BILL NO 24 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, A. POLICE PENSION FUND, SECTIONS 1-601 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, A. Police Pension Fund, Sections 1-601 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Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc.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 ..... 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 1 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
Police Pension Plan

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

A. Police Pension Fund.

§1-601. Definitions.

As used in this Part 6A, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following respective meanings:

AVERAGE ANNUAL PAY - the amount which would constitute the highest average annual compensation which the member earned during any 5 calendar years of his service for the City, or which would be determined by the rate of the monthly pay of such member at the date of retirement, whichever is the higher

BOARD - the Police Pension Fund Association Board to which reference is made in §1-602.

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.

DROP - Deferred Retirement Option Plan.

DROP ACCOUNT - separate account created to accept a DROP member's monthly pension check while an employee is a DROP member.

EMPLOYEE - a person in the service of the City as a member of the police force.

FUND - the police pension fund, which shall hold the assets of the plan in trust.

MEMBER - a current or former employee who has made or makes required contributions under the plan.

MILITARY SERVICE - honorable active service in the uniformed services listed below is considered military service for pension purposes: (1) Navy, (2) Air Force, (3) Marine Corps, (4) Coast Guard, (5) Reserve Corps.

NEW EMPLOYEE - an employee who enters the service of the City on or after January 1, 1977.

NEW MEMBER - an employee who is a member of the retirement system on or after January 1, 1977.

PENSION BENEFITS - the financial allowances provided to members pursuant to the provisions of this Part.

PERSON - an officer or employee of the City.

PLAN - the City of Reading Police Pension Plan.

PRESENT EMPLOYEE - an employee in the service of the City prior to January 1, 1997.

PRESENT MEMBER - an employee who is a member of the retirement system prior to January 1, 1977.

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.

RATE OF MONTHLY PAY - one-twelfth of the base pay as set forth in the salary ordinance, in effect as of date of retirement, adopted pursuant to a collective bargaining agreement and/or Act 111 arbitration plus, 1/12th of longevity pay plus 1/12th of holiday pay the member is entitled to for the calendar year.

SALARY - the base pay as set forth in the salary ordinance adopted pursuant to a collective bargaining agreement and/or Act 111 arbitration and shall not include any other compensation subject to the limits on compensation set forth in section 401(a)(17) of the code.

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.

YEARS or WHOLE YEARS OF SERVICE - for the purposes of computing the period of time during which a member has been employed by the City, each whole-12-month period commencing from the date of employment of a member.

YEARS ON RETIREMENT - the number of whole years that a police officer has been retired as of January 1, 2001.

(*Ord. 6-2000*, 5/8/2000, §1; as amended by Ord. 47-2002, 9/9/2002, §1; by *Ord. 29-2003*, 9/8/2003, §1; and by *Ord. 70-2007*, 9/24/2007, §1)

§1-602. Police Pension Fund Association.

1. There is hereby created a board to be known as the "Police Pension Fund Association Board," consisting of:

   A. The Mayor or his designee.

   B. The City Auditor, formerly known as the City Controller.

   C. The Director of Finance, formerly known as Director of Accounts and Finance.

   D. The Chief of Police.

   E. One retiree member of the system to be elected by the members of the retirement system.

   F. One active police person to be chosen by members of the retirement system.

2. The representatives chosen by the members shall be elected for terms of 4 years. The terms of the members of the board shall run concurrently with the term of the Mayor.

3. A vacancy in the board occurring during the term of the representatives elected by the members of the retirement system shall be filled for the unexpired term by members of the retirement system.

4. Board members shall serve without compensation.

5. It shall be the duty of the board to register all members and to administer the collection and distribution of the fund herein provided for and to make such reasonable rules and regulations as the board may deem necessary in order to effectuate the provisions to a responsible institution experienced in administering the collection, distribution and investment of pension funds, but in such event the board shall require any such institution to provide the board with written reports of its activities relating to the fund at least once every 6 months.

(*Ord. 6-2000*, 5/8/2000, §2)

§1-603. Duties of the Director of Human Resources.

1. It shall be the duty of the Director of Human Resources of the City to submit to the board statements showing the name, sex, title, compensation, duties, date of birth and date of full-time employment of a person who is eligible for membership in the retirement system.

2. In addition, it shall be the duty of the Director of Human Resources to submit to the board through the pension administrator, a statement providing years of full-time service, date of termination, total contributions to the fund by each employee and compensation for the highest 5 calendar years of the employment of any such terminated individual.

(*Ord. 6-2000*, 5/8/2000, §3)

§1-604. Contributions to Fund.

1. Each member shall contribute to the fund an amount equal to 5% of his salary or wages plus $1 per month. Effective January 1, 2007, said mandatory member contribution to the fund shall increase to 6.5% of his base salary plus $1 per month. (*Ord. 70-2007*)

2. Contributions to the fund shall be made by the City deducting the same from the salary or wages of the member and paying said deductions to the fund.

(*Ord. 6-2000*, 5/8/2000, §4; as amended by *Ord. 70-2007*, 9/24/2007, §1)

§1-605. Right of Members to Pension Benefits and Amount of Pension Benefits.

1. **Normal Retirement Benefits.**

   A. (1) Effective January 1, 1999, all members of the plan shall be eligible for a normal retirement of 50% of average annual pay upon having completed 20 years of service, without regard to age.

   (2) Effective January 1, 2007, members may retire with the following benefit:
   60% of average annual pay with 20 years of service
   62% of average annual pay with 21 years of service
   64% of average annual pay with 22 years of service
   66% of average annual pay with 23 years of service
   68% of average annual pay with 24 years of service
   70% of average annual pay with 25 years of service

   (3) Effective January 1, 2008, all members shall be required to retire upon the completion of 30 years of service. (*Ord. 70-2007*)

   B. During the lifetime of any retired member, such member shall be entitled to receive one-twelfth of the annual pension benefit specified in Subsection 1. Such pension benefits shall be paid monthly, in advance, in accordance with and subject to the conditions set forth herein. (*Ord. 70-2007*)

   C. In addition to the pension benefits which are authorized to be paid in accordance with the previous Paragraph B, each member who may become entitled to pension benefits shall also become entitled to the payment of a service increment in accordance with and subject to the conditions hereinafter set forth:

   (1) Service increments shall be the sum obtained by computing the number of whole years a member shall have continued as a paid City employee after having served in the employment of the City for a period of 20 years and multiplying the number of years in excess of 20 by an amount equal to $1/40^{th}$ of the pension benefit which becomes payable to

such member in accordance with the provisions of this Part 6A. The maximum service increment pension shall be $500 per month. *(Ord. 70-2007)*

2. **Members Entitled to Reduced Retirement Benefits.** Any member who ceases to be employed by the City for any reason prior to completing the minimum required period for continuous service under Subsection (3), but after having completed 12 years of full-time service shall be entitled upon retirement to receive benefits in accordance with Subsection (3) of this Section.

3. **Computation of Reduced Retirement Benefits.** Should a member of the Police Pension Fund cease to be employed as a full-time employee for any reason prior to completing the minimum period of continuous service requirement, but after completing 12 years of full-time service, the member shall be entitled to cease his or her employment and vest in his or her retirement benefit computed under §1-605, subject to the following conditions:

   A. The member must file on a fund-authorized form with the board administrator a written notice of his or her intention to vest.

   B. The member must include in the notice, the date the member intends to terminate his or her service as a full-time employee.

   C. The termination date shall be at least 30 days later than the date the notice to vest is received by the board.

   D. The member must be in good standing with the Police Department on the date of notice to vest.

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

   F. Upon reaching the date which would have been the member's retirement date had the member continued his or her full-time employment with the Police Department, the member shall notify the board, in writing, that the member desires to collect his or her pension. The amount of pension 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.

      (2) The portion of the base retirement due the member shall be determined by applying to the base amount the percentage that his or her 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 Department until his or minimum retirement date.

(*Ord. 6-2000*, 5/8/2000, §5; as amended by *Ord. 70-2007*, 9/24/2007, §1)

§1-606. Right to Refund of Contributions in Lieu of Receipt of Pension Benefit.

Any member who becomes entitled to pension benefits in accordance with the provisions of §1-605 may elect to obtain a refund of all his contributions without interest rather than to receive the pension benefits provided for in any of said Section. Such election must be made in writing to the board prior to the date on which the first pension payment is made to the member.

(*Ord. 6-2000*, 5/8/2000, §6)

§1-607. Termination of Employment of Members Prior to Being Entitled to Pension Benefits.

Any member who has been in the service of the City for a period of less than 20 years and whose service shall terminate prior to his or her spouse or children becoming eligible for a pension shall be paid the total amount of the contributions paid into the fund by him and without interest, except as provided in §1-605(3).

(*Ord. 6-2000*, 5/8/2000, §7)

§1-608. Permanent Disability Pension.

Any member who becomes totally disabled as a result of injury or illness in the line of duty or, if not in the line of duty, after he shall have completed 10 years of service, shall be entitled to full pension benefits during such disability. Any member who becomes totally disabled not as a result of injury or illness in the line of duty and shall not have completed 10 years of service shall be entitled to a pension of ½ (50%) of the full pension to which he would otherwise be entitled. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the member is in a condition of health which totally disables him from performing the duties of his position or office or of any other gainful employment within the police force of the City to which he may be assigned. Any such member receiving pension benefits shall thereafter be subject to physical examination at any reasonable time or times, upon order of the board, and upon his failure to submit to any such examination, his pension shall cease.

(*Ord. 6-2000*, 5/8/2000, §8)

§1-609. Widow or Widowers and Children of Members.

The widow or widower of a member who has retired on pension hereunder, or if not retired has completed 10 years of service, shall be entitled to full pension benefits. The widow or widower of a member who has not completed 10 years of service shall be entitled to a pension benefit of ½ (50%) of the full pension. However, the widow or widower of a member who has been killed in service, regardless of his or her years of service shall be entitled to receive full pension benefits. Such pension shall be payable so long as such widow or widower survives and upon the death of the widow or widower such pension shall be divided equally among the children of the member under the age of 18 years. Such pension shall cease on the later date of:

A. The death of the widow or widower.

B. The eighteenth birthday of the youngest child.

(*Ord. 6-2000*, 5/8/2000, §9; as amended by *Ord. 70-2007*, 9/24/2007, §1)

§1-610. Computation of Time of Service.

1. Except as set forth in Subsection (2) of this Section, the period of service used to determine whether a member is eligible for pension benefits under the provisions of this Part 6A shall be computed from the date on which a person becomes a member of the Police Pension Fund. If, after becoming a member, a person leaves the service of the City and is subsequently re-employed, for purposes of determining eligibility for benefits, his time of service shall be computed from the date on which he last became a member of the fund.

2. A member who terminates his service in the police force of the City and has been re-employed as a member of the police force shall be entitled to credit for prior service in determining his eligibility for pension benefits under the following circumstances:

   A. Such member shall be entitled to a credit for prior service if he has repaid to the fund any contributions which he withdrew from the fund upon leaving the service of the City. The extent of prior service for which such member shall be entitled to a credit shall be based on the length of time during which such member originally paid the contributions which he withdrew and which he repaid.

(Ord. 6-2000, 5/8/2000, §10)

§1-611. Receipt of Contributions; Payment from and Investment of Fund.

1. 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 6A 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.

2. The City shall contribute to the fund an amount sufficient to meet the requirements of the fund but such amount shall not be less than Paragraph (A), nor more than Paragraph (B).

   A. An amount equal to 1/2% of all City taxes levied by the City, other than taxes levied to pay interest on or to extinguish the debt of the City or any part thereof, plus such additional amounts as are actuarially necessary to provide for the cost of pensions paid to widows, widowers and children of members.

   B. An amount equal to 3% of all City taxes levied by the City other than taxes levied to pay interest on or to extinguish the debt of the City or any part thereof, plus such additional

amounts as are actuarially necessary to provide for the cost of pensions paid to widows, widowers and children of members.

The City may take by gift, grant, devise or bequest any money or property, real, personal or mixed, for the benefit of this fund. The board shall enter into such agreements for the care, management and disposal of such funds, in a manner consistent with the directions of the respective donors.

3. Effective January 1, 2007, notwithstanding anything the contrary provided herein, the City shall guarantee placement of funds to make the current police pension solvent to accommodate the increase in benefit. Said fund amount shall be determined and agreed upon by both the City and FOP. *(Ord. 70-2007)*

(*Ord. 6-2000*, 5/8/2000, §11; as amended by *Ord. 70-2007*, 9/24/2007, §1)

§1-612. Exemption from Attachment or Execution; Nonassignability.

The pension benefits and service increments herein provided for shall not be subject to attachment or execution, assignment or transfer and shall be payable only to the person designated by this Part 6A.

(Ord. 6-2000, 5/8/2000, §12)

§1-613. Payment to Estate.

In the event that any member dies prior to becoming entitled to any pension benefits hereunder, and leaves no widow or widower or children eligible for benefits hereunder, the member's remaining contributions in the fund shall be paid without interest to the following parties in the order designated:

A. To the estate of the member;

B. To a person entitled to the contributions in accordance with the inter state laws of the Commonwealth of Pennsylvania.

(Ord. 6-2000, 5/8/2000, §13)

§1-614. Military Service.

1. **Intervening.** Any member who enters active military service at a time when he is a member of the plan shall have his years (or completed calendar months) of active military service, not to exceed a total of 5, credited as years of service for retirement purposes; provided, that:

A. He receives an honorable discharge, certificate of satisfactory service or the equivalent thereof, and produces same to the board.

B. He is re-employed by the City within 90 days of such discharge or within such longer period as his re-employment rights are protected by law.

C. He shall pay into the fund the amount which he would have been obligated to pay during the period of his military service, but not to exceed a total of 5 years, if he had been an active

employee of the City, which amount shall be based on his salary or wages as a City employee immediately before his departure for active military service.

2. **Nonintervening.** Any member who has not retired and who entered military service subsequent to September 1, 1940, and was not a member of the plan prior to such military service, shall be entitled to make application (on a form, if any, prescribed by the board) to the plan and have completed months of military service, not to exceed 5 years, credited as years of service for retirement purposes, under the following conditions:

   A. The member shall pay to the fund, an amount equal to the total of (1) and (2) below:

      (1) An amount equivalent to the pension contribution of Patrol Trainee for the first year, Patrolman 1 for the second year, Patrolman 2 for the third year and Patrolman 3 for the fourth and fifth years during the years the military service was credited, each of which to be determined as of the date the employee becomes a member. (Ord. 70-2007)

      (2) An amount equivalent to 15.7% of such member's salary representing the City's normal cost (as determined by the actuary), or such rate as computed under the most recent actuarial valuation available as of the date the person becomes a member.

   B. A member who has not completed payment, either through payroll deduction or by any other payment method, of the entire amount required under the previous Paragraphs by the time the member files a letter of resignation or retirement the member shall not be permitted to receive credit for such nonintervening military service. Any partial payment made by such member on or prior to termination of the member shall be refunded to such member.

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.

1. 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.

2. 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. 6-2000*, 5/8/2000, §14; as amended by *Ord. 70-2007*, 9/24/2007, §1)

§1-614.1. Police Service.

Any member who has not retired shall be entitled to have full credit (consistent with the military service purchase rules in §1-614) for each year or fraction thereof, to the completed month, not to exceed 5 years under the following conditions:

A. (1) He shall pay the buyback rate set forth in §1-614(2)(A) based upon his first year of hire.

(2) Buyback may be made at any time prior to retirement (installment payment plans shall be allowed and implemented) but current retirement standards shall apply.

(Ord. 6-2000, 5/8/2000; as added by Ord. 70-2007, 9/24/2007, §1)

§1-615. Increases in Allowances Following Retirement.

1. On and after the effective date of this Section, pension benefits shall be increased to those members who have previously retired only upon the action of the City Council and only if the funded status of the fund is such that sufficient provision is made to provide for the accrual of normal cost of future service benefits and of interest on unfunded accrued liabilities.

2. The fund shall pay a member a special ad hoc postretirement adjustment if all of the following apply:

A. The retiree has terminated active employment with the City as a member.

B. The retiree is receiving a retirement benefit from the City on the basis of active employment with the City as a police officer.

C. The retiree began receiving the pension benefit before January 1, 1996.

3. Except as provided in Subsections (4) and (5), the fund shall pay a member a monthly special ad hoc postretirement adjustment under this Section that shall be calculated as follows:

A. The base adjustment shall be determined by multiplying 15 cents by the years of service and then multiplying that product by the years on retirement.

B. The longevity factor shall be determined as the sum of the products calculated by multiplying 0.025 by the years on retirement and 0.05 by the years on retirement in excess of 25, if any.

C. The longevity adjustment shall be determined by multiplying the base adjustment calculated under Subsection (3)(A) by the longevity factor calculated under Subsection (3)(B).

D. The special ad hoc postretirement adjustment payable under this Section shall be the sum of the base adjustment calculated under Subsection (3)(A) and the longevity adjustment calculated under Subsection (3)(C).

4. **Limitation**. If a retiree is entitled to be paid a special ad hoc postretirement adjustment by more than one municipal retirement system, the amount of the special ad hoc post retirement adjustment under Subsection (3) shall be reduced before such payments commence so that the total of all these adjustments paid to the retiree does not exceed the amount specified in Subsection (3).

5. **Modification in the Amount of 2002 Special Ad Hoc Postretirement Adjustment**. The amount of the special ad hoc postretirement adjustment calculated under Subsection (3) shall be reduced annually by 65% of the total amount of any postretirement adjustments provided to the retiree under any other City pension plan after December 31, 1988, and before January 1, 2002, and paid in the immediately preceding year.

6. The special ad hoc postretirement adjustment under this Section is effective on the date of the first pension benefit payment issued after June 30, 2002. If the special ad hoc postretirement adjustment under this Section is not commenced in the initial retirement benefit payment occurring after June 30, 2002, the special ad hoc postretirement adjustment shall be included as soon as practicable in the pension benefit payment of the retiree, and the initial pension benefit payment that includes the special ad hoc postretirement adjustment also shall include the total amount of the special ad hoc postretirement adjustments previously omitted from the pension benefit payments made after June 30, 2002.

(*Ord. 6-2000, 5/8/2000, §15*; as amended by *Ord. 47-2002, 9/9/2002, §2*)

§1-616. Deferred Retirement Option Program (DROP).

1. **Eligibility**. Effective January 1, 2001, members of the Reading Police Department, who have not retired prior to the implementation of the DROP program may enter into the DROP on the first day of any month following completion of 20 years of credited service.

2. **Written Election**. An eligible member electing to participate in the DROP must complete and execute a "DROP option form" prepared by the City of Reading, Department of Human Resources, which shall evidence the member's participation in the DROP. The form must be signed by the member and notarized and submitted to the City of Reading, Department of Human Resources, prior to the date on which the member wishes the DROP option to be effective. The DROP option form shall include an irrevocable notice to the City, by the member, that the member shall resign from employment with the City of Reading Police Department effective on a specific date not more

than 60 months from the effective date of the DROP option. In addition, and consistent with the member's resignation date, all retirement documents required by the board administrator must be filed and presented to the board for approval of retirement and payment of pension. Once a retirement application has been approved by the board it is irrevocable.

3. **Limitation on Pension Accrual**. After the effective date of the DROP option, the member shall no longer earn or accrue additional years of continuous service nor will the member's compensation change for pension purposes.

4. **Benefit Calculation**. For all retirement fund purposes, continuous service of a member participating in the DROP shall remain as it existed on the effective date of commencement of participation in the DROP. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the fund. The average monthly pay of the member for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the DROP. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Pension Fund. The pension benefit payable to the member shall increase only as a result of cost-of-living adjustments in effect on the effective date of the member's participation in the DROP, or by applicable cost-of-living adjustments granted thereafter.

5. **Payments to DROP Account**. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a normal retirement benefit shall, upon the member commencing participation in the DROP, be paid into a separate DROP account established to receive the member's monthly pension payments. Such DROP account shall be credited with interest in a manner prescribed by the board.

6. **Payout**. Upon the termination date set forth in the member's drop option form or, such date as the member withdraws or is terminated from the DROP program the retirement benefits payable to the member or the member's beneficiary, if applicable, shall be paid to the member or beneficiary and shall no longer be paid to the member's deferred retirement option account. Within 30 days following termination of a member's employment pursuant to their participating in the DROP program, the balances in the member's deferred retirement option account shall be paid to the member in a single lump sum payment, or at the member's option, in any fashion permitted by law.

7. **Disability During DROP**. If a member becomes temporarily disabled during his participation in DROP, his participation freezes and the time period while on disability does not count towards the 5-year participation limit. Upon return to duty, membership in DROP shall resume, continuing with the remaining time left in the 5-year membership period. The member shall receive disability pay in the same amount as a disabled member who is not participating in DROP. In no event shall a member on temporary disability have the ability to draw from his DROP account. However, notwithstanding any other provisions in this Subsection, if an officer is disabled and has not returned to work as of the date of his required resignation, then such resignation shall take precedence over all other provisions herein and said officer shall be required to resign.

8. **Death**. If a DROP member dies before the DROP account balance is paid, the member's legal beneficiary shall have the same rights as the member to withdraw the account balance.

9. The DROP shall not be available to an elected official, except for an official first elected prior to September 18, 2009.

10. **Amendment**. Except as may be required by applicable law, any amendments to this Section 1-617 shall be consistent with the provisions covering deferred retirement option plans set forth in any applicable collective bargaining agreement and shall be binding upon all future DROP members and upon all DROP members who have balances in their deferred retirement option accounts.

(Ord. 6-2000, 5/8/2000; as added by Ord. 29-2003, 9/8/2003, §2)

§ 1-616.1. 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(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.

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

§ 1-616.2. Maximum Permissible Benefits and Contributions – Code Section 415

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, including payments to a member's DROP account, 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, as adjusted under section 415(d) of the code and applicable guidance. 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.

1. **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.

2. 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.

3. 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.

4. 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.

5. 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.

§ 1.616.3. 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.

§ 1-616.4. 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. 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

City of Reading Police Pension Plan amended and restated effective 1/1/12

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, defined under IRC §415(c) as in effect before January 1, 2000, for each such limitation year.