

TOWNSHIP OF SOUTH BEAVER
ORDINANCE NO. 50

AN ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, BEAVER COUNTY, PENNSYLVANIA, REVISING AND REESTABLISHING THE NONUNIFORM EMPLOYEES' 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 BENEFIT PENSION PLAN

A defined benefit retirement program for full-time nonuniform employees, i.e. other than members of the Township's Police Department, consisting of a defined benefit pension monthly retirement payment is hereby created effective January 1, 1996, with the terms of participation, contributions, vesting, eligibility, and benefits being set as follows.

SECTION 1.01 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 accrue for 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.

A. 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 effective January 1, 1996.

B. All present nonuniform employees of the Township that do complete one (1) year of full-time employment after the effective date of this pension program plan and Ordinance, shall become a participant 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, i.e., therefore on January 1, 1997.

C. All future hired nonuniform employees of the Township that complete one (1) full year of full-time employment after the effective date of this pension program plan and Ordinance, shall become and be included as a participant in this pension program plan 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.

SECTION 1.02 **CONTRIBUTIONS:** The Township of South Beaver shall contribute and/or cause to be deposited to the pension fund account of this pension program plan, prior to the end of each calendar year, an annual contribution amount sufficient to cover the annual cost and expense of administration of the pension program, together with such sum required to create an invested pension fund sufficient to financially meet and amortize the retirement benefits herein provided. Funds, whether participant vested and/or unvested, held in the defined contribution funded pension plan created by Section 1 of Ordinance No. 42 of the Township of South Beaver shall be transferred and held in and with the pension fund account herein created, and be included in the determination of the minimum amount of annual contributions required to be made or caused by the Township as to the statutory and factual requirement of providing sufficient funding to this defined benefit pension plan, subject however, to the provisions of Subparagraph A. of Section 1.05 hereof as to the portion thereof vested in and unto any participant, or payable unto his or her designated beneficiary, heirs and assignee, in the event such vested funds transferred from the said defined contribution pension are not paid out to the vested participant during his or life time under and through this defined benefit pension plan herein created. Contributions herein provided and required shall be held in a separate Defined Benefit Pension Account.

SECTION 1.03 **VESTING:** A participant in this defined benefit pension program and plan shall become vested in a percentage of the retirement defined benefit herein stated, based on his or her full-time continuous years of employment with the Township of South Beaver, pursuant to the following vesting schedule:

Vesting Service (whole years)	Vesting Percentage
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 %

SECTION 1.04. ELIGIBILITY: A vested participant in this defined contribution pension plan shall be eligible to received his or her vested percentage of the defined benefit herein provided, as a retirement benefit, upon:

(1) retirement of the participant as a full-time employee of the Township at the end of any calendar month 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) following 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, as of the first of the calendar month following his or her attaining the age of sixty-two (62) years of age.

SECTION 1.05 DISTRIBUTION OF RETIREMENT DEFINED BENEFIT: An eligible vested participant, subject to the provisions of subparagraphs A. and/or B. hereof, shall be entitled to receive as a retirement benefit, his or her vested percentage of the defined benefit herein specified and provided, namely a normal monthly pension benefit for life in an amount equal to twenty-five (25%) percent of the monthly average salary of such participant computed on the basis of the last thirty-six (36) months of full-time employment by the Township, which monthly retirement benefit shall commence on the first of the month of the first calendar month following his or her retirement as a full-time employee of the Township, or if not an employee of the Township at the time he or she attains the age of sixty-two (62) years of age, as of the first of the month of the first calendar month following his or her attaining the age if sixty-two (62) years of age, provided however, the last defined benefit payment due a participant shall be the payment due on, or most recently paid, on the first of the calendar month preceding his or her death.

A. Any funds of a vested eligible participant transferred from the defined contribution funded pension plan created by Section 1 of Ordinance No. 42 of the Township of South Beaver to the investment account for this defined benefit retirement program shall be first distributed, until exhausted, unto the retired eligible participant hereof as and in satisfaction of the defined benefit of this defined benefit retirement program, and in the event the said defined contribution funds vested unto a participant are not so fully exhausted/distributed unto the retired participant prior to his or her departure from this life, all or the remainder thereof shall be distributable to the subject participant's designated beneficiary, heirs, assignees or personal representative of his or her estate.

B. Optional Form of Benefit - 50% Joint and Survivor Benefit for vested participant and eligible spouse: Within nine (9) moths prior to, or upon and after, a participant becoming vested pursuant to Section 3 of Article I of this Ordinance in a percentage of the defined benefit retirement program herein created, he or she

together with his or her spouse may elect to receive an optional form of a joint and survivor defined benefit monthly retirement payment for their joint and several life, equal to fifty (50%) percent of the eligible participants vested normal monthly pension benefit provided as aforesaid, provided however:

(1) If any vested participant having an eligible spouse fails to file a statement, signed and concurred with by said eligible spouse that the participant alone is to receive the normal monthly pension benefit for life as aforesaid upon and at time of retirement of the participant from full-time employment with the Township, or at time for commencement of retirement benefits if the participant is not in full-time employment with the Township at time of his or her being eligible to receive his or her vested retirement benefits, it will be assumed and deemed that the this Optional Form of Benefit, i.e. a 50% Joint and Survivor Benefit for vested participant and eligible spouse is due and payable.

(2) If an vested participant does not have an eligible spouse, or the eligible spouse of a vested participant should die prior to the commencement date, i.e. first payment of a defined benefit retirement payment, then the election of this Optional Form of Benefit shall not be applicable and/or be deem annulled and void.

ARTICLE II CREATION OF A VOLUNTARY DEFERRED COMPENSATION PLAN

A deferred compensation retirement program for full-time nonuniform employees, i.e. other than members of the Township's Police Department, consisting of an elective deferred compensation plan funded by employee contributions per voluntary election of an employee is hereby created effective January 1, 1996, with the terms of participation, contributions, vesting, eligibility, and benefits being set as follows.

SECTION 2.01 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.

A. 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, or who shall have elected to be participants in the voluntary deferred compensation program established under Section 2 of Ordinance No. 42 of the Township are, and/or shall be eligible participants in the deferred compensation retirement program hereunder effective January 1, 1996.

B. All present nonuniform employees of the Township that do complete one (1) year of full-time employment after the effective date of this pension program plan and Ordinance, shall be eligible to become a participant in this elective deferred compensation retirement plan 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, i.e., therefore on January 1, 1997.

C. All future hired nonuniform employees of the Township that complete one (1) full year of full-time employment after the effective date of this pension program plan and Ordinance, shall be eligible to become and be included as a participant in this elective deferred compensation pension program plan 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.

(1) The election of an eligible 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 Township of South Beaver.

(2) The election of the eligible 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.

SECTION 2.02 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 per payroll period, and deposit same to the deferred compensation plan fund account of this retirement plan, a contribution each calendar year equal to a minimum of two (2%) per cent, or a maximum of six (6%) per cent, of the first Eighteen Thousand and No/100 (\$18,000.00) Dollars of each eligible participant/employee's annual compensation, i.e. a minimum annual contribution of Two Hundred Sixty and No/100 (\$260.00) Dollars to a maximum annual contribution of One Thousand Eighty and No/100 (\$1,080.00) Dollars. Contributions herein permitted shall be held in a separate Deferred Compensation Benefit Pension Account.

SECTION 2.03 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.

SECTION 2.04 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, upon:

- (1) retirement of the participant as a full-time employee of the Township upon or after 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.

SECTION 2.05 DISTRIBUTION OF DEFERRED COMPENSATION BENEFITS: The participant's vested deferred compensation contributions to this retirement plan account shall be distributed to him or her upon eligibility as aforesaid, subject to all applicable laws, rules and regulations, per the following options to be selected by the participant:

- 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 either a ten (10) year policy or account, providing monthly payments to the retired participant for said set ten (10) year period, 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.

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

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 3.01 ADMINISTRATORS: 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 3.02 ADMINISTRATION: 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 or counselors, 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 3.03 INVESTMENT OF FUNDS: 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 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 Article I or 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 3.04 EXPENSE/COSTS: 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 4.01 EFFECTIVE DATE/REPLACEMENT OF ORDINANCE NO. 42 PENSION PROGRAM: This Ordinance shall effectively create and institute the defined benefit and deferred compensation retirement pension program herein specified as of and effective January 1, 1996 for the eligible nonuniform employees of South Beaver Township. The defined contribution pension plan and deferred compensation retirement plan created by Ordinance No. 42 of the Township of South Beaver is terminated effective December 31, 1995, and the retirement benefit program theretofore created is replaced and repealed by the retirement pension program hereby created.

SECTION 4.02 SEVERABILITY CLAUSE: 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 12th of December, 1995.

ATTEST:

Carol Miller
Secretary

SOUTH BEAVER TOWNSHIP

Charles W. Griffith
Supervisor

David J. Shuman
Supervisor

Robert S. Long
Supervisor