BILL NO. 26-2013

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, D. NEW OFFICERS AND EMPLOYEES PENSION, SECTIONS 1-671 ET SEQ.

THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, D. New Officers and Employees Pension, Sections 1-671 et seq shall be and are hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.

SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc. of said Code and Chapter shall remain in effect unchanged and likewise are ratified.

SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

Enacted April 22, **2013**

President of Council

Attest:

City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 22 day of April A. D. 20 13. Witness my hand and seal of the said City this 1 day of May A. D. 20 13

CITY CLERK

Submitted to Mayor: _____
Date: 4/23/13

Received by the Mayor's Office: _____
Date: 4/23/13

Approved by Mayor: _____
Date: 4/30/13

Vetoed by Mayor: _____
Date: _____

City of Reading
New Officers and Employees Pension Fund

Effective January 1, 2012

Prepared by Hay Group
100 Penn Square East
Philadelphia, PA 19017

PART 6
PENSIONS

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PART 6
PENSIONS

D. New Officers and Employees Pension Fund.

§1-671. Purpose

1. The purpose of this Part 6D is to establish benefits payable to officers and employees, other than policemen or firemen, or beneficiaries of such officers or employees who are elected or appointed to the staff of the City, for the first time, on or after January 1, 1988.

(*Ord. 79-1987*, 4/27/1987, §A)

§1-672. Definitions.

For purposes of this Part 6D, the following terms shall have the meanings herein defined unless the context clearly indicates a contrary intention.

ANNUAL COMPENSATION - in a calendar year means the total of the monthly compensation of each of the 12 months in such year.

AVERAGE MONTHLY COMPENSATION – a member's average monthly compensation for the highest consecutive 5 years out of the last 10 years.

BOARD - the Officers and Employees Pension Fund Board.

BOARD ADMINISTRATOR - the position designated by the board to act on behalf of the board in matters of day-to-day administration of the plan.

CITY - the City of Reading, Pennsylvania.

CODE – the United States Internal Revenue Code, as amended, including reference, where applicable, to regulations and other guidance issued by the United States Department of Treasury and the Commissioner of the Internal Revenue Service.

COMPENSATION - means pickup contributions plus remuneration received as a City employee excluding refunds for expenses, contingency and accountable expense allowances and excluding severance payments or payments for unused vacation or unused sick leave or comp time that is paid upon termination. Compensation includes amounts excluded from income pursuant to a member's election under a cash or deferred compensation arrangement described in sections 401(k) of the code, an eligible deferred compensation plan described in section 457(b) of the code, a cafeteria plan described in section 125 of the code, and, effective January 1, 1998, a qualified transportation fringe benefit plan under section 132(f) of the code. Notwithstanding the preceding the annual compensation of a member shall be limited as set forth in section 401(a)(17) of the code (as adjusted annually pursuant to section 401(a)(17)(B) of the code and announcement by the Internal Revenue Service; for 2011, $245,000). Compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the compensation for

such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

FUND - the City of Reading Officers and Employees Pension Fund.

MONTHLY COMPENSATION - consists of basic monthly compensation plus longevity payments but excludes overtime pay, educational incentive payments, bonuses, payments in lieu of dependent's health insurance costs, and other special forms of compensation.

MEMBER - an officer or employee who is elected or appointed to an office of, or employed by, the City and becomes a member of the pension fund, for the first time, on or after January 1, 1988. It does not include policemen or firemen. Membership of eligible officers and employees is a required condition of employment. An officer or employee who becomes a member of the Officers and Employees Retirement System before January 1, 1988, shall remain subject to Part 6C of the Codified Ordinances of the City of Reading entitled "Officers and Employees Retirement System." Any officer or employee who is re-appointed on or after January 1, 1988, having had previous employment prior to January 1, 1988, shall be subject to the pension provisions applying to persons employed prior to January 1, 1988, i.e., *Ord. 13-1998*, 4/27/1998 (Part 6A).

(*Ord. 79-1987*, 4/27/1987, §B)

PLAN (or SYSTEM) - the New Offices and Employees Pension Plan.

QUALIFIED MILITARY SERVICE - any service in the uniformed services (as defined in chapter 3 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

SPOUSE – the spouse of a member, as determined under law of the Commonwealth of Pennsylvania. Effective for designations made after December 31, 2006, a member may designate his/her spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

§1-672.1 Trust Provisions.

The Officers and Employees Retirement Board, as constituted under § 1-653, shall serve as the board of the plan and shall administer the plan consistent with its duties under § 1-653 and the terms of this plan. The board shall serve as the fund trustees and the assets of the fund shall be held in trust for the exclusive benefit of the members of the Officers and Employees Plan and this Plan and their beneficiaries, and a reversion of fund assets or a return of City contributions is prohibited, except as otherwise provided by applicable law or IRS Revenue Ruling 91-4. The board may use fund assets to pay the reasonable costs of administering the plan, consistent with the requirements of § 1.653.1.

§1-673. Normal Retirement.

A member shall be eligible for normal retirement after attainment of age 65 and completion of 10 years of service.

(*Ord. 79-1987*, 4/27/1987, §C)

§1-674. Basic Benefit.

The basic benefit for a member who has met the eligibility requirements for normal retirement is a monthly pension equal to 2% of the member's average monthly compensation, multiplied by the number of years of service completed by the member, up to a maximum of 25 years of service. Such monthly pension shall be payable for the life of the member with payments continuing after the member's death to the member's spouse equal to 50% of the amount payable to the member on the day of his death. Such member must have been married to the spouse for at least 1 year prior to the date of the member's death in order for the payments to continue to the spouse.

(*Ord. 79-1987*, 4/27/1987, §D)

§1-675. Service Increment.

A member who has completed in excess of 25 years of service shall receive an additional incremental monthly pension equal to 1.25% of average monthly compensation for the highest consecutive 5 years out of the last 10 years preceding his/her date of retirement, multiplied by the number of years of service completed by the member in excess of 25 years of service.

(*Ord. 79-1987*, 4/27/1987, §E)

§1-676. Early Retirement.

A member is eligible for early retirement after attainment of age 50 and completion of 10 years of service. The early retirement benefit shall be equal to the member's accrued pension, as hereinafter defined in §1-677, accrued to the date of early retirement, reduced by 1/3 of 1% for each month that the member's early retirement date precedes his/her normal retirement date.

(*Ord. 79-1987*, 4/27/1987, §F)

§1-677. Accrued Pension.

1. The accrued pension of a member at any determination date shall be equal to 2% of the member's average monthly compensation multiplied by the number of years of service completed by the member at such date, up to a maximum of 25 years of service. In addition, the accrued pension shall also include an incremental pension of 1.25% of average monthly compensation, multiplied by the number of years of service completed by the member at such date in excess of 25 years of service.

(*Ord. 79-1987*, 4/27/1987, §G)

2. **USERRA and HEART Requirements.** Effective December 12, 1994, any member who is absent on account of qualified military service and returns to City service within the period of time during which his reemployment rights are protected by federal law shall receive service credit, contributions, benefits and other rights provided under this Subsection in lieu of the service credit, contributions, benefits or other rights to which the member would otherwise be entitled under this Section, except to the extent the member would be entitled to more advantageous service credit, contributions, or benefits or more valuable rights under other provisions of this Section. A member described in this Subsection shall be credited with years of service for the full period of qualified

military service, provided such member pays into the fund an amount equal to the contributions such member would have been required to make but for his absence on account of qualified military service, within the five-year period of time beginning on his reemployment date (or the lesser period of time beginning on such reemployment date that is three times the length of his qualified military service), and the City shall make all contributions that would have been due on account of such member contributions, and the member shall be entitled to all other rights and benefits accruing on account of such contributions and service. For purposes of this Subsection, a member shall be treated as having received compensation during his qualified military service based on the rate of compensation the member would have received but for his qualified military service compensation, or if such amount is not reasonably certain, his average compensation during the 12-month period immediately preceding his qualified military service (or, if shorter, the period of time immediately preceding his qualified military service). This Subsection shall be applied in a manner consistent with section 414(u) of the code.

(A) Effective January 1, 2007, in the case of a member who dies while performing qualified military service, the member's surviving beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided herein as though the member had resumed employment with the City on the day before death and then terminated employment on account of death in accordance with section 401(a)(37) of the code.

(B) Effective with respect to years beginning after December 31, 2008, for purposes of applying the limits on annual benefits and contributions and for purposes of applying other applicable provisions of the code, but not for purposes of determining benefits and contributions, "compensation" shall also include differential wage payments, as defined in section 3401(h) of the code, paid by the City to an employee on account of qualified military service.

§1-678. Disability Benefits.

If a member becomes disabled, he/she shall be entitled to a monthly disability benefit. The monthly disability benefit shall be equal to the benefit accrued as of the date of disability. The minimum disability benefit shall be equal to 20% of such member's average monthly compensation. In the event a member becomes disabled prior to being employed by the City for a period of 10 years, the benefits shall be calculated as follows: average monthly compensation for the highest consecutive 5 years out of a total period of employment will be used. If a member has completed less than 5 years of service as of the date of disability, average monthly compensation for the entire period of employment will be used. In the event the member works less than a month prior to his disability, the average monthly compensation shall be determined by annualizing the compensation that the employee received on a daily basis so as to establish an average "monthly compensation."

(*Ord. 79-1987*, 4/27/1987, §H; as amended by *Ord. 79-2010*, 10/25/2010, §1)

§1-679. Survivor Benefits.

If a member is eligible for early retirement and dies while employed by the City, a monthly pension shall be payable to the member's spouse for the spouse's lifetime equal to 50% of the monthly pension the member was eligible to receive had he/she been retired as of the day of his/her death. Such member must have been married to the spouse for at least one year prior to the date of the member's death in order for the spouse to qualify for this benefit.

(*Ord. 79-1987*, 4/27/1987, §I)

§1-680. Vesting.

If a member terminates City employment prior to meeting the eligibility requirements for retirement under the plan but after having completed 10 years of service, he shall be entitled to vest in his/her accrued pension and receive his/her pension benefit when such member attains normal retirement age by filing with the City a written notice of his/her intention to vest, within 90 days of the date of his/her termination. Upon reaching the date which he/she would have been eligible for normal retirement if he/she had continued to be employed by the City, such member shall be paid a monthly pension benefit equal to the benefit accrued as of the date of termination. However, the member may elect to receive his/her monthly pension benefit after he/she has met the eligibility requirements for early retirement and prior to attaining normal retirement, in which case, the monthly pension benefit payable to the member shall be equal to the benefit accrued as of the date of termination, reduced by 1/3 of 1% for each month by which the member's early retirement date precedes his normal retirement date.

(*Ord. 79-1987*, 4/27/1987, §J)

§1-681. Member Contributions.

All members shall pay into the fund monthly, 3% of gross monthly compensation, beginning with the member's date of hire in an eligible position.

(*Ord. 79-1987*, 4/27/1987, §K)

§1-682. Refund of Contribution or Rollover.

Provided a member has not filed an election to vest under §1-680, and 90 days has passed since member's employment was terminated, on termination of full-time employment, before a member has met the eligibility requirements for early retirement, a refund or a direct rollover, if elected, shall be made of all contributions paid into the fund by such member with interest compounded at the rate of 5% per annum. The member shall have 90 days from the date of termination of full-time employment to elect a direct rollover or a distribution by providing to the board administrator the appropriate form evidencing such election. The form shall be prepared by the board administrator and approved by the board. Direct rollovers shall be administered in accordance with Section 1.683.2. In the case of the member's death after his/her election and prior to the fund's distribution, such refund shall be paid to the member's designated beneficiary, or, in the absence of such designation, to the member's estate. Any member who leaves employment subject to the provisions of this Part and is re-appointed, shall receive credit for prior years of service only by repaying repay to the fund the amount refunded by the fund with interest compounded at the rate of 5% per annum from the date of refund by the fund to the date of payment which shall be made within 1 year from the date of re-appointment. In the event the payment is not made within the specified time limit, the right to obtain credit for prior years of service shall be lost for the applicable prior years' period and any repayments shall be refunded without interest.

(*Ord. 79-1987*, 4/27/1987, §L; as amended by *Ord. 100-1993*, 9/15/1993, §1; and by *Ord. 85-2010*, 10/25/2010, §1)

§ 1-683. Maximum Permissible Benefits and Contributions – Code Section 415.

1. In General. Notwithstanding anything herein to the contrary, effective for limitation years beginning on or after January 1, 1995, the annual benefit (attributable to City contributions and pickup contributions treated as City contributions with respect to a member payable under the plan and all other defined benefit plans of the City, when expressed in the form of a straight life annuity, shall not exceed the "maximum permissible benefit." Effective for limitation years beginning on or after January 1, 2008, in no case shall any amount accrue in a limitation year, with respect to a member under the plan or all other deferred benefits plans of the City, that would exceed the maximum permissible benefit. For purposes of this Section, the member's maximum permissible benefit shall equal the dollar limit prescribed in section 415(b)(1)(A) of the code ($195,000 in 2011) or such other amount as may be prescribed under regulations issued by the U.S. Secretary of the Treasury under section 415(d) of the code, adjusted in accordance with paragraphs (2), (3) and (4), below. In addition, the "annual additions," as defined in section 415(c)(2) of the code, made by or on behalf on any member attributable to member contributions to the plan other than pickup contributions treated as City contributions, together with any annual additions, to any code section 401(a)-qualified defined contribution plan maintained by the City shall not exceed the maximum amount determined under section 415(c)(1) of the code for any limitation year. Solely for purposes of determining the maximum annual addition prescribed in section 415(c) of the code, compensation means a member's wages as defined in section 3401(a) of the code and all other payments of compensation to the member from the City for which the City is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the code. Compensation shall be determined without regard to any rules that limit the compensation included in wages based on the nature or location of the employment or the services performed. Compensation shall include any amount which would otherwise be deemed compensation under this definition but for the fact that it is subject to a salary reduction agreement under any plan described in section 457(b), 132(f), or 125 of the code. Solely for this purpose, compensation also includes regular compensation received after such member's severance from employment (as defined in Treas. Reg. § 1.415(a)-1(f)(5) (but not severance payments)); provided that payment of such compensation is made by the later of 2-1/2 months after the member's severance from employment or the end of the calendar year that includes the member's severance from employment; and provided further, that in order for these post-severance payments to be considered compensation for this purpose, these amounts may only consist of the following (which would otherwise constitute compensation): (i) regular compensation for services during the member's regular working hours, or compensation for service outside the member's regular work hours (such as overtime or shift differential), commission, bonuses, or similar payments, if such payment would have been paid to the member prior to severance from employment if the member had continued in employment with the City; (ii) payment for unused, accrued, bona fide sick, vacation or other leave (but only if the member would have been able to use the leave if employment had continued); and (iii) for plan years beginning on or after January 1, 2009, payments to members who do not currently perform services for the City by reason of qualified military service (as that term is defined in section 414(u)(1) of the code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service. Other types of payments paid to the member after severance from employment shall not be considered compensation for this purpose, even if paid within the time frame described above. In no event, however, shall compensation for this purpose include any amounts not permitted to be included under section 415 of the code.

2. Adjustment to the maximum permissible benefit. Adjustments shall be made to the maximum permissible benefit in accordance with paragraphs (A), (B) or (C) below:

A. If a member's benefit is payable in any form other than a straight life annuity, the determination as to whether the limitation of this Section has been satisfied shall be made by adjusting such benefit to the form of a straight life annuity beginning when the payment of benefits begins. The adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greater of (1) the equivalent annual benefit computed using seven percent interest rate and GAM83 mortality table, and (2) the equivalent annual benefit computed using an interest assumption of five percent (for distributions made during plan years beginning in 2004 or 2005, 5.5 percent) and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. Notwithstanding the preceding sentence, effective for plan years beginning after 2005, for purposes of determining whether any benefit payable as a lump sum satisfies the limitation of this Section, the adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greatest of: (x) the equivalent annual benefit computed using the interest rate and mortality table specified in the plan for actuarial equivalence for the particular form of benefit payable; (y) the equivalent annual benefit computed using an interest rate assumption of 5.5 percent and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code; and (z) the equivalent annual benefit computed using the interest rate specified in section 417(e)(3) of the code and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code divided by 1.05. However, for the purposes of such adjustment, any ancillary benefit that is not directly related to retirement income benefits and that portion of any joint and survivor annuity that is actuarially equivalent to the default form of payment benefit payable to a married member shall not be taken into account.

B. If the benefit of a member who is not a "qualified participant," as defined in section 415(b)(2)(H) of the code, begins before he or she reaches age sixty-two (other than on account of becoming disabled by reason of personal injuries or sickness or death), the maximum permissible benefit shall be adjusted in accordance with section 415(b) of the code, to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit determined under Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-two. (1) For limitation years beginning before July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the Unisex UP-84 Mortality Table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two, both determined without

applying the limitations of section 415 of the code. (3) For limitation years beginning prior to 2002, the reduction shall not reduce the maximum permissible benefit below $75,000 if the benefit begins at or after age fifty-five, or, if the benefit begins before age fifty-five, the equivalent of the $75,000 limit for age fifty-five. Any decrease in the maximum permissible benefit made in accordance with this paragraph shall not reflect a mortality decrement.

C. If the benefit of a member begins after he or she reaches age sixty-five, the maximum permissible benefit of Subsection (1) shall be increased in accordance with section 415(b) of the code and the regulations there under to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit of Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-five. (1) For limitation years beginning before July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of (a) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the unisex UP-84 mortality table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate assumption and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of: (a) the actuarial equivalent (at such age) of the maximum permissible benefit using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the maximum permissible benefit multiplied by the ratio of the annual amount of the immediately commencing straight life annuity payable to the member, computed disregarding the member's accruals after age sixty-five, but including any actuarial adjustments even if those adjustments are applied to offset accruals, to the annual amount of the straight life annuity that would be payable under the plan to a hypothetical member who is sixty-five years old and has the same accrued benefit (with no actuarial increases for commencement after age sixty-five) as the member receiving the distribution (determined disregarding the member's accruals after age sixty-five and without applying the rules of section 415 of the code). For purposes of both (1) and (2) above, mortality between age sixty-five and the annuity starting date shall be ignored.

3. Lowest limitation of maximum permissible benefit. Except as provided in Subsection (4) hereof, the maximum permissible benefit shall never be deemed to be an amount which is less than $10,000, provided the member is not, and has never been, a member in any code section 401(a)-qualified defined contribution plan of the employer.

4. Maximum permissible benefit applicable to certain members who have less than ten years of participation service with the City. The maximum permissible benefit applicable to any member, other than a retiree receiving disability benefits by reasons of personal injuries or sickness or beneficiaries, survivors, or the estate of a member, who has less than ten years of participation service with the City shall be equal to the lesser of the maximum permissible benefit or $10,000 multiplied by a fraction, the numerator of which is the number of the member's years (or part thereof) of participation service in the plan as of and including the current limitation year, and the denominator of which is ten.

5. Limitation of accrued benefit if annual benefit exceeds maximum permissible benefit. If the member's annual benefit exceeds the maximum permissible benefit after the application of the appropriate factors, such member's accrued benefit shall be limited to an amount which produces an annual benefit equal to the maximum permissible benefit, adjusted, where applicable, as set forth in this Section.

6. For purposes of this Section, "participation service" means an accrual computation period for which the following conditions are met: (A) the member is credited with at least the period of service for benefit accrual purposes, required hereunder in order to accrue a benefit for the accrual computation period, and (B) the member is included in the plan for at least one day of the accrual computation period. If these two conditions are met, participation service credited to the member hereunder shall equal the amount of benefit accrual service credited to the member for such accrual computation period.

§ 1-683.1. Required Minimum Distributions – Code Section 401(a)(9).

Notwithstanding any other provision herein, beginning after 1986, any and all benefit distributions made under the plan on or after shall be made in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the code, including the incidental death benefit requirements of section 401(a)(9). In accordance with this requirement, the following rules shall apply:

1. Distributions that begin during the member's lifetime shall begin no later than April 1 following the calendar year in which the member retires or the calendar year in which the member attains age seventy and one-half and be distributed over the life of the member or the joint lives of the member and his beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his beneficiary).

2. If a member dies before his entire interest has been distributed, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

3. If the member dies before receiving any distributions from the plan and (A) the death benefit is payable to his surviving spouse, such death benefit shall be distributed over a period not exceeding such spouse's life (or life expectancy) beginning no later than: (1) December 31 of the calendar year immediately following the calendar year in which the member died, or (2) December 31 of the calendar year in which the member would have attained age seventy and one-half; (B) the death benefit is payable to a designated beneficiary other than the member's surviving spouse, such death benefit shall be distributed to such beneficiary over a period not exceeding the beneficiary's life (or life expectancy) beginning no later than December 31 of the calendar year following the member's death; and (C) if the death benefit is not payable to the member's surviving spouse or designated beneficiary, the member's entire interest will be paid no later than December 31 of the calendar year which includes the fifth anniversary of the member's date of death.

§ 1-683.2. Direct Rollovers.

1. Direct Rollovers. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this Subsection, on and after January 1, 1993 a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover

distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this Section, the following definitions shall apply:

   A. Eligible rollover distribution: An 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); the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution that is made upon hardship of a member. Notwithstanding anything in this paragraph to the contrary, for distributions made after December 31, 2001, 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, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code, or a governmental 457 plan 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.

   B. Eligible retirement plan: An eligible retirement plan is an individual retirement account described in code section 408(a), an individual retirement annuity described in code section 408(b), a Roth IRA as pursuant to code section 408A(e), for distributions made after December 31, 2001 an annuity plan described in code section 403(a) or an annuity contract described in code section 403(b), a qualified trust described in code section 401(a), or for distributions made after December 31, 2001 an eligible plan under code section 457(b) 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. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in code section 414(p). Effective in the case of an eligible rollover distribution to a surviving spouse before 2002 or to a beneficiary other than a surviving spouse after 2009, an eligible retirement plan is an individual retirement account or individual retirement annuity.

   C. Distributee: A distributee includes any member. In addition, a member's surviving spouse and the member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. Effective with respect to distributions after 2009, a distributee also means a beneficiary of a member other than a surviving spouse.

   A. Direct rollover: A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

§1-683.3. Miscellaneous.

1. Nonrepealer and Severability.

   A. This Part does not repeal the existing City ordinance outlining the provisions of the City of Reading Officers and Employees' Pension Fund but establishes new provisions for officers and employees hired on or after January 1, 1988 (Part 6A). The provisions of this Part are severable, and if any of the provisions shall be held to be illegal, invalid or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intent of Council that this Part would have been adopted if such illegal, invalid or unconstitutional provision or provisions had not been included herein. (*Ord. 79-1987*, 4/27/1987, §M)

2. Construction. The masculine gender includes the feminine and the singular includes the plural, unless the context clearly indicates otherwise.

3. Governing Law. The plan and fund are governed by the Third Class City Code of Pennsylvania. The plan is a governmental plan as defined in section 414(d) of the code and section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and as such is exempt from the requirements of ERISA and those requirements of the code from which a governmental plan is specifically exempt.

4. Pre-ERISA Vesting Requirement. In the event of the plan's termination or the City's permanent cessation of contributions, each member shall be vested to the extent the plan is funded.

5. Reemployment Rights of Veterans. Notwithstanding anything in this plan to the contrary, benefits contributions, and service credit with respect to qualified military service (as defined in section 414(u)(5) of the code) will be provided in accordance with section 414(u) of the code.

6. Amendments. The City Council shall have the authority to amend, freeze, or terminate the plan in its sole discretion, subject to any limitations imposed by applicable law.

For the City of Reading, Pennsylvania
By its City Council

_____ _____
Signature **Date**

_____
Name and Title

Appendix A

Corrective Retroactive Amendments

A-1. Definition of "Compensation" is limited as follows:

A. For Plan Years Beginning on or after January 1, 1989 and before January 1, 1994. Effective as of the first day of the first plan year beginning after 1988 and ending before 1994, the annual compensation of each member taken into account for any purpose under the system shall not exceed $200,000 (as adjusted under section 401(a)(17) of the code).

B. For Plan Years Beginning on or after January 1, 1994 and before January 1, 2002. Effective for plan years beginning on or after January 1, 1994 and before January 1, 1997, the annual compensation of each member taken into account for any purpose under the system shall not exceed $150,000 (as adjusted under section 401(a)(17) of the code). For plan years beginning on or after January 1, 1997 and before January 1, 2002, any reference herein to the limitation under section 401(a)(17) of the code shall mean the limit described herein; specifically, $160,000 for any determination period beginning in 1997, 1998, or 1999; and $170,000 for any determination period beginning in 2000 or 2001. The adjustment to the compensation limit under section 401(a)(17) of the code in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefit in the current plan year, the compensation for that prior determination period is subject to the limit described herein as in effect for that prior determination period.

C. Plan Years Beginning on or after January 1, 2002. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed $200,000. Annual compensation means compensation during the plan year or the determination period. The $200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

A-2. Section 415 Limits on Accrued Benefits.

A. In General. Notwithstanding anything in the retirement system to the contrary, the limitations on benefits and contributions contained in section 415 of the code are generally applicable to benefits payable under the system effective for plan years after December 31, 1975; except, however, a person who was an active member before October 3, 1973 whose annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954 (the 1954 code)) does not exceed 100 percent of his annual rate of compensation on the earlier of (i)

October 2, 1973 or (ii) the date on which he separated from City service, and such annual benefit is not greater than the annual benefit which would have been payable to the such member on retirement if (i) all the terms and conditions of the system in existence on such date had remained in existence until such retirement and (ii) his compensation taken into account for any period after October 2, 1973 had not exceeded his annual rate of compensation on such date, and in the case of a member who separated from City service prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from service, then such annual benefit shall be treated as not exceeding the limitations of subsection 415(b) of the 1954 code.

B. Combined Limit. Without negating the generality of C-2(a), for limitation years beginning after December 31, 1975 and before January 1, 2000, if a member participates in one or more defined benefit plans and makes member contributions other than contributions treated as pickup contributions or participates in one or more code section 401(a)-qualified defined contribution plans, or a welfare benefit fund as defined in section 419(e) of the code, under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in section 419A(d)(3) of the code, or an individual medical account, as defined in section 415(l)(2) of the code, which is part of a pension or annuity plan, the member's accrued benefit under the system shall be adjusted to the extent required, if at all, so that the sum of the defined benefit fraction and the defined contribution fraction for any limitation year shall not exceed 1.4 (effective January 1, 1982, 1.0).

(1) Defined Benefit Fraction. The defined benefit fraction for any limitation year is a fraction (a) the numerator of which is the member's projected annual benefit (determined as of the close of the limitation year) under all such defined benefit plans (whether or not terminated), and (b) the denominator of which is (i) the sum of the maximum amount of annual additions to such account which could have been made for each year and for each prior year, and (ii) effective January 1, 1982, the lesser of (A) $90,000, or the applicable dollar limit under section 415(b) of the code for such limitation year multiplied by 1.25, or (B) for limitation years ending before 1995, the member's average annual compensation for the three consecutive calendar years of active participation, that produce the highest average, multiplied by 1.4.

(2) Defined Contribution Fraction. The defined contribution fraction for any limitation year is a fraction (i) the numerator of which is the total of the amount treated as annual additions, under section 415(c) of the code, to the member's accounts as of the close of the limitation year under all defined contribution plans (whether or not terminated), and (ii) the denominator of which is the lesser of the following amounts determined for the limitation year and for each prior limitation year for which the member was an employee (regardless of whether any plan was in existence during such year):

(a) $30,000, or the applicable dollar limit for each such limitation year, multiplied by 1.25, or

(b) 35% of the member's compensation, for each such limitation year.