

**ORDINANCE NO. 691**

**AN ORDINANCE OF THE TOWNSHIP OF PENN ESTABLISHING  
AND REGULATING A FIREFIGHTER PENSION FUND AND  
ADDITIONAL RIGHTS AND PRIVILEGES OF THE MEMBERS  
OF THE PENN TOWNSHIP DEPARTMENT OF FIRE AND RESCUE  
SERVICES**

The Board of Commissioners of Penn Township, York County, Pennsylvania, enacts and ordains as follows:

**§ 1. Establishment.**

A Firefighter Pension Fund is hereby established under the supervision of the Board of Commissioners of Penn Township and subject to the terms set forth herein. The funds of the Firefighter Pension Fund shall be applied pursuant to state law, this article and to such regulations as shall be adopted by resolution of the Board of Commissioners for the benefit of such participants in the Firefighter Pension Fund as shall receive an honorable discharge as a Penn Township Firefighter by reason of age and service as hereinafter further provided.

**§ 2. Supervision.**

**A. Pension Board.**

(1) A Pension Board is hereby established for the purpose of administering the Penn Township Firefighter Pension Plan and Firefighter Pension Fund, and which Board shall be known as the "Penn Township Firefighter Pension Board."

(2) The Board shall consist of three members, at least two of whom shall be duly elected or appointed Commissioners serving in such position, and at least one of whom shall be a Firefighter who is a participant in the plan, exclusive of the Fire Chief, in the active employment of the Township and duly elected by the Firefighters who are participants in this Pension Plan. The Board of Commissioners shall also designate the Chairman of the Firefighter

Pension Board and shall appoint persons to fill vacancies on the Board, except that vacancies in the Firefighter representative on the Board shall be filled by election by the Firefighters participating in the Pension Plan.

(3) Members of the Board shall serve without compensation.

(4) The term of office for members of the Board shall be two (2) years, provided that any member of the Board who is a Firefighter shall cease to be a member of the Board on the last day of his employment as a Firefighter with the township, and provided further that any member of the Board who shall also be a member of the Board of Commissioners of Penn Township shall cease to be a member of the Board on the day he ceases to hold office as a Commissioner.

(5) The duly appointed Manager of Penn Township shall serve as the secretary of the Board and shall keep minutes of the Board's proceedings and all dates, records and documents pertaining to the Board's administration of the Pension Plan.

(6) No member of the Board shall be liable for any act or omission of any other member of the Board, nor for any act or omission on his own part excepting only his own willful misconduct. The township shall indemnify and save harmless each and every member of the Board against any and all expenses, claims or liabilities arising from his or her membership on the Board, excepting only expenses and liabilities arising out of the Board member's own willful misconduct. Members of the Board shall serve without bond.

(7) No member of the Board shall vote on any matter in which he has a personal interest.

The action of the Board shall be determined by the vote or other affirmative expression of a majority of its members. All actions of the Board shall be certified by its Chairman and attested to by its Secretary.

The Board shall meet annually in April and at other times at the call of the Chairman or at the request of the majority of the Board.

B. Powers and duties of the Pension Board shall be as follows:

To administer the Penn Township Firefighter Pension Plan as set out in the Collective Bargaining Agreement between the Board of Commissioners of Penn Township and the International Association of Firefighters, Local #2045, and any amendments thereto, and in the terms of Agreements and Plan Documents entered into by the Board of Commissioners of Penn Township and a bank or investment firm for the investment of pension funds, and all other applicable statutes, ordinances and regulations.

(2) To provide guidance to the Trustee of the Penn Township Firefighter Pension Fund for the investment of all moneys deposited in such fund.

(3) To make rules and regulations for the governance of the affairs of the Board to better enable it to carry out its powers and duties imposed hereunder.

(4) To employ and compensate actuaries, accountants, and attorneys as it may deem necessary to carry out its duties hereunder. The expenses of the administration of the fund and the plan shall be paid from the assets of the fund.

(5) To make all decisions pertinent to the award of any pension to any applicant or participant or for the return of any individual contributions to any person who may be entitled to the same under the Pension Plan.

(6) The Pension Board shall have no authority to retain any trustee for the management of the Pension Fund, to add to, subtract from or amend the terms of the Pension Plan, nor shall it have any authority to designate the depository of the Pension Fund, nor shall it have any power to determine what amounts, if any, shall be deposited in such fund, all of the said matters being reserved solely to the Board of Commissioners of Penn Township.

**§ 3. Maintenance.**

The Firefighter Pension Fund shall be maintained by:

A. Gifts, grants, devises or bequests of any money or property, real, personal or mixed, which shall be held in trust and administered by the Penn Township Firefighter Pension Board or its designated trustee, who shall be responsible for the care, management, investment and disposal of such trust funds or property.

B. Such contributions, appropriations, donations or funds to which the Firefighter Pension Fund may be entitled from the Commonwealth of Pennsylvania, according to law, including but not limited to funds received pursuant to Act 205 (53 P.S. 770).

C. The contributions of the participants in the amount equal to five percent (5%) of monthly compensation. Contributions required to be made by participants may be reduced or eliminated, on an annual basis, by resolution of the Board of Commissioners, provided that an actuarial study shows that such reduction or elimination will not require a contribution by Penn Township to keep the fund actuarially sound. The five percent (5%) employee contribution shall be waived for the term of this Agreement but shall be reinstated effective January 1, 2011.

D. Contributions, appropriations, donations or money to which the Firefighter Pension Fund may be entitled by law, but only in an amount needed to keep the fund actuarially sound after accounting for all funds received under Subsections A, B and C of this section.

**§ 4. Members.**

Each Firefighter shall be considered a participant in the Firefighter Pension Fund on his first day of continuous full time employment subsequent to confirmation of his employment by the Board of Commissioners. Each Firefighter shall agree, in writing, that he or she will be bound by the provisions of this chapter and the rules and regulations made pursuant thereto by the Board of Commissioners of Penn Township.

**§ 5. Minimum age and service for retirement.**

The minimum period of service after which a member may be retired from active duty and entitled to a pension hereunder is fixed at an aggregate of twenty-five (25) years of credited service in Penn Township and attainment of the age of fifty-five (55) years.

**§ 6. Continuous service.**

Continuous service shall mean a Firefighter's latest period of continuous employment as a Firefighter (calculated in years and completed months). Any Firefighter who has been regularly appointed for a period of at least six (6) months and who thereafter, heretofore or hereafter, shall enter into compulsory military service of the United States in times of war, armed conflict, or National emergency, so proclaimed by the President of the United States, shall have credited to his employment record for pension or retirement benefits all the time spent by him in such compulsory military service during the continuance of such war, armed conflict, or National emergency, if such member returns or has heretofore returned to his employment within six (6) months after his separation from the service.

**§ 7. Credited service.**

Credited service shall mean the total amount of continuous service performed while employed by Penn Township as a Firefighter.

**§ 8. Normal retirement benefits; vesting.**

A. The basis for determining any pension payable under this chapter following retirement of any member of the force meeting the service and age requirements shall be as follows:

(1) Final Monthly Salary as used in this ordinance shall mean the average of the final 60 months of base pay and overtime, but shall not include longevity pay, or pay for unused vacation, sick leave, or personal leave.

(2) Monthly pension or retirement benefits shall be calculated by multiplying the number of years of service of the member or twenty-five (25) years, which ever is lesser, by one and one-half percent (1.5%) of the member's final monthly salary at the time of his or her retirement. Such retirement benefits shall be payable during the balance of the member's life following actual retirement.

B. Each shall be vested after five (5) years of continuous service. Under the provisions of such benefit, should a Firefighter, before completing superannuation retirement age and service requirements but after having completed five (5) years of total service, for any reason cease to be employed as a full-time Firefighter by Penn Township in whose Pension Fund he has been a member, he shall be entitled to vest his retirement benefits by filing with the Board of Commissioners within ninety (90) days of the date he ceases to be a full-time Firefighter a written notice of his intention to vest. Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time Firefighter, he shall be paid a monthly pension benefit calculated by multiplying the number of years of service of the member or twenty-five (25) years, which ever is lesser, by one and one-half percent

(1.5%) of the Final Monthly Salary (as defined above) at the time of his or her termination of employment.

**§ 9. Preretirement death benefit.**

If a Firefighter dies before retirement, the following survivor annuity death benefit shall be paid.

A. The survivor annuity death benefit shall be payable to the spouse if the deceased Firefighter is, or was, an employee and is survived by his spouse to whom he was continuously married throughout the one-year period ending on the date of death, or to the child or children if the Firefighter has a child or children under the age of eighteen (18) years on the date of death.

B. The survivor annuity death benefit shall be payable to the deceased Firefighter's surviving spouse until the death or remarriage of the spouse. In the event that the spouse dies or remarried while any child or children of the deceased Firefighter are under the age of eighteen (18) years, then the survivor annuity death benefit shall be divided equally among and paid to such child or children under the age of eighteen (18) years as of the date that payment is made until such time as the child or children shall attain the age of eighteen (18) years, or until the death of such child or children, whichever first occurs.

C. The survivor annuity death benefit payable under this section shall be a monthly benefit equal to one-half (1/2) of the retirement benefit derived from the deceased Firefighter's accrued benefit that would have been payable to the Firefighter if his retirement date had been the date of his death.

**§ 10. Ineligible for pension.**

Any Penn Township Firefighter who for any reason whatsoever shall be ineligible to receive a pension after having made any contributions to the Firefighter Pension Fund shall be

entitled to a refund of all such moneys paid by him or her into such fund plus all interest earned by such moneys while in the Firefighter Pension Fund at the rate of four percent (4%) simple interest; and said sum shall be paid immediately upon discontinuance of his employment with the Firefighter force. If such discontinuance is due to death, such money shall be paid to his designated beneficiary or in the absence thereof to his estate, to the extent that it has not been paid under § 9 above.

**§ 11. Grievances.**

A. Any participant aggrieved by any ruling or action regarding the Pension Fund and his relation thereto shall file a written notice of the grievance with the Penn Township Firefighter Pension Board. Within five (5) working days of receipt of the written grievance notice, the Board shall schedule a meeting to be held not sooner than ten (10) days from the date of the receipt of the written notice nor more than forty-five (45) days from the date of the receipt of the written notice, at which time the grievant and his or her representative and the members of the Board or their representatives shall meet to discuss the grievance and attempt to resolve it.

B. In the event that the attempt at resolution of the grievance is unsuccessful, the grievant shall file a written notice of appeal with the Board of Commissioners of Penn Township. Within ten (10) days of receipt of the written appeal, the Board of Commissioners shall schedule a hearing to be held not less than fifteen (15) days nor more than forty-five (45) days from the date of receipt of the written appeal. A representative of the Penn Township Firefighter Pension Board and the grievant and his representative shall attend the hearing. The hearing shall be informal and shall not be recorded unless desired by the grievant, the Firefighter Pension Board, or the Board of Commissioners, in which case the party desiring the recording shall bear the expense of recording the hearing. The Board of Commissioners shall render a decision on the



issues presented by the grievant within ten (10) days of the hearing. The decision shall be in writing, and a copy of this decision shall be provided promptly to the grievant and to the Firefighter Pension Board. The decision of the Board of Commissioners shall be binding upon the grievant and the Firefighter Pension Board unless it is appealed.

C. In the event that the Firefighter Pension Board or the grievant is dissatisfied with the decision of the Board of Commissioners, either may appeal the decision to grievance arbitration pursuant to the grievance arbitration provisions of the collective bargaining agreement then in effect between Penn Township and the International Association of Firefighters, Local #2045 or such other representative for collective bargaining purposes for full-time rank and file members of the Penn Township Firefighter Department.

D. The decision of the arbitrators shall be final and binding, except that if the decision is in violation of the applicable statutes governing Firefighter pension plans, then the Penn Township Board of Commissioners, the Penn Township Firefighter Pension Board or the participant affected may appeal to a court having jurisdiction to obtain appropriate relief.

**§ 12. Payments to be charge on no other township fund.**

Payments made on account of the Firefighter Pension Fund shall not be a charge on any other fund in the treasury of the township or under its control, other than the Firefighter Pension Fund established hereby.

**Benefits not subject to assignment or attachment.**

No payments to any Firefighter or beneficiary or beneficiaries of any Firefighter under this chapter may be assigned or attached in any manner or for any purpose, reason or cause or under any circumstances.

**Designation of trustee.**

The Principal Financial Group is hereby appointed as the trustee of the Penn Township Firefighter Pension Fund and is charged with the management and administration of the Firefighter Pension Fund.

**Administrative authority of trustee.**

The trustee of the Firefighter Pension Fund shall manage and administer the Firefighter Pension Fund in accordance with all federal and state laws and regulations applicable to such pension funds, and in accordance with the ordinances of Penn Township applicable to the Firefighter Pension Fund, as such laws, regulations and ordinances may be amended from time to time.

**§ 16. Adoption of defined benefit plan.**

The trustee's management and administration of the Firefighter Pension Plan shall be in accordance with the "Penn Township Firefighter Pension Plan," a defined benefit plan document prepared by the trustee dated January , 2008, as it may be amended from time to time by agreement with the Township, to the extent that such plan document is not inconsistent with applicable laws, regulations or ordinances described in § 15 hereof.

**Inconsistent ordinances repealed.**

All ordinances or parts of ordinances pertaining to the naming of a trustee of the pension fund or to the administration or management of the Firefighter Pension Fund and which are inconsistent with this article are hereby repealed. No provision or part of Ordinance No. 173, as amended by Ordinances 252, 383 and 465 (Chapter 37, Article I, of the Penn Township Code) shall be repealed, amended or affected by the enactment of this article.

**§ 18. Repealer.**

Ordinances Nos. 614, 630, 654 and any other ordinances in conflict herewith shall be and hereby are repealed. All of the Penn Township Firefighters covered by the Firefighter Pension Fund provided for by the above ordinances shall become participants in the Firefighter Pension Fund covered by this chapter regardless of the beginning date of full-time employment.


ORDAINED AND ENACTED this 19<sup>th</sup> day of May, 2008.

Board of Commissioners of  
Penn Township

By: 

Michael L. Johnson Jr., President

Attest:

  
Kristina J. Rodgers, Secretary