shall transfer their membership therein to the pension system hereby created.

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 plus interest thereon at the rate declared by the Pension Board.

(b) "Board" shall mean the Pension Board as created by Ordinance No. 1079 New Series, of the City of Alameda.

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

(d) "Final compensation" shall mean the highest annual compensation earned by a member during any period of five (5) consecutive years of his membership in the pension system.

(e) "Member" shall mean any person who shall, subsequent to January 1, 1953, enter the regular employment of the City by accepting appointment to any position in the Police or Fire Department of the City of Alameda carrying any rate or rank of service conferred upon police officers or firemen and any member of the pension system established by Ordinance No. 1079 New Series, who shall transfer his membership therein to the pension system hereby created.

(f) "Pension Fund" shall mean the City of Alameda Police and Fire Pension Fund as established by Ordinance No. 1079 New Series, of the City of Alameda.

(g) "Pension system" shall mean the City of Alameda Police and Fire Pension System 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 plural numbers the singular, and "widow" shall include "widower."

Section 3. Pension System Established — Pension Board. A pension system is hereby established for members of the Police and Fire Departments of the City who shall, subsequent to January 1, 1953, enter the regular employment of the City by accepting appointment to any position in either of said departments carrying any rate or rank of service conferred upon police officers or firemen, and such members of the pension system established by Ordinance No. 1079 New Series, who shall transfer their membership to the pension system hereby created.

The pension system hereby established shall be administered by the Pension Board created by the following provisions of Ordinance No. 1079 New Series, to-wit:

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 herein before 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 duties and powers of the Pension Board shall be those required of and conferred upon said Board by the provisions of Section 4 of Ordinance No. 1079 New Series, as follows:

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 show upon their face 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. Pension Fund. The "City of Alameda Police and Fire Pension Fund" heretofore created by the provisions of Section 5 of Ordinance No. 1079 New Series, is hereby designated as the fund in which shall be deposited all member and City contributions and such other moneys and securities as are herein provided for and from which shall be made all pension and other payments in accordance with the provisions of this ordinance or any amendment thereof.

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 annually from and after July 1, 1953, an amount which, together with the moneys in the Pension Fund contributed by the City and the members for the benefit of this pension system, shall be sufficient to meet all liability for benefits provided herein. The amount to be contributed by the City shall be the amount recommended in the last previous actuarial report on the pension system hereby established and, until such time as a valuation is made, this amount shall be 11.47% of the pay roll of the members of the pension system. The City shall further appropriate and pay annually into the Pension Fund an amount sufficient to defray the administrative expense of the Fund, the amount of which payment shall be based on estimates furnished by the Board.

Section 8. Contributions to Pension Fund by Members. For each member entering the pension system below the age of thirty-five (35) years, the normal rate of contribution shall be such as will provide on the average, at age 55, a pension equal to one-fourth ($\frac{1}{4}$) of his final compensation.

The normal rate of contribution of a member shall be based on the age of the member at the time of his entrance into the pension system, computed on the basis of his nearest birthday at the time of such entrance. Should a member of the pension plan established by Ordinance No. 1079 New Series, transfer his membership to the pension system hereby established, and it is hereby specifically provided that such transfer may be made under the conditions hereinafter set forth, his rate of contribution shall be based on the age at which he entered the pension system from which transfer is made. If made within six (6) months from and

after the effective date of this ordinance such transfer shall be made without medical examination. If made more than six (6) months after the effective date of this ordinance the person desiring to make such transfer shall furnish to the Pension Board such evidence of insurability, from a physical and medical standpoint, as the Board may require. Upon the basis of any or all of the actuarial investigation, valuation and determination provided for herein, the Board shall make such revisions of the rates of contribution of members as it shall deem necessary to adequately finance the benefits which the normal rates of contribution are designed to produce. No adjustment shall be included in the revised rates for contributions made prior to the effective date of such revision.

Section 9. Retention and Deposit of Members' Contributions. The City Treasurer is hereby authorized and directed to retain monthly from the compensation of each member that percentage of such compensation as shall be payable according to the schedule of rates of contribution by members, based on age at the nearest birthday at the time of members' entry into the pension system, as adopted by the Pension Board. The moneys so retained shall be deposited in the Pension Fund.

Section 10. Other Moneys to be Deposited in Pension Fund. All moneys derived from the imposition of fines or penalties upon members of the pension system for violation of any of the rules or regulations of the Police or Fire Department shall be paid into and deposited in the Pension Fund.

Section 11. Service Retirement — Monthly Pension. A member shall be retired from service upon his written application to the Board if he has attained age fifty-five (55) and has to his credit twenty (20) years of service in the aggregate, and such retirement may be made by the Board on its own motion, subject to the existence of the foregoing conditions, if such action be deemed by it to be for the good of the service. Every member who is in active service on his 65th birthday shall be retired from service on the first day of the calendar month next succeeding such birthday.

Upon the retirement of a member as in this section provided, he shall be paid a pension in monthly installments during his lifetime. The annual pension shall be computed by dividing fifty percent (50%) of his final compensation by a figure representing his years of service between his age at entrance into the pension system and age 55 and multiplying the result of

such division by the figure representing the actual number of years' service, in the aggregate, standing to his credit.

Section 12. Disability Retirement — Monthly Pension. Any member not qualified for service retirement who becomes incapacitated for the performance of duty by reason of any injury received in or illness arising out of the performance of duty shall be retired from active service upon the written request of such member, or his guardian, or without such request if the Board shall deem such retirement to be for the good of the service.

Upon the retirement of a member for disability as hereinabove provided, he shall be paid a disability pension, in monthly installments, which shall be equal to one-half ($\frac{1}{2}$) of his final compensation.

In the event a disabled member, as hereinabove defined, is qualified for service retirement, as in Section 11 hereof provided, he shall be given service retirement and shall be paid a service retirement pension if such pension be greater in amount than the disability pension hereinabove provided for.

Any member who shall become incapacitated for the performance of duty by reason of any cause not included in the preceding paragraphs of this section and who shall have completed at least ten (10) years of service, in the aggregate, may be retired upon his application to the Board, or upon the application of his guardian, or upon the Board's own motion. Upon such retirement the disability pension payable shall be equal to one and one-half percent ($1\frac{1}{2}\%$) of the member's final compensation multiplied by the number of years service, in the aggregate, credited to him. If the disability pension so computed does not equal one-fourth ($\frac{1}{4}$) of his final compensation, then the disability pension in this paragraph provided for shall be equal to one and one-half percent ($1\frac{1}{2}\%$) of his final compensation multiplied by the number of years of service which would be credited to him were his service to continue until attainment by him of age sixty (60), but in such case the disability pension shall not exceed twenty-five percent (25%) of such final compensation.

As used in this section, disability and incapacity for performance of duty as a basis for retirement mean disability of a permanent or extended and uncertain duration as determined by the Board on the basis of competent medical opinion.

The Board may require any recipient of a disability pension, who is under

the minimum age of retirement for service, to undergo medical examination, or upon the application of such a recipient for reinstatement, shall cause a medical examination to be made. Upon the basis of such medical examination, the Board shall determine whether the pensioner is still incapacitated for service. If the Board determines that the pensioner is no longer incapacitated, his disability pension shall be cancelled forthwith, and he shall be restored to active duty with the rank or rating equal to that held by him at the time of his retirement for disability.

If any disability pensioner under the age which would qualify him for service retirement shall refuse to submit to medical examination at the request of the Board as herein provided, his pension may be discontinued until he submits to such examination.

If the pension of any member retired for disability be cancelled for any cause, an amount which is the actuarial equivalent of his retirement annuity at the time of cancellation, but in no event greater than the amount of his accumulated contributions at the time of his retirement, shall be credited to his individual account in the pension system.

Section 13. 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 12 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, as defined in Section 15 hereof, shall thereafter be paid the full amount of the pension provided for by Section 15 of this ordinance, subject to all the conditions of said Section 15.

(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 final compensation.

Section 14. Optional Modification of Pension. Until the first payment on account of any pension (whether service or disability) is made, the member may elect to receive the actuarial equivalent of his pension at the time of his retirement as a lesser pension payable throughout his life, with one of the following options:

1. If he dies before he receives in pension payments the amount of his accumulated contributions as it stood at his retirement, the balance of such accumulated contributions shall be paid to his estate or to such person having an insurable interest in his life, as he shall nominate by written designation duly executed and filed with the Pension Board.

2. Upon his death, his lesser pension shall be continued throughout the life of and paid to his surviving spouse, provided she was his wife at least one (1) year prior to his retirement.

3. Upon his death, one-half ($\frac{1}{2}$) of his lesser pension shall be continued throughout the life of and paid to his surviving spouse, provided she was his wife at least one (1) year prior to his retirement.

Section 15. Death Benefits Prior to Retirement—Basic and Special. Basic benefit: The beneficiary of any member who shall die, prior to his retirement, as the result of illness, accident or other cause not connected with the performance of his duties in the Police or Fire Department, shall receive a basic death benefit which shall consist of the accumulated contributions of the member, or the sum of Three Thousand (\$3,000.00) Dollars, whichever is the greater.

Special benefit: If a member dies prior to his retirement and his death was industrial as determined by the Industrial Accident Commission using the same procedure as in workmen's compensation hearings, and if there is a widow or child who qualifies for the benefit as provided herein, a special death benefit shall be payable and shall consist of (1) an amount equal to and derived from the same sources as the basic death benefit; (2) an amount sufficient, when added to the amount equal to the basic death

benefit, to provide a monthly pension equal to one-half ($\frac{1}{2}$) of the average monthly compensation earned by the deceased during the five (5) years immediately preceding his death. Such pension shall be paid to the surviving widow, provided she was married to the deceased prior to his sustaining the injury or contracting the disease resulting in death. Subject to the foregoing conditions, the widow shall be paid the pension herein provided for during her lifetime or until she remarries. If there be no such widow or if a widow receiving such pension shall die or remarry before all children of the deceased member shall have attained age eighteen (18), the pension herein provided for shall be paid to his children under age 18, collectively, until every child dies or attains age 18.

In the event the special death benefit herein provided for is payable, it shall be in lieu of the basic death benefit.

Section 16. Death Benefit After Retirement. In the event of the death of a member retired for service or disability, as provided in Sections 11 and 12 hereof, there shall be paid to his widow or children or, if there be no widow or children, to his named beneficiary, or to his estate if no beneficiary be named, the sum of Three Thousand (\$3,000.00) Dollars, and pension payments shall cease. The provisions of this section shall not be applicable to persons taking deferred retirement under the provisions of Section 19 hereof.

Section 17. Refund of Accumulated Contributions. If the service of a member is discontinued for any reason and if the accumulated contributions of the member amount to less than Five Hundred (\$500.00) Dollars, he shall be paid said accumulated contributions within sixty (60) days after the termination of his services.

Section 18. Right of Election Between Service or Disability Retirement and Refund of Accumulated Contributions. Any member who shall become entitled to a pension under any of the provisions of this ordinance, excepting a pensioner under the deferred retirement provisions of Section 19 hereof, 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 19. Deferred Retirement. If the service of a member is terminated for any cause except dismissal or discharge for any of the reasons enumerated in Section 25 of this ordinance, and if the accumulated contributions standing to his credit at the time exceed Five Hundred (\$500.00) Dollars, he shall have the right to elect, not later than ninety (90) days after the date upon which notice of said right is mailed to the member's last address on file in the office of the system and without right of revocation, whether to allow his accumulated contributions to remain in the Pension Fund. Failure to make election shall be deemed an irrevocable election to withdraw his accumulated contributions. If the member chooses to leave his accumulated contributions in the Fund, he shall be subject to the same age requirements as apply to other members for service retirement, but shall not be subject to the minimum service requirement. After qualification of such member for retirement he shall be entitled to receive a pension based on his accumulated contributions and on the years of service standing to his credit at the time of retirement. Upon the death of such a member prior to retirement, as in this section provided for, his accumulated contributions shall be paid to his named beneficiary, but no additional payment on account of his death shall be made.

Section 20. Actuarial Valuation. The Board shall keep in convenient form such data as is necessary for the actuarial valuation of this system. As of June 30, 1955, and thereafter at the end of periods not to exceed four (4) years, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of members and persons receiving benefits, and an actuarial valuation of the assets and liabilities of the system. Based on this actuarial valuation, the Board shall recommend changes in the rates of contribution of members and the City necessary to maintain the system on a sound actuarial basis.

Section 21. Reinstatement Upon Termination of Military Leave of Absence. Any member who is 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 date of reentry into City service, 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, upon electing to make a deposit of contributions as in this section provided, 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 Police or Fire Department.

Section 22. 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 23. Quarterly Reports of Pensioners—Assignment to Duty in Emergency. 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 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 permis-

sion 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 Section 15 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. Forfeiture of Pension. Any member who shall be dismissed or discharged from the Police or Fire Department of the City of Alameda on a charge of 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 shall forfeit all his right, title and interest in and to a pension under any of the provisions of this ordinance.

Any member who shall voluntarily or involuntarily resign his position in the Police or Fire Department of the City shall forfeit all his right, title and interest in and to a pension under any of the provisions of this ordinance, except as provided herein.

Any member who shall forfeit his pension rights under the provisions of this section shall be refunded his accumulated contributions within sixty (60) days after the termination of his services.

Section 26. Constitutionality. 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.

Section 27. Amendment or Repeal. This ordinance shall not be amended except by the vote of five (5) members of the Council, and shall not be repealed except by vote of the people.

Section 28. Effective Date of Ordinance. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

FRANK P. OSBORN,
Presiding Officer of the Council.

Attest:
SHIRLEY H. TENNIER,
City Clerk.

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the 17th day of February, 1953, by the following vote, to wit:

AYES: Councilmen Anderson, Branscheid, Jones, Sweeney and President Osborn, (5).

NOES: None.

ABSENT: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 18th day of February, 1953.

(SEAL) SHIRLEY H. TENNIER,
City Clerk of the City of Alameda.
Publish Feb. 20, 1953.