

TOWNSHIP OF SOUTH BEAVER
ORDINANCE NO. 42

AN ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, BEAVER COUNTY, PENNSYLVANIA, CREATING A RETIREMENT PROGRAM, CONSISTING OF PENSION PLAN AND AN ELECTIVE DEFERRED COMPENSATION PLAN, FOR FULL-TIME NONUNIFORMED EMPLOYEES.

The Supervisors of the Township of South Beaver, County of Beaver and Commonwealth of Pennsylvania, under authority of the Second Class Township Code, being Act No. 69 of 1933, as amended, and pursuant to and in accordance with related laws and regulations, including but not limited to the Municipal Pension Plan Funding Standard and Recovery Act, being Act No. 205 of 1984, as amended, hereby enact the following:

ARTICLE I

CREATION OF DEFINED CONTRIBUTION PENSION PLAN
AND ELECTIVE DEFERRED COMPENSATION PLAN

A retirement program for full-time nonuniform employees, i.e. other than members of the Township's Police Department, consisting of a defined contribution pension plan, together with an elective deferred compensation plan, are hereby created, with the terms of participation, contributions, vesting, eligibility, and benefits being set as follows:

SECTION 1. DEFINED CONTRIBUTION PENSION PLAN - Funded by employer, the Township of South Beaver. A defined contribution funded pension plan is hereby created, as follows:

A. Participants: Each nonuniformed employee of South Beaver Township employed on a full-time basis for a period of one (1) year shall be included as a participant in this pension program plan, and contribution to the pension fund shall commence and be allocated to his or her benefit as of the 1st day of January of the calendar year following the end of the calendar year in which such employee has completed one (1) year of full-time employment as an employee

of the Township. All present nonuniformed employees of the Township that have completed one (1) year or more of full-time employment prior to the effective date of this pension program plan and Ordinance, are and shall be participants hereunder.

B. Contributions: The Township of South Beaver shall contribute and deposit to the pension fund account of this pension program plan an annual contribution each calendar year equal to six (6%) per cent of the first Twelve Thousand and no/100 (\$12,000.00) Dollars of each participant/employee's annual compensation, i.e. a maximum annual contribution of Seven Hundred Twenty and No/100 (\$720.00) Dollars.

C. Vesting: A participant in this pension program and plan shall become vested in the share of contributions deposited hereto due to his or her full-time continuous years of employment with the Township of South Beaver, pursuant to the following vesting schedule:

<u>Vesting Service</u> (whole years)	<u>Vesting Percentage</u>
Less than five (5) years	0 %
Upon completion of Five (5) years	50 %
Upon completion of Six (6) years	60 %
Upon completion of Seven (7) years	70 %
Upon completion of Eight (8) years	80 %
Upon completion of Nine (9) years	90 %
Upon completion of Ten (10) years	100 %

D. Eligibility: A vested participant in this defined contribution pension plan, or the designated beneficiary, heirs and assignee of the vested participant, shall be eligible to received his or her vested percentage of the retirement pension funds contributed to this pension program plan, as a retirement benefit, pursuant to Article II hereof, upon:

(1) retirement of the participant after attaining the age of sixty-two (62) years of age and after completing a minimum of five (5) years continuous full-time employment with the Township of South Beaver; or

(2) termination of the participant's full-time employment with the Township of South Beaver after completing a minimum of five (5) years continuous full-time employment with the Township of South Beaver; or

(3) death of a participant after completing a minimum of five (5) years continuous full-time employment with the Township of South Beaver.

E. Benefits: The participant's vested percentage of contributions to this pension program shall be distributed to him or her upon eligibility per the Distribution of Benefits provisions detailed and set forth herein pursuant to Article II hereof.

SECTION 2. DEFERRED COMPENSATION PLAN - Funded by employee contributions per voluntary election of employee. An elective deferred compensation plan is hereby created, as follows:

A. Participants: Each nonuniformed employee of South Beaver Township employed on a full-time basis for a period of one (1) year and who is a participant in the nonuniform employee pension plan, is eligible and may elect to be a participant in this deferred compensation plan, with contributions from his or her wages being deducted and allocated to his or her benefit as of the 1st day of January of the calendar year following the end of the calendar year in which such employee has completed one (1) year of full-time employment as an employee of the Township. All present nonuniformed employees of the Township that have completed one (1) year or more of full-time employment prior to the effective date of this deferred compensation plan and Ordinance, are and shall be eligible to elect to be participants hereunder.

(1) The election of the nonuniform employee to participate in this deferred compensation plan shall be per a written form provided by the Township of South Beaver, signed by the employee and filed and kept on record with the with the Township of South Beaver.

(2) The election of the nonuniform employee to participate in this deferred compensation may be modified or revoked at any time, effective as of and to his or her next payroll compensation due and payable ten (10) days after he or she files with the Township of South Beaver, a signed modified or revocation thereof per a written form provided by the Township.

B. Contributions: Each participant of this Deferred Compensation Plan may and shall authorize the Township of South Beaver, as employer, to withhold and deduct from his or her gross pay, and deposit same to the deferred compensation plan fund account of this retirement plan, an contribution each calendar year equal to a minimum of two (2%) per cent, or a maximum of six (6%) per cent, of the first Twelve Thousand and No/100 (\$12,000.00) Dollars of each participant/employee's annual compensation, i.e. a minimum annual contribution of Two Hundred Forty and No/100 (\$240.00) Dollars to a maximum annual contribution of Seven Hundred Twenty and No/100 (\$720.00) Dollars.

C. Vesting: A participant in this deferred compensation plan shall be vested at all times to the share of contributions deposited hereto as a deduction from his or her wages as aforesaid.

D. Eligibility: A vested participant in this deferred compensation plan, or the designated beneficiary, heirs and assignee of the vested participant, shall be eligible to received his or her vested deferred compensation funds account contributed to this program plan, pursuant to Article II hereof, upon:

(1) retirement of the participant attaining the age of sixty-two (62) years of age; or

(2) termination of the participant's full-time employment with the Township of South Beaver; or

(3) death of a participant prior to receiving all of his or her deferred compensation funds account.

E. Benefits: The participant's vested deferred compensation contributions to this retirement plan account shall be distributed to him or her upon eligibility as aforesaid, per the Distribution of Benefits provisions detailed and set forth herein pursuant to Article II hereof.

ARTICLE II
DISTRIBUTION OF BENEFITS

Section 1. Automatic forms of distribution of benefits of the Pension Plan Program to or on behalf of an eligible participant, subject to all applicable laws, rules and regulations, unless a participant shall elect an optional form of distribution permitted by Section 2 hereof, shall be determined and provided as follows:

A. Upon retirement of a participant, the vested funds of the participant shall be paid to the participant, his or her surviving spouse thereafter, and/or his or her other designated beneficiaries, via a ten (10) year certain annuity policy or account providing monthly payment to the retired participant, his or her surviving spouse or designated beneficiary for said term certain, subject to applicable income tax withholding provisions.

B. Upon death a participant prior to retirement, the vested funds of the participant shall be paid to the participant's spouse, and/or his or her designated beneficiaries, or absent such spouse or designated beneficiaries, to the personal representative of his or her estate, in lump sum, subject to applicable income tax withholding provisions.

C. Upon separation of service of a participant, the vested funds of the participant, shall be paid to the participant, in lump sum for retention and/or roll-over into another retirement account per applicable Internal Revenue Code regulations.

Section 2. Optional forms of distribution of benefits of the Pension Plan Program to or on behalf of an eligible participant, upon timely election made by the participant pursuant to Section 3 hereof may include:

A. Upon retirement of a participant, the participant may elect:

(1) To receive his or her vested funds in lump sum, subject to applicable income tax withholding provisions; or

(2) To receive his or her vested funds via a lifetime annuity policy or account, providing monthly payments to the retired participant during the remainder of his or her life, per standard actuary table in effect at the time of retirement of the participant, subject to applicable income tax withholding provisions.

B. Upon death a participant prior to retirement and commencement of receipt of his or her vested funds, the participant may elect to cause his or her vested benefits to be held and/or distributed as follows:

(1) Upon and after death of a participant and his or her spouse is then living, to be held until and paid to his or her spouse upon the spouse attaining age sixty-two (62) years of age, with same being either:

(a) to be paid to the spouse if then living, via a ten (10) year certain annuity policy or account, with remainder over to the designated beneficiaries of the participant in the event the spouse does not survive for said ten (10) year period, subject to applicable income tax withholding provisions; or

(b) to be paid to the spouse if then living, in lump sum, subject to applicable income tax withholding provisions.

(2) Upon and after death of a participant and he or she has no spouse then living, then to his or her designated beneficiaries, or absent such spouse or designated beneficiaries, then to the personal representative of his or her estate, in lump sum, subject to applicable income tax withholding provisions.

Section 3. The optional forms of distribution of benefits under Section 2 hereof may be elected by and in accordance to a written form provided by the Township of South Beaver, signed, filed and kept on record with the with the Township of South Beaver.

A. The participant may make an election for an optional distribution of benefits relative to his or her vested retirement benefit at any time before or up to his or her date of retirement.

B. The participant may make an election for an optional distribution of benefits of his or her vested benefits payable after his or her death prior to his or her retirement, and receipt of benefits, at any time before his or her death.

ARTICLE III
ADMINISTRATION OF RETIREMENT PROGRAM
AND INVESTMENT OF FUNDS

The administration of this retirement program for full-time nonuniform employees, and the holding and investment of funds hereunder shall be governed and regulated by the Supervisors of South Beaver Township as follows:

Section 1. The Board of Supervisors of South Beaver Township are and shall be the Administrators of this retirement program, and the Chairman of the Board of Supervisors is and shall be the chief administrative officer of this retirement plan and program.

Section 2. In the course of administrating this retirement program, the Board of Supervisors of South Beaver Township shall have full and complete authority and power as is necessary to accomplish the implementation and operation of this retirement program, and in addition to exercising the general authority herein contained, may by formal Resolution set and adopt such additional rules and regulations, appoint or designate a committee or one or more persons to perform functions and tasks needed for administration and implementation hereof, including but not limited to engaging the services of actuaries, investment brokers, insurance brokers, commercial depositories and/or commercial banking services, or other agencies to accomplish and perform such other functions from time to time as is deemed necessary and proper.

Section 3. The Board of Supervisors of South Beaver Township shall administer and invest the funds of this retirement program and the funds held therein, in addition to and in accordance with the provisions of the Second Class Township Code, also pursuant to the provisions of the Municipal Pension Plan Funding Standard and Recovery Act, being Act No. 205 of 1984, as amended, and Chapter 73 of the Probate, Estates and Fiduciary Code, being Act No. 164 of 1972, as amended, together with all laws and regulations as now or as may hereafter be applicable to the municipal nonuniform employee retirement program hereby created. The Board of Supervisors in the administration of this retirement program shall also comply with all applicable provisions of the Internal Revenue Code, the Tax Reform Act of 1986, the Omnibus Reconciliation Act of 1986 and the Omnibus Reconciliation Act of 1987, and regulations promulgated thereunder, and no amendment to this Ordinance shall be made contrary to the provisions thereof.

A. Funds received and held, and investment thereof, shall be held and invested in accordance to the provisions of Sections 535 and 702 of the Second Class Township Code, as amended, and Chapter 73 of the Probate, Estates and Fiduciary Code, as amended, provided however, funds received from the Commonwealth of Pennsylvania pursuant to and under the Municipal Pension Plan Funding Standard Recovery Act, being Act No. 205 of 1984, as amended, for deposit in the defined contribution funded pension plan created by and under Section 1 of Article I hereof, shall not be invested in any whole life insurance policy or other investment prohibited by said legislation or regulations promulgated thereunder.

B. Legal title to funds and investments held under and pursuant to this retirement program shall remain in the Township of South Beaver in a fiduciary or trustee capacity for the benefit of the vested participants.

C. Funds held and/or invested pursuant to this retirement program shall not be subject to assignment or pledgeable as security for a loan, debt or other obligation by or of a participant, or by the Township of South Beaver, and same shall not be subject to anticipation and/or to voluntary or involuntary alienation so as to be subject to attachment or judgment execution by a creditor, and same shall only be paid to or for the benefit of a participant or his or her designated beneficiary in accordance with the provisions of Section 1 or Section 2 of Article II hereof, except and subject only to attachment either via support order or qualified domestic relations order issued by a court of competent jurisdiction and which attachment is and can only be effective upon and at a time when benefits are disburseable to a participant, or to his or her designated beneficiary as aforesaid, pursuant to the terms and provisions of this retirement plan program.

Section 4. The expense of administering this pension plan program, including but not limited to any service costs and actuarial fee costs, may and/or shall be charged to and paid from the funds held in either the defined contribution pension plan and/or the elective deferred compensation plan, provided however,

nothing herein is to be construed to exclude transfer of general funds of the Township to said plan accounts, as may be necessary from time to time, for the purpose of paying such administrative costs of this pension program.

ARTICLE IV
GENERAL PROVISIONS

Section 1. This Ordinance shall effectively create and institute a retirement pension program as of and commencing January 1, 1992 for the eligible nonuniform employees of South Beaver Township.

Section 2. If any section, paragraph, sentence or phrase of this Ordinance, or any Resolution or part thereof as adopted by the Board of Supervisors of South Beaver Township pursuant to the provisions hereof, should be declared invalid for any reason, such decision by a court of competent jurisdiction or any regulatory agency of the Commonwealth of Pennsylvania or the Federal government of the United States of America, shall not affect the remaining portions or provisions of this Ordinance, which portions and provisions shall remain in full force and effect; for this purpose the provisions of this Ordinance, and any Resolutions adopted pursuant to the provisions hereof, are declared to be severable.

ENACTED AND ADOPTED this 11th day of August, 1992.

ATTEST:

SOUTH BEAVER TOWNSHIP

Carol Miller
Secretary

Clifford Oak
Supervisor

David J. Shanor
Supervisor

Supervisor