

ORDINANCE NO. 74921

AN ORDINANCE for supplementing the charter provisions of the City of Portland for the retirement and pensioning of police officers, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. It appearing to the Council that the charter provisions of the City of Portland for the retirement and pensioning of police officers have become so ineffective and insufficient that police officers shun retirement although age and disability become such that retirement on pension would ordinarily be sought, and that those on retirement, and widows and orphans of deceased members, receive insufficient amounts to provide for a reasonable living or the necessities of life, and in many instances distress has been experienced on account of the insufficiency of the relief funds; that the present inadequacy of said fund is such that the beneficiaries are able to receive through the year only about thirty (30) per cent of the amount specified in the charter to be paid; that about two years ago steps were taken to work out a basis for relief, and temporary relief was provided as set out in Ordinances numbered 71783 and 73215; that the basis for relief thus provided has met with court approval (see Mason L. Bingham, et al v. City of Portland, et al, Circuit Court case No. 135382); that two committees have recently worked with a view of providing a more permanent basis for relief, one of said committees being from the retired officers and widow beneficiaries, and the other being from the active police officers; that said committees have upon joint conferences made a report unanimously favoring such action as the Council may find practicable with the funds available and which may be made available along the lines herein provided; that relief from existing conditions requires: (1) a cutting down of benefits, and (2) an increasing of available funds; that it is believed that the provisions herein contained will meet the approval of a large majority of those specially interested, namely, the present active police officers, the policemen now in retirement, and the widows and orphans of deceased policemen, and that these provisions are the best that can now be made toward supplying the relief specified in the city charter; now, therefore,

there is hereby created a special fund to be known as the Policemen's Retirement Fund which shall be built up and used as herein provided. This fund shall not be commingled nor confused with the Policemen's Relief and Pension Fund but shall be separate and distinct therefrom. Payments shall continue to be made from the Policemen's Relief and Pension Fund in all respects as if this ordinance had not been passed, except for the waivers herein provided, and salary deductions shall be made for the purpose of said Policemen's Relief and Pension Fund the same as if this ordinance had not been passed.

Section 2. Said Policemen's Retirement Fund shall be built up (a) by a deduction of \$5.00 each month from the monthly salary of each regular member of the Bureau of Police who subscribes to this program or otherwise becomes a party hereto as hereinafter provided; (b) by such amount as the Council may annually provide in its budget for the tax levy to be used for the purposes of this fund, and (c) by such donations, gifts and other sources of income as may be available from time to time. Said salary deductions as herein provided shall be credited to this fund as made. The City Auditor and Treasurer are hereby authorized and directed, as funds become available, to transfer to this fund the monies budgeted and collected therefor, and such transfers shall apply to the sum of \$35,000.00 now available in the current year's budget. It is contemplated that similar or larger amounts will be made available in future years. No money shall be placed to the credit of this fund and no deduction from the salary of any police officer shall be made hereunder until a document signed and filed as herein provided shall have been executed by at least fifty per cent of the beneficiaries consisting of the active police officers, retired officers and widows on pension. Children beneficiaries, if any, shall be deemed to have consented to the terms and provisions hereof unless affirmative action be taken within thirty days from the effective date of this ordinance by the legal guardian of such minor to reject the provisions hereof. All persons who in the future become regular police officers of this city shall be deemed to have consented and agreed to the terms and provisions hereof without executing any formal document therefor. Each woman who in the future becomes a widow and entitled to a widow's pension under the provisions of the city charter shall be deemed to have consented and agreed to the terms and provisions hereof unless she, within thirty days after becoming such widow, execute and file with the City Auditor a formal document rejecting the provisions hereof, but

this provision shall not apply to any woman whose husband being now in active service fails to agree to the provisions hereof and contribute to the fund. The document above mentioned to be signed by fifty per cent or more of the beneficiaries, shall be filed with the City Auditor within thirty days after the taking effect of this ordinance, but the City Auditor before marking the same filed shall check to ascertain whether it is signed by the required number. If he find that it be signed by the required number he shall at once notify the Mayor, who shall, on behalf of the City, sign thereto the City's approval together with the date thereof, whereupon said document and this ordinance shall constitute an agreement between the City and such signing members, but nothing contained herein shall be an agreement on the part of the City to provide any certain amount of funds for transfer to said Policemen's Retirement Fund, inasmuch as such action on the part of the City constitutes a part of the legislative power of the City which cannot be contracted away. Said document may consist of many separate sheets signed by various persons. Those who fail to sign such document within thirty days after passage of this ordinance shall have no part in said Policemen's Retirement Fund and have no right to share in any of the benefits of this ordinance, provided that the Board of Trustees may excuse failure to sign and file within time upon a showing of failure to obtain information in time. The Auditor shall forthwith mail a copy of this ordinance to each person now on pension, post a copy thereof on the bulletin board of each precinct station, and furnish sufficient copies to the Chief of Police to provide each member of the Bureau with one copy. Nothing contained herein shall prevent any person who fails or refuses to sign and file with the Auditor such document as above provided from receiving the regular prorated pension under the charter provisions to the same extent as therein provided.

Section 3. When the money available for any monthly payment from the Policemen's Relief and Pension Fund is insufficient to provide for the respective amounts herein stated, payment shall be made from said Policemen's Retirement Fund to persons who shall have been determined to be entitled thereto in such amounts as, added to the amount obtained from the Policemen's Relief and Pension Fund, shall make the amounts to be paid as follows:

- (1) Any regular member of the Bureau of Police may retire under the provisions hereof if fifty-five years or more of age, and thereupon he shall be paid \$2.50 per month for each year of active service, but such payment shall not exceed \$75.00 per month.

- (2) Each regular member of the Bureau of Police who has been or shall be permanently retired, except as herein otherwise provided, shall be paid \$2.50 per month for each year of active service in said Bureau, but such payment shall not exceed \$75.00 per month.
- (3) Whenever a regular member of the Bureau of Police shall be injured while in the performance of his duty, or shall contract an illness in the performance of duty so as to be incapacitated, he shall be paid his regular salary from the General Fund appropriation for Personal Service, Bureau of Police, until such time as the Board of Trustees of the Policemen's Relief and Pension Fund shall, on the advice of the City Physician, determine that such officer is able to resume performance of police service or that such injury or illness is permanent. In the latter case he shall be placed on disability retirement and be paid \$75.00 per month; provided that each year thereafter such disability be established to the satisfaction of the Board on the advice of the City Physician to be a permanent and total disability and such as to prevent the performance of any gainful occupation. In case a regular member becomes incapacitated through injury or illness not in the line of duty he shall receive sick benefits as provided by Ordinance No. 66360 as amended, as in the case of city employees who receive benefits under said ordinance. When the Board, on advice of the City Physician, determines that his disability is permanent he shall be retired and paid as provided in paragraph (2) hereof. Present police officers who fail to sign and file the waiver and agreement as herein provided, shall not be entitled to any of the benefits specified in this paragraph.
- (4) Each widow now on pension whose husband was a regular member of the Bureau of Police who was killed or died from the effects of an injury or illness received or contracted in the performance of duty shall be paid \$50.00 per month so long as she remains unmarried; provided, that she shall duly agree to the provisions of this ordinance and furnish proof of claim satisfactory to the Board. Other widows now on pension who duly agree to the provisions of this ordinance shall be paid \$2.00 per month for each year she was the wife of the deceased member during his active service, so long as she remains unmarried, but in no case shall the amount exceed \$50.00 per month nor be less than \$20.00 per month.
- (5) Each woman who in the future becomes a widow of a regular member of said Bureau who shall have duly agreed to the provisions of this ordinance

and contributed to this fund, and each woman who in the future becomes a widow of a member of said Bureau now on pension, who duly agrees to the provisions hereof, shall be paid the same amount under the same circumstances as specified in paragraph (4) hereof.

- (6) Each widow who is allowed benefits under the provisions hereof shall be paid an additional amount of \$7.50 per month for each child of her deceased husband so long as such child is under 16 years of age, provided that such child is cared for and maintained by such widow, but in no case shall the payment for the widow and children exceed \$50.00 per month. The provisions hereof shall apply to any child legally adopted.
- (7) When any regular member of the Bureau of Police shall die and shall have been a contributor to this fund and leave no widow, but a child or children under 16 years of age, such child or children shall be paid the sum of \$50.00 per month until reaching the age of 16 years; provided, that the total amount so paid to the children of any such deceased member shall not exceed \$50.00 per month. The provisions hereof shall apply to any child legally adopted.

Section 4. The Board of Trustees of the Policemen's Relief and Pension Fund shall administer the terms and provisions of this ordinance and shall receive and determine all applications for allowance hereunder. The waiver and agreement mentioned in section 2 hereof shall provide that the signer waives any right of pension or relief in excess of the respective amounts herein stated and agrees to each and all of the terms and provisions hereof. Each and all of said waivers and agreements shall continue in effect so long as the City Council shall continue to budget annually \$35,000.00 or more for the use of said Policemen's Retirement Fund, or until a charter amendment or other legislation shall have become applicable to the purposes of this ordinance. In the event that the funds provided under the provisions of this ordinance become insufficient at any time to meet the payments herein specified for any calendar year, then payment shall be made pro rata for the remainder of that year. It is contemplated that the provisions hereof shall supersede any and all right to claim payment

of accumulated, unpaid portions of back pensions that have accrued or shall accrue either under the provisions of this ordinance or under the provisions of the charter, but in the event that any person shall establish a right to a payment in excess of the provisions hereof in consequence of back pensions unpaid, then nothing contained herein and no waiver or agreement hereunder shall prevent any person from receiving his or her pro rata share.

Section 5. The provisions of this ordinance shall apply to regular policewomen as well as to regular policemen. It shall not apply to any member of the Bureau while on leave of absence granted by the Council for purposes other than the work of the Bureau of Police, and any such member now on leave may sign and file his waiver and agreement hereto within thirty days after returning to active service. Any person resigning or discharged from said Bureau shall waive all rights in said fund. Sections 311, 315 and the first sentence of section 305 of the charter shall be applicable hereto. This ordinance shall not be applicable to former Officer H. E. Taft, who was retired under certain special provisions, which take the nature of a contract. The Auditor shall furnish for the files of the Board of Trustees of the Policemen's Relief and Pension Fund a certified copy of this ordinance for ready reference and information, and shall annually furnish to the Budget Committee an estimate of the amount needed under this ordinance for the ensuing year.

Section 6. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: That no unnecessary delay should be experienced in the improvement of the police force of the City and providing for a more equitable payment of benefits; therefore, an emergency is hereby declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

FEB 5 1941

Passed by the Council

R. E. RILEY

Mayor of the City of Portland.

Attest:

*Will H. Gibson*

1-31-41 L. E. L.

Auditor of the City of Portland.

By Order of  
the Council.

L. E. B.

## Ordinance No. 74921

An Ordinance for supplementing the charter provisions of the City of Portland for the retirement and pensioning of police officers, and declaring an emergency.

Amended

Order of the Council

THE FOLLOWING IS THE OFFICIAL VOTE ON THE FOREGOING ORDINANCE		
	YEAS	NAYS
BOWES	1	
CLIDE	1	
COOPER	1	
PETERSON	1	
RILEY	1	

Filed FEB 6 1941

*Will E. Gibson*

Auditor of the CITY OF PORTLAND

By R. S. NEY  
Deputy