

ORDINANCE NO. 1278

FIRST AMENDMENT TO THE  
AVALON BOROUGH EMPLOYEES PENSION  
AND WELFARE FUND PROGRAM  
(as amended and restated, effective January 1, 2001)

AN ORDINANCE OF THE BOROUGH OF AVALON RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF EMPLOYEES PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE EMPLOYEES OF SAID BOROUGH:

WHEREAS, the Borough of Avalon (the "Borough") has previously enacted an Ordinance establishing the Avalon Borough Employees Pension and Welfare Fund Program (the "Plan"); and

WHEREAS, the Plan was totally amended and restated, effective January 1, 2001; and

WHEREAS, the Borough reserved the right to amend the Plan pursuant to Section 10.01;  
and

WHEREAS, the Borough now desires the Plan to be further amended;

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL AND IT IS HEREBY ORDAINED AND ENACTED by authority of the same:

Effective January 1, 2002, sections 4.10 and 5.07 shall be added to the Plan as follows:

4.10 Incorporation of Code section 415 by Reference - Notwithstanding anything contained in section 4.06 to the contrary, the limitations, adjustments, and other requirements prescribed in section 4.06 shall at all times comply with the provisions of Code section 415 and the Regulations thereunder (as such apply to governmental plans), the terms of which are specifically incorporated herein by reference.

5.07 Direct Rollovers

This section applies to distributions made on or after December 31, 2001. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution that is equal to at least \$500 paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

For purposes of this section, the following definitions shall apply:

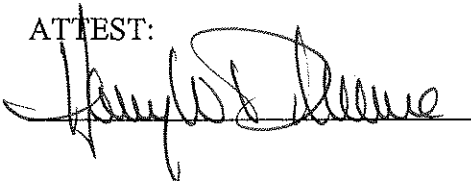
- (1) "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

For purposes of the direct rollover provisions in this section of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) "Eligible Retirement Plan" is a qualified trust described in Code section 401(a), an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan.
- (3) "Distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p), are distributees with regard to the interest of the spouse or former spouse.
- (4) "Direct Rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

ORDAINED AND ENACTED this 17th day of December, A.D., 2002.

ATTEST:



BOROUGH OF AVALON



President of Council