

**Council Bill No. 1881**

**INTRODUCED BY: Edward Walsh**

**Ordinance No. 1780**

**AN ORDINANCE**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF DUBOIS RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF THE POLICE RETIREMENT PLAN OR FUND, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE OF THE CITY OF DUBOIS AND TO RESTATE IN ITS ENTIRETY SUCH PENSION PLAN OR PROGRAM.**

**BE IT ORDAINED AND ENACTED** by the Council of the City of DuBois ("City") and it is **HEREBY ORDAINED AND ENACTED** by authority of the same:

The Police Retirement Plan of the City of DuBois ("Plan"), which was established pursuant to Ordinances and under the applicable provisions of the Third Class City Code for the benefit of the City's police employees effective, and which has been amended and/or restated by ordinances and resolutions of the City thereafter, shall be, and hereby is, amended and supplemented in the following respects. Although the Restated Plan has been in place and utilized after the date of Restatement, it had not been formally adopted pursuant to Resolution or Ordinance as is provided in the Third Class City Code. This Ordinance is intended to confirm its adoption and to ensure that formal adoption has occurred in accordance with applicable law.

Any Ordinances or Resolutions or parts of Ordinances or Resolutions conflicting with the provisions of this Ordinance shall be, and hereby are repealed so far as the same affect this Ordinance; however, such repeal shall not affect any act done or any right or liability accrued under such Ordinance or Resolution herein repealed or superseded and all such rights or liabilities shall continue and may be enforced in the same manner as if such repeal or super session had not occurred but only to the extent otherwise permitted under the laws of the Commonwealth of Pennsylvania.

Effective January 1, 2008, and with subsequent updates established after negotiations with the collective bargaining representatives of the Employees, the Plan shall be amended by entirely deleting the provisions of said Plan and substituting the following in its place:

**CITY OF DUBOIS POLICE RETIREMENT PLAN**

**AS AMENDED AND RESTATED**

**EFFECTIVE JANUARY 1, 2008**

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## PREAMBLE

Pursuant to the City of DuBois (hereinafter referred to as "City") Code of Ordinances (hereinafter referred to as "Prior Plan"), the City has maintained a pension plan for the benefit of full-time police officers known as the City of DuBois Police Retirement Plan.

Effective January 1, 2008, 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 DuBois Police Retirement 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 a governmental plan under Internal Revenue Code Section 414(d), 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, survivor, or Beneficiary who was receiving monthly benefits on December 31, 2007 under the Prior Plan shall receive payments on or after January 1, 2008 in accordance with the terms of Prior Plan.

Each terminated Participant who terminated employment prior to January 1, 2008 with a vested interest in his accrued benefit under the Prior Plan and who had not commenced receiving his retirement benefit on such date will be eligible to receive his retirement benefit on such benefit commencement date as set forth in the Prior Plan.

The provisions of this Plan shall apply only to any Participant who terminates employment on and after January 1, 2008.

## ARTICLE I DEFINITIONS

"Accrued Benefit" shall mean, as any given date, the benefit determined under Section 5.02 calculated on the basis of Final Monthly Average Salary as of the date of determination and multiplied by a fraction, the numerator of which shall be the Participant's Aggregate Service determined as of such date and the denominator of which shall be the Aggregate Service which would be credited to the Participant as of his Normal Retirement Date if he were to continue to be employed as an Employee until such date with the caveat that once the Participant shall have achieved the years of Aggregate Service required for Normal Retirement as set forth in Section 1.18, the value of the fraction shall be one. The value of the fraction shall be limited to one.

1.02 "Accumulated Contributions" shall mean the total amount contributed by each Participant to this Fund or its predecessor by way of payroll deduction or otherwise but shall not include interest.

"Act" shall mean the Municipal Pension Plan Funding Standard and Recovery Act, enacted as P.L. 1005 (Act 205) of 1984, as amended.

"Actuarial Equivalent" shall mean a form of benefit differing in time, period, or manner of payment from a specific benefit provided under the Plan but having the same value when computed using the "Applicable Interest Rate" and "Applicable Mortality Table" as defined in Section 417(e) of the Internal Revenue Code. The "Applicable Interest Rate" shall be determined as of the second month prior to the first month of the Limitation Year. The "Applicable Mortality Table" and

"Applicable Interest Rate" shall be adjusted automatically when necessary to maintain the qualified status of the Plan. The Applicable Mortality Table was found in Revenue Ruling 95-6, 1995-1 C.B. 80 and effective as of December 31, 2002 is found in Revenue Ruling 2001-62.

"Actuary" shall mean the person, partnership, association, or corporation which at any given time is serving as Actuary; provided that such Actuary must be an "approved Actuary" as defined in the Act.

"Aggregate Service" shall mean the total period of continuous Employment with the Employer.

"Annual Salary" for Participants hired on or after January 1, 2004 shall mean base salary and longevity pay. For Participants hired before January 1, 2004 "Annual Salary" shall mean W-2 earnings.

"Basic Monthly Earnings" shall mean 1/12 of the Annual Salary.

"Beneficiary" shall mean the person or entity designated by the Participant to receive a refund of the Participant's Accumulated Contributions should the Participant die prior to becoming entitled to a retirement benefit. In the event that a Participant does not designate a Beneficiary or his Beneficiary does not survive him, his Beneficiary shall be his surviving spouse, or if there is no surviving spouse, his issue, per stirpes, or if there is no surviving issue, his estate; but if no personal representative has been appointed, to those persons who would be entitled to his estate under the intestacy laws of the Commonwealth of Pennsylvania as if he had died intestate and a resident of Pennsylvania.

"Chief Administrative Officer" shall mean the person designated by Council to serve in the capacity of Chief Administrative Officer. If no such designation is made the Chief Administrative Officer shall be the City Manager.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Council" shall mean the City Council of the City of DuBois.

"Disability Date" shall mean the date when a Participant is determined by the Plan Administrator to be incapacitated due to a "Total and Permanent Disability", or the date when the Participant's employment terminates due to a "Total and Permanent Disability", if later.

1.14 "Employee" shall mean any individual employed by the Employer on a permanent, full-time basis as a member of the Employer's police force.

"Employer" shall mean the Police Force of the City of DuBois, Clearfield County, Pennsylvania.

"Employment" shall, for the purposes of determining Aggregate Service, mean the following:

- (a) The period of time for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties as a full-time police officer;
- (b) Any period, up to five years, of intervening voluntary or involuntary military service with the armed forces of the United States of America, provided that:
  - (1) the Participant had been employed as a regular, full-time member of the Employer's police force immediately prior to the period of military service;

the Participant returns to Employment within six months following his discharge from military service or within such longer period during which his employment rights are guaranteed by applicable law or under the terms of a collective bargaining agreement with the Employer;

the Participant's discharge or separation from military service was granted under other than dishonorable conditions;

the Participant complies with the requirements of Section 4.03, including, without limitation, the requirement to make contributions to the Plan.

- (c) Any period of prior voluntary or involuntary military service with the armed forces of the United States, not to exceed five years, upon the payment by the Participant of an amount equal to that which he would have paid had he been a member during the period for which he desires credit, and his payment to such fund of an additional amount as the equivalent of the contributions of the Employer on account of such military service.
- (d) 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.
- (e) Any period during which the Employee is entitled to disability benefits under this Plan, provided that the Employee returns to Employment within one month of the date on which the Plan Administrator determines that he is no longer Totally and Permanently Disabled, if such determination occurs prior to the Participant's Normal Retirement Date.

1.17 "Final Monthly Average Salary" shall mean 1/12<sup>th</sup> of the Annual Salary paid to the Participant by the Employer at retirement or 1/12<sup>th</sup> of the highest average Annual Salary during any five years preceding retirement, whichever is higher.

1.18 "Normal Retirement Date" shall mean the date on which the Participant has both completed 20 years of Aggregate Service as a police officer with the Employer and has attained age 50.

1.19 "Participant" shall mean an Employee who has met the eligibility requirements to participate in the Plan as provided in Section 3.01 and who has not for any reason ceased to be a Participant hereunder.

.20 "Pension Fund" or "Fund" shall mean the police 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.

.21 "Plan" shall mean the plan set forth herein, as amended from time to time and designated as the City of DuBois Police Retirement Plan.

.22 "Plan Administrator" or "Administrator" shall be the Employer.

.23 "Plan Year" shall mean the 12-month period beginning on January 1 and ending on December 31.

1.24 "Total and Permanent Disability" shall mean a condition of physical or mental impairment resulting from an in-service cause which renders the employee unable to perform his duties. Proof of disability shall be by competent medical evidence provided by the claimant. Council may at any time have the claimant examined by a physician of its choosing.

**ARTICLE II  
ADMINISTRATIVE PROVISIONS**

Plan Administrator – The Plan Administrator (Administrator) shall be the Employer.

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. 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 Participant 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 or to determine or require any contributions to the Plan, said power being exclusively reserved to Council.

- 2.03 Hold Harmless - To the full extent permitted by law, no member of Council, the Chief Administrative Officer, the Administrator, nor any other person 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) 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 being or having been the Administrator or a delegate or appointee of the Administrator, 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.

Appeal Procedure - Any person whose application for benefits is denied, who questions the amount of 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 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 (20) days of receipt of such notice), submit its decision in writing to the person or persons whose claim has been denied. The Claimant shall have the right to appeal the decision of Council pursuant to the Local Agency Law, 2 Pa. C.S.A. § 101. If not so appealed, the decision shall be final, conclusive, and binding on all parties.
- (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.

### ARTICLE III PARTICIPATION IN THE PLAN

Eligibility Requirements - Each Employee who is employed as a regular, full-time permanent member of the police department of the Employer shall participate herein as of the date on which such Employee is first employed in the above capacity.

Notification of Plan Administrator - The Employer shall furnish the Administrator with written notification of the appointment of any new full-time permanent Employee who is eligible for participation hereunder as soon as practicable following the date of such appointment.

Designation of Beneficiary - Any Employee who becomes a Participant hereunder shall provide a written notice which designates his Beneficiary or Beneficiaries to the Plan Administrator at the time his participation commences or recommences. 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.

#### ARTICLE IV CONTRIBUTIONS

Employee Contributions - Each Employee shall make regular monthly contributions to the Plan at a rate not to exceed 3% of the Participant's Annual Salary plus \$5 per month for the Service Increment. No contributions for the Service Increment shall be made by the Employee after he attains 65 years of age.

Payment of Employee Contributions - The Employee contributions provided for in Section 4.01 shall be deducted from the Employee's Annual Salary in each month of his service during which he receives payments of Annual Salary.

Employee Contributions for Periods of Military Service - An Employee may be entitled to have certain periods of military service credited to him as additional years of Aggregate Service for purposes of determining (i) the amount of his retirement benefit; and (ii) his eligibility for normal retirement or disability retirement, provided that the military service satisfies the requirements for treatment as Aggregate Service described in Section 1.16 and the Participant makes contributions to the Pension Fund as described in this Section 4.03

- (a) For intervening military service the amount of contributions required under this Section shall be determined by the Actuary and certified by the Plan Administrator and shall be in such amounts as required by Section 414(u) of the Code and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).
- (b) For credit for military service served subsequent to September 1, 1940 and prior to becoming an Employee, the amount of contributions required under this section shall be an amount equal to that which the Participant would have paid had he been a Participant during the period for which he desires credit, and his payment of an additional amount as the equivalent of the contributions of the Employer on account of such military service.

Employer Contributions - Employer contributions required under the provisions of the Act, as determined by the Actuary in accordance with the Act, shall become the obligation of the Employer and shall be paid into the Pension Fund by annual appropriations.

#### ARTICLE V RETIREMENT BENEFITS

Normal Retirement - Each Participant shall be entitled to normal retirement benefits provided he retires on or after his Normal Retirement Date.

Normal Retirement Benefit - Each Participant entitled to normal retirement benefits pursuant to Section 5.01 shall receive during his lifetime a monthly retirement income commencing at his Normal Retirement Date, equal to 50% of his Final Monthly Average Salary

Provided, however, that payment of benefits upon retirement shall be conditioned upon a Participant's being subject to service from time to time as a police reserve in



cases of riot, tumult or preservation of the public peace until unfitted for such service, at which time such Participant shall be finally discharged by reason of age or disability upon written notice from the Employer.

5.03

**Late Retirement** - A Participant may continue to work beyond his Normal Retirement Date subject to the Employer's rules and regulations regarding retirement age. If a Participant who has met the requirements of Section 5.01 continues to work beyond his Normal Retirement Date, there shall be no retirement benefits paid until employment ceases and retirement begins. The retirement benefit of a Participant who retires after his Normal Retirement Date shall be calculated on the basis of his Final Monthly Average Salary as of such Participant's actual date of retirement.

**Service Increment Benefits** - In addition to the pension benefit provided in Sections 5.02 or 5.03, a service increment benefit shall be payable to a Participant who has retired under this Article V if such Participant has completed 1 or more years of Aggregate Service in excess of the years of Aggregate Service required to attain his Normal Retirement Date with the Employer. The amount of increment shall be an additional monthly benefit of 1/40 of the amount of monthly retirement benefit otherwise payable multiplied by the number of completed years of Aggregate Service in excess of the number of years of Aggregate Service required to attain his Normal Retirement Date. In no case shall the total service increment exceed \$500 per month and in no case will the service increment for any Participant be based on any year of Aggregate Service completed after the date the Participant has attained 65 years of age.

**Deferred Vested Retirement** - A Participant who terminates employment before attaining his Normal Retirement Date, but after completing twelve (12) years of Aggregate Service shall be entitled to vest his or her retirements benefits subject to the conditions set forth below:

- (a) Participant must file with the Plan Administrator a written notice of his intention to vest at least 30 days prior to the date the Participant intends to terminate his service and be in good standing with the Employer on the date of the notice to vest.
- (b) The Plan Administrator shall indicate on the notice to vest the Annual Salary of the Participant as of the date of said notice to vest.

For a Participant hired prior to January 1, 2004 the Deferred Vested Retirement shall be determined as follows: upon reaching the date that would have been the Participant's Normal Retirement Date, the Participant shall be entitled to receive a pension benefit computed as his Normal Retirement Benefit multiplied by his Vesting Percentage which shall be 60% upon completion of 12 years of Aggregate Service and increasing by 5% for each additional completed year of Aggregate Service to a maximum of 100%.

For a Participant hired on or after January 1, 2004 the Deferred Vested Retirement shall be determined as follows: upon reaching the date that would have been the Participant's Normal Retirement Date, the Participant shall be entitled to receive a pension benefit computed as his Normal Retirement Benefit based on his or her Annual Salary on said notice to vest multiplied by the percentage that his or her years of Aggregate Service bears to the years of Aggregate Service that the Participant would have rendered had he continued in employment until his Normal Retirement Date.

**Cost of Living Adjustment** - Commencing on January 1, 1999 in any year in which the Consumer Price Index has changed by at least 1% from the prior year, Participants who are receiving retirement allowances of any kind from the Pension Fund by reason of and after the termination of Employment of the Participant, shall have his retirement benefit increased by 6.66% up to a total maximum of 40%. However, a Participant shall receive no increase in the amount of monthly income payments if the amount of such monthly income is greater than 50% of the highest

paid patrolman's gross pay on such date. Any cost-of-living increase will not exceed the percentage increase in the Price Index from the year in which the Participant last worked and in no event, will the amount of monthly retirement benefit be more than 130% of the amount of the retirement benefit the Participant would have received had the provisions of this Section 5.05 not been in effect. No cost of living increase shall result in a monthly retirement benefit which exceeds 75% of the Participant's Final Average Monthly Salary as determined on the date his monthly retirement benefit was first calculated. No cost-of-living increase shall be made if such increase would impair the actuarial soundness of the Plan.

Payment of Benefits - Retirement payments shall be payable as of the first day of the month coincident with or next following the Participant's retirement date and the first day of each month thereafter during the Participant's lifetime.

## ARTICLE VI DISABILITY BENEFITS

Disability Benefits - A Participant who is Totally and Permanently Disabled and who is not otherwise eligible for a Normal Retirement benefit shall, upon application to the Plan Administrator, be entitled to a monthly disability benefit equal to:

- (i) 25% of his Monthly Compensation as of the date of his death for a Participant with less than 10 year of Accrual Service.
- (ii) 50% of his Monthly Compensation as of the date of his death for a Participant with 10 or more years of Accrual Service.

Monthly disability benefit payments shall begin on the earliest first day of the month on or after the date the Participant meets the requirements under this section. Such payments shall continue through the first day of the month before the earliest of his Retirement Date (Normal Retirement Date, if earlier), the date of his death or the day following the date he is no longer Totally and Permanently Disabled.

If the payments continue through the first day of the month before the Participant's Superannuation Retirement Date, retirement benefits shall be provided for him on his Superannuation Retirement Date under the provisions of Article IV as if he were an Active Participant. His Accrued Benefit shall be equal to the Accrued Benefit as of the day before the disability benefit began. However, such Accrued Benefit shall not be less than the amount of monthly disability payment paid to him under this section. If, before the Participant's Superannuation Retirement Date, he recovers and returns to active work for the Employer within one month of his recovery, the payments shall stop and he shall again become an Active Participant. If, before the Participant's Superannuation Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, the payments shall stop and his benefits shall be redetermined, on the date he ceased to be an Employee, under the VESTED BENEFITS SECTION of Article V.

In-service Disability --A Participant who is Totally and Permanently Disabled in the line of duty shall be deemed to be fully vested in his pension and entitled to a Normal Retirement Benefit. For in-service disabilities of Participants hired on or after January 1, 2004 the Plan shall be subrogated to the right of the claimant to the extent of any payments made under the act of June 2, 1915 (P.L. 736, No. 338) known as "the Pennsylvania Workmen's Compensation Act" or the act of June 28, 1935 (P.L. 477, No. 193), referred to as the Enforcement Officer Disability Benefits Law.

Payment of Disability Benefits - Disability payments shall be made monthly as of the first day of each month, commencing as of the first day of the month immediately following or coincident with the Participant's Disability Date and continuing until the earliest of the death of the Participant, cessation of Total and Permanent Disability or the date the Participant attains his Normal Retirement Date. If a Participant fails to return within three months to his position as an Employee of the Employer upon cessation of Total and Permanent Disability prior to his Normal Retirement Date, his date of termination shall be his Disability Date.

**ARTICLE VII  
DEATH BENEFITS**

**7.01** Pre-retirement Death Benefits Payable to Beneficiary - In the event a Participant hired on or after January 1, 2004 who has not attained entitlement to retirement benefits or disability benefits dies during Employment or dies after termination of Employment but prior to receiving a refund of Accumulated Contributions, and the Participant's beneficiary is not entitled to a benefit described in Section 7.02, the Participant's designated Beneficiary shall be entitled to receive a refund of the Participant's Accumulated Contributions to the Plan, payable in one cash lump sum as soon as practicable following the Participant's death.

Pre-retirement Death Benefits for Participants hired prior to January 1, 2004 - A Participant who was hired prior to January 1, 2004 and who dies while an Employee and is survived by a spouse to whom he was continuously married through the one-year period ending on the date he dies or who has a dependent child under the age of 18 on the date he dies, shall be entitled to a monthly benefit equal to:

- (a) 1/12<sup>th</sup> of 25% of his Annual Salary as of the date of his death for a Participant with less than 10 years of Employment; or
- (b) 1/12<sup>th</sup> of 50% of his Annual Salary as of the date of his death for a Participant with 10 or more years of Employment

Any benefits paid under this section shall begin on the first day of the month on or after the Participant's death and shall continue to the later of the date of the surviving spouse's death or the date there is no longer a surviving child under the age of 18. However, payments under this section shall cease on the date of the surviving spouse's remarriage.

If any benefits are paid under this section, no other benefits shall be payable under any other provision or section of this Plan.

Survivor Benefit - In the event of the death of a Participant (i) who would be eligible to receive an immediate payment of retirement benefits if he had elected to retire on the day before his death; or (ii) who is receiving such benefits, a survivor benefit shall be payable under this Section 7.03.

In the event of the death of a Participant who has terminated Employment, vested his benefit pursuant to Section 5.05 and is entitled to a Deferred Vested Retirement pursuant to Section 5.05 but dies before commencing receipt of his retirement benefit, a survivor benefit shall be payable under this Section 7.03, however in no circumstances shall the survivor benefit commence before the date that the Participant would have been eligible to commence his retirement benefit had he not died.

The survivor benefit shall be equal to 50 percent of the monthly retirement benefit which the Participant was receiving or would have been receiving had he retired on the day before his death.

The survivor benefit provided for in this Section 7.03 shall be payable to the widow or widower of the deceased Participant until such widow's or widower's death. If there is no widow or widower of the deceased Participant, the survivor benefit provided for in this Section 7.02 shall be payable in equal shares to the deceased Participant's child or children who have not attained age 18 as of the date on which survivor benefit payments under this Section 7.03 would otherwise be payable to the child or children. Payments to each surviving child shall cease as of the earlier of such child's death or attainment of age 18. Such child's share of the survivor benefit shall be reallocated in equal shares to any remaining surviving children, then living, who have not attained age 18. If survivor benefits are payable under this Section, no survivor benefits shall be payable under any other sections of this Plan.

**ARTICLE VIII  
TERMINATION OF EMPLOYMENT**

Rights of Terminated Employees - If a Participant ceases to be an Employee except as otherwise herein before provided, his interest and rights under this Plan shall be limited to those contained in the following sections of this article.

Refund of Accumulated Contributions - If a Participant whose Employment with the Employer has been terminated for any reason prior to his Normal Retirement Date and is not eligible for retirement benefits or disability benefits under the Plan, such Participant or his Beneficiary shall be entitled, upon request, to receive a refund of his Accumulated Contributions to the Plan. Upon receipt of such Accumulated Contributions, neither the Participant, his Beneficiary nor any other survivor shall be entitled to any further payments from the Plan.

Reemployment - If any Participant shall have returned to him his Accumulated Contributions and shall afterward again become an Employee, he shall not be entitled to the pension designated until twenty years after his reemployment, unless he shall return to the pension fund the amount withdrawn, in which event the period of twenty years shall be computed from the time during which the Participant was not an Employee.

**ARTICLE IX  
APPLICABLE PROVISIONS OF THE  
INTERNAL REVENUE CODE**

Explanation - In recognition of the fact that the Plan must comply in form, content, and operation with certain provisions of the Code, and in spite of the limited applicability of such provisions to the normal operation of the Plan, the following Sections detail the limitations and parameters applicable to maintaining favorable tax treatment of funds contributed to the Plan under federal law.

Definitions - The following words and phrases are hereby introduced and defined for purposes of this Article only:

- (a) "Leased Employee" shall mean 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. A Leased Employee shall not be considered an Employee of the recipient.
- (b) "Limitation Year" shall mean the Plan Year, for purposes of applying the limitations under the current Article.

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 became effective as of December 31, 2002.

No Reduction in Accrued Benefits. Notwithstanding the above, no change in the limits under this Article shall reduce the benefit of any Participant.

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 the other Plan.

Mandatory Contributions. Participant Contributions are annual additions, and any benefit attributable to Participant 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 –

Annual Additions. Except as otherwise provided, annual additions (which include Participant 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 allocated in accordance with reg. §1.415-6(b)(6)(ii).

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 oath 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.

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.

- 9.05 Leased Employees and Independent Contractors – Leased Employees and independent contractors are not eligible to participate in this Plan. Any person whom the Borough Council does not regard as being an Employee shall not be eligible to participate.

- 9.06 Limit on Compensation – Compensation is subject to the limitation under Code Section 401(a)(17), which is \$210,000 for the Plan Year beginning in 2005. 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).

- 9.07 Multiple Plan Reduction – Code Section 415(e) applied for Limitation Years beginning prior to 2000.

Vesting Upon Plan Termination – Upon the termination of this Plan, or complete discontinuance of contributions (within the meaning of pre-ERISA Code Section 401(a)(7)) to this Plan, each Participant as of the date that such termination or discontinuance shall become vested to the extent that the Plan is funded.

Minimum 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 and conditions and shall otherwise comply with Code Section 401(a)(9). Any distribution option under the Plan that is inconsistent with Section 401(a)(9) of the Code shall be inoperative to the extent of the inconsistency. Effective as of January 1, 2003, all distributions under the Plan shall be made in accordance with reg. §1.401(a)(9)-1 through §1.401(a)(9)-9. For calendar years prior to 2003 distributions were made in accordance with the 1987 proposed regulations, except to the extent that those proposed regulations were overridden by amendments to the Code.

- (a) A Participant's benefits shall be distributed to him not later than April 1<sup>st</sup> of the calendar year following the later of:
- (i) the calendar year in which the Participant attains age seventy and one-half (70½), or
  - (ii) the calendar year in which the Participant retires.

Alternatively, distributions to a Participant must begin no later than the applicable April 1<sup>st</sup> as determined under the preceding sentence.

- (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.
- (c) Nothing in this section gives any Participant (active or retired), beneficiary, or "alternate payee" the right to elect any time or method of a distribution not provided for in another Article of the Plan.

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.

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 withdrawal. 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) 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.

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 is 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.

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)(11), 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.

#### 9.12 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).

#### 9.13 Consent for Lump-Sum Distributions

Effective January 1, 2006, notwithstanding any other provision of the Plan, any distribution to a Participant made prior to the earlier of age 62 or Normal Retirement Age of an amount in excess of \$1,000 that is an eligible rollover distribution as set forth in the Plan and the Code shall be made only upon consent of the Participant.

#### 9.14 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.

**ARTICLE X  
PROVISIONS RELATIVE TO FUNDING UNDER ACT 205**

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.

The Employer 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.

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.

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.

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.



to apply against the annual obligation of the City, or to the extent that the payments may be in excess of such obligation,

to reduce Member Contributions hereunder.

- 10.05 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 XI PENSION FUND

- 1.01 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.

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

The Employer 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 Employer 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 Council under the Plan, including contributions made pursuant to the provisions hereof and the investments, reinvestments 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, Council has exclusive authority and discretion to manage and control the Pension Fund assets. Council may, however, appoint a trustee, custodian and/or investment manager, at its sole discretion. If Council does not appoint a trustee, the trustee shall be Council.

If all Plan assets are held in one or more custodial accounts or annuity contracts issued by an insurance company licensed to do business in Pennsylvania, then the Council does not need to appoint a trustee, and plan assets shall be administered in accordance with the other provisions of this Plan and the terms of the agreement with the insurance company. If there is a separate trust document, then the terms of that document shall supersede the provisions of this Article X. If the Council fails to name a trustee, the City shall be the trustee.

- 11.02 Powers and Duties of Council - With respect to the Pension Fund, Council 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.

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.

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 legal 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 in 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, Council 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 Council 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 the other pension plans maintained by Council, 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. 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 Council, such trustee shall make such distribution only at the direction of Council.
- (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 to 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, Council 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 Council, 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, Council 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 or 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 Council appoints a trustee, the trustee shall not be permitted to retain such an Investment Manager except with the express written consent of Council.

1.03 Common Investments - Council 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.

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 Council 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 Council or the Pension Fund, which may be executed at any time after 30 days written notice to the Council. Council 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 itself for the payment thereof, from the Pension Fund.

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 Council, 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.

1.06 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 Council or its appointed trustee, whose decisions shall be final and their estates. In making any such determination, Council 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.

1.07 Plan Administration Expenses - All reasonable expenses incident to the functioning of Administrator may be paid by the plan, to the extent permitted by law and not otherwise paid by the Employer.

**ARTICLE XII  
AMENDMENT AND TERMINATION OF PENSION PLAN OR PENSION FUND**

- 12.01 Amendment - The City shall have the right to amend this Plan at any time; provided, however, that no such action shall be effective to permit any part of the corpus or income of the Plan established herewith to be used for, or diverted to, purposes other than the exclusive benefit of the Participants and their Beneficiaries, and defraying the reasonable expenses of administering the Plan. The City retains the right to amend the Plan at any time.

No amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) or restricting a Participant's right to those benefits shall be effective to the extent that it has the effect of decreasing a Participant's Accrued Benefit.

**ARTICLE XIII  
MISCELLANEOUS PROVISIONS**

Plan-Not a Contract of Employment - No employee of the Employer, nor anyone else, shall have any rights whatsoever against the Employer 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 Employer.

- 13.02 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.

- 13.03 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.

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.

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.

- 13.06 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.

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.

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 Employer shall be personally liable to any Participant, beneficiary, or other person under any provision of the Plan.


- 13.09 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.


13.10 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.

IN WITNESS WHEREOF, the City of DuBois has caused this Plan to be executed this 10th day of December, 2012.

ATTEST:

CITY OF DUBOIS

  
John "Herm" Suplezio

  
Gary D. Gilbert  
Mayor & President of Council

PASSED BY COUNCIL:

December 10, 2012

Approved:  
