

TOWNSHIP OF SILVER SPRING  
Cumberland County, Pennsylvania

ORDINANCE NO. 6 of 2006

AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING,  
CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING,  
RE-ENACTING AND ESTABLISHING THE UNIFORMED EMPLOYEES' PENSION PLAN  
(SILVER SPRING TOWNSHIP POLICE PENSION PLAN)

WHEREAS, the Board of Supervisors (the "Board") of the Township of Silver Spring, Cumberland County, Pennsylvania (the "Township") previously established the Township Police Pension Plan; and

WHEREAS, the Township Police Pension Plan was subsequently amended; and

WHEREAS, the Township desires to revise and re-enact the Township Police Pension Plan pursuant to Act 600 of 1956, as amended, 53 P.S. §767 *et seq.*, as amended.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the Township of Silver Spring, Cumberland County, Pennsylvania, as follows:

SECTION 1: ESTABLISHMENT OF POLICE PENSION PLAN

There is hereby established in the Township a Police Pension Plan for the benefit of full-time police officers of the Township. The Police Pension Plan shall be known as the Silver Spring Township Police Pension Plan (the "Plan").

SECTION 2: CREATION AND MAINTENANCE OF THE POLICE PENSION FUND

The Silver Spring Township Police Pension Fund (the "Fund") shall be created and maintained in the following manner:

(a) All funds on deposit and held for the pension or retirement benefits of the Township police officers shall continue to be part of the Fund created hereby, subject to any liabilities which may exist against such Fund.

(b) The allocation by the Board of payments made by the Treasurer of the Commonwealth from monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies pursuant to the General Municipal Pension System State Aid Program shall be held in the Fund.

(c) Payments made by contributions of the police officers in accordance with the Plan as may be in effect from time to time, shall be held in the Fund.

(d) Payments made by other gifts, grants, devises or bequests made to the Fund shall be held therein.

(e) Such other payments as may, from time to time, be made by the Board to the Fund from the general revenue of the Township shall be held in the Fund.

All such payments received shall be deemed to be part of the Fund and shall not be applied to any other account or disbursed in any manner except as provided herein.

Payments required under the Plan shall be a charge only upon the Fund and not upon other monies or funds of the Township.

### SECTION 3: APPLICATION OF CERTAIN RECEIPTS

The amounts of the payments made by the Treasurer of the Commonwealth from monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies, which are determined by the Board to be deposited in the Fund, shall be used and applied as follows:

(a) To pay expenses incurred for the administration of the Fund and the Plan;

(b) To reduce any unfunded liability, defined as the present value of liability of the Fund on account of retirement benefits payable under this ordinance to members of the Township Police Department for service prior to the date upon which they first made contribution to the Plan, offset by the value of any assets in the Fund; or after such liability has been funded;

(c) To apply against the annual obligation of the Township for future service cost, defined as the amount of money required to be contributed annually into the Fund on account of benefits payable under the Plan to members of the Township Police Department for service subsequent to the date of establishment of the Plan; or to the extent that the payment made be in excess of such obligation;

(d) To reduce member contributions.

Any other monies paid into the Fund shall be applied equally against the member and Township contributions for future service cost.

### SECTION 4: MANAGEMENT OF THE FUND

The Fund shall be deposited with and invested by a corporate custodian, designated by the Board, which shall carry out its responsibilities in accordance with the terms of the custodial agreement and further subject to such investment policy and guidance as the Board shall, from time to time, give to the custodian for the investment of the Fund assets.

## SECTION 5: COVERAGE

The Plan shall cover all full-time members of the Township Police Department (the "Member"). Every full-time police officer employed by the Township shall, upon commencement of his employment, be a Member covered under the Plan and entitled to the benefits provided hereunder, provided the Member agrees to make the required Member contributions.

## SECTION 6: NORMAL RETIREMENT DATE

The normal retirement date for a Member shall be the day the Member attains fifty-five (55) years of age and completes twenty-five (25) years of service.

## SECTION 7: BASIC BENEFITS

The basic monthly pension benefit shall be one-half (1/2) of the monthly average salary of such Member during the last thirty-six months of employment. The monthly pension shall be payable during the lifetime of the Member with payments ceasing upon the Member's death.

## SECTION 8: SUPPLEMENTARY BENEFITS

The following benefits shall be in addition to the Basic Benefits as provided in Section 7 above:

(a) Length of Service Increment. A retired Member shall receive as additional pension the sum of \$20.00 per month for each year of the retiree's full-time service in the Township Police Department beyond twenty-five (25) years of such full-time service, but in no case shall such additional amount exceed \$100.00 per month regardless of the number of years of service.

(b) Cost of Living Increase. An annual cost of living increment shall be provided to each retired Member in the amount of three per centum (3%) of the retired Member's original pension, provided that said increment shall not exceed the percentage increase of the Consumer Price Index during the preceding calendar year, and provided further that (1) in no case may the total pension benefits exceed seventy-five per centum (75%) of the retired Member's compensation used for computing retirement benefits and (2) the retired Member's total cost of living increase shall not exceed thirty per centum (30%).

"Consumer Price Index" shall mean the Consumer Price Index published by the Bureau of Labor Statistics (CPI-W) of the United States Department of Labor for Urban Wage Earners and Clerical Workers for All Items (CPI-W) – U.S. City average of shall mean the successor thereto. If the Consumer Price Index is converted to a different standard reference base or otherwise revised, the determination of such cost of living increase shall be made with the use of such conversion factor, formula or table for converting the Consumer Price Index as may be published by the Bureau of Labor Statistics, or if the Bureau should fail to publish the same, then with the use of such conversion factor, formula or table for converting the Consumer Price Index

as may be published by Prentice Hall, Inc., or any other nationally recognized publisher of similar statistical information.

## SECTION 9: DISABILITY RETIREMENT

A Member may, upon application, or upon application of one acting on his/her behalf, be retired on a disability pension before his/her superannuation date, if a physician designated by the Board, after medical examination at the Member's residence or other place mutually agreed upon, certifies that the cause of such disability arose in the course of and as a result of the Member's employment, that the Member is unable to perform the duties of a police officer and that said Member ought to be retired.

The disability benefit shall be equal to fifty per centum (50%) of the Member's salary at the time the disability was incurred.

Should a Member while retired on disability die before the total disability allowance actually received by such Member is at least equal to the amount of the accumulated retirement deductions at the time of disability retirement, the Board shall pay to the Member's named beneficiary, or his/her estate if no beneficiary is designated, an amount equal to the difference between such total retirement allowance actually received by such Member and the Member's accumulated retirement deductions.

## SECTION 10: EARLY RETIREMENT BENEFIT

An early retirement benefit as authorized by Act 24 of 1998, codified as 53 P.S. §771(i), shall be available to a Member regardless of age, with twenty (20) or more years of continuous service who terminates employment prior to the completion of superannuation retirement age and service increments set forth in Section 6 above and who files a written application for an early retirement benefit to the Board. The early retirement benefit shall become effective as of the date the application is filed with the Board or the date designated on the application, whichever is later, and shall be the actuarial equivalent of a partial superannuation retirement benefit calculated as follows:

(a) A partial superannuation retirement benefit shall be determined by applying the percentage that the Member's years of service bear to the years of service that the Member would have rendered had the Member continued to be employed until his superannuation retirement date to the gross pension amount calculated using the monthly average salary during the appropriate period prior to his termination of employment.

(b) The actuarial equivalent of the partial superannuation retirement benefit shall be determined by actuarially reducing the partial superannuation retirement benefit to reflect that it will commence on the effective date of the early retirement rather than on the date on which the Member would have completed superannuation age and service requirements. The actuarial reduction shall be calculated using the actuarial assumptions reported in the last actuarial valuation report filed with the Public Employee Retirement Commission under the Act of

December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act" or "Act 205," 53 P.S. §895.101 *et seq.*

#### SECTION 11: SURVIVORS' BENEFITS

Upon the death of a retired Member, or upon the death of an active Member who was eligible for retirement at the time of death, the surviving spouse, or the surviving children of the Member under the age of eighteen (18) years, or if attending college, as defined by Act 600, as amended, under or attaining the age of twenty-three (23) years in absence of a surviving spouse, shall receive a pension equal to one-half (1/2) of the pension which such retired Member was receiving or which such active Member was eligible to receive if he had been retired at the time of death.

Pensions for the families of Members killed in service shall be calculated at one hundred percent (100%) of the Member's salary at the time of death.

#### SECTION 12: MEMBERS' CONTRIBUTIONS

All Members of the Township Police Department shall pay into the Fund monthly, five percent (5%) of their gross monthly compensation, inclusive of overtime payments. Said payments shall be made by each Member of said Police Department during such periods of time as required by the Board.

#### SECTION 13: ADJUSTMENT OF MEMBER CONTRIBUTIONS

The Board may, by resolution on an annual basis, reduce or eliminate payments into the Fund by Members.

#### SECTION 14: VESTING

If a Member before reaching his normal retirement date and having completed twelve (12) years of total service, for any reason ceases to be a Member of the Township Police Department, he/she shall be entitled to vest his/her retirement benefits until his/her normal retirement date by filing with the Board a written notice of his/her intention to vest, within ninety (90) days of the date of his/her termination. Upon reaching the date which he/she would have been eligible for retirement if he/she had continued to be employed as a full-time police officer, he/she shall be paid a partial retirement benefit determined by applying the percentage his/her years of service bears to the years of service which he/she would have rendered had he/she continued to work until his/her normal retirement date to the gross pension which he/she would have earned had he/she continued as a full-time police officer to his/her normal retirement date, using, however, the monthly average salary during the appropriate period to his/her termination of employment.

## SECTION 15: REFUND OF CONTRIBUTIONS

Upon termination of full-time employment before completion of twelve (12) years of service or upon death of a police officer before commencement of monthly pension benefits where a survivor's benefit is not payable, a refund shall be made of any monies paid by such officer, with interest. The rate of interest shall be five percent (5%) per annum. In the case of death, such refund shall be paid to his/her beneficiary, or, in the absence of such designation, to his/her estate.

Should a police officer die before he/she, his/her surviving spouse or his/her children under the age of eighteen (18) years, or if attending college, as defined by Act 600, as amended, under or attaining the age twenty-three (23) years have received his/her total contributions to the Fund accumulated with interest or other such increases in value of the Member's investment in the Fund, then such remaining amount shall be paid to his/her beneficiary or his/her estate.

## SECTION 16: CREDIT FOR MILITARY SERVICE

Any employee employed as a Member of the police force who has been a regularly appointed employee for a period of at least six (6) months and who thereafter enters into the military service of the United States shall receive credit for all such military service, if he returns to employment with the Township within six (6) months after his separation from military service.

Further, any employee who entered into the military service of the United States before employment with the Township shall receive credit for each year of military service or fraction thereof for a period not to exceed five (5) years. Such service shall not be credited if the employee fails to make the required payment. The required payment for such crediting shall be computed by (a) applying the lesser of 10% or the average normal cost rate for borough and township police pension plans as certified by the Public Employee Retirement Study Commission to the employee's average annual rate of compensation over the first three (3) years of service and (b) multiplying the result by the number of years and fractional parts of years of creditable nonintervening military service being purchased together with interest at the rate of 4.75% compounded annually from the date of employment to the date of payment, as provided under Act 600, 53 P.S. §770(b).

No service shall be credited under this section if the employee is entitled to receive retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency with the exception of an employee eligible to receive retirement pay earned by a combination of active duty and nonactive duty with a reserve or national guard component of the armed forces which retirement pay is payable only upon attainment of a specified age and period of service under 10 U.S.C. Ch 67.

## SECTION 17: SOCIAL SECURITY OFFSET

The retirement benefits provided herein shall not be reduced by any Social Security payments received by a Member or to which said Member is entitled.

## SECTION 18: PAYMENTS TO BE FREE FROM ALL CLAIMS

All payments under the Plan shall be, to the fullest extent permitted by law, free and clear of any debts, contracts, engagements, anticipations or liability to levy, attachment, execution or sequestration against the recipient, and shall not be subject to sale, assignment, transfer, claim, judgment or bankruptcy proceedings against the recipient of such payments, whether voluntary or involuntary.

## SECTION 19: SEVERABILITY

The provisions of this Ordinance are severable, and if any of its provisions shall be held to be illegal, invalid or unconstitutional, the decision of the court of competent jurisdiction so holding shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted of such illegal, invalid or unconstitutional provision or provisions had not been included therein.

## SECTION 20: MODIFICATION

The Plan and Fund established by this Ordinance may be discontinued, modified, altered, terminated or repealed according to law by Ordinance.

## SECTION 21: REVOCATION OF PRIOR ENACTMENTS

Any and all Ordinances and/or Resolutions heretofore enacted by the Township providing for pension and/or retirement benefits for police officers of the Township are hereby repealed, and any Ordinance, Resolution or any part thereof conflicting with the provisions of this Ordinance shall be, and the same are hereby repealed, insofar as the same affects this Ordinance. Any Member of the police force who shall have terminated employment before the effective date of this Ordinance, and any dependent or beneficiary shall be entitled to the benefits, if any, they were previously receiving.

## SECTION 22: EFFECTIVE DATE

This Ordinance shall become effective five (5) days from the date of enactment.

DULY ENACTED AND ORDAINED INTO LAW as Ordinance No. 6 of 2006 this  
20<sup>th</sup> day of December, 2006 by the Board of Supervisors of the Township of  
Silver Spring.

ATTEST:

BOARD OF SUPERVISORS  
TOWNSHIP OF SILVER SPRING

See Ellen Adams  
Township Secretary

[Signature]  
Chairman