

**TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 6 OF 2009

AN ORDINANCE OF THE TOWNSHIP OF SOUTH FAYETTE, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 60, PENSIONS, ARTICLE I, POLICE PENSION FUND, OF THE TOWNSHIP OF SOUTH FAYETTE'S CODE OF ORDINANCES, BY THE ADDITION OF ARTICLE XIII, TO PROVIDE FOR A DEFERRED RETIREMENT OPTION PLAN .

WHEREAS, the Township of South Fayette's Board of Commissioners previously adopted, for the benefit of its Police Force, an Ordinance Establishing and Governing the Police Pension Plan ("Plan") ; and

WHEREAS, the Township reserved the right to amend the Plan pursuant to Article X , Section 60-52; and

WHEREAS, Collective Bargaining between the Township and the South Fayette Police Association resulted in the establishment of a Deferred Retirement Option Pension benefit to be effective January 1, 2010 for police employees who wish to participate in the plan; and

WHEREAS, the South Fayette Township Board of Commissioners desire to modify Chapter 60 of the Township Code of Ordinances to reflect the establishment of a Deferred Retirement Option Pension; and

NOW THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the Commonwealth of Pennsylvania , **BE IT ORDAINED AND ENACTED BY THE** Commissioners of the Township of South Fayette as follows:

1. Chapter 60, Article I, of the Township of South Fayette Code of Ordinances is hereby amended by the addition of Section 13-Deferred Retirement Option Plan as follows :

SECTION 13 -DEFERRED RETIREMENT OPTION PLAN

- 13.01 Definitions - The following words and phrases when used in this Article XIII shall have the meanings given to them in this section only, unless the context clearly indicates otherwise:
- (a) "DROP" A deferred retirement option plan established as an optional form of benefit under the Plan and being operated by the Township of South Fayette.
 - (b) "DROP Participant" A retired Participant of the Township of South Fayette Police Pension Plan who is eligible to participate in a DROP under section 13.02 and who has elected to participate in a DROP under section 13.03.
 - (c) "DROP Participant Account" The separate, interest bearing, subsidiary DROP Participant Account established for a DROP Participant under section 13.17.
 - (d) "Normal Retirement Benefit" The retirement benefit payable to a Participant of a defined benefit pension plan at the point in time when the Participant satisfies the age and service requirements for full, unreduced retirement benefits.

ELIGIBILITY AND PARTICIPATION

- 13.02 Eligibility of Employee to Participate in DROP - An Employee who is eligible for a Normal Retirement Benefit under the pension Plan or will be eligible for a Normal Retirement Benefit under the pension Plan prior to participation in the DROP is eligible to participate in the DROP by filing a written application with the retirement Plan Administrator at least thirty (30) days before the Employee's effective date of retirement.
- 13.03 Participation in DROP - An eligible Participant may elect to participate in this DROP for a period not to exceed three (3) years. Upon deciding to participate in a DROP, a Participant must submit, on forms provided by the Township, all of the following:
- (a) A binding and irrevocable letter of resignation from regular Employment with the Township of South Fayette which discloses the Participant's intent to retire and specifies the Participant's retirement date.
 - (b) An irrevocable written election to participate in the DROP which must specify the effective date of DROP participation that shall be one (1) day after the Participant's specified retirement date, specify the DROP termination date which satisfies the limitation in section 13.05, detail a DROP Participant's rights and obligations under the DROP and include an agreement to forgo:

- (i) active membership in the Plan;
- (ii) any growth in the salary base used for calculating the Normal Retirement Benefit;
- (iii) any additional benefit accrual for retirement purposes;
- (iv) any eligibility for disability pension benefits;

The DROP Participant shall be required to provide any other information required by the Township.

- 13.04 Effective Dates of DROP Participation - A retired Participant's effective date of participation in a DROP shall begin on the day following the effective date of the Participant's regular retirement and a retired Participant's participation in a DROP shall end on the last day of the participation period specified in the ordinance establishing the DROP based on the effective date of the retired Participant's participation in the DROP.
- 13.05 DROP Participation Termination - A DROP Participant may change the DROP termination date to an earlier date within the limitations of section 13.03, but may not change it to a later date than elected at the time of initial DROP participation. No penalty shall be imposed for early termination of DROP participation. Upon either early or regular termination of DROP participation, the DROP Participant shall be separated from employment with the Township of South Fayette and the Plan shall pay the balance in the DROP Participant's subsidiary DROP Participant Account to the terminating Participant as provided in section 13.09. The DROP Participant shall be ineligible to re-enroll in the DROP thereafter even if the former DROP Participant is re-employed by the Township of South Fayette with renewed active membership in the Township of South Fayette Police Pension Plan.
- 13.06 DROP Participant Contributions - DROP Participants shall neither be required nor permitted to pay contributions into the Plan during the DROP participation period.

DROP BENEFITS

- 13.07 Fixed Retirement Benefits, Retirement Date and DROP Dates - Effective with the date of retirement, which must be the day before the effective date of DROP participation, the Participant's monthly, Normal Retirement Benefit as calculated under section 4.02 of the Plan, the Participant's effective date of retirement and the Participant's effective dates of beginning and terminating participation in the DROP shall be fixed. There shall be no further retirement benefit accruals after the Participant's effective date of retirement.

- 13.08 Normal Retirement Benefit Payments and Accruals - The retired Participant's monthly retirement benefit, including any applicable Service Increment Benefit pursuant to section 4.04, Cost-of-Living adjustments pursuant to section 4.06 and interest on that benefit compounded and credited monthly shall be credited to the DROP Participant's subsidiary DROP Participant Account in the pension trust fund. Interest shall be credited on the existing account balance in the DROP Participant's subsidiary DROP Participant Account as of the first day of the month coincident with or following the Participant's retirement date. The Participant's monthly retirement benefit shall be credited to the account after the interest has been credited to the existing account balance in the DROP Participant's subsidiary DROP Participant Account. The Participant's retirement benefit and interest on that benefit shall continue to accrue in this manner on the first day of each month thereafter during the Participant's DROP participation. A separate accounting of the DROP Participant's Accrued Benefit accumulation under the DROP shall be calculated annually and provided to the Participant.
- 13.09 Payment of DROP Benefits - On the effective date of a DROP Participant's termination of employment with the Township as a DROP Participant, participation in the DROP shall cease; and the Plan shall calculate and pay to the Participant the Participant's total accumulated DROP benefits in the DROP Participant's subsidiary DROP Participant Account subject to the following provisions:
- (a) The terminating DROP Participant or, if the Participant is deceased, the Participant's named Beneficiary shall elect on a form provided by the Plan Administrator to receive payment of the DROP benefits in accordance with one of the following options:
 - (i) The balance in the DROP Participant's subsidiary DROP Participant Account, less withholding taxes, if any, remitted to the Internal Revenue Service, shall be paid within forty-five (45) days of the receipt of the election form, by the Plan from the account to the DROP Participant or surviving Beneficiary.
 - (ii) The balance in the DROP Participant's subsidiary DROP Participant Account shall be paid within forty-five (45) days of the receipt of the election form, by the Plan from the account directly to the custodian of an eligible retirement plan as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986 or, in the case of an eligible rollover distribution to the surviving spouse of a deceased Participant to an eligible retirement plan which is an individual retirement account or an individual retirement annuity as described in section 402(c)(9) of the Internal Revenue Code of 1986.

(iii) If the DROP Participant or Beneficiary fails to elect a method of payment within 60 days after the Participant's termination date, the Plan shall pay the balance directly to the custodian of an eligible retirement plan as provided in subparagraph (ii).

The form of payment selected by the DROP Participant or surviving Beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code of 1986.

(b) The terminating DROP Participant shall commence receipt of the monthly retirement benefit directly starting with the first day of the month coincident with or next following termination of employment with the Township.

13.10 Pre-retirement Benefits - Except for those benefits specified in section 13.03(b) as forgone by the member, a DROP Participant shall be eligible for any employee benefits provided to active employees before retirement by the Township of South Fayette and those otherwise provided by law, including but not limited to, benefits under the act of June 2, 1915 (P.L. 736, No. 338), known as the Workers' Compensation Act; the act of June 28, 1935 (P.L. 477, No. 193), referred to as the Enforcement Officer Disability Benefits Law; the act of December 5, 1936 (2nd Sp. Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law; the act of June 24, 1976 (P.L. 424, No. 101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act; and the Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 42 U.S.C. § 90 stat. 1347).

DROP DEATH BENEFITS

13.11 DROP Benefits for Designated Beneficiary - If a DROP Participant dies, the Participant's designated Beneficiary shall be entitled to apply for and receive the benefits accrued in the DROP Participant's subsidiary DROP Participant Account as provided in section 13.09.

13.12 Final Credited Monthly Retirement Benefit - The monthly retirement benefit accrued in the DROP Participant's DROP Participant Account during the month of a DROP Participant's death shall be the final monthly retirement benefit credited for DROP participation.

13.13 DROP Eligibility Terminates upon Participant's Death - A DROP Participant's eligibility to participate in the DROP terminates upon the death of the DROP Participant. If a DROP Participant dies on or after the effective date of participation in the DROP but before the initial monthly retirement benefit of the Participant accruable for the month has accrued in the DROP Participant's subsidiary DROP Participant Account, the Township of South Fayette shall pay the monthly retirement benefit as though the Participant had not elected DROP participation and had died after the Employee's effective date of retirement but, before receipt of the retired Participant's first Normal Retirement Benefit.

- 13.14 Survivors Ineligible for Active Employee's Death Benefit - The survivors of a DROP Participant who dies shall not be eligible to receive retirement death benefits payable in the event of the death of an active Employee, except as provided for in section 13.15.
- 13.15 DROP Participant Killed in Service - The named Beneficiary of a DROP Participant who is Killed in Service shall be entitled to apply for and receive a recalculation for payment of Survivor Benefits pursuant to section 6.05 at one-hundred percent (100%) of the Member's Salary at the Time of Death as fixed at the Participant's date of retirement. In the event such a benefit becomes payable, the surviving spouse or named Beneficiary of the Participant shall receive the recalculated benefit commencing as of the first day of the month coincident with or immediately following the date of death of the Participant.
- 13.16 Subsequent Employment and Renewal of Active Membership - After both the termination of the Participant's employment as a DROP Participant with the Township of South Fayette and the expiration of the DROP participation period, a former DROP Participant shall be subject to such re-employment limitations as other retired Employees and shall be eligible for renewed membership as an active Participant in the Plan and the DROP Participant shall be ineligible to re-enroll in the DROP pursuant to section 13.05.

ADMINISTRATIVE PROVISIONS

- 13.17 DROP Participant Account - As the Township of South Fayette establishes a DROP, it shall establish a DROP Participant Account as a separate interest-bearing, ledger account in its pension trust fund for each DROP Participant. The account balance shall be accounted for separately but need not be physically segregated from other pension trust fund assets. A separate, interest-bearing, subsidiary DROP Participant Account shall be established for each DROP Participant.

While a retired Participant is employed as a DROP Participant, the Participant's monthly, retirement benefit and interest on that benefit shall be credited to the DROP Participant Account under section 13.08. The interest shall be compounded and credited monthly. When a DROP Participant terminates employment with the Township of South Fayette as a DROP Participant, the Participant's total accumulated benefits shall be calculated, charged to the DROP Participant Account and paid out of the pension trust fund under section 13.09.

1. The proper officials of South Fayette Township are hereby authorized and directed to do all things necessary to effectuate the purpose of this Ordinance.

2. All ordinances and parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed, provided, however, that such repeals shall only be to the extent of such inconsistency and in all other aspects, this Ordinance shall be cumulative with the other ordinances regulating and governing the subject matter covered by this Ordinance.

3. If any section or provision or parts thereof in this Ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the Ordinance as a whole or any other section or provision or part thereof.

4. This Ordinance shall be in full force and effect on January 1, 2010.

ORDAINED AND ENACTED INTO LAW, this 16th day of November, 2009.

Attest:

TOWNSHIP OF SOUTH FAYETTE

Michael W. Hoy,
Township Secretary

By: _____
Thomas Sray, Chairman
Board of Commissioners