

**ORDINANCE
NO. 1979**

**AN ORDINANCE OF THE CITY OF WARREN, A HOME RULE MUNICIPALITY,
IN WARREN COUNTY, COMMONWEALTH OF PENNSYLVANIA
AMENDING CHAPTER 81 PENSIONS
OF THE CODE OF THE CITY OF WARREN**

WHEREAS, it is necessary from time to time to consolidate all amendments to the Firefighters Pension Plan into one comprehensive document; and

WHEREAS, the City of Warren’s legal counsel for pension matters prepared the “Amendment and Restatement of the City of Warren Firefighters Pension Plan”; and

WHEREAS, said Plan was reviewed and approved by the City’s Actuary and legal counsel for I.A.F.F. Local No. 537.

NOW, THEREFORE THE CITY OF WARREN ORDAINS, and it is hereby ordained by Warren City Council, that the Amendment and Restatement of the City of Warren Firefighters Pension Plan attached hereto, and made a part hereof, is hereby adopted as the City of Warren Firefighters Pension Plan.

ORDAINED AND ENACTED this 16th day of September, 2024.

ATTEST:

Michael A. Holtz, City Clerk

David G. Wortman, Mayor

APPROVED AS TO FORM:

Andrea L. Stapleford, City Solicitor

**AMENDMENT AND RESTATEMENT OF
THE CITY OF WARREN
FIREFIGHTERS PENSION PLAN**

INTRODUCTION AND PURPOSE

Pursuant to Chapter 1, Part 8, of the City of Warren (hereinafter referred to as the "Employer" or "City"), Code of Ordinances (hereinafter referred to as "Prior Plan"), the City has maintained a pension plan for the benefit of full-time firefighters known as the City of Warren Firefighters Pension Plan.

Effective January 1, 2024, except to the extent a different date is indicated in the text herein, the City desires to amend and restate the Prior Plan, in its entirety, the terms of which are hereinafter set forth. This document shall continue to be known as the City of Warren Firefighters Pension Plan (hereinafter referred to as the "Plan").

The purpose of this Plan continues to be to provide retirement income for the benefit of its eligible employees and their beneficiaries but limited to those who qualify in accordance with the terms and conditions of the Plan as set forth herein.

The City intends that this Plan, together with any related trust agreement, shall meet all the pertinent requirements for qualification under the Internal Revenue Code of 1986, as amended, and the Plan and trust agreement shall be interpreted, wherever possible, to comply with the terms of said Code and all formal regulations and rulings pertinent to the Plan and trust agreement issued thereunder.

Each retired Participant who was receiving monthly benefits on December 31, 2023 under the Plan shall receive payments on or after January 1, 2024 in accordance with the terms of Plan as it existed on the date that the retired Participant terminated employment with the City.

Each terminated Participant who terminated employment prior to January 1, 2024 with a vested interest in his accrued benefit under the Plan and who had not commenced receiving his retirement benefit on such date will be eligible to receive Retirement Benefit on such benefit commencement date as set forth in the Plan as it existed on the date that the Participant terminated employment with the City.

The provisions of this Plan shall apply only to any Participant who terminates employment on or after January 1, 2024.

DEFINITIONS
RELATIVE TO THE DETERMINATION OF BENEFITS

- 1.01 "Accrued Benefit Percentage" shall mean a fraction, the numerator of which represents the Participant's total cumulative calendar months of Service earned to the date of determination, and the denominator of which represents the total possible calendar months of Service he could earn from his date of hire to his Normal Retirement Date. For purposes of the current definition only, Service at any time during a calendar month shall constitute one whole month. In addition, and notwithstanding the foregoing, a Participant's Accrued Benefit Percentage may never exceed the number one. The "Accrued Benefit" shall be $[a \times b]$ as such are defined in Plan Section 2.02.
- 1.02 "Beneficiary" shall mean the person specified by each Participant on becoming a Participant by way of written notice which designates his beneficiary or beneficiaries to the Plan Administrator. The Participant's election of any such beneficiary or beneficiaries may be rescinded or changed without the consent of the beneficiary or beneficiaries, at any time provided the Participant provides the Plan Administrator with written notice of the changed designation pursuant to any procedures as may be required by the Plan Administrator.
- 1.03 "City" shall mean the City of Warren, located in Warren County, Pennsylvania.
- 1.04 "Compensation" shall mean the amount of a Participant's fixed monthly salary or fixed wage paid including longevity but excluding all back pay, overtime and other compensation.
- 1.05 "Dependent Child" shall mean any natural-born child, any legally-adopted child, any stepchild, or any foster child of a Participant, which child is unmarried, has not yet attained age 18, and, in the case of a foster child, resides in such Participant's household.
- 1.06 "Disabled" or "Disability" shall mean a condition of permanent and total physical or mental impairment which prevents a person from engaging in gainful activity as a fireman of the City. A Participant must submit satisfactory evidence and other proof of such Disability as required by the Administrator.
- 1.07 [reserved]
- 1.08 "Eligible Employee" shall mean a regularly scheduled, full-time, permanent member of the fire department who shall participate herein as of the date of his appointment to such permanent position. Any fireman employed as a temporary probationary, special, part-time, permanent part-time or utility fire fighter of the City shall not be considered an Eligible Employee for purposes of this Plan.
- 1.09 "Eligible Spouse" shall mean the spouse to whom a Member is married.

- 1.10 "Final Average Monthly Compensation" shall mean the greater of the Compensation of a Participant averaged over the 60 month period of Service which produces the highest average monthly Compensation or the Participant's rate of Compensation at the date that the Participant terminates employment.
- 1.11 "Former Participant" shall mean a person who had become a Participant, but who subsequently ceased to be an Eligible Employee on account of death or other termination of employment with the City.
- 1.12 "Member(s)" shall mean Participant(s) and Former Participant(s) who are entitled to current or future benefits from the Plan.
- 1.13 "Normal Retirement Date" shall mean the date upon which a Participant attains age fifty (50) and completes twenty (20) Years of Service.
- 1.14 "Participant" shall mean an Eligible Employee, effective as of the date on which such Employee first commences employment as an Eligible Employee with the City and who has not for any reason ceased to be a Participant hereunder.
- 1.15 "Pension Fund" or "Fund" shall mean the fire pension fund administered under the terms of this Plan and which shall include all money, property, investments, policies and contracts standing in the name of the Plan.
- 1.16 "Service" shall mean the number of full years of continuous service and fractions thereof with the Employer, as determined by the Administrator, completed by an Eligible Employee from his first date of employment to the date of termination of employment.

Continuous service with the employer shall not be broken in the event of:

- (a) Absence with the consent of the Administrator during any period not in excess of one year, except that the Administrator may consent to extend the period of leave.
- (b) Absence from work because of occupational injury or disease incurred as a result of employment with the employer, for which absence an employee shall be entitled to Workmen's Compensation payments.
- (c) Absence in the service of the armed forces of the United States, provided the employee shall re-enter the employ of the employer within the statutory period during which his right of re-employment is guaranteed after he has first become eligible for discharge or separation from active duty.

- (d) An employee shall not receive any credit of Service in the case of any of the periods of absence set forth in Section 1.16 above but shall retain credited Service accrued prior to such absence. Upon return to employment after an approved absence, the employee will again accrue credited Service.
- (e) Failure to return to the employ of the employer by the end of any period specified in Section 1.16 above shall be considered a termination of employment. Any other absence shall also be considered a termination of employment. Any employee whose employment has been terminated shall, for the purpose of this Plan, be deemed a new employee upon resumption of his employment unless he is vested in accordance with Plan Section 2.04 hereof.

In interpreting this Section 1.16, the Administrator will apply uniform rules in a like manner to all employees under similar circumstances.

1.17 "Year of Service" shall mean 12 calendar months of Service, whether or not such months are consecutive, where Service at any time during a calendar month constitutes one whole month.

ARTICLE II

RETIREMENT BENEFIT

- 2.01 Entitlement. A Member must satisfy at least one of the following requirements to become entitled to the retirement benefit described in Section 2.02 below:
- (a) have reached Normal Retirement Date [the date on which a Participant attains age 50 or completes 20 Years of Service, whichever is later] on or before the date on which he became a Former Participant; or
 - (b) have completed at least twelve (12) Years of Service on or before the date on which he became a Former Participant and have filed a written notice of his intention to "vest" with the Administrator within ninety (90) days of such date. (See Section 2.04 hereof.) Note that the failure to file an election to vest will result in a payment of Member Contributions and associated earnings pursuant to Section 5.03 of the Plan.
- 2.02 Retirement Benefit. A Former Participant who satisfies the conditions for entitlement described in the foregoing Section shall be entitled to a monthly benefit, which amount (referred to hereinafter as the "Retirement Benefit" or "Normal Retirement Benefit") is derived from the following formula:
- (a x b)
- where, with respect to said Former Participant,
- a = 50% of Final Average Monthly Compensation.
b = the Accrued Benefit Percentage.
- 2.03 Commencement. The Retirement Benefit of a Former Participant shall become payable on the first day of the calendar month next following the later of: (1) the date the Former Participant would reach his Normal Retirement Date if he continued to be an Eligible Employee until such date; or, (2) the date on which his employment terminated with the City and, thereafter, the first day of each month during the Former Participant's lifetime. Notwithstanding anything contained herein to the contrary, no Retirement Benefit payments nor any other payments shall be due or payable on or before the first day of the month next following the date that is ninety (90) days after the date the Administrator receives the application for benefits.
- 2.04 Deferred Vested Benefit. A Participant who has completed at least twelve (12) Years of Service shall be entitled to elect to receive a Deferred Vested Benefit in lieu of a withdrawal of member contributions pursuant to Section 5.03 hereof. Such a Deferred Vested Benefit shall be in an amount equal to the Accrued Benefit as of the date employment terminates as a fire fighter of the City and shall commence as of the first day of the month coincident with or next following the attainment of Normal Retirement

Date or the date it would have been attained if the Participant continued in Service until such date. The Participant shall be entitled to such a vested benefit by filing with the Administrator within ninety (90) days of the date he ceases to be employed as a full-time fire fighter for the City, a written notice of his intention to vest.

- 2.05 Normal Form of Retirement Benefit. A Member's retirement benefit shall be payable in the form of a monthly life annuity commencing on his actual retirement date and ceasing with the last payment due immediately preceding his death. Any death benefit which may be payable is described in Article IV hereof.
- 2.06 Service Increment. A Member who shall become entitled to a Normal Retirement pension shall also be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth below:
- (a) The Service Increment shall be a monthly benefit determined by computing the number of whole Years of Service the Member serves after having served twenty (20) Years of Service, and multiplying said number of Years of Service so computed by an amount equal to one-fortieth (1/40th) of the Retirement Benefit the Member is entitled to receive. In computing the Service Increment, no Service after the Member has reached the age of sixty-five (65) shall be included, and no Service Increment shall be paid in excess of two hundred fifty dollars (\$250) per month.
 - (b) Each Member shall pay an additional two dollars and fifty cents (\$2.50) per month Member Contribution for the Service Increment. No Member Contribution for the Service Increment shall be required after the Member has reached age sixty-five (65). Service Increment contributions shall be paid at the same time and in the same manner as Member Contributions required under Section 5.01 and may be withdrawn in full, without interest, by Members who terminate Service with the City without entitlement to a pension, subject to the same conditions which Member Contributions may be withdrawn, or by Members who retire before becoming entitled to any Service Increment.
 - (c) For Members who were hired on or after January 1, 2020, the Service Increment pursuant to subsection (a) shall not exceed one hundred dollars (\$100) per month and the additional monthly Member Contribution for the Service Increment pursuant to subsection (b) shall be one dollar (\$1) per month.
- 2.07 Mandatory Retirement. The mandatory retirement age for all Participants, with the exception of the Fire Chief, is age sixty-two (62). The retirement date of any Participant (other than the Fire Chief) who attains age sixty-two (62) shall not be later than the first day of the next calendar month following the Participant's sixty-second birthday.

ARTICLE III

DISABILITY BENEFIT

- 3.01 Non-Service-Related Disability Benefit. A Disabled Member not disabled in the line of duty and hired before January 1, 2010 shall be entitled to receive a monthly benefit equal to thirty percent (30%) of his Final Average Monthly Compensation at the time he was determined to be Disabled, which benefit shall be known hereinafter as the "Non-Service-Related Disability Benefit." The Non-Service Related Disability Benefit shall commence on the first day of the calendar month next following the date on which the Member has satisfied the Plan's definition of Disability and shall continue, except as noted below, until the earliest of his death, recovery from Disability or the employee's Normal Retirement Date. Upon the occurrence of Normal Retirement Date, the normal retirement benefit shall commence on such date in the same amount as his disability benefit.

A Disabled Member who was Disabled from a non-service-related cause and who was hired on or after January 1, 2010 shall be entitled to the above benefit only if he has accrued 10 Years of Service prior to being determined to be Disabled.

- 3.02 Service-Related Disability Benefit. A Disabled Member who becomes Disabled as a direct result of their work as a City Firefighter shall be entitled to a monthly benefit equal to 50% of his Final Average Monthly Compensation at the time he was determined to be Disabled, which benefit shall be known hereinafter as the "Service-Related Disability Benefit." The Service-Related Disability Benefit shall commence on the first day of the calendar month next following the date on which the Member has satisfied the Plan's definition of Disability and shall continue, except as noted below, until the earliest of his death, recovery from Disability or the employee's Normal Retirement Date. Upon the occurrence of Normal Retirement Date, the normal retirement benefit shall commence on such date in the same amount as his disability benefit.

- 3.03 Termination of the Disability Benefit. The City may require proof of continued disability coverage by requesting a re-evaluation of the employee's condition. The City shall pay the expenses to and from the physician's office for any exam required by the City. Any conflict in diagnosis between the City's physician and the Member's physician shall be submitted to an impartial physician. The impartial physician shall be selected from a list of three physician specialists in the field of the injury or disease involved, supplied by the local medical society. Each party shall alternately strike a name until one remains. The firefighters shall strike the first name; the physician remaining shall be the impartial physician. The decision of the impartial physician shall be binding on both parties; exam costs of the impartial physician shall be paid by the City. The Member has the right to request a re-evaluation of his condition ninety (90) calendar days after said decision. The cost of this re-evaluation shall be at the employee's expense.

3.04 Requirement of Notification. A Member who is receiving benefits from the Plan on account of Disability shall be required to notify the Administrator of any change which may cause a cessation of entitlement to receipt of such benefits. To the extent a Member fails to provide immediate notice to the Administrator of any such change in status and who continues to receive benefits to which he is not entitled from the Plan on account of Disability, the Administrator may take any action necessary to recover any amount improperly paid, including legal action or the offsetting of such amounts against future payments on account of retirement or death under the Plan, including the costs of such actions.

ARTICLE IV
DEATH BENEFIT

4.01 Pre-retirement Death Benefits. Upon the death of a Participant prior to his Normal Retirement Date and prior to the date retirement benefits commence, a monthly benefit shall be payable to the Participant's Eligible Spouse equal to one-half of the Member's vested Accrued Benefit as of the date of his death. Such benefit shall be payable effective as of the first day of the month following the death of the Participant, and each following month for the remaining life of the Eligible Spouse. Benefits shall not be payable under both this Section and under Section 4.02. (See Section 4.03 below.)

4.02 Survivor Benefit. The Eligible Spouse of a Member who retires on pension or dies while in the service shall be eligible to receive the same monthly benefit that the Member was receiving or was eligible to receive at the date of his death, for the remainder of her life. If no Eligible Spouse survives the Member, or if the Eligible Spouse subsequently dies, the benefit shall be payable to the child or children, if any, of the Member until age 18. In the case of a Member who dies while in the service prior to Normal Retirement Date, the survivor benefit shall commence at the date that would have been the Member's Normal Retirement Date had they continued in employment until such date. Benefits shall not be payable under both this Section and under Section 4.01. (See Section 4.03 below).

4.03 Coordination of Sections 4.01 and 4.02. Under no circumstances shall a benefit be payable under both Sections 4.01 and 4.02 above. Should a Surviving Spouse become entitled to a benefit under both Sections, then such Eligible Spouse shall be provided the opportunity to elect either the benefit payable under Section 4.01 or the benefit payable under Section 4.02. Such election shall be made inwriting on a form acceptable to the Plan Administrator and shall be binding and irrevocable thereafter.

ARTICLE V

MEMBER CONTRIBUTIONS AND THEIR DISBURSEMENT

- 5.01 Member Contributions, Defined. The term "Member Contribution" shall mean any amount deposited into the Plan by a Member. In general, Member's contribution shall be five percent (5%) of the Participant's Compensation. Service Increment contributions pursuant to Section 2.07 (b) or (c) shall also be considered Member Contributions.

Effective January 1, 2010, Member Contributions shall be paid or "picked up" by the City and thereafter treated as employer contributions for federal income taxation purposes consistent with Section 414(h)(2) of the Internal Revenue Code of 1986, as amended. Affected Participants shall not have the option of choosing to receive the picked-up contributions directly in lieu of having them contributed to the Plan. Notwithstanding the foregoing, contributions so picked up shall continue to be treated as mandatory employee contributions for all purposes of state and local law in the same manner and to the same extent as mandatory employee contributions made prior to passage of the resolution, including, by way of illustration and not limitation, being treated as part of the affected employee's compensation for both Pennsylvania and local income tax law and for purposes of computing any benefits under this Plan.

- 5.02 [reserved].

- 5.03 Withdrawal.

- (a) Member Contributions, ("Member Contribution Account") may be withdrawn from the Plan by or on behalf of a Former Participant only under the following circumstances:
- (1) where the Member fails to complete the requirement of Service specified in Section 2.01(a);
 - (2) where the Member fails to elect to vest in a Retirement Benefit to which he has become entitled, pursuant to Section 2.01(b); and
 - (3) where the Member dies without satisfying the requirements of entitlement to a Death Benefit, as detailed in Article IV;
- (b) Where the above conditions for the withdrawal of the Member Contribution Account have been satisfied, payment of the Member Contribution Account shall be made to the Member, or in the event of the Member's death, to the Member's Beneficiary, or if a Beneficiary does not exist, to the Member's estate. Such payment shall be made as soon as administratively feasible subject to any Code regulations applicable to such distribution and completion of any forms or elections by the recipient following the date on which the Member (1) became a

Former Participant or (2) failed to elect vesting in a retirement benefit to which he had become entitled, whichever is later.

- (c) Upon the distribution of the Member Contribution Account, the entitlement of the Member, his Eligible Spouse, Dependent Child(ren) or Beneficiary to any future Retirement Benefit, Disability Benefit, or Death Benefit shall cease and they shall have no further rights in the Plan. If the Member again becomes an Eligible Employee, he shall pay to the Fund the Member Contribution Account under the terms and conditions as may be determined by the Committee.

ARTICLE VI
DEFINITIONS

RELATIVE TO ADMINISTRATIVE MATTERS

- 6.01 "Act 205" shall mean the Municipal Pension Plan Funding Standard and Recovery Act, act of December 18, 1984, P.L. 1005 no. 205, as amended, 53 P.S. Sec. 895.101, et seq.
- 6.02 "Actuary" shall mean a person who has at least five (5) years of actuarial experience with public pension plans and who is either enrolled as a member of the American Academy of Actuaries or enrolled as an actuary pursuant to the Federal Employee Retirement Income Security Act of 1974.
- 6.03 "Administrator" or Plan Administrator shall mean the Chief Administrative Officer.
- 6.04 "Chief Administrative Officer" shall mean the individual, designated by Council, who shall have the power and authority to perform all acts and to execute, acknowledge, and deliver all instruments necessary to implement and effectuate the purpose of the Plan. Where Council fails to designate a Chief Administrative Officer, the Chief Administrative Officer shall be the Manager of the City. Any decision or determination made by the Chief Administrative Officer may be reviewed by Council with the right reserved by Council to overrule, amend, modify, alter or change any decisions or determinations of said Chief Administrative Officer in such manner and to such extent as may seem proper to Council.
- 6.05 "City" shall mean the City of Warren and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. The City is situated in Warren County in the Commonwealth of Pennsylvania.
- 6.06 "Code" shall mean the Internal Revenue Code of 1986, as amended or replaced from time to time.
- 6.07 "Committee" or Firefighters Pension Fund Committee shall, in general, be advisory in nature and shall have such powers as are specifically delegated by Council in writing. The Committee shall consist of a member of Council appointed by the Mayor for a two-year term and during his or her tenure in office, the Fire Chief and Finance Officer and the Manager; two members of the City of Warren Fire Department, who shall be elected by a majority vote of all the members of the City of Warren Fire Department to serve for a term of two (2) years from the date of his/her election, and one citizen of the City of Warren, to be appointed by Council, to serve for a term of two (2) years.

The Committee shall be deemed to exist subject to the power and authority of the Council of the City and any decision or determination of said Committee may be reviewed by said Council with the right reserved by Council to overrule, amend, modify, alter or change any decisions or determinations of said Committee in such manner and to such extent as may seem proper to Council.

- 6.08 "Council" shall mean the Council of the City of Warren in whom rests the responsibility for appointing the Chief Administrative Officer and for deciding and approving any matter of finance that affects, or could affect, the Plan, its Participants, or beneficiaries. All powers relative to the operation and administration of the Plan shall specifically reside with Council unless delegated pursuant to this Plan document.
- 6.09 "Plan" shall mean the current instrument, including all amendments hereto.
- 6.10 "Plan Year" shall mean the 12-month period beginning on January 1 and ending on December 31 of each year.
- 6.11 "Policy" or "Contract" shall mean a retirement annuity or a retirement income endowment policy (or a combination of both), or any other form of insurance contract or policy which shall be deemed appropriate with accordance with the provisions of applicable law.
- 6.12 "Trust" or "Fund" shall mean the fund administered and established under the terms of the Plan, which fund shall include all money, property, investments, policies, and contracts standing in the name of the Plan.
- 6.13 "Trust Agreement" shall mean the legal agreement entered into between the City and any fiduciary that shall provide specifically for all objectives, powers, and responsibilities concerning the management of the Trust's assets.

ARTICLE VII

ADMINISTRATION

7.01 Authority and Duties of the Administrator. The Administrator shall have full power and authority to do whatever, in its judgment, shall be reasonably necessary to effectuate the proper administration and operation of the Plan. The interpretation or construction placed upon any term or provision of the Plan by the Administrator, or any action of the Administrator taken in good faith, shall be final and conclusive upon all parties hereto, except with regard to the power of Council provided in Sections 6.04, 6.07 and 6.08 hereof. The authority of the Administrator shall include, but shall not be limited to:

- (a) construction of the Plan;
- (b) determination of all questions affecting the eligibility of any employee of the City to participate herein;
- (c) computation of the amount and the source of any benefit payable hereunder to any Member or Beneficiary, as applicable;
- (d) authorization of any and all disbursements of benefits;
- (e) prescription of any procedure to be followed by any Participant or other person, as applicable, in filing any application or election hereunder;
- (f) preparation and distribution of information explaining the Plan as may be required by law or as the Administrator deems appropriate;
- (g) requisition of information necessary from the City or any Participant for the proper administration of the Plan; and
- (h) appointment and retention of any individual to assist in the administration of the Plan, including such legal, clerical, accounting, and actuarial services as may be required by any applicable law or laws.

The Administrator shall have no authority to add to, subtract from, or modify the terms of the Plan or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for benefits under the Plan. Further, the Administrator shall have no power to adopt, amend, or terminate the Plan, to select or appoint any trustee, or to determine or require any contributions to the Plan, said powers being exclusively reserved to Council.

7.02 Hold Harmless. To the full extent permitted by law, no member of the Committee, Council, the Chief Administrative Officer, the Administrator, Trustees of the City of Warren Firefighters Pension Plan, nor any other municipal employee, elected or appointed official involved in the administration of the Plan shall be liable to any person

on account of any act or failure to act which is taken or omitted to be taken in good faith in performing their respective duties under the terms of this Plan. To the extent permitted by law, the City shall, and hereby does agree to, indemnify and hold harmless the Administrator and each successor and each individual's heirs, executors and administrators, and the Administrator's delegates and appointees (other than any person or entity independent of the City who renders services to the Plan for a fee) the Committee, Council, the Chief Administrative Officer, the Trustees of the City of Warren Firefighters Pension Plan as well as any other municipal employee, elected or appointed official involved in the administration of the Plan, from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit, or proceeding to which he is or may be made a party by reason of their service or duties on behalf of the Plan, except in matters involving criminal liability, or intentional or willful misconduct. If the City purchases insurance to cover claims of a nature described above, then no right of indemnification shall exist except to the extent of any deductible amount under the insurance coverage or to the extent of the amount the claims exceed the insured amount.

7.03 Appeal Procedure. Any person whose application for benefits is denied, who questions the amount or timing of any benefit paid, or who has some other claim arising under the Plan (the "Claimant"), shall first seek a resolution of such claim under the procedure hereinafter set forth.

- (a) The Claimant shall first file a notice of claim with the Administrator which notice shall fully describe the nature of the claim. The Administrator shall review the claim and make an initial determination approving or denying the claim and shall mail notice of the determination within ninety (90) days (or such other period as may be established by applicable law) from the time the application is received. Such ninety (90) day period may be extended by the Administrator, if special circumstances so require, for up to ninety (90) additional days by the Administrator's delivering notice of such extension to the Claimant within the first ninety (90) day period. Any notice hereunder shall, if it is a notice of denial, set forth:
 - (i) the specific provisions of the Plan on which the denial is based;
 - (ii) an explanation of additional material or information, if any becomes necessary to perfect such claim, and a statement of why such material or information is necessary; and
 - (iii) an explanation of the review procedure.
- (b) Upon receipt of notice denying the claim, the Claimant shall have the right to request a full and fair review by Council of the initial determination. Such request for review must be made by written notice to Council within sixty (60) days of mailing of the notice of denial. During such review, the Claimant or a duly authorized representative shall have the right to review any pertinent documents and to submit any issues or comments in writing. Council shall, within sixty (60)

days after receipt of the notice requesting such review, (or in special circumstances, such as where Council in its sole discretion holds a hearing, within one hundred and twenty (120) days of receipt of such notice), submit its decision in writing to the person or persons whose claim has been denied. The decision shall be final, conclusive and binding on all parties, and shall contain specific references to the pertinent Plan provisions on which the decision is based.

- (c) Any notice of claim questioning the amount of a benefit in pay status shall be filed by the Claimant with the Administrator within ninety (90) days following the date of the first payment which would be adjusted if the claim is granted, unless the Administrator allows a later filing for good cause shown.
- (d) A Claimant who does not submit a notice of a claim or a notice requesting a review of a denial of a claim within the time limitations specified above shall be deemed to have waived such claim or right to review.
- (e) No decision hereunder is a final decision from which an appeal may be taken under 2 Pa. C.S. § 752 until the entire appeal procedure of this Section 7.03 of the Plan has been exhausted.

ARTICLE VIII

PROVISIONS RELATIVE TO FUNDING UNDER ACT 205

- 8.01 Actuarial Valuations. The Actuary to the Plan shall perform an actuarial valuation at least biennially. Each biennial actuarial valuation report shall be made as of the beginning of each Plan Year occurring in an odd-numbered calendar year, beginning with the year 1985. Such actuarial valuation shall be prepared and certified by an approved Actuary, as such term is defined in Act 205.

The expenses attributable to the preparation of any actuarial valuation report or investigation required by Act 205 or any other expense which is permissible under the terms of Act 205 and which are directly associated with administering the Plan shall be an allowable administrative expense payable from the assets of the Trust. Such allowable expenses shall include, but shall not be limited to, the following:

- (a) investment costs associated with obtaining authorized investments and investment management fees;
- (b) accounting expenses;
- (c) premiums for insurance coverage on Fund assets;
- (d) reasonable and necessary counsel fees incurred for advice or to defend the Fund; and
- (e) legitimate travel and education expenses for officials of the Plan.

Council, in its fiduciary role, shall monitor the services provided to the Plan to ensure that the expenses are necessary, reasonable and benefit the Plan; and further provided, that the Administrator shall document all such expenses item by item, and where necessary, hour by hour.

- 8.02 Duties of the Chief Administrative Officer. The actuarial reports described above shall be prepared and filed under the supervision of the Chief Administrative Officer.

The Chief Administrative Officer of the Plan shall determine the financial requirements of the Plan on the basis of the most recent actuarial report and shall determine the minimum obligation of the City with respect to funding the Plan for a given Plan Year. The Chief Administrative Officer shall submit the financial requirements of the Plan and the minimum obligation of the City to Council annually and shall certify the accuracy of such calculations and their conformance with Act 205.

- 8.03 Modification of Benefits. Prior to the adoption of any provision that modifies a benefit provided hereunder the Chief Administrative Officer shall provide to Council a cost estimate of the proposed modification. Such estimate shall be prepared by an approved

Actuary, which estimate shall disclose to Council the impact of the proposed modification on the future financial requirements of the Plan and the future minimum obligation of the City with respect to the Plan.

8.04 Utilization of State Aid. Payments of general municipal state aid, or any other amount of state aid received pursuant to Act 205 from the Commonwealth of Pennsylvania which are received by the City and deposited into the Fund shall be used as follows:

- (a) to reduce the amortization of the unfunded liability, or after such liability has been funded,
- (b) to apply against the annual obligation of the City, or to the extent that the payments may be in excess of such obligation,
- (c) to reduce Member Contributions hereunder.

8.05 Member Contributions. See ARTICLE V.

8.06 City Contributions. The remainder of the annual contributions required under provisions of Act 205, as determined by the Actuary to the Plan in accordance with Act 205, shall become the obligation of the City and shall be paid into the Fund by annual appropriations.

ARTICLE IX

APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE

- 9.01 Background and Intent to Comply. As a governmental pension plan under the Internal Revenue Code of 1986, the Plan is obligated to operate in compliance with the provisions of the Internal Revenue Code as they apply to governmental entities. The Employer intends that this Plan shall meet all the pertinent requirements established for a governmental plan (as defined in Internal Revenue Code §414(d)) under Internal Revenue Code §401(a), as amended, and the Plan shall be interpreted, wherever possible, to comply with the terms of said Code and all formal regulations and rulings pertinent to the Plan and trust agreement.
- 9.02 Definitions. The following words and phrases are hereby introduced and defined for purposes of this Regulation only:
- (a) "Leased Employee" shall mean, effective as of January 1, 1997, any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are under primary direction and control of the recipient.
 - (b) "Limitation Year" shall mean the Plan Year.
- 9.03 Maximum Annual Benefit.
- (a) General Rule. Except as otherwise provided, this Plan shall at all times comply with the provisions of Code Section 415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If a benefit payable to a Participant under this Plan would otherwise exceed the limit under Code Section 415, the benefit will be reduced to the maximum permissible benefit.
 - (b) Effective Date. If there is more than one permissible effective date for any required change in the Code Section 415(b) provisions, then the change shall be effective as of the latest permissible effective date; however, any adjustment in the dollar limit under Code Section 415(b)(1)(A), whether required or permissible, shall take effect automatically as of the earliest permissible effective date. The "applicable mortality table" in Rev. Rul. 2001-62 effective from December 31, 2002 through December 31, 2007. Effective as of January 1, 2008 the "applicable mortality table" and "applicable interest rate" are found in Rev. Rul. 2007-67. The "applicable interest rate" and "applicable mortality assumption" shall be automatically adjusted for changes in the law and IRS announcements.
 - (c) No Reduction in Accrued Benefits. Notwithstanding the above, no change in the limits under this Article shall reduce the benefit of any Participant.

- (d) **Multiple Plans.** If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code Section 415(b), and if the aggregated benefits would otherwise exceed the limit under Code Section 415(b), then benefits shall be reduced first under this Plan.
- (e) **Mandatory Contributions.** Member Contributions are annual additions, and any benefit attributable to Member Contributions is not included in the benefit subject to the limits of Code Section 415(b). This subsection does not apply to contributions “picked-up” in accordance with Code Section 414(h).
- (f) **Permissive Service Credit.** Effective as of January 1, 1998, if a Participant makes a purchase of permissive service credit (within the meaning of Code Section 415(n)) under the Plan, the benefit derived from the contributions made to purchase the service credit shall be treated as part of the benefit subject to the limitations under this section.

9.04 Limit on Annual Additions.

- (a) **Annual Additions.** Except as otherwise provided, annual additions (which include Member Contributions) under this Plan shall at all times comply with the provisions of Code Section 415(c) and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If an annual addition would otherwise exceed the limit under Code Section 415(c), the excess annual addition will be eliminated in accordance with methods permitted under Rev. Proc. 2008-50 (Rev. Proc. 2006-27 prior to 2009) or its successor.
- (b) **Multiple Plans.** If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code Section 415(c), and if the annual additions would otherwise exceed the limit under Code Section 415(c), annual additions will first be reduced under the other plan. If there is more than one other plan, annual additions will first be reduced under the plan with the greatest amount of annual additions.
- (c) **Effective Date.** The limits under which Code Section 415(c) are adjusted periodically in accordance with changes in the law or cost of living adjustments without the need for a plan amendment. If there is more than one permissible effective date for any required change relating to Code Section 415(c), then the change shall be effective as of the earliest permissible effective date.
- (d) **415(c) Compensation.** For the purposes of this Section, "compensation" includes only those items specified in Treas. Reg. §1.415(c)-2(b)1 or (2) and excludes all items listed in Treas. Reg. §1.415(c)-2(c), the terms of which are specifically incorporated herein by reference. Effective as of January 1, 2009, to the extent required by the Heroes Earnings Assistance Tax Relief Tax Act of 2008 (HEART

Act), differential wage payments shall be included in compensation for the purposes of applying the limits on annual additions under IRC Section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

- 9.05 Leased Employees and Independent Contractors. Leased Employees and independent contractors are not eligible to participate in this Plan. Any person whom the Council does not regard as being an Employee shall not be eligible to participate.
- 9.06 Multiple Plan Reduction. Code Section 415(e) applied for Limitation Years beginning prior to 2000.
- 9.07 Limit on Compensation. Compensation is subject to the limitation under Code Section 401(a)(17), which is \$330,000 for the Plan Year beginning in 2023. The limit is automatically adjusted periodically, without formal amendment, for changes in the law and cost-of-living adjustments under Code Section 401(a)(17).
- 9.08 Vesting Upon Plan Termination. Upon the termination of this Plan, or complete or partial discontinuance of contributions (within the meaning of pre-ERISA Code Section 401(a)(7)) to this Plan, each Participant (who is not already 100% vested) as of the date of such termination or discontinuance shall become vested to the extent that the Plan is funded.
- 9.09 Required Distributions. Notwithstanding any provision in this Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Code Section 401(a)(9). For purposes of complying with Code Section 401(a)(9), life expectancies were determined in accordance with the 1987 proposed regulations prior to January 1, 2003 and with the final regulations (§1.401(a)(9)-1 through §1.401(a)(9)-9) on or after January 1, 2003.
- (a) Distribution of a Participant's benefits shall begin not later than April 1st of the calendar year following the later of:
- (1) the calendar year in which the Participant attains age seventy-three (73) or such later age and date as may be set forth in law (and as per IRS regulations, or
 - (2) the calendar year in which the Participant retires.
- Distributions must be made over a period not exceeding the life of the Participant or the joint lives of a Participant and his Beneficiary.
- (b) Distributions to a Participant and his Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9)(G) and the regulations thereunder. If a Participant receives a joint and survivor annuity and the beneficiary is not the Participant's spouse, life expectancy shall be

determined using the Uniform Lifetime Table of Treasury regulation §1.401(a)(9)-9.

- (c) This section does not authorize the payment of any benefit in any form not permitted under another provision of the Plan.
- (d) The terms of any annuity purchased with Trust assets must comply with the requirements of Code Section 401(a)(9) and the regulations thereunder.

9.10 Domestic Relations Order. All rights and benefits, including elections, provided to a Participant in this Plan may be subject to the rights afforded to any “alternate payee” pursuant to a domestic relations order as provided by applicable state law.

9.11 Direct Rollover.

- (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) For purposes of this Section, the following definitions shall apply:
 - (1) 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: (i) 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; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (iv) effective as of January 1, 2002, any hardship distribution. Effective as of January 1, 2002 clause (iii) does not apply to any after-tax Participant contributions that are paid to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) or effective as of January 1, 2007, any 403(b) annuity contract that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
 - (2) 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), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, prior to January 1, 2002, an eligible retirement plan was an individual retirement account or individual retirement annuity. Effective as of January 1, 2002, an "eligible retirement plan" includes an annuity contract described in Code Section 403(b) and 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. Effective January 1, 2008, a Roth IRA is an "eligible retirement plan."

- (3) A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.
 - (4) A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) Non-Spouse Beneficiaries - Effective as of January 1, 2007, if a Beneficiary who is not a surviving spouse is entitled to receive what would otherwise be an "eligible rollover distribution", the Beneficiary may, in accordance with Code Section 402(c)(11), make a trustee-to-trustee transfer of that amount to an IRA or individual retirement annuity (other than an endowment contract); provided that:
- (1) the transfer is made not later than the end of the fourth year after the year of the Participant's death, and
 - (2) the account or annuity to which the amount is transferred is treated as an inherited IRA or individual retirement annuity in accordance with Code Section 408(d)(3)(C).

9.12 Credit for Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

9.13 Mandatory Distributions. Effective, January 1, 2006, in the event of a mandatory distribution under the terms of this Plan, if the Participant does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover, or to receive the distribution directly, then the distribution will be paid in a direct rollover to an IRA designated by the Plan.

- 9.14 Heroes Earnings Assistance Relief Tax Act of 2008 (HEART ACT). Except where otherwise specifically provided to the contrary in this Plan, effective for deaths occurring on or after January 1, 2007, the Plan will provide retirement benefits and service credit to the extent that the Plan is required and mandated by the Heart Act to provide said benefits and/or service credit.
- 9.15 Forfeitures. Forfeitures shall not be used to increase the benefits of any Participant in this Plan but may be used to reduce Employer contributions to the Plan.
- 9.16 Vesting at Normal Retirement Age. Upon attainment of Normal Retirement Age, a Participant shall be 100% vested in his Normal Retirement Benefit.
- 9.17 Exclusive Benefit. The Plan is maintained for the exclusive benefit of the Participants and Beneficiaries and at no time may Plan assets be used otherwise except as may be permitted in the Internal Revenue Code.
- 9.18 Windsor Case. Effective June 23, 2013, the terms spouse, husband, wife, widow and widower shall include individuals married to persons of the same sex if the individuals are legally married under state law. Also, where the term widow appears, it shall be read to include widower.

ARTICLE X

AMENDMENT AND TERMINATION OF PENSION PLAN OR PENSION FUND

- 10.01 Amendment. Council may amend this Plan at any time or from time to time by ordinance or resolution, provided that:
- (a) no amendment shall deprive any Participant or beneficiary, as applicable, of any of the benefits to which he is entitled under this Plan pursuant to State law;
 - (b) no amendment shall provide for the use of funds or assets held under this Plan other than for the benefit of Eligible Employees or alternate payee, and no funds contributed to the Plan or assets of the Plan shall, except as provided below, ever revert to or be used or enjoyed by the City; and
 - (c) no amendment to the Plan which provides for a modification of one or more benefits shall be made unless an estimate of cost has been prepared and presented to Council.
- 10.02 Termination of the Plan. Council shall have the power to terminate this Plan in its entirety at any time by an instrument in writing executed in the name of the City.
- 10.03 Automatic Termination of Contributions. Subject to the provisions of Act 205 governing financially distressed municipalities, the liability of the City to make contributions to the Pension Fund shall automatically terminate upon liquidation or dissolution of the City, upon its adjudication as a bankrupt or upon the making of a general assignment for the benefit of its creditors.
- 10.04 Distribution Upon Termination. All assets attributable to the terminated Plan shall be distributed and disposed of in accordance with the provisions of applicable law and the terms of any instrument adopted by the City which effects such termination.
- 10.05 Residual Assets. If all liabilities to vested Participants and any others entitled to receive a benefit under the terms of the Plan have been satisfied and there remain any residual assets in the Pension Fund, such residual assets remaining shall be returned to the City insofar as such return does not contravene any provision of law, and any remaining balance, in excess of Employer contributions, shall be returned to the Commonwealth.
- 10.06 Exclusive Benefit Rule. In the event of the discontinuance and termination of the Plan as provided herein, the City shall dispose of the Pension Fund in accordance with the terms of the Plan and applicable law; at no time prior to the satisfaction of all liabilities under the Plan shall any part of the corpus or income of the Pension Fund, after deducting any administrative or other expenses properly chargeable to the Pension Fund, be used for or diverted to purposes other than for the exclusive benefit of the Participants in the Plan, their Beneficiaries or their estates.

ARTICLE XI

THE PENSION FUND

- 11.01 Operation of the Pension Fund. Council is hereby authorized to hold and supervise the investment of the assets of the Pension Fund, subject to the provisions of the laws of the Commonwealth of Pennsylvania and of this Plan and any amendment thereto. It is specifically envisioned that Council may delegate certain of its powers to the Committee pursuant to the terms and conditions described therein.

The Pension Fund shall be used to pay benefits as provided in the Plan and, to the extent not paid directly by the City, to pay the expenses of administering the Plan pursuant to authorization by the City.

The City intends the Plan to be permanent and for the exclusive benefit of its Employees. It expects to make the contributions to the Pension Fund required under the Plan. The City shall not be liable in any manner for any insufficiency in the Pension Fund; benefits are payable only from the Pension Fund, and only to the extent that there are monies available therein.

The Pension Fund will consist of all funds held by the City under the Plan, including contributions made pursuant to the provisions hereof and the investments, reinvestment and proceeds thereof. The Pension Fund shall be held, managed, and administered pursuant to the terms of the Plan. Except as otherwise expressly provided in the Plan, the City has exclusive authority and discretion to manage and control the Pension Fund assets. The City may, however, appoint a trustee, custodian and/or investment manager, at its sole discretion.

- 11.02 Powers and Duties of the City. With respect to the Pension Fund, the City shall have the following powers, rights and duties, in addition to those vested in it elsewhere in the Plan or by law, unless such duties are delegated.

- (a) To retain in cash so much of the Pension Fund as it deems advisable and to deposit any cash so retained in any bank or similar financial institution (including any such institution which may be appointed to serve as trustee hereunder), and shall include the right to hold funds on a temporary basis in accounts or investments that do not bear interest.
- (b) To invest and reinvest the principal and income of the fund and keep said fund invested, without distinction between principal and income, in securities which are at the time permitted investments for fiduciaries under the Pennsylvania Fiduciaries Investment Act, or as the same may be subsequently modified or amended.

- (c) To sell property held in the fund at either public or private sale for cash or on credit at such times as it may deem appropriate; to exchange such property; to grant options for the purchase or exchange thereof.
- (d) To consent to and participate in any plan of reorganization, consolidation, merger, extension or other similar plan affecting property held in the fund; to consent to any contract, lease, mortgage, purchase, sale or other action by any corporation pursuant to any such plan.
- (e) To exercise all conversion and subscription rights pertaining to property held in the fund.
- (f) To exercise all voting rights with respect to property held in the fund and in connection therewith to grant proxies, discretionary or otherwise.
- (g) To place money at any time in a deposit bank deemed to be appropriate for the purposes of this Plan no matter where situated, including in those cases where a bank has been appointed to serve as trustee hereunder, the savings department of its own commercial bank.
- (h) In addition to the foregoing powers, the City shall also have all of the powers, rights, and privileges conferred upon trustees by the Pennsylvania Fiduciaries Investment Act, or as the same may be subsequently modified or amended, and the power to do all acts, take all proceedings and execute all rights and privileges, although not specifically mentioned herein, as the City may deem necessary to administer the Pension Fund.
- (i) To maintain and invest the assets of this Plan on a collective and commingled basis with the assets of other pension plans maintained by the City, provided that the assets of each respective plan shall be accounted for and administered separately.
- (j) To invest the assets of the Pension Fund in any collective commingled trust fund maintained by a bank or trust company, including any bank or trust company which may act as a trustee hereunder or to invest in a group contract or other funding arrangement. In this connection, the commingling of the assets of this Plan with assets of other eligible, participating plans through such a medium is hereby specifically authorized. Any assets of the Plan which may be so added to such collective trusts shall be subject to all of the provisions of the applicable declaration of trust, as amended from time to time, which declaration, if required by its terms or by applicable law, is hereby adopted as part of the Plan, to the extent of the participation in such collective or commingled trust fund by the Plan.

- (k) To make any payment or distribution required or advisable to carry out the provisions of the Plan, provided that if a trustee is appointed by the City, such trustee shall make such distribution only at the direction of the City.
- (l) To compromise, contest, arbitrate, enforce or abandon claims and demands with respect to the Plan.
- (m) To retain any funds or property subject to any dispute without liability for the payment of interest thereon, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction.
- (n) To pay, and to deduct from and charge against the Pension Fund, any taxes which may be imposed thereon, whether with respect to the income, property or transfer thereof, or upon or with respect to the interest of any person therein, which the Fund is required to pay; to contest, in its discretion, the validity or amount of any tax, assessment, claim or demand which may be levied or made against or in respect of the Pension Fund, the income, property or transfer thereof, or in any matter or thing connected therewith.
- (o) To appoint any persons or firms (including but not limited to accountants, investment advisors, counsel, actuaries, physicians, appraisers, consultants, professional plan administrators and other specialists), or otherwise act to secure specialized advice or assistance, as it deems necessary or desirable in connection with the management of the Fund, to the extent not prohibited by applicable law, the City shall be entitled to rely conclusively upon and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such persons or firms, provided such persons or firms were prudently chosen by the City, taking into account the interests of the Participants and Beneficiaries and with due regard to the ability of the persons or firms to perform their assigned functions.
- (p) To retain the services of one or more persons or firms for the management of (including the power to acquire and dispose of) all or any part of the Fund assets, provided that each of such persons or firms is registered as an investment advisor under the Investment Advisors Act of 1940, is a bank (as defined in that act), or is an insurance company qualified to manage, acquire or dispose of pension trust assets under the laws of more than one state; in such event, the Employer shall follow the directions of such Investment Manager or Managers with respect to the acquisition and disposition of fund assets, but shall not be liable for the acts nor omissions of such Investment Manager or Managers, nor shall it be under any obligation to review or otherwise manage any Fund assets which are subject to the management of such Investment Manager or Managers.

If the City appoints a trustee, the trustee shall not be permitted to retain such an Investment Manager except with the express written consent of the City.

- 11.03 Common Investments. The City shall not be required to make separate investments for individual Participants or to maintain separate investments for each Participant's account but may invest contributions and any profits or gains therefrom in common investments.
- 11.04 Compensation and Expenses of Appointed Trustee. If a trustee is appointed, the trustee shall be entitled to such reasonable compensation as shall from time to time be agreed upon by the City and the trustee, unless such compensation is prohibited by law. Such compensation, and all expenses reasonably incurred by the trustee in carrying out his functions, shall constitute a charge upon the City or the Pension Fund, which may be executed at any time after 30 days written notice to the City. The City shall be under no obligation to pay such costs and expenses, and, in the event of its failure to do so, the trustee shall be entitled to pay the same, or to reimburse themselves for the payment thereof, from the Pension Fund.
- 11.05 Periodic Accounting. If a trustee is appointed, the Pension Fund shall be evaluated annually, or at more frequent intervals, by the trustee and a written accounting rendered as of each fiscal year end of the Fund, and as of the effective date of any removal or resignation of the trustee, and such additional dates as requested by the City, showing the condition of the Fund and all receipts, disbursements and other transactions effected by the trustee during the period covered by the accounting, based on fair market values prevailing as of such date.
- 11.06 Value of the Pension Fund. All determinations as to the value of the assets of the Pension Fund, and as to the amount of the liabilities thereof, shall be made by the City or its appointed trustee, whose decisions shall be final and conclusive and binding on all parties hereto, the Participants and Beneficiaries and their estates. In making any such determination, the City or trustee shall be entitled to seek and rely upon the opinion of or any information furnished by brokers, appraisers and other experts, and shall also be entitled to rely upon reports as to sales and quotations, both on security exchanges and otherwise as contained in newspapers and in financial publications.

ARTICLE XII

MISCELLANEOUS PROVISIONS

- 12.01 Plan-Not a Contract of Employment. No employee of the City, nor anyone else, shall have any rights whatsoever against the City or the Administrator as a result of this Plan, except those rights expressly granted to them hereunder. Nothing herein shall be construed to give any employee the right to remain an employee of the City.
- 12.02 Gender and Number. For purposes of the Plan and wherever plainly necessitated by the person or context, the masculine shall be read for the feminine, and the singular shall be read for the plural.
- 12.03 Expenses. To the extent permitted by State law, all expenses related to the operation and administration of the Fund and Plan shall be paid from the assets of the Fund.
- 12.04 Construction. The validity of the Plan or any of its provisions shall be determined and construed pursuant to the laws of the Commonwealth of Pennsylvania, the federal government, and the agencies thereof.
- 12.05 Severability of Provisions. In the event that any provision, section, subsection, paragraph, sentence, clause, or other part of the Plan shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, sections, subsections, paragraphs, sentences, clauses, or other parts of the Plan.
- 12.06 Headings. The headings and subheadings employed within the current document have been inserted for convenience of reference and are to be ignored in the construction of the provisions hereof.
- 12.07 Incapacity of Participant. If any Participant shall be physically or mentally incapable of receiving or acknowledging receipt of any payment of benefits hereunder, the Administrator, upon the receipt of satisfactory evidence that such Participant is incapacitated to the aforesaid extent and that another person or institution maintains him, may provide for such payment of benefits hereunder to such person or the institution maintaining him, and any such payments so made shall be deemed for every purpose to have been made to such Participant.
- 12.08 Protective Clause Relative to Administration. Subject to the provisions of all laws applicable hereto, and unless otherwise specifically required, no past, present, or future officer of the City shall be personally liable to any Participant, beneficiary, or other person under any provision of the Plan.
- 12.09 Sole Benefit. The income and principal of the Plan are for the sole use and benefit of the Participants covered hereunder and, to the extent permitted by law, shall be free, clear

and not in any way liable for debts, contracts or agreements and from all claims and liabilities now or hereafter incurred by any Participant, beneficiary, or alternate payee.

12.10 Assignment. Except as provided in Section 9.10 hereof, the pension payments herein provided for shall not be subject to attachment, execution, levy, garnishment or other legal process, and shall be payable only to the Former Participant, his survivors or his designated beneficiary, or alternate payee and shall not be subject to assignment or transfer.

ORDAINED AND ADOPTED this _____ day of _____ 20____.

ATTEST:

CITY OF WARREN

City Manager

By: _____
Mayor

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CITY OF WARREN
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 81, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF WARREN (FIREFIGHTERS PENSION PLAN) TO RESTATE IN ITS ENTIRETY SUCH PENSION PLAN OR PROGRAM.

BE IT ORDAINED AND ENACTED by the Council of the City of Warren ("City"), a home rule municipality, and is HEREBY ORDAINED AND ENACTED by authority of the same.

The City of Warren Firefighters Pension Plan ("Plan") which was previously established for the benefit of the City's firefighters, and which has been amended and restated by ordinances of the City Council thereafter, shall be, and hereby is, amended and supplemented in the following respects:

Effective January 1, 2024, the Plan shall be amended by substituting the attached amendment and restatement of the City of Warren Firefighters Pension Plan in its place:

**CITY OF WARREN
FIREFIGHTERS PENSION PLAN**

**CITY OF WARREN
318 THIRD AVENUE, WEST
WARREN, PA 16365-2388**

**Amended and Restated
Effective as Of: January 1, 2024**