

TOWNSHIP OF SOUTH BEAVER

ORDINANCE NO. 60

AN ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, BEAVER COUNTY, PENNSYLVANIA, AMENDING AND REPLACING ORDINANCES NO. 27 AND NO. 37 OF THE TOWNSHIP OF SOUTH BEAVER RELATIVE TO THE CREATION AND MAINTAINING OF A POLICE PENSION PROGRAM FOR FULL-TIME POLICEMEN.

The Supervisors of the Township of South Beaver in and of the County of Beaver and Commonwealth of Pennsylvania, under the authority of the Second Class Township Code and pursuant to the Act of 1956, May 29, P.L. (1955) 1804, as amended, commonly referred to as Act 600, and in accordance with the provisions of the Act of 1984, December 18, P.L. 1005, as amended, commonly referred to as Act 205, hereby enact the following:

SECTION 1. A police pension program for full-time policemen of the Township of South Beaver as heretofore created by Ordinance No. 27 of the Township of South Beaver, as amended by Ordinance No. 37 of the Township of South Beaver, and subject to modification by this Ordinance is hereby affirmed as created, ratified and continued, with the terms of eligibility, benefits and contributions and vesting being applicable as follows:

A. Eligibility:

1. Each policeman employed on a full-time basis shall and will be included in this pension program as a participant. A participant, upon attaining twenty-five (25) years of continuous service and fifty-five (55) years of age, and upon honorable discharge, shall be entitled to retirement benefits as hereinafter set forth; and a participant becoming totally and permanently disabled in the performance of his duties as a police officer in the line of service and determined to be disabled to perform the duties of a policeman shall be entitled to retirement benefits as hereinafter set forth.

2. The surviving widow of a policeman who was killed in the performance of his duties or who has fulfilled requirements for retirement hereunder, and thereafter dies, so long as said widow does not remarry, shall be entitled to benefits as hereinafter set forth.

3. The surviving child or children under the age of eighteen (18) years of age of a policeman who was killed in the performance of his duties or who has fulfilled requirements for retirement hereunder, so long as such policeman is not survived by a widow, or if survived by a widow and said widow subsequently dies or remarries, shall be entitled to the benefits as hereinafter set forth.

B. Benefits:

1. Retiring policemen, whether by age and length of service or due to service connected disability, shall receive a retirement benefit equal to one-half ($\frac{1}{2}$) the average monthly salary of such participant during the last sixty (60) months of his employment, or lesser number of months if he was not employed for such period of time; the said one-half ($\frac{1}{2}$) monthly sum shall be derived and computed from:

a. An offset or use of an amount comprised of fifty (50%) of the primary benefits which the participant is entitled to receive under Federal Social Security laws; and

b. The moneys or sums due from the funds established hereunder to the extent necessary to bring the total retirement benefit to the aforesaid one-half ($\frac{1}{2}$) monthly average salary when added to the off-set amount of primary Federal Social Security benefits in (a.) above.

2. A widow eligible to receive benefits by reason of survivorship shall receive a benefit calculated at the rate of fifty (50%) percent of the pension or benefit the policeman was receiving or eligible to receive at the time of his death.

3. A child or children, as a single class, eligible to receive benefits by reason of survivorship shall receive a benefit calculated at the rate of fifty (50%) percent of the pension or benefit the policemen was receiving or eligible to receive at the time of his death.

4. Incidental benefits may be supplemented hereto by Resolution of the Board of Supervisors of South Beaver Township from time to time, which incidental benefits may include a length of service increment for service in excess of twenty-five (25) years and/or a cost of living increase for policemen receiving retirement benefits with and under limitations as set forth in said Act 600, as same now exists or as same may be hereafter amended.

5. Notwithstanding any provisions of this Ordinance or any Resolution adopted by the Board of Supervisors relative to the pension program for full-time policemen of the Township, the maximum benefit limitations existing under and per the Internal Revenue Code, including but not limited to such limitations as set forth in Section 415 of said Internal Revenue Code as applicable to pension plans of municipal entities, or such similar subsequent provisions of any tax law hereinafter enacted by the government of the United States of America, shall be applicable to any benefit payable per this Ordinance.

6. Notwithstanding any provisions of this Ordinance or any Resolution adopted by the Board of Supervisors relative to the pension program for full-time policemen of the Township, any benefit payable per the pension plan shall be

subject to withholding of personal income tax per any applicable laws or regulations now or hereafter existing of the Commonwealth of Pennsylvania or the government of the United States of America.

C. Contributions:

1. Each policeman covered by this plan shall contribute monthly into the fund established hereunder a maximum amount equal to the sum of:

a. an amount determined by multiplying the participant's monthly salary on which Federal Social Security is payable by three and five tenths (3.5%) percentage; and

b. an amount determined by multiplying the amount of monthly salary, if any, in excess of that on which Federal Social Security is payable by five (5%) percent.

All such contributions are to be deducted from the participant's salary, and may be reduced or eliminated in accordance to Section 6 of Act 600 by Resolution adopted by the Board of Supervisors from time to time.

2. Any balance of contributions needed shall be the obligation of the Township. The Township shall contribute funds to the plan at and per its "Minimum Municipal Obligation" in accordance to the aforesaid Act No. 205.

3. Any payments made by the Commonwealth of Pennsylvania, or funds from any other sources, may be used to reduce:

a. Policemen's contributions;

- b. Funding requirements of the Township; or
- c. If in excess of funding requirements, to be applied against service costs.

D. Vesting: The Township subject to the terms hereof shall be the owner of all moneys or properties paid into the pension fund created, and of any annuities or policies of insurance purchased, or investments procured with such moneys or properties, and no policeman prior to retirement shall have any vested right or title therein; except however, in the event a policeman is required to and does contribute to the plan per Paragraph C. (1.) of this Section 1, he shall have the right to designate a beneficiary thereof, which sums so contributed are designated and defined as "accumulated participant contributions", and:

1. in the event of termination or discontinuance of his employment with the Township for reasons other than retirement (at normal retirement age and length of service, or because of permanent disability resulting from injury in performance of his duties), he shall be entitled to return of the total amount of said accumulated participant contributions paid by him hereunder, with interest at the rate of three (3%) percent per annum on the sum so contributed each year by the participant, which accumulated participant contributions and interest shall be paid/delivered unto the participant in one lump sum payment not before thirty (30) days nor later than sixty (60) days of his termination of employment as a full-time policeman, or

2. in the event of the death of a police officer other than being killed in the performance of his duties prior to retirement (at normal retirement age and length of service, or because of permanent disability resulting from injury in performance of his duties), his designated beneficiary shall be entitled to receive the total amount of accumulated participant contributions paid by him hereunder, with interest at the rate of

three (3%) percent per annum on the sum so contributed each year by the participant. Absent a participant designating a beneficiary as herein provided, such accumulated participant contributions and interest shall be paid to the surviving spouse of the participant, or if there is no surviving spouse, unto the participant's issue, per stirpes, or if no surviving issue, then unto the personal representative of the participant's estate. Said accumulated participant contributions and interest if distributable shall be paid/delivered unto the designated beneficiary or beneficiary as heretofore stated, in one lump sum payment not before thirty (30) days nor later than sixty (60) days of the death of the participant.

SECTION 2. The administration of this pension program, subject to such rules and regulations as may be adopted from time to time by Resolution of the Board of Supervisors of the Township, and all requirements of the aforesaid Act No. 205, being the "Municipal Plan Funding Standard and Recovery Act", and other applicable statutes and regulations of the Commonwealth of Pennsylvania and the government of the United States of America, shall be under the direction and control of the Board of Supervisors. The Board of Supervisors shall have full responsibility for administration of the pension program and shall hold, invest and reinvest and distribute all funds or other property received pursuant hereto in trust for the purposes of this Ordinance, having full power and authority by a majority either directly or through designated representatives or committees to do all acts necessary and required for the administration of the pension program, to engage the services of actuaries and such other qualified entities or persons as necessary, to specify any necessary forms needed for administration of the pension program and to acknowledge and deliver all instruments, reports or other documents needed and/or required, and shall have any and all powers and discretions necessary to implement and effectuate this Ordinance, including but not limited to:

A. Hold, invest and reinvest all funds received in such legal investments as authorized under the laws of the Commonwealth of Pennsylvania;

B. Enter into contracts or deposit agreements with one or more investment companies, financial institutions, brokerage firms, insurance companies, or other legal entity determined appropriate, in order to maintain and invest the pension fund assets and to provide the pension and other benefits herein set forth, and/or to pay premiums or deposits required for the purchase of annuities or other contracts that may be deemed appropriate, to achieve performance of the intent and purpose of this Ordinance and pension program according to the laws of the Commonwealth of Pennsylvania; and

C. Make, arrange, and/or provide for the administration of management of assets and distributions of the moneys of the fund in accordance with the terms of this Ordinance or regulations adopted relative hereto, and all law and regulations of the Commonwealth of Pennsylvania or the government of the United States of America.

SECTION 3. All funds, assets or contracts of insurance or annuities, and/or payments as herein provided, shall not be subject to attachment, execution, levy, garnishment or other legal process, and shall be payable only to the participant or his designated beneficiary, except that upon a participant being entitled to receive a retirement benefit, whether a normal retirement benefit or disability retirement benefit, such retirement benefit may be attached by an appropriate qualified domestic relations Order issued by a Court of competent jurisdiction, which domestic relations order shall meet the criteria of a "Qualified Domestic Relations Order" per the provisions of the Internal Revenue Code. No participant or his beneficiary hereunder shall have the right to alienate, encumber or assign any assets or retirement benefit of this fund except as

specifically provided herein. The Chairman of the Board of Supervisors is and shall be the Chief Administrative Officer of this retirement plan and program.

SECTION 4. The expense of administering the pension fund program for full-time policemen, including but not limited to any service costs, actuarial fee costs, or other administrative costs of any nature directly related to the implementation and operation of this pension plan program, shall be charged to and paid from the funds held in the pension fund investment and/or cash fund account or accounts. Nothing herein is to be construed to exclude use and/or transfer of general funds of the Township, as may be necessary from time to time, to the pension fund account or accounts, or for direct payment from the general funds of the Township, for the paying of the administration costs of this pension program.

SECTION 5. For the purpose of this Ordinance, in the use of words masculine shall include feminine and the singular shall include plural, whenever the person or contest shall plainly so require, and the following words and/or phrases as used herein shall have the meaning set forth in this Section 5 unless a different meaning is otherwise clearly required by the context of the Ordinance or any applicable statutory law of the Commonwealth of Pennsylvania.

Accumulated Participant Contribution - Shall mean all money deducted from a policeman's salary per Section 1, C, 1 of this Ordinance and deposited to the pension fund program per this Ordinance.

Actuary - Shall mean the person, partnership, association, corporation or other legal entity which at any given time is serving as Actuary for South Beaver

Township as to the pension plan, provided however, that such Actuary must be qualified to the requirements of an "Approved Actuary" as defined by and qualified per the requirements of the aforesaid Act No. 205.

Participant - Shall include each and every police officer in the employ of the Township of South Beaver on a full-time and regular basis effective as of the date of commencement of such employment with the Township.

Salary - Shall mean the basic fixed rate of remuneration of a policeman, whether a set sum per week, per month or annually, or set on an hourly basis, excluding overtime compensation or remuneration, holiday pay increments or any other compensation or remuneration not attributable to base pay for a forty-hour week in the performance of the duties as a policeman. In no event shall the salary used to determine the average monthly salary of a participant exceed the limitations relative to same on an annual basis per the provisions of the Internal Revenue Code, including but not necessarily limited to the provisions of Section 401(a)(17) as adjusted per Section 415(d), or such similar subsequent provisions of any tax law hereinafter enacted by the government of the United States of America.

SECTION 6. Ordinance No. 27 enacted May 27, 1980 and Ordinance No. 37 enacted December 12, 1989 of the Township of South Beaver Township, together with the terms of the Resolution enacted December 9, 1980 relative to the setting of fifty (50%) percent of the primary benefits received under Federal Social Security laws by a retired policeman per Section 1, B. 1 (a), to the extent consistent with this Ordinance No. 60 of the Township of South Beaver are hereby incorporated and continued herein, and the provisions thereof as included herein are affirmed and ratified. To the extent any provision or provisions of this Ordinance are inconsistent with or modify the terms

and provisions of the said Ordinance No. 27 and said Ordinance No. 37, such terms and provisions of said Ordinance No. 27 and said Ordinance No. 37 are hereby repealed, and the provisions of this Ordinance No. 60 or any amended hereafter duly enacted by the Township of South Beaver shall be applicable to the administration and operation of the pension plan for full-time policemen to provide retirement benefits unto a qualified participant, his widow, and/or children under the age of eighteen (18) years of age.

SECTION 7. If any section, paragraph, sentence or phrase of this Ordinance should be declared invalid for any reason whatsoever by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect; for this purpose the provisions of this Ordinance are declared to be severable.

ENACTED AND ADOPTED this 14th day of December, 1999.

Attest:

TOWNSHIP OF SOUTH BEAVER

Carol Miller

Robert Long
Supervisor
Matthew P. Balise
Supervisor
David J. Shover
Supervisor