CITY COUNCIL

Meeting Agenda

REGULAR MEETING ***MONDAY, NOVEMBER 9, 2009***
COUNCIL CHAMBERS ***7:00P.M.***

OPENING MATTERS

CALL TO ORDER
INVOCATION: Pastor Bruce Osterhout, Christ Lutheran Church
PLEDGE OF ALLEGIANCE
ROLL CALL

PROCLAMATIONS AND PRESENTATIONS

- Recognizing America Recycles Day, accepted by Solid Waste Manager Frank Denbowski

PUBLIC COMMENT – AGENDA MATTERS:

Citizens have the opportunity to address the Council, by registering with the City Clerk before the start of the meeting*. All remarks must be directed to Council as a body and not to any individual Council member or public or elected official in attendance. Any person making personally offensive or impertinent remarks or any person becoming unruly while addressing Council may be called to order by the Presiding Officer and may be barred from speaking before Council, unless permission to continue speaking is granted by the majority vote of Council.*

All comments by the public shall be made from the speaker's podium. ***Citizens attending the meeting may not cross into the area beyond the podium. Any materials to be distributed to Council must be given to the City Clerk before the meeting is called to order.***

Those commenting on agenda business shall speak at the beginning of the meeting and shall limit their remarks to 5 minutes. Those commenting on general matters shall speak after the legislative business is concluded and shall limit their remarks to 3 minutes. No comments shall be made

from any other location except the podium, and anyone making "out of order" comments may be subject to removal. There will be no demonstration at the conclusion of anyone's remarks. Citizens may not ask questions of Council members or other elected or public officials in attendance.

APPROVAL OF AGENDA

AGENDA: Council Meeting of November 9, 2009

Consent Agenda Legislation

ADMINISTRATIVE REPORTS

REPORT FROM OFFICE OF THE AUDITOR

REPORTS FROM DIRECTORS OF BOARDS, AUTHORITIES, & COMMISSIONS

ORDINANCES FOR FINAL PASSAGE

Bill No. 54-2009 – amending the Codified Ordinances, Administrative Code Section 1-186 Fiscal Provisions concerning appropriations and transfers **(Spencer)** ***Introduced at the September 28 regular meeting; tabled at the October 12 regular meeting; tabled at the October 26 regular meeting***

Bill No. 58-2009 - amending Part 10 of Chapter 24 Taxation, of the City of Reading Code of Ordinances, to be found at Sections 24-1001 to 24-1002, entitled "Schedule of attorney's fees for collection of delinquent earned income taxes, business privilege taxes and fees, per capita taxes, and other non-real estate based taxes and receivables" which shall authorize the imposition of attorney fees for the collection of such taxes and adding a new Part 11, formerly part 10, Residential "Rental Tax" of Chapter 24 Taxation, Special, of the City of Reading Code of Ordinances, to be found at Sections 24-1101 to 24-1110, entitled "Residential Rental Tax" which shall impose a tax on the transaction of entering into a lease for residential property; establishing the rate of such tax; providing procedures for the administration and collection of the tax; and providing penalties for violations **(Law)** ***Introduced at the October 12 regular meeting; tabled at the October 26 regular meeting – eliminate language re Residential Rental Tax; Amended Ord attached***

Ordinance - amending the City of Reading Codified Ordinances Chapter 10 Part 17 Sidewalk Vendors by prohibiting sidewalk vendor operations outside the Downtown Improvement District on public and private property and renumbering as required, as attached in Exhibit A **(Council Staff)** ***Introduced at the October 26 regular meeting***

Pending
Advertisement and Public Hearing Required by MPC
Notice of Pending Ordinance Doctrine

Ordinance - amending the City of Reading Code of Ordinances Chapter 27 Zoning by creating a new section in Part 11 Additional Requirements for Specific Uses of Zoning Districts by placing requirements for the rental of single family homes in areas zoned R-1, R-1a and R-2 and amending the definitions section **(Council Staff)** ***Introduced January 2009; Public Hearing held March 18th at 5 p.m. in Council Chambers***

Pending Further Review

Bill No. 57-2009 - amending the City of Reading Codified Ordinances Chapter 1, Section 1 – Animal Control by adding limitations on the allowable number of animals per household, establishing an exotic animal permit fee, amending the language regarding aggressive dogs, adding definitions, and renumbering sections as required, as attached in Exhibit A **(Animal Control Board & Council Staff)** ***Introduced at the October 12 regular meeting; tabled at the October 26 regular meeting; referred to the Legislative Aide Committee***

Ordinance - amending the City of Reading Codified Ordinances by creating a new Part 20 - Vacant Building Registration - in Chapter 10 Health and Safety Enforcement **(Council Staff & Law)** ***Introduced at the April 13 regular meeting; Reviewed and discussed at the April 20th Work Session; Referred to Public Safety Committee***

Ordinance - directing the Berks County Board of Elections to place a referendum question before City voters on the 2010 Primary ballot which would amend the City of Reading Home Rule Charter by eliminating the Departments of Human Resources and Finance and creating the Department of Administrative Services **(Man Dir)** ***Introduced at the August 24th regular meeting; referred to Committee of the Whole***

Ordinance - setting forth its intent to issue a federally-taxable general obligation note, series of 2009 of the City in the aggregate principal amount of three million two hundred fifty thousand dollars ($3,250,000) pursuant to the act of the general assembly of the Commonwealth of Pennsylvania, known as the Local Government Unit Debt Act, 53 PA C.S. Chapters 80-82, as amended and supplemented (the "act"); finding that a

private sale by negotiation is in the best financial interests of the City; determining that such note shall evidence non-electoral debt of the City; specifying that such indebtedness is to be incurred to provide funds to finance a project of the City which consists of, among other things: (1) the planning, designing, acquiring and constructing of improvements to, and the acquisition of certain equipment for, buildings and facilities on the premises of the Reading Municipal Memorial Stadium (the "Stadium"); (2) the planning, designing, acquiring and constructing of additional parking areas on the premises of the Stadium, and (3) paying the costs and expenses of issuing the note **(Man Dir)** ***Introduced at the August 24th regular meeting; pending passage of State budget***

Pending
Budget/Tax Ordinances

Ordinance- Establishing the General Fund Budget for the City of Reading including revenues and expenses for the fiscal year beginning January 1, 2010 and ending December 31, 2010. **(Mayor)** ***Introduced at the October 1 Special Meeting***

Ordinance- Establishing the Capital Improvement Program Budget for the City of Reading including revenues and Capital expenditures for the fiscal year beginning January 1, 2010 and ending December 31, 2010 **(Mayor)** ***Introduced at the October 1 Special Meeting***

Ordinance- Establishing the Full-Time Employee positions for the City of Reading for the fiscal year 2010. **(Mayor)** ***Introduced at the October 1 Special Meeting***

Ordinance- Levying the real estate taxes for the fiscal year beginning the first day of January 2010 and ending the thirty-first day of December 2010. **(Mayor)** ***Introduced at the October 1 Special Meeting***

Ordinance – Increasing the Home Rule Earned Income Tax by 0.5% to 1.2% and establishing the total EIT rate (City and School) at 3.2% **(Mayor)** ***Introduced at the October 1 Special Meeting***

INTRODUCTION OF NEW ORDINANCES

Ordinance – authorizing the vacation of Beech Street and an unnamed alley between Pear and North 2nd Streets **(Law)**

Ordinance - Authorizing the execution of a Temporary Construction Easement from the City of Reading to the Schuylkill Valley School District conveying unto said School

District a Temporary Construction Easement in and over a portion of land being part of Tax Pin Number 540100609178 that portion of premises designated as a Temporary Construction Easement on the "Highway Occupancy Permit Plans, Roadway Improvements For Schuylkill Valley School District," Dated July 20, 2009, being Project #080890 Prepared by Derck & Edson Associates, situate in Ontelaunee Township, Berks County, Pennsylvania **(Law)**

Ordinance - authorizing the execution of an Easement Agreement between the City of Reading and Ontelaunee Township (both situate in Berks County) thereby conveying unto Ontelaunee Township two (2) non-exclusive, perpetual easements in gross upon that portion of premises shown and designated as two (2) twenty foot (20') strips of land and shown as a permanent stormwater easement on the "Highway Occupancy Permit Plans, Roadway Improvements for Schuylkill Valley School District," Dated July 20, 2009, being Project #080890, prepared by Derck & Edson Associates, situate in Ontelaunee Township, Berks County, Pennsylvania **(Law)**

RESOLUTIONS

Resolution - to approve submission of the FFY2010 (36th year - January 1, 2010 to December 31, 2010) action plan to the U.S. Department of Housing and Urban Development (HUD) **(Community Development)**

Resolution - denying the appeal of the Certificate of Appropriateness, as attached in the findings of fact, for 47 South Sixth Street, owned by Allegheny East Conference of Seventh Day Adventist, ordering the removal of the vinyl siding as stated in HARB Resolution 65-09 **(Council Staff)**

Resolution – authorizing the Solicitor to take all necessary and appropriate action required for the City of Reading City Council to appeal the September 16, 2009 decision of the City of Reading Zoning Hearing Board (Appeal No. 2009-44) regarding the proposed parking lot in the 200 block of Penn Street at their October meeting. **(Council Staff/Law)**

Resolution – authorizing the Solicitor to take all necessary and appropriate action required for the City of Reading City Council to appeal the decision of the City of Reading Zoning Hearing Board regarding the variance Appeal No. 2009-58 for a proposed 60 washer/60 dryer Laundromat at 400 South 6th Street granted at their October 14, 2009 meeting. **(Council Staff/Law)**

PUBLIC COMMENT – GENERAL MATTERS

COUNCIL BUSINESS / COMMENTS

COUNCIL MEETING SCHEDULE

Monday, November 9
Meeting with the Mayor – Mayor's Office – 4 pm
Committee of the Whole – Council Office – 5 pm
Regular Meeting – Council Chambers – 7 pm

Wednesday, November 11
Veteran's Day - City Hall closed

Monday, November 16
Meeting with the Mayor – Mayor's Office – 4 pm
Public Works Committee – Council Office – 5 pm
Administrative Oversight Committee – Council Office – 5 pm
Work Session – Penn Room – 7 pm

Monday, November 23
Meeting with the Mayor – Mayor's Office – 4 pm
Committee of the Whole – Council Office – 5 pm
Regular Meeting – Council Chambers – 7 pm

Thursday and Friday, November 26 and 27
City Hall Closed for Thanksgiving Holiday

BAC AND COMMUNITY GROUP MEETING SCHEDULE

Monday, November 9
Fire Civil Service Board – Penn Room – 4 pm
6th & Amity Neighborhood & Playground Assn – 6th & Amity Fieldhouse – 6:30 pm

Tuesday, November 10
Airport Authority – Airport Authority Office – 8:15 am
Water Authority Workshop – Penn Room – 4 pm
District 11 Crime Watch – Orthodox Presbyterian Church – 7 pm

Wednesday, November 11
Zoning Hearing Board – Penn Room – 5:30 pm
Center City Community Organization – Holy Cross Church – 6 pm

Thursday, November 12
Police Pension Board – Penn Room – 10 am
Board of Health – Penn Room – 6 pm
Legislative Aide Committee – Penn Room – 7:30 pm

Monday, November 16
Library Board – 113 S 4th St – 4 pm

Tuesday, November 17
Park and Recreation Advisory Committee – Pendora Park – 5:30 pm
Charter Board – Penn Room – 7 pm
HARB – Planning Conference Room – 7 pm

Wednesday, November 18
Officers and Employees Pension Board – Penn Room – 1:30 pm
Fire Diversity Board – Penn Room – 4:30 pm
Redevelopment Authority – Redevelopment Authority Office – 5:30 pm
Centre Park Historic District – Member's home – 7:30 pm

Thursday, November 19
Zoning Amendment Committee – Council Chambers – 4 pm
Dare 2 Care – Bethel AME Church – 5:30 pm
Blighted Property Review Committee – Council Office – 6 pm
Southeast People's Voice – St. John's UCC – 6 pm
Mulberry & Green Citizen's Committee – St. Luke's Lutheran Church – 6:30 pm

Friday, November 20
Fire Pension Board – Penn Room – 10 am

Monday, November 23
DID Authority – Reading Eagle 3rd floor Conference Room – noon
BARTA – BARTA Office – 3 pm

BILL N O. _____-2009

A N O R D I N A N C E

AN ORDINANCE **AMENDING THE CITY OF READING CODIFIED ORDINANCES - CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 1 ADMINISTRATIVE CODE, SECTION 1-186 FISCAL PROVISIONS, 3. REGULATIONS CONCERNING APPROPRIATIONS AND TRANSFERS, F**

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Amending the Codified Ordinances, Chapter 1 Administration and Government, Part 1 Administrative Code, Section 1-186 Fiscal Provisions, 14. Contracts, A. Approval of Contracts; (2) Bidding Process

3. **Regulations Concerning Appropriations and Transfers.**
A. The authorization and expenditure of all funds and preparation of department budgets shall be in accordance with a policy adopted by the Council and a procedures manual to be prepared and periodically reviewed and updated by the Department of Finance. Expenditures shall be executed in a uniform manner for every City Department.
B. The Director of Finance shall prepare and submit a monthly report to the Mayor, the managing director, and Council. This monthly report shall include all expenditures for each City Department, and status reports comparing those expenditures with the adopted budget, as well as any Department justification of transfer of funds within departments and between departments.
C. In order to allow flexibility in the administration of the City's business, departments may transfer money between line items within the department. A majority of Council, in response to any monthly report, may place a limit on the amount of additional excess expenditure allowed for any program or line item. This is not intended to restrict unduly the Mayor's ability to manage and administer the budget.

D. Justification for transferring money between departments must be presented to and approved by Council. The procedures manual will stipulate the following:
(1) Expenditure procedures.
(2) Justification procedures for transferring money between line items.
(3) Justification procedures for transferring money between department.
(4) Administration of petty cash funds.
E. *Requiring an amendment to the City's annual Budget Ordinance authorizing the transfer of all monies including, but not limited to, transfers between departments, and transfers in and out of any City fund, account or line item either attached in part or unattached to a departmental budget.* The request for a budget amendment must be submitted to City Council with an agenda memorandum explaining the justification for transfer and the proposed use for the funds transferred. [*Ord. 36-2000*]

F. *Requiring an amendment to the City's annual Budget Ordinance to authorize any cumulative modification to any departmental overall budget or line item that exceeds* ~~*$25,000.*~~ ***$10,000.*** The request for a budget amendment must be submitted to City Council with an agenda memorandum explaining the justification for transfer and the proposed use for the funds transferred at least 2 weeks before the transfer is required. [*Ord. 36-2000*]

G. Requiring City Council approval, via ordinance, for the following:
(1) Salary increases that were not approved in or included in the budget for the fiscal year and fall outside the labor contract for union employees.
(2) All expenditures not approved and listed in the operating or capital budgets for the fiscal year.

SECTION 2: All relevant ordinances, regulations, remaining sections of Chapter 1 Administration and Government Part 1 Administrative Code not amended hereby shall remain in full force and effect.

SECTION 3: If any section, subsection, sentence or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4: This Ordinance shall become effective in ten (10) days, in accordance with Charter Section 219.

Enacted _____, 2009

_____
President of Council

Attest:

_____
City Clerk

(President of Council)

Submitted to Mayor: _____
Date: _____

Received by the Mayor's Office: _____
Date: _____

Approved by Mayor: _____
Date: _____

Vetoed by Mayor: _____
Date: _____

BILL NO. _____- 2009

AN ORDINANCE

AN ORDINANCE OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CITY OF READING CODE OF ORDINANCES BY AMENDING PART 10 OF CHAPTER 24 TAXATION, OF THE CITY OF READING CODE OF ORDINANCES, TO BE FOUND AT SECTIONS 24-1001 TO 24-1002, ENTITLED "SCHEDULE OF ATTORNEY'S FEES FOR COLLECTION OF DELINQUENT EARNED INCOME TAXES, BUSINESS PRIVILEGE TAXES AND FEES, PER CAPITA TAXES, AND OTHER NON-REAL ESTATE BASED TAXES AND RECEIVABLES" WHICH SHALL AUTHORIZE THE IMPOSITION OF ATTORNEY FEES FOR THE COLLECTION OF SUCH TAXES.

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. CITY OF READING CODE OF ORDINANCES PART 10 SCHEDULE OF ATTORNEY'S FEES FOR COLLECTION OF DELINQUENT EARNED INCOME TAXES, BUSINESS PRIVILEGE TAXES AND FEES, PER CAPITA TAXES, AND OTHER NON-REAL ESTATE BASED TAXES AND RECEIVABLES SHALL READ AS SET FORTH IN ATTACHED EXHIBIT "A".

SECTION 2. PART 10 RESIDENTIAL RENTAL TAX SECTIONS 24-1001 THROUGH AND INCLUDING 24-1009 ARE REPEALED.

SECTION 3. ALL OTHER SECTIONS, PARTS AND PROVISIONS OF THE CITY OF READING CODE OF ORDINANCES SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ENACTED AND AMENDED.

SECTION 4. IN THE EVENT ANY PROVISION, SECTION, OR PART OF THIS ORDINANCE SHALL BE HELD TO BE INVALID, ILLEGAL, OR UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, SUCH INVALIDITY, ILLEGALITY, OR UNCONSTITUTIONALITY SHALL NOT AFFECT OR IMPAIR THE REMAINING PROVISIONS, SECTIONS, OR PARTS OF THIS ORDINANCE, IT BEING THE INTENT OF CITY COUNCIL THAT THE REMAINDER OF THE ORDINANCE SHALL BE AND SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 5. THIS ORDINANCE SHALL TAKE EFFECT TEN (10) DAYS AFTER ADOPTION IN ACCORDANCE WITH CITY OF READING HOME RULE CHARTER, AS AMENDED, SECTIONS 219 AND 221.

ENACTED_____, 2009

_____
PRESIDENT OF COUNCIL

ATTEST:

_____
CITY CLERK

EXHIBIT A

PART 10

SCHEDULE OF ATTORNEYS' FEES FOR COLLECTION OF DELINQUENT EARNED INCOME TAXES, BUSINESS PRIVILEGE TAXES AND FEES, PER CAPITA TAXES, AND OTHER NON-REAL ESTATE BASED TAXES AND RECEIVABLES

Section 24-1001. Schedule

1. The City hereby approves the following schedule of attorneys' fees for delinquent collections associated with earned income tax, business privilege tax, business privilege license fees, per capita tax, and other non-real estate based tax and receivables. Said schedule is determined to be fair and reasonable compensation for services rendered pursuant to the Pennsylvania Municipal Claims and Tax Liens Act.

SCHEDULE OF FEES

LEGAL SERVICES	***FEE FOR SERVICES***
Collection of delinquent accounts against the	***20% contingency fee, calculated base tax, penalty, and interest of the delinquent account***

2. There shall be added to the above amounts the reasonable out-of-pocket expenses incurred by legal counsel in connection with the collection of the accounts, including Sheriff's and Prothonotary's costs.

3. The amount of attorneys' fees determined, as set forth above, shall be added to the City's claim for each account.

4. The following collection procedures are hereby established:

A. At least thirty (30) days prior to assessing or imposing attorneys' fees in connection with the collection of a delinquent account, City shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the taxpayer or other entity liable for the account (the "Account Debtor");

B. If the certified mail notice is undeliverable, then, at least 10 days prior to assessing or imposing such attorneys' fees, the City shall

mail or cause to be mailed, by first class mail, a second notice to such account Debtor;

C. ***All notices required by this section shall be mailed to the Account Debtor's last known post office address as recorded in the records or other information of the City, or such other address as it may be able to obtain.***

D. ***Each notice, as described above, shall include the following:***

(1) ***The type of tax or other charge, the date it became due, and the amount owed, including penalty and interest.***

(2) ***A statement of the City's intent to impose or assess attorneys' fees within 30 days after mailing of the first notice, or within 10 days after the mailing of the second notice.***

(3) ***The manner in which the assessment or imposition of attorneys' fees may be avoided by payment of the account.***

(4) ***The place of payment for accounts and the name and telephone number of the City representative designated as responsible for collection matters.***

Section 24-1002. Powers.

The proper officials of the City are hereby authorized and empowered to take such additional action as they may deem necessary and appropriate to implement this Schedule of Attorneys' Fees.

BILL NO._____-2009

A N O R D I N A N C E

AMENDING THE CITY OF READING CODIFIED ORDINANCES CHAPTER 10 PART 17 SIDEWALK VENDORS BY PROHIBITING SIDEWALK VENDOR OPERATIONS OUTSIDE THE DOWNTOWN IMPROVEMENT DISTRICT ON PUBLIC AND PRIVATE PROPERTY AND RENUMBERING AS REQUIRED, AS ATTACHED IN EXHIBIT A.

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 10 Part 17 Sidewalk Vendors by prohibiting sidewalk vendor operations outside the Downtown Improvement District (DID) area on public and private property and renumbering the sections as required, as attached in Exhibit A.

SECTION 2. All other parts of the Ordinance remain unchanged.

SECTION 3. This Ordinance shall be effective ten (10) days after passage.

Enacted_____, 2009

_____

President of Council

Attest:

_____

City Clerk

(Council Office)

Submitted to Mayor: _____
Date: _____
Received by the Mayor's Office: _____
Date: _____
Approved by Mayor: _____
Date: _____
Vetoed by Mayor: _____

Date: _____

EXHIBIT A

PART 17
SIDEWALK VENDORS

§10-1701. Purpose
The purpose of this Part is to provide for the regulation of sidewalk vendors in the City of Reading to promote an active and attractive pedestrian environment. The City of Reading has the responsibility to provide public safety for pedestrians and to protect ***residential neighborhoods and*** public facilities. Whereby, reasonable regulation of sidewalk vendors is necessary to protect the public health, safety, and welfare in the public right of way. It is the finding of City Council that the regulation of sidewalk vendors ***on public and private property*** is necessary to promote the orderly and efficient use of sidewalks, to prevent undue interference with established businesses and to assure the performance of essential utility, traffic control and emergency services.
(*Ord. 63-2007*, 8/13/2007, §1)

§10-1702. Title
This Part shall be known as the "Sidewalk Vendor Ordinance."
(*Ord. 63-2007*, 8/13/2007, §1)

§10-1703. Interpretation
The provisions of this Part shall be construed to be the minimum requirements necessary to serve the general welfare and safety of the residents of the City of Reading. Where the provisions of any statue, other ordinance or regulation impose greater restrictions or higher standards than those enumerated in this Part, the provisions of such statue, ordinance or regulation shall govern.
(*Ord. 63-2007*, 8/13/2007, §1)

§10-1704. Definitions
For the purpose of this Part, certain terms shall be defined as follows:

DOWNTOWN IMPROVEMENT AUTHORITY AREA – the City's Central Business District, as created through the enactment of Bill No. 41-2005 on June 27, 2005. Please see the map located at www.downtownreading.com

KIOSK - a freestanding structure upon which temporary information and/or posters, notices and announcements are posted; an open gazebo, pavilion or similar structure used as a newsstand, refreshment booth or the like.

MOBILE VENDOR - a vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the city that does not typically remain stationary for more than approximately 10 minutes each hour.

OFFICIAL MAP - the topographical survey of the City of Reading, Pennsylvania on file in the Engineering Office.

PASSABLE - free of any impediment or obstruction, whatsoever, that would hinder the travel of the public.

PRIVATE PROPERTY - property owned by a person or jointly by a group of persons, legal persons or business entities.

PUBLIC RIGHT-OF-WAY - any place of any nature which is legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the City of Reading. The official topographic survey map of Reading, Pennsylvania, on file in the Engineering Office shall be the final authoritative document should the existence of any street, dedicated or not be disputed.

PUBLIC OUTDOOR PAY TELEPHONE - any outdoor publicly accessible pay telephone any portion of which or its enclosure is situated on, projects over, or hangs over a portion of the public right-of way; or is situated such that it can be used by a person standing on the public right-of way.

PUBLIC PROPERTY - all real and personal property, whether within or outside the corporate City limits, belonging to the City of Reading, excluding that which is used and/or intends for use by vehicular or pedestrian traffic and defined herein as a public right-of-way.

SANDWICH BOARD - any portable sign which is intended, by design, use or construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse.

SIDEWALK - that portion of a public right-of-way for which paving is required under this Part of the Codified Ordinances of the City of Reading and which is used primarily for pedestrian travel.

SIDEWALK AREA - that portion of the public right-of-way occurring between the curb line and the topographical building line.

SIDEWALK VENDOR - person or persons who exhibits, displays, or sells any food, beverage, goods, printed materials or merchandise from any stand, cart vending machine or trailer while on or about the sidewalk area.

SIDEWALK VENDOR LICENSE - the written authorization, issued by the City of Reading, to construct, install, erect, or place any obstruction within the public right-of-way. The license must be displayed prominently on each stand, cart, trailer and/or obstruction.

STATIONARY VENDOR - an itinerant vendor who conducts business (a) from a vehicle or other conveyance, or (b) in or about a structure that is not permanently affixed to real property and that is located upon privately owned property and not on a public street, sidewalk, alley or public way of the city.

STAND - any structure, device or object erected, installed, or placed within any portion of the public right-of-way or chained, bolted or otherwise attached to a building or structure in such a manner that any portion of said structure, device or object projects over or into the public right-of-way used to exhibit, display or sell food or goods. Stands shall include, but are not limited to, kiosks, news-racks, newsstands, outdoor pay telephones, sandwich boards, stands, street furniture and vending machines. The terms "tables," "carts," "stands" and "trailers" shall be used interchangeably throughout this Part and should be construed to the same meaning.

TRAILER - vehicle designed to be towed by a motor vehicle.

VEHICLE - a device or structure for transporting persons or things; a conveyance that is self-propelled and runs on tires.

VENDING CART - small, light vehicle moved by hand for the purpose of conducting food sales.

VENDING LICENSE BOARD - Board authorized to approve permits and the location of sidewalk vendors, pursuant to §10-1710.

VENDING MACHINE - any self-service device that provides for the sale or distribution of food, beverage or goods, newspapers, or other printed materials either in bulk or in package, without the necessity of replenishing the device between each vending operation.
(*Ord. 63-2007*, 8/13/2007, §1)

§10-1705. License Required
1. It shall be unlawful for any person to engage in the business of a sidewalk vendor within the City of Reading without first obtaining a license pursuant to this Section. Such sidewalk vending activities are only permitted within the Downtown Improvement Authority (DID) area and between the southern ~~border~~ ***right- of-way line*** of Franklin Street, the northern ~~border~~ ***right- of-way line*** of Washington Street, the western ~~border~~ ***right- of-way line*** of Front Street and the eastern ~~border~~ ***right- of-way line*** of 11th Street. ~~, except as provided in §10-1706. Sidewalk vending activities outside the Downtown Improvement Authority (DID) area may be permitted in accordance with Section 10-1706 contained herein.~~

Vending is prohibited on private property as per the Zoning Ordinance, City of Reading Codified Ordinances Chapter 27, Section 902 – Limit of One Principle Use states "No more than one principal use shall be permitted on a lot, unless specifically permitted by this Chapter. A principal use shall not be located in an accessory building or structure."

Vending is prohibited in all areas outside the Downtown Improvement Authority (DID) area.

Pre-existing vendors operating inside ~~and outside~~ the Downtown Improvement District (DID) area are required to comply with all regulations contained herein and shall not be "grandfathered".

2. The restrictions of this Section shall not apply to itinerant food operations associated with the organized festival, carnival, fair, parade, picnic or other affair that may be approved or sponsored by the City or its associated bureaus or agencies, in such areas which may be designated and approved for itinerant food operations on a temporary basis.

A. **Location, Type and Number**. A sidewalk vendor license shall only be issued for and restricted to vendor sales from an approved stand at specific and fixed locations within the Downtown Improvement Authority (DID) area. ~~, except as provided in §10-1706~~. All sidewalk vending shall be conducted within the public right-of-way, as defined herein. ***Up to a maximum of*** fifteen (15) sidewalk vending licenses shall be issued for food-related sales annually for the Downtown Improvement Authority (DID) area as determined by the Vending License Board. Ten sidewalk vending licenses for self-serve vending machines will be issued annually. The Vending License Board shall determine the exact location of each vendor or vending machine in ~~each district~~ ***the Downtown Improvement District (DID) area.*** ~~City Council shall determine the location of sidewalk vendors in area outside the Downtown Improvement District.~~ The City ***Council*** may increase or decrease the number and locations of the sidewalk vendors at any time with proper notification to the vendors. The City ***Officials*** may, if necessary, temporarily relocate any or all vendor(s) by giving the vendor(s) 48- hour notice.

B. **More than Two Licenses Prohibited**. A person who holds or has an interest in two sidewalk vendor licenses as an owner, partner or shareholder shall not have any additional interest, either directly or indirectly, as an owner, partner or shareholder in any other sidewalk vendor license.

C. **License Nontransferable**. A sidewalk vendor license shall not be transferable to another holder except upon the permanent disability of the holder, and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer.(*Ord. 63-2007*, 8/13/2007, §1)

~~**§10-1706. Permitting for Sidewalk Vendors Outside the Permitted Area**~~
~~Applications for sidewalk vendor outside the Downtown Improvement Authority (DID) area shall be submitted to the Codes Enforcement Office in accordance with the regulations contained herein. City Council shall review and consider the approval of these applications and determine the fixed location for each applicant. Vendors will be informed by first class mail if their application is approved or denied within 30 days. (*Ord. 63-2007*, 8/13/2007, §1)~~

§10-1706. License Application

1. **Notice of License Availability**. Applications for sidewalk vending licenses will be available between March 1 and March 15 in the City of Reading Codes Office. Notice of such availability will be made through a newspaper of general circulation not more than 30 days nor less than 14 days prior to March 1.

2. **Application**. Any person interested in applying for a sidewalk vendor's license may, after public notice listed above, make application by filing such forms containing the required information with the City of Reading Codes Office with a nonrefundable application fee of $50 no later than 4 p.m. on March 15. The application shall at a minimum set forth:

A. True name and address of the applicant. P.O. boxes will not be permitted.
B. Photographs and specifications of the proposed sidewalk vendor cart(s), stand(s) or trailer(s) to be used in sufficient detail showing compliance with the design criteria, standards, and specifications in §10-1707 herein.
C. Sufficient detail about the proposed sidewalk vendor and the products proposed for sale must be submitted with the application for evaluation and compliance with applicable City and State Health Codes, along with copies of the required City and State health permits.
D. A copy of the applicant's business privilege license.
E. A copy of the permit allowing for the use of on-unit heating, cooking, water, electrical or cooling devices. Utility connections to neighboring properties shall be prohibited.
F. A complete listing of the items to be offered for sale or distribution.
G. The locations the sidewalk vendor would like to operate at.

Applications will be initially reviewed by the Codes Office for completeness. Incomplete applications may be amended one time and resubmitted on or before March 15 as stated above.

3. **Review of Applications**. Not more than 45 days following application deadline, the Vending License Board shall complete the review of all applications filed and notify the applicants of the results thereof in writing. An application shall be denied and the applicant shall be ineligible for a sidewalk vendor license if:

A. The application is incomplete in any material respect.
B. The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health requirements.
C. The applicant does not have a business privilege license.

D. The applicant, or any natural person having an interest in the entity making the application, has:

(1) An interest in more than two sidewalk vendor licenses.

(2) Within the past 5 years held or had an interest in a sidewalk vendor license that has been revoked.

(3) Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance or convicted of a felony.

E. If an application is denied, the applicant shall be notified in writing of the reason(s) therefore within ten (10) days.

Note: In the event two or more sidewalk vendors apply to operate in the same location, a lottery system will be used to make the determination.

4. Each license shall be issued for one calendar year, April 1 through March 31 and shall be subject to review during the calendar year for adherence to the requirements of this Part.
(*Ord. 63-2007*, 8/13/2007, §1)

§10-1707. Design Standards.
1. **Design and Appearance**.
A. **General Requirements**. All sidewalk vendor carts, trailers or stands shall be designed to be attractive, easily maintained in a sanitary condition, and mobile. ~~There will be no fixed design as such; however, literature on designs, manufacturers, costs and similar details will be available in the City Codes Office.~~ In addition, vending must comply with State and local health and sanitation requirements on such matters as refrigeration, cooking, utensils and appliances, materials and food storage. A health permit must be obtained by all vendors selling food before operation of sales begins.

B. **Required Physical Features**.

(1) **Dimensions.** The dimensions of the vending cart shall not exceed 4 feet x 8 feet. This is the largest in operation size and states the largest exterior dimensions permitted (including wheels, handles and similar parts). Fold-out shelves ***for the display of*** larger merchandise are permitted, provided there will be no interference with pedestrian movement. ***Fold out shelves cannot be used to provide space for customers to consume the products dispensed by the vendor. Awnings and canopies, both attached and unattached from the cart, are prohibited.***

(2) **Mobility**. Vending carts must have at least two wheels. They must permit easy movement and maneuverability in the event of emergency and required relocation.
(3) **License Display**. The vending license must be dearly displayed on the cart in such a manner and location as to be dearly visible to customers.
(4) **Trash Receptacles**. Each vending cart will have provisions for vendor and customer trash disposal. Vendors are responsible for proper disposal of this trash whenever the container becomes full or, at a minimum, at the conclusion of the day's operation.
(5) **Covers**. Umbrellas or canopies are desirable. The umbrella must not conflict with public passage on the right of way, nor be obtrusive to vendors' signs or neighboring business. The cover must be well maintained.
(5) **Carts Self-Contained**. All sidewalk vendor carts shall be so designed that all sale activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a vendor for product display, storage, or disposal of trash shall be prohibited.
(6) **Utility Connections**. Utility connections for water, cooking, cooling, electric, heating, etc., must be contained in the unit. Utility connections to neighboring properties shall be prohibited.
(7) **Fire**. A 5 pound ABC type dry chemical fire extinguisher is required for all vending carts utilizing a flame for any purpose.
(8) **Hand washing Facilities.** Each vending cart must have a hand wash sink with hot and cold water, a posted sign indicating "Employees must wash hands, and comply with the standards as required by the Pa. Dept of Agriculture
(9) **Refuse.** All vending carts must have a refuse receptacle with a tight fitting lid on the unit and a separate refuse receptacle for customers as required by the Pa. Dept of Agriculture. Receptacles must be properly emptied when full or at a minimum at the close of business.
(10) **Cold and Hot Holding Units.** Refrigeration and cold holding units must be capable of reaching and maintaining 41° F or below when in use. Hot holding units must be capable of holding foods at 135° F or above, as required by the Pa. Dept of Agriculture.
(11) **Dish washing.** Single service articles must be used unless adequate dishwashing facilities are available and used. Adequate facilities will include a three compartment sink (separate from the hand washing sink) set up for accomplishing a 3-step method of dishwashing. Where only spatulas, tongs, and similar devices are washed and sanitized, and only stationary equipment must be cleaned, a two-compartment sink may be approved – as required by the Pa. Dept of Agriculture.

(12) **Food and Ice.** All food and beverages must be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption, as required by the Pa. Dept of Agriculture. All food and beverages shall be from approved sources. Food prepared in a private home can only be used if that facility is licensed, registered and inspected by the Pa. Dept of Agriculture and the City of Reading.

(13). **Sign**. No sign shall be permitted except an identification of the vendor's business name and the listing of items available to sale and the price thereof. The sign must not be obtrusive to the public way or conflict with neighboring businesses. (*Ord. 63-2007*, 8/13/2007, §1)

(14) **Serve Safe Certificate.** All vendors are required to obtain and maintain a Serve Safe Certificate from the Department of Agriculture, as required by the State Food Employee Certification Act, within three months of the approval of their Sidewalk Vendor Permit.

C. **Prohibited Features**.

(1) Advertising other than the name of the vendor's business or suppliers. (Advertising must appeal to the sensibilities of the general public.)

(2) Propulsion systems other than manual.

(3) Gas cylinders larger than 20 pounds.

(4) Vending directly from a motor vehicle is prohibited.

(5) Tables, chairs, benches, stools and any other device that would allow the consumption of the product dispensed by the vendor.

(6) Fold out shelves cannot be used to provide space for customers to consume the products dispensed by the vendor.

(7) Awnings and canopies, both attached and unattached from the cart, are prohibited.

D. Waivers will not be permitted for any requirement based on health, safety or sanitation considerations.

E. All carts shall comply with standards and specifications described herein and adopted by the City and the State. Failure to comply shall be sufficient grounds for rejection of a vending license application or suspension or revocation of any license issued.

F. **Maintenance**. All sidewalk vendor carts shall at all times be maintained in good condition and repair. Any repairs to or replacements of sidewalk vendor carts shall

comply fully with the existing design criteria, standards and specification. No replacement cart may be placed into operation until approved.

§10-1708. Sidewalk Vendor Operation Standards

1. **Days and Hours of Operation**. ~~Sidewalk vendor sales may be conducted daily in areas outside the Downtown Improvement between the hours of 9:00 a.m. and 5:00 p.m. from October 1 through March 31 of each year and between the hours of 9:00 am. and 7:30 p.m. from April 1 through September 30 of each year, unless otherwise permitted or restricted by regulations adopted by the City.~~ Sidewalk vendor sales inside the Downtown Improvement District may be conducted between the hours of ~~9 a.m.~~ ***6:00 a.m.*** to 8 p.m. during the permit year.

2. **Daily Removal**. Sidewalk stands and accouterments shall be removed from the sidewalk daily, not later than ½ hour after the close of business or and not returned thereto earlier than ½ hour before the time permitted for opening, unless otherwise provided by the regulations adopted by the City. Any item not removed from the sidewalk at the close of business may be removed and stored by the City of Reading. The vendor will be charged for costs, storage and the penalty prescribed under §10-1714 herein.

3. **Safe and Sanitary Condition**. Sidewalk vendor carts and vending areas shall be maintained in a safe, broom-clean and sanitary condition at all times. Sidewalk vendor carts licensed hereunder to sell food products shall:

A. Be subject to inspection at any time by a City of Reading Codes Inspector and shall at all times be licensed under and be in compliance with all applicable State and local codes.

B. If using portable heating or cooking facilities, subject to inspection at all times by the City of Reading Fire Marshal and Codes Office and shall comply with all applicable codes of the City of Reading. A permit must be obtained from the Fire Marshal before operation of sales begins.

4. **Quiet Operations**. Sidewalk vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound amplifying devices to attract attention, nor verbally hawk or solicit product sales to pedestrians or motorists.

5. **Use and Maintenance of Sidewalk**. All sales and related activity shall be conducted from the vending area during which times the vending cart shall not be moved from the assigned vending location. No products shall be stored or displayed, on the sidewalk or

any adjacent outside area. The sidewalk vendor shall be solely responsible to keep the sidewalk area free of trash, litter, debris or spillage generated by the vendor's business.

The vending cart shall be placed so as not to impede the free movement of pedestrian traffic. The use of tables, chairs, benches, etc., around the vending cart is strictly prohibited.

6. **Display.** The sidewalk vendor license, the City of Reading health permit and the State serve safe certificate shall be posted in plain view of the customers at all times the vendor is operating.

7. **Public Liability Insurance**. Each license holder shall maintain and provide the City of Reading with proof thereof, insurance for public liability, with minimum coverage of $100,000 per individual and $500,000 per incident.

8. **Prohibitions**. An object, device or structure as regulated under the terms of this Part shall be expressly prohibited when its construction, erection, installation or placement would result in any of the following conditions:

A. A passable sidewalk width less than 5 horizontal feet.

B. A horizontal projection from the building line in excess of 5 feet.

C. A reduction in sight triangle.

(*Ord. 63-2007*, 8/13/2007, §1)

§10-1709. Suspension or Revocation of License

A sidewalk vendor license shall be subject to suspension or revocation by the City for violation of any provision of this Part or any regulations promulgated or enacted hereunder, or violation of applicable State or local, including but limited to all health or safety regulations, zoning and taxation.

(*Ord. 63-2007*, 8/13/2007, §1)

§10-1710. Vending License Board

The Vending License Board shall consist of ~~the~~ one member of the Board of Directors of the Reading Downtown Improvement District Authority (DID) or their designee, one member of the City of Reading Planning Commission or their designee, one representative from the Greater Reading Chamber of Commerce, one employee from the Codes Office, Reading Police Traffic Enforcement and Public Works.

A. **Responsibilities**. The Vending License Board shall have the following responsibilities and duties:

(1) Meet no later than April 1 annually to review and approve vendor license applications.
(2) Determine vendor locations for each approved applicant within the Downtown Improvement Authority (DID) area.
(3) Recommend amendments to this Part to the Council of the City of Reading.

(*Ord. 63-2007*, 8/13/2007, §1)

§10-1711. Enforcement

This Part will be enforced under the jurisdiction of the City Codes Office and the Reading Police Department.

(*Ord. 63-2007*, 8/13/2007, §1)

§10-1712 ***Appeal to Court of Common Pleas***

Any person aggrieved by any decision of the respective Board, may appeal to the Court of Common Pleas of Berks County. Such appeal shall be made by a duly verified petition in accord with the Pennsylvania Rules of civil Procedure and shall set forth the factual and legal basis upon which the decision of the Board is alleged to be illegal, in whole or in part. Such petition shall be filed with the Court of Common Pleas and a notice thereof served upon all parties to the appeal, including the Sidewalk Vending Board and City of Reading, within thirty (30) days after service of the decision.

§10-1713. Construction and Severability

In the event any provision, Section, sentence, clause or part of this Part shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect or impair any remaining provision, Section, sentence, clause or part of this Part, it being the intent of the Council of the City of Reading that such remainder shall remain in full force.

(*Ord. 63-2007*, 8/13/2007, §1)

§10-1714. Penalty

Any person violating any provision of this Part or of the regulations promulgated hereunder, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of $75 - $1,000 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days or both. Each day during which the person violated any provision of this Part shall constitute a separate offense. Institution of a prosecution for the imposition of the foregoing penalty

shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.
(*Ord. 63-2007*, 8/13/2007, §1)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA VACATING BEECH STREET AND AN UN-NAMED ALLEY ADJACENT TO BEECH STREET AS PARTICULARLY SURVEYED AND DESCRIBED HEREIN.

WHEREAS, pursuant to the Third Class City Code, 53 Pa. C.S. §37919, the Council of the City of Reading ("Council"), upon Petition by owners of property abutting the proposed street to be vacated, may, by Ordinance, vacate the street described in said Petition; and

WHEREAS, a Petition to vacate Beech Street and an un-named alley adjacent to Beech Street has been presented to Council in September 2009; and

WHEREAS, Beech Street and the un-named alley adjacent to Beech Street are located within the City of Reading; and

WHEREAS, upon review of said Petition, Council believes that the vacation of Beech Street and the un-named alley adjacent to Beech Street is in the best interest of the residents of the City of Reading.

BE IT ENACTED AND ORDAINED, by the Council of the City of Reading, Berks County, Pennsylvania ("City") as follows,

Section 1. Pursuant to 53 Pa. C.S. §37919 of the Third Class City Code, Council hereby vacates the public road known as Beech Street and the un-named alley adjacent to Beech Street within the City of Reading, Berks County, as particularly surveyed and described herein. Copies of the legal descriptions of Beech Street and the un-named alley adjacent to Beech Street to be vacated and the surveys of Beech

Street and the un-named alley showing the location and width thereof are collectively attached to this Ordinance as Exhibit “A” and incorporated herein by reference.

Section 2. All Ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

Section 3. The provisions of this Ordinance are severable and if any provisions, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or entity, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of this Ordinance.

Section 4. This Ordinance shall become effective in accordance with applicable law.

ENACTED AND ORDAINED this _____ day of _____, 2009.

COUNCIL OF CITY OF READING,
BERKS COUNTY, PENNSYLVANIA

ATTEST:

_____ _____
City Clerk President

Submitted to Mayor: _____
Date: _____

Received by the Mayor’s Office: _____
Date: _____

Approved by Mayor: _____
Date: _____

Vetoed by Mayor: _____
Date: _____

BILL NO._____-2009

A N O R D I N A N C E

AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY CONSTRUCTION EASEMENT FROM THE CITY OF READING TO THE SCHUYLKILL VALLEY SCHOOL DISTRICT CONVEYING UNTO SAID SCHOOL DISTRICT A TEMPORARY CONSTRUCTION EASEMENT IN AND OVER A PORTION OF LAND BEING PART OF TAX PIN NUMBER 540100609178 THAT PORTION OF PREMISES DESIGNATED AS A TEMPORARY CONSTRUCTION EASEMENT ON THE "HIGHWAY OCCUPANCY PERMIT PLANS, ROADWAY IMPROVEMENTS FOR SCHUYLKILL VALLEY SCHOOL DISTRICT," DATED JULY 20, 2009, BEING PROJECT #080890 PREPARED BY DERCK & EDSON ASSOCIATES, SITUATE IN ONTELAUNEE TOWNSHIP, BERKS COUNTY, PENNSYLVANIA.

WHEREAS, the City of Reading is the legal owner of real property being part of Tax Pin Number 540100609178, Ontelaunee Township, Berks County, Pennsylvania; and

WHEREAS, the Schuylkill Valley School District has need of access to said property for purposes of construction; and

WHEREAS, the City of Reading is willing to grant to the Schuylkill Valley School District temporary construction easement in connection with said parcel for such purpose.

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Mayor is authorized to execute a Temporary Construction Easement Agreement (attached as Exhibit "A") to convey unto the Schuylkill Valley School District a temporary construction easement upon that portion of premises known and designated as a temporary construction easement on the "Highway Occupancy Permit Plans, Roadway Improvements for Schuylkill Valley School District," dated July 20, 2009, being Project #080890, prepared by Derck & Edson Associates, situate in Ontelaunee Township, Berks County, Pennsylvania.

SECTION 2. This Ordinance shall be effective ten (10) days after passage.

Enacted_____, 2009

_____
President of Council

Attest:

_____
City Clerk

(LAW DEPT.)

Prepared by: James M. Snyder, Esquire
Stevens & Lee
111 North Sixth Street
PO Box 679
Reading, Pennsylvania 19603
610-478-2211

Return to: James M. Snyder, Esquire
Stevens & Lee
111 North Sixth Street
PO Box 679
Reading, Pennsylvania 19603
610-478-2211

TEMPORARY CONSTRUCTION EASEMENT

THIS INDENTURE made this _____ day of _____, 2009 by and between **CITY OF READING,** a third class city of the Commonwealth of Pennsylvania with offices situate at 815 Washington Street, Reading, Pennsylvania 19601 (hereinafter called "Grantor"), and the **SCHUYLKILL VALLEY SCHOOL DISTRICT**, a school district duly organized under the laws of the Commonwealth of Pennsylvania, with offices situate at 929 Lakeshore Drive, Leesport, Pennsylvania, 19533 (hereinafter called "Grantee").

W I T N E S S E T H:

That the said Grantor, for and in consideration of the sum of One Dollar ($1.00), as well as for diverse other considerations affecting the public welfare which it seeks to advance, has granted, bargained and sold, and by these presents does grant, bargain and sell unto the said Grantee, its successors and assigns, the free and uninterrupted use, liberty and privilege of, and passage in and through all that certain tract or parcel of ground situate in Ontelaunee Township, Berks County, Pennsylvania, along Ontelaunee Drive, (SR 4029), as more particularly shown as a Temporary Construction Easement on the "Highway Occupancy Permit Plans, Roadway Improvements for Schuylkill Valley School District," dated July 20, 2009, being Project #080890 (15 sheets) prepared by Derck & Edson Associates, and being more particularly bounded and described in Exhibit "A" attached hereto and made a part hereof.

Being a temporary construction easement interest in and over said land, being part of Tax Pin Number 540100609178, Berks County Records, owned by Grantor by deed recorded

in the Office of the Recorder of Deeds in and for Berks County at Deed Book Volume _____, Page _____.

The easement described herein is a temporary construction easement, access to which is necessary for the installation of certain stormwater drainage devises, including but not limited to stormwater lines, to be located in those certain permanent rights of way granted by Grantor to Ontelaunee Township on even date herewith. This temporary construction easement shall be forever extinguished without further action or writing, upon the initial construction and completion by Grantee, its contractors and agents of such installations.

TO HAVE AND TO HOLD all and singular the privileges aforesaid unto the said Grantee to and for only the proper use and behoof of the said Grantee, its successors and assigns, as and for the convenience of Grantee in the installation of the said storm water drainage devises.

AND THE SAID GRANTOR, for itself, its successors and assigns, does by these presents further covenant, promise and agree to and with the said Grantee, its successors and assigns, that the said Grantor, its successors and assigns shall maintain the surface of the tract or parcel over which the said temporary construction easement does pass, upon completion of the installation of said stormwater drainage devises. However, Grantee, at its sole cost and expense, shall restore the surface of the said temporary easement to the existing grade, and spread grass seed upon completion of said initial construction and installation.

AND THE SAID GRANTOR, for itself, its successors and assigns, does by these presents further covenant, promise and agree to and with the said Grantee, its successors and assigns, that it, the said Grantor, its successors and assigns, shall specially warrant and forever defend the real estate interests conveyed hereby.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be properly executed the day and year first above written.

CITY OF READING

By:_____
Mayor

Attest:_____

COMMONWEALTH OF PENNSYLVANIA :
:ss.
COUNTY OF BERKS :

On this ___ day of _____, 2009, before me, a notary public, the undersigned officer, personally appeared _____, who acknowledged him/herself to be _____ of the City of Reading and that he/she as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the City by him/herself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

I hereby certify that the precise address of the within Grantee is 929 Lakeshore Drive, Leesport, Pennsylvania, 19533.

_____

BILL NO._____-2009

A N O R D I N A N C E

AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AGREEMENT BETWEEN THE CITY OF READING AND ONTELAUNEE TOWNSHIP (BOTH SITUATE IN BERKS COUNTY) THEREBY CONVEYING UNTO ONTELAUNEE TOWNSHIP TWO (2) NON-EXCLUSIVE, PERPETUAL EASEMENTS IN GROSS UPON THAT PORTION OF PREMISES SHOWN AND DESIGNATED AS TWO (2) TWENTY FOOT (20') STRIPS OF LAND AND SHOWN AS A PERMANENT STORMWATER EASEMENT ON THE "HIGHWAY OCCUPANCY PERMIT PLANS, ROADWAY IMPROVEMENTS FOR SCHUYLKILL VALLEY SCHOOL DISTRICT," DATED JULY 20, 2009, BEING PROJECT #080890, PREPARED BY DERCK & EDSON ASSOCIATES, SITUATE IN ONTELAUNEE TOWNSHIP, BERKS COUNTY, PENNSYLVANIA.

WHEREAS, the City of Reading is the legal owner of real property situate along Ontelaunee Drive (S.R. 4029), Ontelaunee Township, Berks County, Pennsylvania, with Tax Pin No. 540100609178, and more particularly described in a certain deed appearing in the Office of the Recorder of Deeds in and for Berks County, Pennsylvania, in Record Book Vol. _____, at Page _____; and

WHEREAS, the City of Reading is willing to grant to Ontelaunee Township a perpetual easement in connection with said parcel and a certain construction project.

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Mayor is authorized to execute an Easement Agreement (attached as Exhibit "A") to convey unto Ontelaunee Township a non-exclusive, perpetual easement in gross upon that portion of premises shown and designated as two (2) twenty foot (20') strips of land and shown as a permanent stormwater easement on the "Highway Occupancy Permit Plans, Roadway Improvements for Schuylkill Valley School District," dated July 20, 2009, being Project #080890,

prepared by Derck & Edson Associates, situate in Ontelaunee Township, Berks County, Pennsylvania.

SECTION 2. The Mayor is authorized to execute an Agreement of Release (attached as Exhibit "B") as required in connection with the conveyance of above referenced easement.

SECTION 3. This Ordinance shall be effective ten (10) days after passage.

Enacted_____, 2009

_____
President of Council

Attest:

_____
City Clerk

(LAW DEPT.)

Submitted to Mayor: _____
Date: _____
Received by the Mayor's Office: _____
Date: _____
Approved by Mayor: _____
Date: _____
Vetoed by Mayor: _____
Date: _____

PREPARED BY: JAMES M. SNYDER, ESQUIRE
STEVENS & LEE
PO BOX 629
111 N. 6TH ST.
READING, PA 19603
610 478-2211
RETURN TO: JAMES M. SNYDER, ESQUIRE
STEVENS & LEE
PO BOX 629
111 N. 6TH ST.
READING, PA 19603
610 478-2211

DEED OF EASEMENT

THIS AGREEMENT made this _____ day of _____, 2009, by and between **CITY OF READING**, a third class city of the Commonwealth of Pennsylvania, with offices situate at 815 Washington Streets, Reading, PA 19601 (hereinafter called "Grantor"), and ONTELAUNEE TOWNSHIP, a municipal corporation and Township of the second class, duly organized under the laws of the Commonwealth of Pennsylvania, with offices situate at 35 Ontelaunee Drive, Reading, Pennsylvania 19605 (hereinafter called "Grantee").

WITNESSETH:

That the said Grantor, for and in consideration of the sum of One Dollar ($1.00), as well as for diverse other considerations affecting the public welfare which it seeks to advance, has granted, bargained and sold, and by these presents does grant, bargain and sell unto the said Grantee, its successors and assigns, the free and uninterrupted use, liberty and privilege of, and passage in and through those certain tracts or parcels of ground situate in Ontelaunee Township, Berks County, Pennsylvania, bounded and described as follows, to wit:

ALL THOSE CERTAIN two 20 foot strips of land shown as a Permanent Stormwater Easement on the "Highway Occupancy Permit Plans, Roadway Improvements for Schuylkill Valley School District," dated July 20, 2009, being Project # 080890, prepared by Derck & Edson Associates, situate in Ontelaunee Township, Berks County and Commonwealth of Pennsylvania and being more particularly bounded and described as follows, to wit:

TRACT NO. 1:

CONTAINING _____ more or less.

TRACT NO. 2:

CONTAINING _____, more or less.

TOGETHER with the perpetual right to the Grantee, its successors and assigns, to construct, lay, operate, renew, alter, inspect, maintain, repair, add to, change the size of, replace and renew such parts of the stormwater drainages lines, and other appurtenances pertaining thereto as the Grantee, its successors, assigns may from time to time require, including any pipes, conduits, grates, valves, boxes, drains, wire, structures and other facilities, used or useful in connection therewith, in, upon, over, under, through and across the said rights-of-way and easements above described.

ALSO, TOGETHER with the free and uninterrupted full right to the Grantee, its successors and assigns, to enter upon said premises with its agents, contractors, workmen, employees, tools, appliances, material and equipment, at all times as it may need and require for the purpose of constructing, repairing, renewing, removing or replacing the same as occasion may require.

TO HAVE AND TO HOLD all and singular the privileges aforesaid unto the said Grantee to and for only the proper use and behoof of the said Grantee, its successors and assigns forever, as and for the installation and maintenance of said stormwater drainage system.

AND THE SAID GRANTOR, for itself, its successors and assigns, does by these presents further covenant, promise and agree to and with the said Grantee, its successors and assigns, that the said Grantor, its successors and assigns, shall maintain the surface of the tracts or parcels over which the said rights-of-way pass.

NO BARRIERS, fences, or curbs or other obstruction to the free and unhampered use of said Easement shall hereafter be permitted, nor shall any automobiles, trucks, motor vehicles or other personal property nor any building or other structure be parked, stored, constructed, or permitted upon any part of said Easement (except for normal vehicular traffic).

AND THE SAID GRANTOR, for itself, its successors and assigns, by these presents, covenants, promises, and agrees to and with the said Grantee, its successors and assigns, that neither the Grantor, nor its successors and assigns shall nor will at any time hereafter ask, demand, or recover or receive of or from the said Grantee, its successors and assigns, any sum or sums of money as and for damages for the granting of said Easements.

THIS DEED may not be altered, modified, amended, or terminated unless by written instrument in recordable form, duly executed by Grantor and Grantee.

THIS DEED shall be construed, interpreted and applied in accordance with the laws of the Commonwealth of Pennsylvania.

THIS DEED shall be recorded of public record, at the sole cost of Grantor.

THE EASEMENT RIGHTS GRANTED HEREBY shall run with the land and be in effect in perpetuity.

AND THE SAID GRANTOR, for itself, its successors and assigns, does by these presents further covenant, promise and agree to and with the said Grantee, its successors and assigns, that it, the said Grantor, its successors and assigns shall specially warrant and forever defend the real estate interests conveyed hereby.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be properly executed the day and year first above written.

CITY OF READING

By_____

Attest:_____

COMMONWEALTH OF PENNSYLVANIA :
:ss
COUNTY OF BERKS :

On this _____ day of _____, 2009, before me, a notary public, the undersigned officer, personally appeared _____, who acknowledged himself to be of the City of Reading and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____

I hereby certify that the precise address of the within Grantee is 35 Ontelaunee Drive, Reading, Pennsylvania 19605.

_____

AGENDA MEMO

COMMUNITY DEVELOPMENT

TO: CITY COUNCIL
FROM: MARTY MAYES, DIRECTOR
MEETING DATE: NOVEMBER 9, 2009
AGENDA MEMO DATE: OCTOBER 1, 2009
REQUESTED ACTION: TO APPROVE SUBMISSION OF THE FFY2010 (36TH YEAR - JANUARY 1, 2010 TO DECEMBER 31, 2010) ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

CD is asking City Council to pass the resolution at the **November 9, 2009** City Council meeting.

BACKGROUND: For the fiscal year beginning on January 1, 2010 and ending December 31, 2010 the City of Reading anticipates receiving approximately $3,000,000 CDBG, $100,000 CDBG program income, $1,000,000 HOME, and $135,000 ESG funds from HUD. HUD requires the City to expend those funds in accordance with federal regulations and City policy as detailed in both a five-year Consolidated Plan and a one-year Action Plan. The Consolidated Plan period runs from January 1, 2009 to December 31, 2013. The Action Plan is the annual budget explaining how the administration intends to spend HUD funds and demonstrate how those expenditures conform to HUD regulations. The plan must be submitted to HUD for review and approval at least forty-five (45) days prior to the beginning of each fiscal year. CD develops the plan based upon requests from City Departments and the general public. CD reviews the requests to determine compatibility with HUD regulations, the Consolidated Plan, and City policy. The plan is advertised and made available for public review and comment for a period of thirty (30) days. CD will present the plan in a formal public hearing broadcast on BCTV. Upon approval by Council, the plan will be sent to HUD for their review and approval.

BUDGETARY IMPACT: None.

PREVIOUS ACTION: None.

SUBSEQUENT ACTION: If approved by Council, the FFY2010 (36th year - January 1, 2010 to December 31, 2010) one year Action Plan will be submitted to HUD on November 13, 2009 for their review and approval.

RECOMMENDED BY: Managing Director and Mayor.

RECOMMENDED MOTION: To approve/deny a Council Resolution authorizing submission of the FFY2009 Action Plan to HUD.

Cc: Ryan Hottenstein, Managing Director
Neil Nemeth, CD
Brenda Skimski, CD
Dan Wright, CD

RESOLUTION No. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF READING AUTHORIZING SUBMISSION OF THE FFY2010 ACTION PLAN TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, under 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) outlines the consolidated submissions for community planning and development programs which will serve as: (1) a planning document for the City that builds on a participatory process at the grass roots level, (2) an application for federal funds under HUD's formula grant program, (3) a strategy to be followed in carrying out HUD programs, and (4) an Action Plan that provides a basis for assessing performance;

WHEREAS, the FFY2009 to FFY2013 five year Consolidated Plan (35th to 39th years - January 1, 2009 to December 31, 2013) specifies activities the City will undertake to address priority needs and local objectives using formula grant funds and program income the City expects to receive during a five year period;

WHEREAS, the FFY2010 (36th year January 1, 2010 to December 31, 2010) Action Plan specifies activities the City will undertake to address priority needs and local objectives using formula grant funds and program income the City expects to receive during the program year;

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF READING THAT:

The FFY2010 (36th year January 1, 2010 to December 31, 2010) Action Plan is hereby approved.

The Mayor, on behalf of the City of Reading, is authorized and directed to file the application for financial assistance to carry out the housing and community development activities outlined in the plan; and to execute the necessary certifications in connection with the plan and provide such additional information as may be required.

PASSED COUNCIL _____, 2009

_____
PRESIDENT OF COUNCIL

ATTEST:

_____

CITY CLERK

CDBG activities	Notes	2008	2009	unspent 9/3/2009	2010 req	2010 AP	differ	%
3rd & Spring Sts. Playground		$ 89,000.00		$ 81,965.00	$ -	$ -		
Abe Lincoln Hotel 108 payment		$ 216,000.00	$ 235,186.00	$ 28,531.00	$ 232,000.00	$ 232,000.00	$ -	0%
Adopt-A-Tree		$ 20,000.00		$ 9,080.00	$ 20,000.00	$ 10,000.00	$ (10,000.00)	-50%
Baer Park		$ 230,000.00		$ -	$ 55,000.00	$ 55,000.00	$ -	0%
Barbey Playground				NA	$ 200,000.00	$ 200,000.00	$ -	0%
BPRC/RRA eminent domain (slum blight)						$ 50,000.00		
Brookline Fencing				NA	$ 15,000.00	$ 15,000.00	$ -	0%
CDBG Admin. (20% cap)	2009 unspent TBD	$ 600,000.00	$ 600,000.00	$ 217,340.00	$ 620,000.00	$ 620,000.00	$ -	0%
Centre Park HD Façade			$ 25,500.00	$ 25,500.00	$ -	$ -		
City Park		$ 100,000.00	$ 354,500.00	$ 435,927.00	$ 60,000.00	$ 60,000.00	$ -	0%
Code Enforcement - PMI		$ 350,000.00	$ 350,000.00	$ 256,961.00	$ 350,000.00	$ 180,000.00	$ (170,000.00)	-49%
Code Enforcement - Trades				see PMI	$ 180,000.00	$ 170,000.00	$ (10,000.00)	-6%
Commercial Façade (slum blight)		$ 100,000.00	$ -	TBD		$ 100,000.00		
De-conversions - OCR Inc.			$ -	$ 202,576.00	$ -	$ -		
E J Dives Fencing				NA	$ 15,000.00	$ 15,000.00	$ -	0%
Emergency Demos (slum blight)		$ 500,000.00	$ 500,000.00	$ 609,909.00	$ 500,000.00	$ -	$ (500,000.00)	-100%
Shuman Building Demolition (slum blight)					$ 850,000.00	$ 475,000.00	$ (375,000.00)	-44%
Essick Playground		$ 48,500.00		$ 44,290.00		$ -		
Fire Truck Purchase		$ 850,000.00		$ 1,177.00	$ 975,000.00	$ -	$ (975,000.00)	-100%
Habitat public improvements		$ 50,000.00		$ 14,744.00	$ -	$ -		
Handicap Ramps		$ 47,000.00	$ 182,500.00	$ 186,172.00	$ -	$ -		
Hamden Park		$ 165,000.00		$ -	$ -	$ -		
Hillside Playground		$		$	$ -	$ -		

		285,000.00		1,136.00				
Litter Baskets		$ 99,960.00		$ -	$ -	$ -		
NHS home ownership assistance		$ 100,000.00	$ 50,000.00	TBD	$ 100,000.00	$ 75,000.00	$ (25,000.00)	-25%
NHS Major System Rehab		$ 46,000.00	$ 75,000.00	TBD	$ 75,000.00	$ 100,000.00	$ 25,000.00	33%
NHS Operation Facelift	Elig.? Fund.?			NA	$ 10,000.00	$ -	$ (10,000.00)	-100%
Northmont Playground			$ 100,000.00	$ 100,000.00	$ -	$ -		
Olivet / PAL Bldg. Façade	Reduced		$ 39,590.00	$ 39,590.00	$ -	$ -		
Orange & Cherry Sts. Playground		$ 82,000.00		$ 82,000.00	$ -	$ -		
Residential Façade (slum blight)		$ 40,000.00		TBD		$ 40,000.00		
Schlegel Park Fencing				NA	$ 15,000.00	$ 15,000.00	$ -	0%
Street Lights				NA	$ 1,000,000.00	$ 208,000.00		
	CDBG activities total					**$ 2,620,000.00**		

CDBG Public Services	**15% of (EN + 2009 PI) Notes**	**2008**	**2009**	**unspent 9/3/2009**	**2010 req**	**2010 AP**	**differ**	**%**
Census Committee	Move to CDBG administration			NA	$ 10,000.00	$ -	$ (10,000.00)	-100%
Community Policing		$ 329,000.00	$ 357,900.00	$ 193,799.00	$ 343,641.00	$ 343,000.00	$ (641.00)	0%
God's Worship	elig/fund Zoning issues			NA	$ 48,000.00	$ -	$ (48,000.00)	-100%
Human Relations			$ 23,800.00	$ 16,107.00	$ 20,972.00	$ 20,900.00	$ (72.00)	0%
Millmont RAFT		$ 15,000.00	$ 18,000.00	$ 17,060.00	$ 18,000.00	$ 18,000.00	$ -	0%
NHS Foreclosure				NA	$ 112,000.00	$ -	$ (112,000.00)	-100%
NHS Tennant Counseling				NA	$ 25,000.00	$ -	$ (25,000.00)	-100%
Olivet's southeast		$ 35,000.00	$ 85,300.00	$ 52,946.00	$ 85,295.00	$ 73,100.00	$ (12,195.00)	-14%
Recreation NEAR Pendora		$ 35,000.00	$ 15,000.00	$ 15,103.00	$ 20,000.00	$ 20,000.00	$ -	0%
Properties of Merit				NA	$ 20,000.00	$ -	$ (20,000.00)	-100%

RBI		$ 30,000.00	$ 15,650.00	$ 10,234.00	$ 119,500.00	$ -	$ (119,500.00)	-100%
activity delivery	$1000 per activity	$ 6,000.00	$ 6,000.00			$ 5,000.00	$ 5,000.00	#DIV/0!
CDBG PS total	**cap is $480,000**				$ 822,408.00	**$ 480,000.00**		

CDBG activities	$ 2,620,000.00
CDBG public services	$ 480,000.00
budgeted	$ 3,100,000.00
CDBG Total (EN + 2010 PI est)	$ 3,100,000.00
Needs to be budgeted	**$ -**

$674,000 Slum and blight cap	
BPRC / RHA eminent domain	$ 50,000.00
Shuman Building demolition	$ 475,000.00
Façade	$ 140,000.00

Sect 108 loan pay. (except Lincoln)	
Goggle Works	$ 65,000.00
Hydrojet	$ 51,000.00
KVP	$ 103,000.00
Readings Future	$ 247,000.00
Sun Rich	$ 144,000.00
Total Section 108 payments to HUD	**$ 610,000.00**

FFY 2010 HOME $1,000,000	**$950,000 + $50,000 inc.**	**2008**	**2009**	**2010 req**	**2010 AP**	**differ**	**%**
Habitat for Humanity			$ 90,000.00		$ -		
HOME Admin. (10% cap)	EN + 2010 est.	$ 95,000.00	$ 95,000.00	$ 100,000.00	$ 100,000.00	$ -	0%
Neighborhood homeownership					$ 100,000.00		

NHS CHDO Set Aside	min. 15% HOME allocation	$ 150,000.00	$ 142,500.00	$ 200,000.00	$ 150,000.00	$ (50,000.00)	-25%
NHS CHDO Operating Admin				$ 42,000.00	$ -	$ (42,000.00)	-100%
OCR Inc.	$8,500 developer fee / unit	$ 580,000.00	$ 572,500.00		$ 572,000.00		
Act delivery - "one" Rehab Specialist	Each address required	$ 125,000.00	$ 50,000.00		$ -		
BPRC Residential Rehabilitation					$ 78,000.00		
	HOME total				**$ 1,000,000.00**		

FFY2010 ESG $135,000		**2008**	**2009**	**2010 req**	**2010 AP**	**differ**	**%**
ESG Admin. (5% cap)		$ 6,750.00	$ 6,750.00	$ 6,750.00	$ 6,750.00	$ -	0%
BCAP				$ 30,000.00	County		
BWIC				$ 70,000.00	County		
Easy Does It				$ 10,000.00	$ 4,250.00	$ (5,750.00)	-58%
Family Promise				$ 25,000.00	County		
Hogar Crea				$ 100,000.00	$ -		
Homeless Coalition				$ 7,115.00	$ -	$ (7,115.00)	-100%
Mary's Shelter	County also funding			$ 100,000.00	$ 14,000.00	$ (86,000.00)	-86%
Mid-Penn Legal				$ 10,000.00	$ -	$ (10,000.00)	-100%
OH / RBES		$ 128,250.00	$ 128,250.00	$ 250,000.00	$ 110,000.00	$ (140,000.00)	-56%
	ESG total				**$ 135,000.00**		

ESG BREAKDOWNS	**ESSENTIAL SERV***	**OPER MAINT**	**HOME PREV***	**TOTAL**
Opportunity House	$ 33,500.00	$ 76,500.00	$ -	$ 110,000.00
Mary's Shelter	$ 7,000.00	$ 6,200.00	$ 800.00	$ 14,000.00
Mid-Penn Legal	$ -	$ -	$ -	$ -
Homeless Coalition	$ -	$ -	$ -	$ -
Easy Does It	$ -	$ 4,250.00	$ -	$ 4,250.00

Administrative	$ -	$ -	$ -	$ 6,750.00
Totals	**$ 40,500.00**	**$ 86,950.00**	**$ 800.00**	**$ 135,000.00**
*30%Cap=$40,500.00				

H:\CDPlan\COMMDEV\PROGRAM YEAR 36 (2010)\ Action Plan spreadsheet

R E S O L U T I O N NO._____

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Denying the appeal of the Certificate of Appropriateness, as attached in the findings of fact, for 47 South Sixth Street, owned by Allegheny East Conference of Seventh Day Adventist, ordering the removal of the vinyl siding as stated in HARB Resolution 65-09.

Adopted by Council_____, 2009

_____

Vaughn D. Spencer
President of Council

Attest:

_____
Linda A. Kelleher CMC, City Clerk

Appeal of Historic Architectural Review Board Certificate of Appropriateness

IN THE MATTER OF	§	**BEFORE THE**
	§	
47 SOUTH SIXTH ST	§	**CITY OF READING**
	§	
OWNED BY	§	**CITY COUNCIL**
ALLEGHENY EAST	§	
CONFERENCE	§	
OF SEVENTH DAY	§	
ADVENTIST	§	
READING, PA	§	
	§	

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER, AND AGREED RESOLUTION

On Wednesday, October 28, 2009 the City of Reading City Council (Council) met to hear testimony on the appeal of the decision made by the Historic Architectural Review Board (HARB) at their May 19, 2009 meeting on the Certificate of Appropriateness for the installation of vinyl siding on the building located at 47 South Sixth Street, owned by Allegheny East Conference of Seventh Day Adventist (Respondent) located in the Callowhill Historic District. By strong majority vote, the HARB voted to approve the installation of siding on the first floor of the building around the storefront and deny the application to install vinyl siding on the upper floors of the building, due to the standards set by the U.S. Secretary of the Interior's Standards for Rehabilitation.

Findings of Fact

1. The Historic Architectural Review Board (HARB) is a Board authorized by the City of Reading Codified Ordinances Chapter 4 Part 1 – Historic Districts. The HARB is a Board of 7 duly qualified members.

2. The Historic Preservation Ordinance mandates that the Preservation Specialist, the HARB, and City Council shall be guided by the United States Secretary of the Interior's Standards for Rehabilitation.
3. The vinyl siding was installed without building permits or a Certificate of Appropriateness. After receiving a verbal complaint, the Historic Preservation Specialist issued a violation letter on April 28, 2009.
4. The Respondent appeared at the May 19, 2009 HARB meeting and requested that the Board issue a Certificate of Appropriateness to allow the installation of vinyl siding on the front and both sides of all floors of this building. The work was already completed without the necessary building permit of Certificate of Appropriateness. HARB approved the Certificate of Appropriateness for vinyl siding on the first floor because the property previously had a metal-type siding on the old store front area. However, HARB denied the installation of vinyl siding on the upper floors because this portion of the façade has never been covered and the siding as installed does not comply with the Secretary of the Interior's Standards for Rehabilitation.
4. The Respondent requested an appeal hearing before City Council and was provided with the hearing date by the City Clerk and the Historic Preservation Specialist.
5. City Council took testimony from the respondent and the Historic Preservation Specialist at the hearing held on Wednesday, October 28, 2009.
6. The Historic Preservation Specialist stated that the building is circa 1930s storefront with glass display windows flanking the center entry doors.
7. The Respondent stated that they were unaware that the property was located within the Callowhill Historic District and thought that the contractor they retained had obtained the proper City building permits before undertaking the project.
8. The Respondent explained that HARB offered several alternatives to siding that would be permissible; however, cost is a factor. The Respondent stated that covering the "soft" brick with siding would ease the maintenance needs of the building and provide insulation.
9. The Historic Preservation Specialist described alternatives that would comply with the Secretary of the Interior's Standards for Rehabilitation.
10. The Historic Preservation Specialist and the Respondent entered photographs of 47 South Sixth Street into the record and Legal Specialist T. Butler entered the agenda and its attachments into the record.

Conclusions of Law

The Historic Preservation Part of the Codified Ordinances of the City of Reading, Pennsylvania, regulates and restricts the construction, reconstruction, alteration,

restoration, demolition or razing of any building, structure, site or object within a designated historic district, in whole or in part, and prescribes certain procedures relating to the issuance of permits for such properties. Until a certificate of appropriateness is issued no construction shall be undertaken, and any construction which has occurred prior to the issuance of the permit shall, if ordered by the Historic Architectural Review Board or City Council, be removed. The project at 47 South Sixth Street was completed without the required permits. The Codified Ordinances require the Historic Preservation Specialist, the Historical Architectural Review Board and City Council to uphold the standards issued by the U.S. Secretary of the Interior.

Order and Agreed Resolution

The City of Reading City Council hereby denies the appeal of the Certificate of Appropriateness for 47 South Sixth Street, owned by Allegheny East Conference of Seventh Day Adventist and upholds the decision of the Historical Architectural Review Board, as adopted in Resolution 65-09. The City of Reading City Council further orders that the vinyl siding installed be removed within sixty (60) days.

Right to Appeal

If you disagree with the decision of City Council you may file an appeal with the Court of Common Pleas of Berks County within 30 days after notice of the decision has been made. Your failure to file the appeal within such 30 days shall preclude an appeal from such decision.

RESOLUTION NO._____-2009

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

That the Solicitor for the City of Reading or his designee is hereby authorized and directed to take all necessary and appropriate action required for the City of Reading City Council to appeal the September 16, 2009 decision of the City of Reading Zoning Hearing Board (Appeal No. 2009-44) regarding the proposed parking lot in the 200 block of Penn Street at their October meeting. The Solicitor for the City of Reading or his designee is hereby further authorized and directed to take all necessary action to represent the interest of the City of Reading as an intervening party in the aforesaid legal action.

Adopted by Council_____,
2009

_____
President of Council

Attest:

_____
City Clerk

(City Clerk/City Solicitor)

RESOLUTION NO._____-2009

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

That the Solicitor for the City of Reading or his designee is hereby authorized and directed to take all necessary and appropriate action required for the City of Reading City Council to appeal the decision of the City of Reading Zoning Hearing Board regarding the variance Appeal No. 2009-58 for a proposed 60 washer/60 dryer Laundromat at 400 South 6th Street granted at their October 14, 2009 meeting. The Solicitor for the City of Reading of his designee is hereby further directed and authorized to take all necessary action to represent the interest of the City of Reading as an intervening party in the aforesaid legal action.

Passed Council_____, 2009

_____
President of Council

Attest:

_____
City Clerk

(City Clerk/City Solicitor)