

TOWNSHIP OF SOUTH BEAVER  
ORDINANCE NO. 61

AN ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, BEAVER COUNTY, PENNSYLVANIA, AMENDING AND REPLACING ORDINANCE NO. 50 OF THE TOWNSHIP OF SOUTH BEAVER, REVISING AND REESTABLISHING THE NONUNIFORM EMPLOYEES' RETIREMENT PROGRAM, CONSISTING OF A DEFINED PENSION PLAN FOR FULL-TIME NON-UNIFORMED 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 as heretofore created by Ordinance No. 50 of the Township of South Beaver, and subject to modification by this Ordinance, is hereby affirmed as created effective January 1, 1996, and hereby ratified and continued, with the terms of participation, contributions, vesting, eligibility, and benefits being set as follows.

**SECTION 1.01**      **PARTICIPANTS**: Each non-uniformed employee of South Beaver Township employed on a full-time basis 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 the month following the date of hire as a full-time employee.

**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, which annual contribution shall be determined per and in accordance to the Minimum Municipal Obligation of the Township per the Minimum Municipal Obligation report of the Township mandated as to this Plan per Act No. 205 of 1984, as amended. The Township may rely upon an actuary engaged to advise and determine the amount of funds that need to be deposited annually in order to achieve, with earnings from investments, the pension plan funds to provide the retirement benefits hereby provided. Funds, whether participant vested and/or unvested, heretofore held in the replaced defined contribution funded pension plan created by Section 1 of Ordinance No. 42 of the Township of South Beaver shall be and have been transferred and are held in and within the pension fund account herein created, and shall be included as part of the investment funds of this defined benefit pension plan in the determination of the minimum amount of annual contributions required to be made 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 her lifetime under and through this defined benefit pension plan herein created. Contributions herein provided and required, and held and invested in the administration of this Plan shall be held in a single and separate account designated Defined Benefit Pension Account for Non-uniformed Employees of South Beaver Township.

**SECTION 1.03**      DEFINED BENEFIT AND VESTING PERCENTAGE THEREOF:

A.      Following a participant's becoming eligible in this defined pension program to receive a pension benefit, he or she shall receive a defined retirement benefit determined by the number of years of continuous service divided by 20 but not more than One Hundred (100%) per cent, multiplied against his or her resultant vested percentage, multiplied against 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 his or her full-time employment by 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 notwithstanding any provisions of this Ordinance or any Resolution adopted by the Board of Supervisors relative to the pension program for non-uniformed employees of the Township.

B. A participant in this defined pension benefit program and plan shall become vested in a percentage of the retirement defined benefit hereinbefore 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 %

C. The computation of the number of continuous years of employment with the Township of South Beaver under this Section 1.03 shall be counted from the actual date of hire of the participant, not the date that the full-time employee is classified as a participant in this defined retirement benefit plan.

**SECTION 1.04. ELIGIBILITY:** A vested participant in this defined contribution pension plan shall be eligible to receive 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) as of the first of the calendar month following his or her attaining the age of sixty-two (62) years of age 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, when such termination has occurred prior to the participant having attained retirement age and due to reasons other than the death of a participant.

**SECTION 1.05**     DISTRIBUTION OF DEFINED RETIREMENT 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 defined benefit herein above specified and provided in Section 1.03 (A) of this Article I, as a monthly pension benefit for life, 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 day of the first calendar month following his or her attaining the age of sixty-two (62) years of age, provided however, the last defined benefit payment due a participant shall be the payment due, 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 distributed first, until exhausted, unto the retired eligible participant hereof as and in satisfaction of the defined benefit of this defined benefit pension plan, 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 death, 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, in a single lump-sum payment.

B. Optional Form of Benefit: Upon and after a participant becoming vested pursuant to Section 1.03 (B) of Article I of this Ordinance in a percentage of the defined

benefit retirement program herein created, and up to and within nine (9) months prior to his or her attaining retirement age, a participant may elect to have his or her benefits made payable to him or her for life in actuarially reduced amounts, with payments of fifty (50%) percent, seventy (75%) percent, or one hundred (100%) percent of such reduced amount, according to the participant's election, to continue after his or her death to the participant's spouse, which reduced payment so elected for the benefit of the participant's spouse shall continue for the life of the spouse. If a vested participant does not have a 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 if made, shall, under such circumstance, be deemed annulled and void.

C. Notwithstanding any provisions of this Ordinance or any Resolution adopted by the Board of Supervisors relative to the pension program for full-time non-uniformed employees of the Township, any benefit payable per this 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.

## ARTICLE II

### ADMINISTRATION OF RETIREMENT PROGRAM

### AND INVESTMENT OF FUNDS

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

**SECTION 2.01**     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 2.02**      ADMINISTRATION: In the course of administering 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 set and adopt by formal Resolution such additional rules and regulations, appoint or designate a committee of one or more persons to perform functions and tasks needed for administration and implementation hereof, including but not limited to engaging the services of an actuary, 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 are deemed necessary and proper.

**SECTION 2.03**      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 are now applicable or as become applicable hereafter to the municipal non-uniform 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, or legislation that is adopted to amend or replace said Acts, 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 this pension plan 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 be pledged 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, except and subject only to attachment either via support order or appropriate domestic relations order issued by a court of competent jurisdiction and which attachment is and can be effective only upon and at a time when benefits are distributable to a participant, or to his or her designated beneficiary as aforesaid, pursuant to the terms and provisions of this retirement plan program.

**SECTION 2.04**      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 this defined benefit pension 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 defined benefit pension program.

**ARTICLE III**  
**DEFINITIONS**

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

**Accrued Benefit** - Shall mean as of any given date the benefit determined as calculated on the basis of the final monthly average salary as of the date of termination and multiplied by a fraction, the numerator of which shall be the participant's aggregate service determined as of such date and the denominator of which shall be twenty (20). Notwithstanding anything contained herein to the contrary, the monthly fraction shall not exceed the whole number of one (1).

**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.

**Final Monthly Average Salary** - Shall mean the resultant monthly salary for determination of a benefit per this Plan, and such Final Monthly Average Salary shall be computed on the basis of the last thirty-six (36) months of full-time, active employment with the Township.

**Normal Retirement Benefit** - Shall mean the amount of monthly benefit to which each participant shall become entitled as a monthly retirement benefit following retirement, which monthly retirement benefit shall be determined/calculated pursuant to Section 1.03.

**Participant -** Shall include each and every employee who is a full-time and regular non-uniformed employee of the Township of South Beaver.

**Salary -** Shall mean the basic fixed rate of remuneration of a full-time employee, 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 non-uniform employee of the Township. 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.

#### ARTICLE IV GENERAL PROVISIONS

**SECTION 4.01**     REPEALER CLAUSE: Ordinance No. 50 enacted December 12, 1995 to the extent consistent with this Ordinance No. 61 is 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 is inconsistent with or modify the terms of said Ordinance No. 50, such terms and provisions of said Ordinance No. 50 are hereby repealed, and the provisions of this Ordinance No. 61 or any amendment hereafter duly enacted by the Township of South Beaver shall be applicable to the administration and operation of the pension plan for full-time non-uniform employees of the Township. The defined contribution pension plan and deferred compensation retirement plan created by Ordinance No. 42 of the Township of South Beaver is affirmed as terminated effective December 31, 1995, and the retirement benefit program therein 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 14<sup>th</sup> day of December, 1999.

ATTEST:

Carol Miller  
Secretary

SOUTH BEAVER TOWNSHIP

Robert Long  
Supervisor

Matthew P. Baird  
Supervisor

Davis Shaw  
Supervisor