

**BOROUGH OF MADISON**

**COUNTY OF MORRIS**

**Ordinance No. 51-2008**

**An Ordinance for Determining Positions Eligible for the  
Defined Contribution Retirement Program**

**WHEREAS**, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

**WHEREAS**, N.J.S. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt an ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed hereafter to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

**WHEREAS**, the Borough Council of the Borough of Madison has considered the guidelines issues by the Local Finance Board;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council that:

On and after July 1, 2007, newly appointed officials in the Borough must enroll in DCRP, not PERS, if the position requires the specific consent and/or approval of the elected governing body. Borough employees appointed to a position by elected officials, such as Mayoral appointments, or appointments made with the "advice and consent" of the Council shall also be DCRP positions.

2. An appointed official in the Borough who is already enrolled in the PERS prior to July 1, 2007, based on an elected and/or appointed office, will remain a PERS member while in that office/position. If, however, on or after July 1, 2007, there is a break of service in that office/position, or the official is elected to a different elected office, the official will be enrolled in the DCRP and cannot continue with PERS membership in the newly elected office/position.

3. Pursuant to N.J.S. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- a. Municipal Manager;
- b. Municipal Attorney;
- c. Municipal Engineer;
- d. Municipal Prosecutor;
- e. Municipal Court Judge.

4. Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S. 43:15C-2:

Certified Health Officer;

Tax Collector;

Chief Financial Officer;

Construction Code Official;

Qualified Purchasing Agent;

Tax Assessor;

Municipal Planner;

Registered Municipal Clerk;

Licensed Uniform Subcode Inspector;

Principal Public Works Manager.

This ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

**Repealer.** All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**Severability.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section numbers of the Code of the Borough of Madison, in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

A copy of this ordinance shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.

This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED AND APPROVED

July 14, 2008

---

Mary-Anna Holden, Mayor

Attest:

---

Marilyn Schaefer, Borough Clerk

Introduced and passed: June 23, 2008

Published, Madison Eagle: June 26, 2008

Hearing and final adoption: July 14, 2008

Published, Madison Eagle: July 17, 2008