BILL NO 25-2013

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, C. OFFICERS AND EMPLOYEES RETIREMENT SYSTEM, SECTIONS 1-651 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, C. Officers and Employees Retirement System, Sections 1-651 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Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc.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. 2013. Witness my hand and seal of the said City this 4 day of May A. D. 2013

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
Officers and Employees Retirement System

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

C. Officers and Employees Retirement System.

§1-651. Definitions.

The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meaning:

BOARD - Officers and Employees Retirement 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.

EMPLOYEE - a person employed by the City.

FUND - Officers and Employees Retirement Fund.

OFFICER - a person elected or appointed to City service.

MEMBER – a current or former employee or officer of the City who is elected or appointed to the staff of the City, for the first time prior to January 1, 1988, and excluding for such period of time those individuals who are concurrently eligible to accrue benefits under the City's Police Pension Fund or Fireman's Pension Fund.

PERSON - an officer or employee of the City.

PLAN (or SYSTEM) - the Officers and Employee Retirement 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.

SALARY, WAGES, PAY or 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 his paid upon termination. Salary, wages, pay or 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 salary, wages,

pay, or 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). Salary, wages, pay or compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If salary, wages, pay or compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the salary, wages, pay or compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

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.

(*Ord. 13-1998*, 4/27/1998, §1)

§1-652. System Created.

The City of Reading has heretofore and does reaffirm the creation and hereby does create under the provisions of the Act of Assembly of the Commonwealth of Pennsylvania No. 362, approved May 23, 1945, 53 P.S. §39374.1 et seq. under the conditions and subject to the qualifications hereinafter stated, a retirement system for officers and employees of the City, but not including firemen and policemen or employees and officials hired or after January 1, 1988.

(*Ord. 13-1998*, 4/27/1998, §2)

§1-653. Officers and Employees Retirement Board.

The Council of the City of Reading hereby reconstitutes an Officers and Employees Retirement Board which shall consist of the following:

1. The Officers and Employees Retirement Board which has heretofore been created shall henceforth consist of the Mayor, the City Auditor, the Director of Finance, two employees to be chosen by the employees contributing to the retirement fund and a retired City employee who shall be appointed by the Mayor subject to confirmation by City Council. (*Ord. 15-1999*)

2. When any of the following are unavailable: the Mayor, City Auditor or Director of Finance then the Mayor, City Auditor or Director Finance shall in writing appoint a designee to act in his/her place for such period or periods as shall be necessary with the approval of the board. In the event that one or more of the foregoing offices are vacant then the acting Mayor, acting City Auditor or acting Director of Finance shall serve on the board until the applicable office is no longer vacant. (*Ord. 15-1999*)

3. The representatives elected by the employees shall be elected for the term to run concurrently with the term of the Mayor, and shall be from two different Departments of the City Government.

4. Members of the board shall serve for the term for which they are elected and until their successors are elected.

5. The members of the board shall serve without compensation, but shall be reimbursed for any necessary expenditures.

6. It shall be the duty of said board to register all persons employed by the City other than firemen or policemen and to administer the collection, investment and distribution of the fund herein provided for, and make such reasonable rules in the premises as said board may deem necessary for its efficient organization, and to carry into effect the provisions of this Part.

7. The board shall keep a complete set of books showing all of its transactions, and a complete record of all its proceedings, which shall be open to inspection by any employee contributing to the fund and to the public.

8. All payments of compensation made under the provisions of this Part shall be made by check only, signed in such manner as may be fixed by the rules of the board.

(*Ord. 13-1998*, 4/27/1998, §3; as amended by *Ord. 15-1999*, 7/12/1999, §1)

§1.653.1. Fund Created; Receipt of Contributions; Payment from and Investment of Fund.

1. There shall be created by said board a fund to be known as the Officers and Employees Pension Fund.

2. It shall be the exclusive duty of the board to serve as fund trustees and to receive, disburse, retain, invest and reinvest the fund created by virtue of this Part 6C and to pay over by warrant or check the amount due under this plan to members or their widows or widowers or their estates or children. The board, with the approval of the Director of Finance of the City, may enter into agreements with reputable institutions to perform any of the aforesaid duties, including, but not limited to advising the board with respect to any and all of its duties, but in the event the board does so, any such agreement shall require the institutions involved to provide the board with written reports concerning its activities at least once every 6 months. The compensation of such institutions shall be paid by the fund or such source of pay as is designated by applicable law. The fund shall be used for the exclusive purpose of funding and paying benefits provided hereunder, 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.

§1-654. Employment Statement.

The Human Resource Department of the City shall on the first day of each calendar month, notify the Board of the employment, or the entering into office of new City officers and employees, and shall submit to the board, a statement showing the name, sex, title, date of birth, compensation, duties, and commencement date of each of such new City officers and employees, and shall also certify to the board, at the same time, all removals, withdrawals, and changes in salary of any member of the officers and employees' retirement system, which shall have occurred during the preceding month.

1. The Director of Finance or his designee has cause and shall continue to cause to be deducted on each and every payroll of a member for each and every payroll period subsequent to November 1, 1946, the following per centum of the total amount of salary earned by each member, in such payroll period in accordance with the provisions of this Part, which sum so deducted shall be applied to the purposes provided for by this Part.

2. The Director of Finance or his designee shall pay each of the amounts so deducted into the Treasury of the officers and employees' retirement fund, and he shall transmit to the Pension Administrator each pay period, a detailed statement of all amounts so paid in.

	Single	Married
Single Coverage	3%	3½%
Single Coverage + Increments	3 ½%	4%
Joint Coverage	3 ½%	4%
Joint Coverage + Increments	4%	4½%
Dual Coverage	5%	5½%
Dual Coverage + Increments	5½%	6%

3. Single coverage is a deduction for pension only (does not include Social Security). This coverage is no longer available (since September 1959). Joint Coverage includes Social Security but is subject to a 40% of Social Security deduction to be applied against the City pension. This offset can be eliminated by payment of 1½% of the salary earned since January 1960 or date of employment whichever is the earliest date. Upon payment of the offset the coverage is then known as dual coverage which entitles the employee to pension and Social Security without deduction of the offset.

(*Ord. 13-1998*, 4/27/1998, §4)

§1-655. Right to and Amount of Pension Benefits.

Every person now or hereafter elected or appointed to an office of, or employed by, the City of the age of 60 years and upwards who shall have so served as an employee for a period of 20 years or more, shall upon application to the board, be retired from service, and shall during the remainder of his life receive the compensation fixed by the provisions of Act No. 362, approved May 23, 1945, 53 P.S. §39374.1 et seq. and this Part, as amended.

1. If any person shall have served 20 years and voluntarily retires he shall, by continuing his contributions until the age of 55 be entitled to the above compensation.

2. During the lifetime of any such person he shall be entitled to receive as compensation annually from the fund set aside for the purpose 50% of the amount which would constitute the highest average annual salary or wages which he earned during any 5 years of his service for the City, or which would be determined by the rate of the monthly pay of such person at the date of retirement, whichever is higher. Said compensation shall be paid in semi-monthly payments.

3. Retirement compensation for members who are integrated into Federal Social Security payable after early or normal retirement age and upon that portion of annual compensation on which Social

Security benefits are payable, shall be reduced by an amount of equal to 40% of the primary insurance amount of Social Security, paid or payable to the member. In determining such age eligibility and such amount, only wages or compensation for services performed in the employ of the City shall be included. (Note: These provisions change if the offset is eliminated by payment of the additional 1½% per cent of all salary and wages retroactive to January 1, 1960).

4. Widows or widowers of members who die or are killed in the service, shall receive pension payments calculated at the rate of 50% of the pension the member was receiving, or would have been receiving had the member been retired at the time of his or her death. A widow or widower is entitled to receive these payments during his or her lifetime or until he or she remarries.

5. Where an officer of employee who shall have served for 12 years, or more, and his tenure of office or employment shall be terminated without his voluntary action before the expiration of 20 years of serve and has attained the age of 60 he shall, in such event, during the remainder of his life, be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full 20 year period of service. Where an officer or employee who has served for 12 years, or more, and shall not have attained 60 years of age and his tenure of office or employment shall be terminated without his voluntary action, before the expiration of 20 years of service, he shall, in such event, during the remainder of his life after attaining the age of sixty (60) years be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full 20 year period of service. Both are conditioned upon his payment of contributions into the fund until he attains contribution for 20 years upon state of benefits of age 60 years.

6. Notwithstanding anything herein contained to the contrary a member may be entitled to a limited vested benefit under the following conditions:

   A. A member who has completed 12 years or more of full-time continuous service but shall not have attained the minimum age and minimum period of continuous service may be entitled to vest his retirement benefits subject to all of the following conditions:

      (1) The member must file with the Officers and Employees Retirement Board of the fund a written notice of his intention to vest.

      (2) The member must include in the notice the date the member intends to terminate his service.

      (3) The termination date shall be at least 30 days later than the date of notice to vest.

      (4) The member must be in good standing with the City on the date of the notice to vest.

      (5) The Board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any 5 years of service preceding that date, whichever is higher.

   B. Upon reaching the date which would have been the member's retirement date had the member continued employment with the City, the member shall notify the board in writing that the member desires to collect his pension. The amount of retirement benefits the member is entitled to receive under this Section shall be computed as follows:

(1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(2) The portion of the base retirement due the member shall be determined by applying to the base amounts the percentage that his years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the City until his minimum retirement date. As used in this Section, the term "salary" means the fixed amount of compensation paid at regular, periodic intervals by the City to the member and from which pension contributions have been deducted.

7. Where an officer or employee has served for 20 years, or more, and his tenure of office or employment shall be terminated without his voluntary action, then he shall be entitled to full compensation for the remainder of his life after attaining age 55 years conditioned upon his continuing his contributions into the fund at the same rate as when he was dismissed, until he attains age of 55 years.

(*Ord. 13-1998*, 4/27/1998, §5)

§1-656. Disability Benefits.

Should an officer or employee, however, become so permanently disabled as to render him unable to perform the duties of his position or office after 15 years of service, he shall be entitled to full compensation during such disability. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the Board, that the employee is in a condition of health which would permanently disable him from performing the duties of his position or office. Such person shall thereafter be subject to physical examination at any reasonable time or times, upon order of the Board, and upon his refusal to submit to any such examination his compensation shall cease.

(*Ord. 13-1998*, 4/27/1998, §6)

§1-657. Member Contributions.

1. Beginning on November 1, 1946, all the aforesaid officers and employees of the City of Reading shall pay into such fund semimonthly an amount equal to 3% per centum of their monthly wages or salaries and beginning on January 1, 1960, all the aforesaid officers and employees of the City of Reading, who as members are integrated with Federal Social Security shall pay into such fund every payroll period an amount equal to 3 ½% of their earnings and 5% in excess of that on which Social Security is payable, which shall be applied to the purpose of this Part.

2. The Board hereby authorizes every joint coverage member of the optional retirement system to elect to receive compensation in accordance therewith without the reduction (commonly known as the "offset") set forth in Subsection (c) of the Act of the General Assembly of May 23, 1945, as amended, provided:

   A. The member makes his election to buy out his offset in writing in manner and form approved by the Board.

B. The member makes his aforesaid election to buy out his offset before his date of retirement, which election to do so shall be irrevocable and forever binding upon the member.

C. The member making his election to buy out his offset shall make a lump sum payment equivalent to buy out his offset shall make a lump sum payment equivalent to 1½% of his gross payroll earnings from the date of his affirmative election, retroactive to January 1, 1960, or, as to a member who became employed by the City after January 1, 1960, then an amount equivalent to 1½% of his gross payroll earnings from the date of his affirmative election, retroactive to his date of employment by the City, after which time of lump sum payment, the member shall pay to the fund by payroll deduction an amount equivalent to 5% of his gross earnings to a maximum annual gross allowed by Social Security (i.e., $65,400.00 for 1997).

(*Ord. 13-1998*, 4/27/1998, §7)

§1-658. Additional Payments to Extend Benefits.

If upon retirement any compensation be granted to a person who has not been a contributor to the fund, as herein provided, for an aggregate period of 20 years, such person shall be required to pay to the Board for the benefit of the fund, monthly an amount equal to the same per centum rate when he separated from the service of his compensation until such time as his contribution shall have been extended to a period of 20 years which shall be deducted from his semimonthly payment.

(*Ord. 13-1998*, 4/27/1998, §8)

§1-659. Termination Prior to Benefit Entitlement.

If for any cause per person contributing to the fund who has served less than 12 years shall cease to be in the service of the City, he shall become entitled to the total amount of the contributions paid into the funds by him, without interest. Any person who has served for a period of less than 20 years, and who has not reached the age of 60 years, and who voluntarily retires from such service shall be entitled only to the return of his total contributions paid into the funds by him without interest. Except in the event of the notification by a member to obtain a limited benefit but in such event such person shall still be covered by the provisions of this Section with respect to any refunds without interest.

(*Ord. 13-1998*, 4/27/1998, §9)

§1-660. Refunds.

If for any cause any person contributing to the fund shall cease to be in the service of the City before he shall have become entitled to any compensation, the total amount shall be refunded in full without interest. Provided, however, if any such person shall have had returned to him the amount contributed as aforesaid, and shall afterward re-enter the service of the City, he shall not be entitled to the compensation designated unless he shall return to the fund the amount withdrawn, in which event, the required period of service under this Part shall be computed from the time he first entered the serve of the City, otherwise the date of his period of service shall commence upon re-entry. For those members who became a member of the fund for the first time after January 1, 1988, reference shall be made to Ordinance #79-1987, 9/30/1987, §9 (§1-679).

(*Ord. 13-1998*, 4/27/1998, §10)

§1-661. Council Contributions.

The City Council shall annually set aside, apportion and appropriate out of all taxes and income of the City to the fund, a sum of money sufficient to maintain the pension payable to members of the system including sufficient funds of payments to widows or widowers retired on pension or who dies or were killed in the service of the City.

(*Ord. 13-1998*, 4/27/1998, §11)

§1-662. Benefits.

The benefits conferred by this Part shall apply to all persons regularly employed in any capacity, by or holding positions in the City in accordance with the provisions of this Part, except as herein provided.

(*Ord. 13-1998*, 4/27/1998, §12)

§1-663. Time of Service.

1. The time of service herein specified shall be computed from the time of the first or original service to the City and need not be continuous.

2. If, after the expiration of authorized sick leave, an employee although without pay, is absent from work such employee, upon presentation of satisfactory evidence to the Board that such absence was because of health, will be given credit for pension purposes only for an additional period not exceeding 90 calendar days total during the entire period of service with the City; provided however said employee contributed to the pension fund for such period of absence an amount which is equal to the sum he would have contributed had he been working, based on his salary or wages, for a full regular work week at the contributing percentage in force for such employee.

(*Ord. 13-1998*, 4/27/1998, §13)

§1-664. Military Service.

1. The person must have been an employee of the City at the time he entered the armed forces. Any person who was an employee of the City on or after October 9, 1946, the date of the Ordinance, Bill No. 51, and who was an employee of the City prior thereto, may secure credit for time spent in the armed forces, if he pays before the time of his retirement on pension into the pension fund, the amount equal to 3% of his last monthly salary or wage prior to entering active service with the armed services and for each month he was not employed by the City, because of such active duty. Any person now an employee of the City and a contributor to the pension fund and who now enters the armed forces shall have his years of service credited to his retirement, provided he pays 3% of his monthly salary or wages into the pension fund for each month spent in the armed services.

2. Credit for the years of service for military service shall not at any time exceed in the aggregate 6 years spent by the employee on active duty with the armed forces and subject to a certificate of satisfactory service and payment to the board of an amount equal to 3% of his monthly wages or salaries, and beginning on January 1, 1960, credit for such years of military service may be purchased by paying the board the same amount he was contributing at the time he left employ of

the City to enter the armed forces of the United States, for each month he is not employed by the City because of his active duty with the armed forces.

3. **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.

(*Ord. 13-1998*, 4/27/1998, §14)

§1-665. Payment Only to Beneficiary.

Benefit payments shall not be subject to attachment, execution, assignment or transfer, and shall be payable only to the beneficiary designated by this Part and shall not be subject to assigned or transfer.

(*Ord. 13-1998*, 4/27/1998, §15)

§1-666. Method of Payment.

The payment of compensation shall be paid in semimonthly payments.

(*Ord. 13-1998*, 4/27/1998, §16)

§1-667. Service Increment.

1. In addition to the retirement allowance which is authorized to be paid from the pension fund by this Part, notwithstanding the limitation therein placed upon such retirement allowances and upon contributions, every member who shall become entitled to the retirement allowance shall be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth:

   A. Service increment shall be the sum obtained by computing the number of whole years after having served 20 years, required by this Part, during which a contributor has been employed by the City of Reading and paid out of the City treasury and multiplying the said number of years so computed by an amount equal to 1/40 of the retirement allowance which has become payable to such contributor in accordance with the provisions of this Act. In computing the service increment, no employment after the contributor has reached the age of 65 years shall be included.

   B. Each contributor who so chooses to become entitled to the service increments provided by this Part, shall, from and after August 5, 1968, pay into the retirement fund a monthly sum in addition to his or her retirement contribution, which shall be equal to ½% of his or her salary; provided, that such service increment contribution shall not be paid after a contributor has reached the age of 65 years.

   C. Persons who were contributors on August 5, 1968, who have since reached the age of 65 years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her sixty-fifth birthday.

   D. Service increment contributions shall be paid at the same time and in the same manner as retirement contributions, and may be withdrawn in full, without interest, by persons who leave the employment of the said City, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

   E. All persons who are now contributors or were contributors to the retirement fund prior to January 1, 1988 shall be subject to the provisions of this Part.

(*Ord. 13-1998*, 4/27/1998, §17)

§1-668. Federal Income Tax Exemption of Employee Contribution to Fund.

1. Employee contributions to the fund shall be deemed to have been paid by the employer, the City, in lieu of compensation to the employee.

2. Employees do not have the option of choosing to receive the contributed amount directly in lieu of having them paid by the employer to the fund.

3. Employee contributions to the fund treated in the manner set forth in Subsection (1) shall be excluded from wages for the purpose of determining individual employee Federal Income Tax deduction of municipal wages earned.

4. This program shall not be applicable to any other Federal, State, or local payroll taxes. The deductions in all other instances shall occur per applicable schedule on compensation earned by the employee.

5. The earnings used to calculate the benefits received by an employee, at the time he or she withdraws from the fund or is eligible to receive a pension benefit, shall not be affected by the provisions of this Section. The earnings used to calculate the benefit shall be actual earnings received as set forth in § 1-655 of this Part.

6. The provisions of this Section shall not act to increase the City's contribution rate to the pension program.

(*Ord. 13-1998*, 4/27/1998, §18; as added by Ord. 52-1998, 12/28/1998, §1)

§ 1-668.1. 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(c), 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.

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

§ 1-668.2. 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.

§ 1.668.3. Required Minimum Distributions – Code Section 401(a)(9).

1. 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:

   A. 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).

B. 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.

C. 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.

§ 1.668.4. Miscellaneous.

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

2. 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.

3. 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.

4. 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.

5. 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

_____
Name and Title

_____
Date

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 A-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.