

ORDINANCE NO. 68

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT AND  
REGULATION OF A PENSION PLAN FOR THE FULL-TIME  
NON-UNIFORMED EMPLOYEES OF THE TOWNSHIP OF WESTFALL

BE IT ORDAINED AND ENACTED by the Supervisors of the Township of Westfall, Pike County, Pennsylvania, and IT IS HEREBY ORDAINED AND ENACTED as follows:

ARTICLE I

ESTABLISHMENT OF PLAN

A Pension Plan is hereby established for the full-time Non-Uniformed Employees of Westfall Township. Such Plan shall be under the direction of the Township Supervisors and shall be applied under such regulations as the Supervisors may prescribe. The effective date of this Plan shall be January 1, 1989.

ARTICLE II

DEFINITIONS OF TERMS

- 2.1 Board means the governing body of the Township of Westfall acting in the capacity of administrator of the Non-Uniformed Employees Pension Plan established pursuant to this Ordinance.
- 2.2 Employer means the Township of Westfall.
- 2.3 Participant means every person duly appointed from time to time by the Employer as a full-time Non-Uniformed Employee working not less than thirty-five (35) hours per week with definite compensation, subject to reasonable vacation and sick leave, to be included in the Plan upon completion of a ninety (90) day probationary period..
- 2.4 Service means total aggregate service with the Employer, not necessarily continuous, beginning upon completion of a ninety (90) day probationary period. Service of six (6) months or more will be counted as a full year; service of less than six (6) months will be disregarded.

- 2.5 Compensation means the monies received by a Participant in each and every month, including base pay and overtime (W-2 Earnings). Payments made for unused vacation time will be included for computation of retirement benefits. Payments made for unused "sick time" will not be included for computation of retirement benefits.
- 2.6 Plan means the Non-Uniformed Employees Pension Plan established pursuant to this Ordinance.
- 2.7 Contribution means the monies paid by the Employer to the Plan and/or the payroll deductions made monthly from the compensation of the Participants and paid to the Plan; except that "contributions" in Article 4.8 shall mean the Participant's total contributions accumulated during the period of employment and participation in this Plan.
- 2.8 Unfunded Liability means the present value of any Participant's benefits accrued prior to the enactment of this Ordinance by virtue of that Participant's prior service.
- 2.9 Future Service Liability means the value of any Participant's benefits which shall accrue by virtue of that Participant's service rendered subsequent to the enactment of this Ordinance.
- 2.10 Actuarial Equivalent means a benefit determined by an actuary to be equivalent in value to the Participant's Normal Retirement Benefit, as defined herein; provided that such actuarial equivalent is within the limitations provided herein.
- 2.11 Termination means the cessation of service by the Participant for any reason including death, disability, resignation, and employer termination. Voluntary leaves of absence without pay shall not be considered a termination for purposes of this Ordinance; but no period of such leave shall be computed in the total service for pension benefit purposes. Leaves of absence with pay shall not be considered a termination within the meaning of this Ordinance (provided that the municipality is able to certify to the Department of the Auditor General that such Participant on a leave of absence with pay is within the definition of a Participant as set forth herein); but such leaves may be computed in the total service for pension benefit purposes.
- 2.12 Committee means the persons which may be appointed to serve in an advisory capacity to the Board in the administration of the Plan.

ARTICLE III

ADMINISTRATION

3.1 The Board shall administer the Plan by such regulations as shall from time to time be necessary for the effective maintenance of the Plan; provided that no regulation shall be contrary to the statutes of the Commonwealth of Pennsylvania and/or applicable Federal regulations.

3.2 The Board may appoint a Committee which shall act as an advisory body to the Board in the administration of the Plan according to the regulations established pursuant to this Article.

3.3 The Committee shall consist of three (3) members, which number shall include one (1) chosen from the Board and one (1) chosen by a majority of the Participants in the Plan. The final member of the Committee shall be neither a member of the Board nor a Participant in the Plan, but shall be a "citizen-at-large," and shall be appointed by the Board.

All persons so designated shall serve at the pleasure of the Board for a three (3) year term, with one (1) member being selected each year. Any member may resign upon written notice to the Board and the Committee. Any vacancies in the Committee arising from resignation, death, or removal shall be filled by the Board by the procedure set out herein for the member of the Committee whose resignation, death, or removal has created the vacancy.

The Committee shall meet no less than annually, and shall serve without compensation for their services.

3.4 The Committee shall act by such procedure as the Committee shall establish; provided that all decisions shall be by majority vote. The Committee may authorize one of its members to execute any document or documents on behalf of the Committee, may adopt by-laws and regulations as it deems necessary for the conduct of its affairs, and may appoint such accountants, counsel, specialists or such other personnel as it may deem desirable for the proper administration of the Plan; provided that all such executions of documents, adoptions of by-laws and regulations, and appointments shall be submitted to the Board for approval.

The Committee shall keep a record of all its proceedings and acts which shall relate to the Plan, and shall keep all such books of accounts, records and other data as shall be necessary for the proper administration of the Plan. All actions of the Committee shall be communicated to the Board in a timely fashion.

- 3.5 All such reasonable expenses incurred in the administration of the Plan including but not limited to fees for the services of specialists including actuaries, accountants, consultants, and legal counsel shall be approved by the Board and all may be paid from the Plan; provided that no such payment shall be contrary to the statutes of the Commonwealth of Pennsylvania.
- 3.6 No member of the Board or the Committee established pursuant to this Article shall incur any liability for any action or failure to act, excepting only liability for its own gross negligence or willful misconduct. The Employer shall indemnify each member of the Board and the Committee against any and all claims, loss, damages, expense, and liability arising from any action or failure to act, except for such that is the result of gross negligence or willful misconduct of such member.

#### ARTICLE IV

##### RETIREMENT REQUIREMENTS AND BENEFITS

#### 4.1 Eligibility for Normal Retirement

- a. A participant in the plan may retire from active employment on the first day of the month following the attainment of age sixty-five (65); provided that the Participant has completed twenty-five (25) or more years of service with the Employer.
- b. A Participant shall retire on the first day of the month following the attainment of age seventy (70).

#### 4.2 Early Retirement

A Participant may retire on the first day of the month following the attainment of age sixty-two (62); provided that the Participant has completed twenty (20) or more years of service.

A participant who is eligible for early retirement benefits shall receive either of the following:

- a. A monthly pension equal to the Participant's Accrued Benefit as of his/her Early Retirement Date, commencing on or after his/her Early Retirement Date, reduced by 1/180 for each of the first thirty-six (36) calendar months by which the commencement of the Participant's benefit precedes his/her Normal Retirement Date, or
- b. A deferred unreduced monthly pension equal to the Participant's Accrued Benefit as of his/her Early Retirement Date, with payment commencing at his/her Normal Retirement Date.

#### 4.3 Normal Retirement Benefit

A Participant who shall complete the age and service requirements as set forth in Article 4.1 shall receive a pension for life, payable in equal monthly installments in an amount to be computed by applying one percent (1%) credit for each year of service after December 31, 1988 (maximum 30 years) times the average monthly compensation for the twenty-four (24) months immediately preceding the Participant's retirement.

#### 4.4 Death Benefits

(a) For non-retired employees under the age of fifty-five (55), a pre-retirement death benefit will be provided in the amount of ten thousand (\$10,000) dollars. This death benefit will continue until such time as actual retirement commences.

#### 4.5 Actuarially Equivalent Benefits

In lieu of the retirement benefits contained herein, a Participant may elect in writing an actuarial equivalent as may be provided for by regulation; provided that no such equivalent benefit may work the effect of providing a lump sum amount of money, or provide for a pension for a period less than life, or provide for a pension less than the amount herein established, unless such amount is reduced to pay the cost of an additional benefit such as a 120-month certain benefit.

#### 4.6 Designation of Beneficiaries

Each Participant shall have the right to name the beneficiary or beneficiaries for pre-retirement death benefits incidental to policies of insurance purchased primarily to fund the Participant's pension; provided that the ownership of such policies shall remain in the Plan and shall be endorsed to prevent the assignment of ownership to the insured. If the Participant shall fail to name a beneficiary or beneficiaries, such benefits as would have accrued to the Participant's beneficiary or beneficiaries shall be paid to the Participant's estate.

Each Participant may from time to time change the beneficiary or beneficiaries in such form and in such manner as shall be prescribed by the Board, and following such procedure as may be required by the insurance company.

#### 4.7 Vested Benefit

A vested deferred monthly benefit shall be provided for any Participant whose termination date occurs prior to that Participant's Normal Retirement Date; provided that the Participant shall have notified the employer of such intention to vest within ninety (90) days of the Participant's date of termination. Such vested deferred monthly benefit shall be based on the Participant's completed years of service as of the termination date.

<u>Years of Service</u>	<u>Vested Percentage</u>
10 years	50%
11 years	60%
12 years	70%
13 years	80%
14 years	90%
15 years	100%

Such vested deferred monthly benefit shall be funded through the purchase of a single premium, deferred annuity, which shall provide for the monthly benefit to be paid to the Participant upon attainment of that Participant's Normal Retirement Age as set forth in this Article.

#### 4.8 Termination

If for any reason a Participant shall terminate service with the Employer prior to becoming vested, that Participant shall be entitled to a refund of that Participant's contributions plus interest at a rate of six percent (6%) per annum. Such interest shall be uniform for all Participants.

If a Participant shall subsequently return to service and return to the Plan the contributions plus interest which were refunded to that Participant upon termination, the Participant shall be entitled to credit for the prior years of service to the extent of the return of contributions.

Nothing in this Article shall be construed to allow credit for service not actually given to the Employer, except as specifically provided in Article 6.

4.9 Non-Alienation of Benefits and Vesting

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge. Nor shall any such benefits be in any manner liable for or subject to garnishment, attachment, execution, levy, or other legal process.

Further, all benefits granted herein shall vest in the Participant upon completion of the requirements for eligibility, and that Participant's benefits shall continue in the amount and in the form in which that Participant first became entitled to them.

ARTICLE V

CONTRIBUTIONS

5.1 Contributions of the Employer

- a. It shall be the liability of the Employer to fund the past service liability as determined by the actuary; provided that such liability may be funded over a period not to exceed thirty (30) years, such period commencing with the passage of this Ordinance.
- b. It shall be the liability of the Employer to fund for the future service cost of the Plan.
- c. It shall be the responsibility of the Employer to maintain the actuarial soundness of the Plan.
- d. Contributions to the Plan paid by the Employer shall be at an amount determined by an annual actuarial study, which study shall be completed on a calendar year basis.

5.2 Contributions of the Participants

- a. Contributions to the plan paid by the Participants shall be at the rate of three percent (3%) of monthly compensation.
- b. Contributions to the plan paid by the Participants may be reduced or eliminated if a current actuarial study indicates that such reduction or elimination for that year will not adversely effect the actuarial soundness of the plan. Should the current actuarial study so indicate, the reduction or elimination of contributions by the Participants shall be effected by resolution, and shall be effective for one calendar year only.
- c. No such reduction or elimination of contributions by the Participants shall result in increasing the liability of the Employer to the plan.

### 5.3 Allocation of Commonwealth Funds

The payments made by the State Treasurer to the Employer from the monies received from the taxes paid on the premiums of foreign casualty insurance companies for purposes of retirement or disability benefit pensions for municipal employees shall be used as follows:

- a. to reduce the unfunded liability, or after such liability is funded,
- b. to apply against the annual obligation of the Employer for future service cost, or to the extent that the payments may be in excess of such obligation,
- c. to reduce or eliminate the contributions paid by the Participants.

### 5.4 Allocation of Assets of Existing Pension Plans

Any assets of any existing pension plans for the Non-Uniformed Employees of the Township are hereby transferred to the Plan established pursuant to this Ordinance, and shall be applied against the unfunded liability.

### 5.5 Gifts, Bequests, and Grants

All other monies and property received by the Plan, including gifts, bequests, devises, and grants shall be applied against the Employer portion of the future service cost unless otherwise specifically provided.

## ARTICLE VI

### CREDIT FOR MILITARY SERVICE

Any Participant in the Plan with at least six (6) months of service with the Employer who thereafter shall enter the military service of the United States of America shall have credited to that Participant's service record for pension benefit purposes all of the time spent by the Participant in such military service; provided that the Participant returns to service with the Employer within six (6) months after said Participant's separation from such military service.



ARTICLE VII

TERMINATION OF THE PLAN

Upon termination of the Plan, the assets shall be distributed as follows.

- a. Sufficient funds shall be maintained to provide the pension benefits prescribed in Article IV for all Participants who have retired prior to the termination of the Plan, or who are eligible to retire at the time of the termination of the Plan.
- b. Sufficient funds shall be maintained to provide the vested pension benefits prescribed in Article IV for all Participants who are eligible for such benefits.
- c. Of the remaining funds, those which can be identified as contributions of the Employees and Employer shall be distributed as the Board sees fit; provided that such distribution is made on a uniform basis.
- d. All funds in excess of the funds described in paragraphs a., b., and c. above shall be returned to the Commonwealth as unused funds.

ARTICLE VIII

PARTICIPANTS' RIGHTS AND MUNICIPALITY'S RIGHT TO TERMINATE

Neither the establishment of the Plan hereby created, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the Employer, or any officer or employee thereof, or the Board except as herein provided.

Under no circumstances shall the Plan hereby created constitute a contract for continuing employment for any Participant or in any manner obligate the Employer to continue or to discontinue the services of an employee.

This Plan has been established and shall be maintained by the Employer in accordance with the laws of the Commonwealth of Pennsylvania. The Plan shall continue for such period as may be required by such laws; provided that the Employer may, by its own action, discontinue this Plan should such laws provide, and the Employer reserves the right to take such action in its sole and absolute discretion. Upon termination, the Employer shall have no liability hereunder other than that imposed by law.

ARTICLE IX

INVESTMENTS

All investments by the Board of the assets of this Plan shall comply with such regulations as the Board shall establish for the purpose of investing such funds.

The Board may also purchase retirement annuities, or retirement income endowment policies, or a combination of both, which provide a cash value with which to fund pensions; provided that the Board shall determine the value of any policies purchased, the company with which the contracts shall be made, and the time to purchase such policies. The Board shall also have the obligation to insure that the policies purchased provide benefits on a uniform scale, and that such policies are endorsed to the ownership of the Plan.

ARTICLE X

AMENDMENTS

The Board reserves the right to amend at any time in whole or in part, any or all of the provisions of the Plan; provided that no such amendment shall authorize or permit any part of the Plan to be used or diverted to purposes other than for the exclusive benefit of the Participants, their beneficiaries, or their estates. Nor shall any amendment divest a Participant of benefits vested by the provisions of Article IV. All such amendments shall comply with the applicable statutes of the Commonwealth of Pennsylvania.

ARTICLE XI

CONSTRUCTION OF PLAN

This Plan shall be constructed according to the laws of the Commonwealth of Pennsylvania, and all provisions hereof shall be administered according to the laws of such Commonwealth.

Wherever any words are used herein in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where they would so apply; and wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply.

Headings of Articles and paragraphs of this instrument are inserted for convenience of reference. They constitute no part of this Plan, and are not to be considered in the construction thereof.

ARTICLE XII

SEVERABILITY

The provisions of this Ordinance shall be severable, and if any Article, paragraph, clause, sentence, or words of this Ordinance hereby adopted be declared for any reason invalid, unlawful, or unconstitutional, it is the intent of the Township that it had passed all other Articles, paragraphs, clauses, sentences, or words of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid, unlawful, or unconstitutional.

ARTICLE XIII


REPEALOR

This Ordinance repeals all other Ordinances and/or Resolutions prior to the date of its enactment which documents established, maintained, governed, or regulated a pension plan for the Non-Uniformed employees of the Township of Westfall, Pike County, Pennsylvania.

ENACTED AND ORDAINED into an Ordinance at a Special Meeting of the  
Westfall Township Board of Supervisors  
this 28th day of December, 1988.

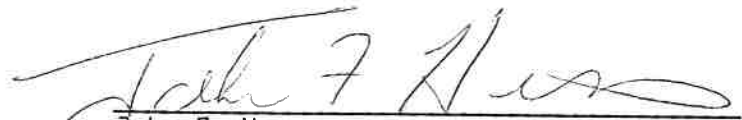
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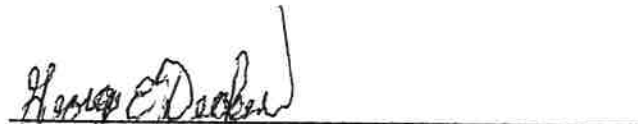
BOARD OF SUPERVISORS:

  
Beverly A. Quick  
Treasurer/Chief  
Administrative Officer

  
Muriel C. Revak  
Chairman

MUNICIPAL  
SEAL

  
John F. Hess  
Vice-Chairman

  
George E. Decker  
Supervisor