CODIFIED ORDINANCES OF ERIE

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Art. 159. Electrical Code Commission.
Art. 161. Plumbing Board.
Art. 163. Traffic Commission. (Repealed)
Art. 165. Urban Forest Committee.
Art. 167. Municipal Golf Commission. (Repealed)
Art. 169. Perry Memorial House Commission. (Repealed)
Art. 171. Recreation Advisory Commission. (Repealed)
Art. 173. Aggregate Pension Board.

TITLE ELEVEN - Authorities and Boards
Art. 180. Erie Recreation Board. (Repealed)
Art. 181. Erie Sewer Authority.
Art. 182. Erie Parking Authority.
Art. 183. Erie Regional Airport Authority.
Art. 184. Erie Redevelopment Authority.
Art. 185. Erie Housing Authority.
Art. 186. Erie Municipal Park Authority.
Art. 187. Erie Metropolitan Transit Authority.
Art. 188. Erie City Water Authority.
Art. 189. Erie Port Authority.
Art. 190. Erie Civic Center Authority.
Art. 191. Downtown Center City Authority. (Repealed)
Art. 192. Higher Education Building Authority.
Art. 193. Civil Service Boards.
Art. 194. Blighted Property Review Committee.
Art. 195. Erie County Solid Waste Management Council.
Art. 196. Erie Cable TV Public Access Authority. (Repealed)
Art. 197. Erie County Convention Center Authority.

CODIFIED ORDINANCES OF ERIE

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions
Art. 101. Codified Ordinances.
Art. 103. Official Standards.
Art. 105. Real Estate Registry.

ARTICLE 101
Codified Ordinances

EDITOR'S NOTE: The provisions of this Article 101 were incorporated in the ordinance which adopted the Codified Ordinances of Erie, Pennsylvania, 1966.

101.01 Codification adopted; procedure.
101.02 Component codes; short title; citation.
101.03 Amendments and supplements; numbering.
101.04 Definitions and interpretation.
101.05 Separability of provisions.
101.06 Sections and ordinances repealed.
101.07 Exemptions from repeal.

CROSS REFERENCE
Compilation and codification of City ordinances - see 3rd Class Charter Law §609 (53 P. S. §41609); 3rd Class §1014.1 (53 P.S. §36014.1)

101.01 CODIFICATION ADOPTED; PROCEDURE.

(a) The ordinances of the City of Erie, Pennsylvania, of a general and permanent nature, consolidated and codified with minor nonsubstantive changes, as attached hereto and made a part hereof (Exhibit A), are ordained as the general ordinances of the City revised to November 15, 1966, and are hereby approved, adopted and enacted as the Codified Ordinances of Erie, Pennsylvania, 1966.

(b) This ordinance shall be introduced in Council, notice of introduction shall be published, and legal advertisement of the contents of the Codified Ordinances shall be

made in conformity with subsections 1014.1(b) and (c) of 1951 P. L. 662, as amended by 1957 P. L. 631. (Adopting Ordinance)

101.02 COMPONENT CODES; SHORT TITLE; CITATION.

The Codified Ordinances of Erie, Pennsylvania, 1966, hereby adopted, shall be comprised of the following component parts:

Part One - Administrative Code
Part Three - Business Regulation and Taxation Code
Part Five - Traffic Code
Part Seven - General Offenses Code
Part Nine - Streets, Utilities and Public Services Code
Part Eleven - Public Health Code
Part Thirteen - Zoning Code
Part Fifteen - Fire Prevention Code
Part Seventeen - Building Code
Part Nineteen - Housing Code

The Codified Ordinances of Erie, Pennsylvania, 1966, may be referred to as the "Codified Ordinances"; any component code of the Codified Ordinances may be referred to by its name, such as the "Traffic Code"; sections of the Codified Ordinances may be cited by the number, such as Section 101.01. (Adopting Ordinance)

101.03 AMENDMENTS AND SUPPLEMENTS; NUMBERING.

(a) The Codified Ordinances of Erie, Pennsylvania, 1966, may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form as to indicate the intention of Council to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Erie, Pennsylvania, 1966, and any and all such amendments and supplements.

(b) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan set forth in the original Codified Ordinances as follows: each Code shall be subdivided into titles; each title shall be subdivided into articles, and each article shall be subdivided into sections, which shall be numbered in accordance with the decimal numbering system. The numbering of all sections, except penalty sections, shall be consecutive within each article commencing with the first section of Article 101, which shall be numbered 101.01, the first "1" signifying Code 1, and the two figures "01" before the decimal signifying the article within the Code, and the two figures "01" after the decimal signifying the first section in Article 101 of the Code. Penalty sections shall be designated "99" and shall be the last section of the article.
(Adopting Ordinance)

101.04 DEFINITIONS AND INTERPRETATION.

In the construction of the Codified Ordinances, the following rules shall control, excepting those inconsistent with the manifest intent of Council as disclosed in a particular provision, section or article:

(a) Adopting Ordinance. "Adopting Ordinance" means the ordinance of the City adopting the Codified Ordinances of Erie, Pennsylvania, 1966, in conformity with the Third Class City Code of Pennsylvania and this Article 101.

(b) Authority. Whenever in the Codified Ordinances authority is given to an officer or an act is required to be performed, such authority may be exercised and such act may be performed, at the instance of such officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any such particular provision.

(c) Calendar-Computation of Time. The terms "month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, except if the last be Sunday, it shall be excluded. If time is expressed in hours, the whole of Sunday shall be excluded.

(d) City and Municipality. The words "City" and "Municipality" mean the City of Erie, Pennsylvania.

(e) Conjunctions. "And" includes "or" and "or" includes "and", if the sense so requires.

(f) Council. The word "Council" means the Council of the City of Erie, Pennsylvania.

(g) County. The word "County" means the County of Erie, Pennsylvania.

(h) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.

(i) General Rule. Excepting as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.

(j) Joint Authority. Words giving authority to a board, commission, authority or to three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.

(k) Keeper or Proprietor. The words "keeper" or "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

(l) Land or Real Estate. The terms "land" or "real estate" include rights and easements of incorporeal nature.

(m) Number. Words in the plural include the singular and in the singular include the plural number.

(n) Oath. The word "oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples to taking an oath. An affirmation shall have the same force and effect as an oath.

(O) Owner. The word "owner", when applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of such property.

(p) Person. The word "person" extends and applies to associations, clubs, corporations, firms, partnerships and bodies politic, as well as to individuals.

(q) Premises. The word "premises", when used as applicable to property, extends to and includes land and buildings.

(r) Property. The word "property" includes real and personal, and any mixed and lesser estates or interests therein; the words "personal property" include every kind of property except real property, and the words "real property" include lands, tenements and hereditaments.

(s) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or giving of such notice.

(t) Sidewalk. The word "sidewalk" means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

(u) State or Commonwealth. The words "State" or "Commonwealth" mean the Commonwealth of Pennsylvania.

(v) Street. The word "street" shall be construed to include alleys, avenues, boulevards, lanes, roads, streets and other public ways in the City.

(w) Tenant or Occupant. The words "tenant" or "occupant", as applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of or who occupies the whole or any part of a building or land, alone or with others.

(x) Tenses. The use of any verb in the present tense includes the future.

(y) Third Class City Code. "The Third Class City Code" means the Pennsylvania Act of June 28, 1951 (P. L. 662), as amended.

(z) Optional Third Class City Charter Law. The "Optional Third Class City Charter Law" means the Pennsylvania Act of July 15, 1957 (P. L. 901), as amended.

(aa) Time. Whenever any time established in the Codified Ordinances for the taking of any action expires on a Sunday or legal holiday, such time shall not expire on such day but shall expire on the next week day. (Adopting Ordinance)

101.05 SEPARABILITY OF PROVISIONS.

Each section and each part of each section of the Codified Ordinances is hereby declared to be an independent section or part of a section, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section, or any provision thereof, or the application thereof to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of such provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the Codified Ordinances would have been adopted independently of such sections or parts of a section so held to be invalid. (Adopting Ordinance)

101.06 SECTIONS AND ORDINANCES REPEALED.

The following sections of the 1941 Digest of the General Ordinances and Laws of the City of Erie and ordinances are hereby specifically repealed as either obsolete or in conflict with provisions of the Codified Ordinances. All other ordinances in conflict with the provisions of the Codified Ordinances of Erie, Pennsylvania, 1966, are hereby repealed.
(Adopting Ordinance)
(EDITOR'S NOTE: See a copy of the original Adopting Ordinance for a list of Digest sections and ordinances repealed.)

101.07 EXEMPTIONS FROM REPEAL.

The repeals provided for in Section 101.06 shall not affect:

(a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the adoption of these Codified Ordinances.

(b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the City, or authorizing the issuance of any bonds of the City, or any evidence of the City's indebtedness, or any contract or obligation assumed by the City.

(c) The administrative ordinances or resolutions of Council not in conflict or inconsistent with the provisions of the Codified Ordinances.

(d) Any right, license or franchise conferred by any ordinance or resolution of Council on any person or corporation.

(e) Any ordinance establishing, naming, relocating or vacating any street or public way.

(f) Any ordinance or part thereof providing for the establishment of positions, for salaries or compensation.

(g) Any prosecution, suit or other proceeding pending, or any judgment rendered on or prior to the adopting of these Codified Ordinances.

(h) Any ordinance levying or imposing taxes or assessments.

(i) Any ordinance establishing or changing the boundaries of the City.

(j) Any ordinance or resolution adopted by Council after the adoption of the Codified Ordinances. (Adopting Ordinance)

ARTICLE 103
Official Standards

103.01 University Square.
103.02 Designation as Flagship City.

CROSS REFERENCES
City seal and flag - see 3rd Class §2402 (53 P. S. 37402)
Loyalty oath - see ADM. 143.05 et seq.

103.01 UNIVERSITY SQUARE.
The name of the streets herein described in the City are hereby changed and designated as follows:
West Sixth and West Seventh Streets between Peach and Sassafras Streets heretofore designated shall hereafter be known and designated as University Square.
(Ord. 32-1980 §1. Passed 4-16-80.)

103.02 DESIGNATION AS FLAGSHIP CITY.
The City hereby adopts as its designated appellation the phrase "The Flagship City" in recognition of the designation of the Flagship Niagara of the fleet commanded by Commodore Oliver Hazard Perry on the waters of Lake Erie during the War of 1812 as the flagship of the Commonwealth of Pennsylvania, by the Pennsylvania Legislature Senate Bill 751. The City may henceforth use this appellation for any and all official, unofficial or ceremonial transactions, pronouncements or other acts. (Ord. 74-1990 §1. Passed 12-12-90.)

ARTICLE 105
Real Estate Registry

105.01 Establishment.
105.02 Fee for copies of entries.
105.03 Tax exempt property re-examination.
105.04 Re-assessment of property rezoned.
105.05 Acceptance of County assessment
105.06 Payment of administrative fees.

CROSS REFERENCES

Real Estate Registry - see 3rd Class §1515 et seq. (53 P. S. §36515 et seq.)
Power to tax - see 3rd Class §2531 (53 P. S. §37531)
Realty transfer tax - see BUS. REG. Art. 373
County assessments - see 72 P. S. §5342 et seq.

105.01 ESTABLISHMENT.

A registry of real estate is hereby established for the purpose of procuring accurate information in reference to the ownership of all real estate liable to municipal taxation and assessments in the City. (Ord. 1479 §1. Passed 3-22-1898.)

105.02 FEE FOR COPIES OF ENTRIES.

Certified copies under the hand of the City Engineer of any of the entries in the books of plans shall be furnished to any person desiring the same on prepayment of twenty-five cents (25¢) for each certified copy of entries relating to one piece of property under a single title. Applicants for such certified copies must furnish written descriptions of the properties referred to, upon blanks which shall be furnished by the City Engineer. All monies received by the City Engineer from the aforesaid fees shall be paid into the City Treasury monthly.
(Ord. 1479 §3. Passed 3-22-1898.)

105.03 TAX EXEMPT PROPERTY RE-EXAMINATION.

(a) The Assessment Bureau is hereby required to re-examine the status of all tax exempt properties in the City on a bi-annual basis.

(b) Initially, the First, Second and Third Wards shall be re-examined within one year after the passage of this section (August 27, 1975), with the Fourth, Fifth and Sixth Wards being re-examined the following year. (Ord. 73-1975 §1, 2. Passed 8-27-75.)

105.04 RE-ASSESSMENT OF PROPERTY REZONED.

Within ninety days after the rezoning of any property by the City, the City Assessor shall re-assess such property in accordance with the rezoning.
(Ord. 67-1976 §1. Passed 9-1-76.)

105.05 ACCEPTANCE OF COUNTY ASSESSMENT VALUE.

(a) The Bureau of Assessment of the City is hereby dissolved.

(b) The City of Erie hereby accepts the County of Erie's assessment figures and agrees to become subject to the provisions of the Act of 1931, June 26, P. L. 1379, as amended.

(c) The City of Erie shall use the County of Erie's assessment figures at one hundred percent (100%) of the assessed value. (Ord. 57-1979 § 1-3. Passed 6-27-79.)

105.06 PAYMENT OF ADMINISTRATIVE FEES.

(a) An Administrative Service Fee of one hundred dollars ($100.00) shall be paid to the City of Erie at the time of settlement of all real estate transactions for real property located in the City of Erie to cover the administrative costs incurred by the City of Erie in making the record changes in the City Engineer’s Office, Bureaus of Sewer and Refuse and the Office of City Treasurer associated with such transfer.
(Ord. 9-2004. Passed 1-28-04.)

(b) All real estate transactions exempt under 72 Pa. C.S.A. §8101-C and 53 Pa. C.S.A. §6902 shall be exempt under this section.

(c) The transferee of all real estate transactions covered under this section shall be responsible for making the payment to the City of Erie.

(d) Such administrative service fee shall be paid to the City Engineer's office no later than five days from the filing of the deed with the office of the Recorder of Deeds of Erie County, Pennsylvania.

(e) Whoever violates any provision of this section shall be fined not more than three hundred dollars ($300.00) or imprisoned not more than ninety days or both.
(Ord. 53-1986 §2. Passed 6-11-86.)

TITLE THREE - Administrative Code

Art. 111. Council.
Art. 112. Rules of Council.
Art. 113. Mayor.
Art. 114. Mayor's Office of Community Affairs. (Repealed)
Art. 115. Staff Positions.
Art. 117. Departments and Bureaus.
Art. 119. City Treasurer.
Art. 121. City Controller.
Art. 123. Debt.
Art. 125. Central Purchasing Office.
Art. 126. Intergovernmental Cooperation in Purchasing.
Art. 127. Discrimination and Contract Compliance.
Art. 128. Elected Officials.

ARTICLE 111
Council

111.01 Legislative power.
111.02 Membership.
111.03 Organization meeting.
111.04 Rules of Procedure.
111.05 Control of boards, commissions, advisory bodies.
111.051 Authority appointments by City Council.
111.06 Compensation.

CROSS REFERENCES

Vacancy - see 3rd Class Charter Law §406(a) (53 P.S. §41406(a))
Legislative power - see 3rd Class Charter Law §407 et seq. (53 P.S. §41407 et seq.)
Rules of Council - see ADM. Art. 112
Contracts; minimum wage rates, working conditions and printed matter - see ADM. 113.07
City Clerk to be Council Clerk - see ADM. 115.01

111.01 LEGISLATIVE POWER.

The legislative power of the City shall be exercised by Council, except as may be otherwise provided by general law. (Ord. 2-1962 §101. Passed 1-12-62.)

111.02 MEMBERSHIP.
Council shall consist of seven members to be elected as provided by law.
(Ord. 2-1962 §102. Passed 1-12-62.)

111.03 ORGANIZATION MEETING.
On the first Monday in January next succeeding the regular Municipal election, at 10:00 a.m., the members of Council shall assemble in their place of meeting at Council chambers in the Municipal Building and organize and elect a President of Council from among the members, who shall preside at Council meetings and perform such other duties as Council may by its Rules of Procedure provide. (Ord. 2-1962 §103. Passed 1-12-62.)

111.04 RULES OF PROCEDURE.
Council shall prepare and adopt its Rules of Procedure which may provide for the order of business to be transacted at its meetings, the time and place of its meetings, the preparation of an agenda for business to be conducted and such other matters as may be necessary and proper for the orderly conduct of its business. (Ord. 2-1962 §104. Passed 1-12-62.)

111.05 CONTROL OF BOARDS, COMMISSIONS, ADVISORY BODIES.
Council by ordinance may create, change, alter and abolish all boards, commissions and advisory bodies in the City government, and may create commissions and other bodies with advisory powers. Except as otherwise provided by general law, Council shall by ordinance fix the number and terms of the members of such boards, commissions and other advisory bodies and appoint the members thereof. (Ord. 14-1962 §1. Passed 5-2-62.)

111.051 AUTHORITY APPOINTMENTS BY CITY COUNCIL.
The City Clerk shall inform City Council of the expiration of any term of an authority member within the jurisdiction of Council, no later than three (3) weeks prior to the expiration of the term. The name of any candidate for appointment to a vacancy or re-appointment, in the case of an expired term, to an authority shall be placed on the City Council Agenda for approval by a majority of Council, prior to appointment or re-appointment.
(Ord. 1-2000. Passed 1-26-00.)

111.06 COMPENSATION.
(a) The compensation of Council members is hereby fixed and established as follows; provided, however, that the increase in compensation shall not apply to the current terms of any Council member now in office or such member's replacement for the duration of a current term of office:

Commencing the First Monday	Annual Compensation
January, 1978	$4,900
January, 1986	$6,000

(b) The Council President shall receive additional compensation as follows:

Commencing the First Monday	Additional Annual Compensation
January, 1978	$600.00
January, 1986	$1500.00

(Ord. 97-1976 §1. Passed 12-15-76; Ord. 84-1984 §1. Passed 12-26-84.)

ARTICLE 112
Rules of Council

112.01 Meetings.
112.02 Place of meetings.
112.03 Executive sessions.
112.04 Special meetings.
112.05 Meetings open to public.
112.06 Submission of ordinances and resolutions.
112.07 Manner of voting.
112.08 Minutes of meetings.
112.09 Agenda.
112.10 Order of business.
112.11 President of Council.
112.12 Permanent standing committees; liaison chairperson.
112.13 Adjournment. (Repealed)
112.14 Supplementary rules.
112.15 Review of budget.
112.16 Seminar and conference reports.

CROSS REFERENCES

Legislation by Council - see 3rd Class Charter Law §606 et seq. (53 P.S. §41606 et seq.)
Rules of Procedure - see ADM. 111.04
Contracts; minimum wage rates, working conditions and printed matter - see ADM. 113.07

112.01 MEETINGS.

(a) Regular Meetings. Council shall hold regular meetings on the first and third Wednesdays of each month with the meetings on the first Wednesday of the month commencing to 9:00 a.m. and the second meetings on the third Wednesday of the month commencing at 7:30 p.m.

However, when the day for any regular meeting of Council falls upon a designated holiday, such regular meeting shall be held at the same hour at the next succeeding day not a holiday. Council may, however, upon a majority vote of the whole Council, reschedule such regular meeting so that the meeting scheduled may occur on the next regularly scheduled meeting date. However, the regular Wednesday meeting before Thanksgiving Day shall commence at 9:00 a.m. and also the Wednesday meeting before Christmas Day. (Ord. 52-2007. Passed 9-19-07.)

(b) Caucus Meetings. Meetings will be held at least 30 minutes before all City Council meetings. Administrative personnel and individuals approved by the City Council President can attend to make presentations and answer questions concerning Agenda items. (Ord. 16-2009. Passed 4-1-09.)

112.02 PLACE OF MEETINGS.

All meetings of Council, except in the case of emergencies shall be held in the Council Chambers on the first floor of the Municipal Building. The display of placards and/or signs in the Council Chambers during such times as Council is in session is hereby banned; there shall be no political endorsements of individuals or candidates during City Council Meetings and/or Public Hearings.
(Ord. 16-2009. Passed 4-1-09.)

112.03 EXECUTIVE SESSIONS.

City Council shall hold executive sessions as per Pennsylvania Sunshine Law requirements. (Ord. 16-2009. Passed 4-1-09.)

112.04 SPECIAL MEETINGS.

The Mayor or President of Council may, and upon written request of the majority of Council shall, call a special meeting of Council. In such call, the business to be considered at the special meeting shall be designated and no other business shall be considered at such special meeting. Any such call for a special meeting shall be delivered to the members of Council not less than twenty-four hours prior to the time stated for such special meeting unless all of the members of Council execute a written waiver of such twenty-four hour notice prior to the commencement of such meeting. (Ord. 8-1966 §4. Passed 3-9-66.)

112.05 MEETINGS OPEN TO PUBLIC.

All regular and special meetings of Council shall be open to the public.
(Ord. 8-1966 §5. Passed 3-9-66.)

112.06 SUBMISSION OF ORDINANCES AND RESOLUTIONS.

Each ordinance and resolution shall be introduced in printed, typewritten or written form and shall be read and considered as provided by general law. All ordinances and resolutions shall be properly introduced by a member of Council and seconded by a member of Council. In the event that a member of Council introduces an ordinance or resolution requested by the Administrative Department of the City, the City Clerk shall, at the request of such member, note on the minutes of Council that such ordinance or resolution has been requested by the administrative branch of the City government. All resolutions submitted to Council and prepared by any individual(s), group(s) and/or organization(s) that have not been reviewed by Council and its Solicitor shall be automatically tabled for at least one meeting prior to any vote being taken on such resolution(s).
(Ord. 68-1985 §1. Passed 11-13-85; Ord. 32-1992 §1. Passed 6-17-92; Ord. 49-2000. Passed 9-6-00.)

112.07 MANNER OF VOTING.

The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. Each member of Council shall vote on every matter presented to Council unless specifically excused or prevented therefrom by provisions of general law. Unless a member of Council is excused or prevented from voting, his failure to vote nay shall be recorded as an affirmative vote. (Ord. 8-1966 §7. Passed 3-9-66.)

112.08 MINUTES OF MEETINGS.

The minutes of every meeting of Council shall be signed by the President or the Acting President of Council and attested by the City Clerk. (Ord. 8-1966 §8. Passed 3-9-66.)

112.09 AGENDA.

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to Council shall be filed in the office of City Clerk not later than Thursday at Noon preceding the regular bi-monthly meetings of Council, whereupon the City Clerk, with the approval of the Council President, shall immediately arrange an agenda or such matters according to the order of business. The City Clerk shall furnish each member of Council, the Mayor and Solicitor with a copy of the agenda as soon as possible after it is prepared. (Ord. 16-2009. Passed 4-1-09.)

Any ordinance or resolution which does not appear on the agenda may only be considered by Council upon the affirmative vote of five members of Council to so waive the rules. (Ord. 55-1987 §1. Passed 8-26-87; Ord. 26-1988 §1. Passed 4-6-88.)

112.10 ORDER OF BUSINESS.

The Order of Business of Council, in the consideration and disposition of matters coming before it, shall be as follows:

(a) Roll Call.

(b) Pledge of Allegiance and Silent Meditation.

(c) Approval of Minutes and Payment of Bills.

(d) Citizens to be Heard. Any such person addressing Council shall step up to the front of the podium, shall give his/her name and address and, unless further time is granted by Council, shall limit his/her address to five minutes. All remarks shall be addressed to Council as a body and not to any member thereof. No person, other than a member of Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of Council, without the permission of the presiding officer. No question shall be asked a Councilperson except through the presiding officer. Reports from officials, boards, commissions and other bodies may be received, and also reading of written communications to Council on any matter concerning the City's business or any matter over which Council has control.

(e) Ordinances in strict order of Council file numbers, including action upon vetoed ordinances, starting with the lowest Council file number and proceeding forward in consecutive order through and including newly introduced ordinances.

(f) Old Business-resolutions or ordinances that have been addressed or acted on at previous City Council meetings.

(g) New Business-resolutions, transfers, contracts and purchase orders on the agenda of Council.

(h) Committee reports of Council: At the conclusion of the regularly scheduled meetings of Council, each member shall be permitted to give a report on matters pertaining to the Councilperson's Committee assignment and such report shall not exceed (5) minutes. The City Clerk shall be assigned the responsibility of monitoring each Councilperson's time usage.

(i) Adjournment - a motion to adjourn shall always be in order and shall be decided without debate. (Ord. 16-2009. Passed 4-1-09.)

112.11 PRESIDENT OF COUNCIL.

The President of Council shall be presiding officer of Council. He/she shall be elected annually at the first meeting in January of each year and shall be eligible for re-election. The President of Council shall assume the duties of the chair immediately after his/her election. He/she shall preserve strict order and decorum at all meetings of Council. He/she shall summarize every ordinance coming to vote and shall likewise announce the decision of Council on every final vote on the passage of ordinances and resolutions by signifying that Council adopts or fails to adopt the same. The presiding officer may move, second and debate measures from the chair and shall not be deprived of any of the rights and privileges of a member of Council by reason of his/her acting as a presiding officer. A Vice President of Council shall also be elected annually at the 1st meeting in January of each year, whose only duty shall be to preside over the meetings of City Council in the absence of the Council President.
(Ord. 16-2009. Passed 4-1-09; Ord. 9-2011. P. 2-16-11.)

112.12 PERMANENT STANDING COMMITTEES; LIAISON CHAIRPERSON.

(a) The Committee of the Whole shall be a permanent standing committee of Council. The President of Council shall be the presiding officer of the Committee of the Whole and the Rules of Procedure in Council shall be observed in the Committee of the Whole as far as the same may be applicable. The Committee of the Whole shall make its reports in writing and shall return the petition, resolution, account, ordinance or other papers submitted to it for consideration to Council. (Ord. 8-1966 §12. Passed 3-9-66.)

(b) Liaison Chairpersons between Council and the various departments, bureaus, authorities, commissions and other offices of the City shall be appointed by the President of Council and shall have such duties and jurisdiction as designated by the President of Council. The bureaus and other offices of the City include, but are not limited to, Department of Public Works, Parks and Property, Finance Department, Department of Economic and Community Development, Bureau of Police, Bureau of Fire. The Liaison Chairperson shall study and become familiar with the work and operation of the respective spheres of the municipal government to which he/she may be assigned so that he/she may be able to make proper recommendations and furnish detailed information to Council when so requested.

(c) The proper Liaison Chairperson, together with the Council President, shall review the official agenda prior to the caucus session meeting and notify the Office of the Mayor, in writing, of any department directors or bureau chiefs or other employees of the City whose presence is requested at the caucus session meeting.
(Ord. 16-2009. Passed 4-1-09.)

112.13 ADJOURNMENT. (REPEALED)

EDITOR'S NOTE: Former Section 112.13 was repealed by Ordinance 16-2009, passed April 1, 2009.

112.14 SUPPLEMENTARY RULES.

Robert's Rules of Order shall apply in any situation not otherwise covered by these Rules of Procedure and the City Solicitor is hereby designated as the official parliamentarian of Council. (Ord. 78-1970 §6. Passed 12-16-70.)

112.15 REVIEW OF BUDGET.

Council shall be required to review all City Budgets on a semi-annual basis and to include in this review in July and December of each year, the water and sewer budgets. This section shall be added to and made mandatory upon the duties of Council and the City Administration. (Ord. 16-1979 §1. Passed 1-31-79.)

112.16 SEMINAR AND CONFERENCE REPORTS.

The City Administration shall file a detailed written report, within one week of returning from any and all seminars and conferences attended by Administrative staff which are held outside the City. (Ord. 19-1994 § 1. Passed 3-2-94.)

ARTICLE 113
Mayor

113.01 Mayor as chief executive.
113.02 Mayor as chief of administration.
113.03 Supervision of administrative officers.
113.04 Administrative Assistant to Mayor.
113.05 Personnel of Mayor's office.
113.06 Appointment and removal of staff.
113.07 Contracts; minimum wage rates, working conditions and printed matter; bids.
113.08 Compensation of Mayor.
113.09 Office of Accounts, Finance and Budget.
113.10 Computer Systems and Services Office.
113.11 Act 205 reports.
113.12 Capital Improvements Revolving Fund; uses and procedures.

CROSS REFERENCES

Powers and duties - see 3rd Class Charter Law §411 et seq. (53 P.S . §41411 et seq.)
Mayor may call special Council meeting - see ADM. 112.04
Boards and commissions assigned to Mayor's office - see ADM. 115.07(e)
Mayor's Police Court - see ADM. 197.01

113.01 MAYOR AS CHIEF EXECUTIVE.

The Mayor shall be the chief executive officer of the City and shall be responsible for the enforcement of the provisions of all statutes, ordinances and regulations issued by the authority thereof in the City. He shall have direction and control of the administrative branch of the City government, which shall consist of the departments, bureaus, divisions, officers and personnel set forth in this Administrative Code, and such as shall be authorized by Council. The Mayor shall be responsible for the direction and supervision of the administrative affairs of the City in accordance with the Mayor-Council Plan A of the Optional Third Class City Charter Law and the Third Class City Code. (Ord. 2-1962 §201. Passed 1-12-62.)

113.02 MAYOR AS CHIEF OF ADMINISTRATION.

The Mayor shall be authorized and empowered to promulgate administrative instruction concerning the administration and enforcement of the purpose and intent of all official ordinances, resolutions of Council and regulations issued under the authority thereof. He may, pending passage of an ordinance, distribute the work and responsibilities of the departments, bureaus and any subdivisions thereof in the administrative branch and establish temporary positions to the extent that budgetary provisions have been made for the same.
(Ord. 2-1962 §202. Passed 1-12-62.)

113.03 SUPERVISION OF ADMINISTRATIVE OFFICERS.

The Mayor shall direct and supervise all administrative officers and employees of the City under his jurisdiction in the performance of their duties. He may set aside any action taken by any of them and supersede any of them in the functions of their office.
(Ord. 2-1962 §203. Passed 1-12-62.)

113.04 ADMINISTRATIVE ASSISTANT TO MAYOR.

There is established the position of Administrative Assistant to the Mayor, of which there may be two, whose duties shall be such as are assigned to them by the Mayor for the purpose of assisting the Mayor in the performance of his administrative duties which may be properly delegated to such Administrative Assistants. (Ord. 110-1989 §1. Passed 12-27-89.)

113.05 PERSONNEL OF MAYOR'S OFFICE.

There shall be assigned to the office of the Mayor such other administrative, clerical, secretarial and office personnel as may be required for the performance of the duties of that office, and as Council shall by budgetary provisions allow.
(Ord. 2-1962 §205. Passed 1-12-62.)

113.06 APPOINTMENT AND REMOVAL OF STAFF.

All personnel of the Mayor's office shall be appointed by the Mayor and shall serve during his term of office, unless sooner removed by the Mayor.
(Ord. 2-1962 §206. Passed 1-12-62.)

113.07 CONTRACTS; MINIMUM WAGE RATES, WORKING CONDITIONS AND PRINTED MATTER; BIDS.

(a) All contracts entered into by the City or any department, board, commission or agency thereof, which do not require bidding under the Third Class City Code, shall contain conditions that the person to whom the contract is awarded shall agree to pay every employee engaged in the performance of such contract, the prevailing minimum wage rates established for this locality by the Pennsylvania Secretary of Labor and Industry or his duly authorized deputy or representative and shall also provide working conditions prevalent in the locality in which the contract is being performed.

(b) It shall also be the policy of the City to promote and not engage in competition with private enterprise so that all printed matter required by the City in excess of 150 copies shall be by contracts awarded to persons or companies engaged in that business.
(Ord. 2-1968 §1. Passed 1-3-68.)

(c) A copy of the inspection and statement from the departmental director setting forth that the work and/or service and/or equipment contracted for is in accordance with the terms of the contract shall be attached to any contract entered into by the City, before being approved by Council for final payment by the City Controller. A minimum of ten percent of the total contract price shall be withheld until final payment has been approved. Insofar as equipment is concerned, this shall apply only to equipment which is to be installed by the contractor. (Ord. 23-1974 §1. Passed 4-10-74.)

(d) Bidding specifications of the City shall contain fair and equitable standards in proposals seeking bids for materials, equipment and other items to provide the widest possible opportunity for suppliers to submit bids. In addition to advertising as required by law, the Purchasing Agent shall solicit sealed bids from all suppliers maintained on the official bid list which handle the commodity sought. The Purchasing Agent shall, if possible, also solicit bids from other responsible prospective suppliers whose names are obtained from publications, catalogues, etc. (Ord. 82-1976 §1. Passed 10-27-76.)

113.08 COMPENSATION OF MAYOR.

The compensation of the Mayor is hereby fixed and established as follows:

Commencing the First Monday	Annual Compensation
January, 2014	$ 95,000

(Ord. 37-2011. Passed 11-2-11.)

113.09 OFFICE OF ACCOUNTS, FINANCE AND BUDGET.

(a) There is hereby created an Office of Accounts, Finance and Budget assigned to the Office of the Mayor to which are delegated the duties of the Director of Accounts and Finance as set forth in the Third Class City Code and the responsibility of assisting in the preparation of the City's annual budget.

(b) There is hereby transferred to the Office of the Mayor from the Office of the City Controller the personnel, property, equipment, records, functions and duties of the former Department of Accounts and Finance. All ordinances or parts thereof conflicting herewith are hereby repealed. (Ord. 2-1970 §2, 3. Passed 1-14-70.)

(c) All encumbrances shall be processed on a timely basis for actual expenses incurred and purchases made within and relative to the current year's operating budget. All bills which are not paid or encumbered within a six month period shall be deemed untimely except in the event of extenuating circumstances which, when encountered, shall be fully disclosed and explained to Council prior to the expiration of such six month period. All encumbrances shall be accompanied by requisitions or purchase orders; all contracted services shall be deemed to be included within the scope of this section.
(Ord. 71-1978 §1. Passed 12-6-78.)

(d) Disciplinary action shall be taken by the Mayor for the failure of an officer of the City, a Bureau Chief, or other Administrative Official to comply with subsection (c) hereof relative to the processing of encumbrances for expenses incurred and purchases made.
(Ord. 21-1976 §1. Passed 3-31-76.)

(e) The Mayor shall not overspend or otherwise create a budget deficit in any fiscal year after Council has finally adopted the annual budget ordinance, except when incidents occur beyond the Mayor's control. (Ord. 25-1988 §1. Passed 4-20-88.)

(f) (1) Consistent with prior practice, the proposed transfer of any funds from one budget account to another shall be submitted to Council for approval. All transfers between funds shall be approved by a majority of Council. However, the Director of Finance and Administration may authorize budgetary transfers within any fund (between budget units or line items in the same budget unit) not to exceed the lesser of five thousand dollars ($5,000) or five percent (5%) of the budget unit's total budget. Such transfers shall be authorized only when necessary to accomplish the objectives of the budget unit as originally approved.

All transfers, both Council approved and administration initiated, shall be reported to Council within fifteen days of the end of each month. (Ord. 14-1991 § 1 . Passed 2-27-91.)

(2) The City Administration shall submit an appropriation ordinance to City Council, within seven (7) days of receipt of any unappropriated and unanticipated revenue for appropriation by City Council to the proper designated accounts within the current year budget.
(Ord. 41-2004. Passed 6-16-04.)

(g) There is transferred from the Office of City Treasurer to the Department of Administration and Finance, under the Mayor, the personnel, property, equipment, records, functions and duties of the following offices and bureaus pursuant to 53 P.S. §41303, 53 P.S. §6913(I), (V) and City Ordinance 371.07:

Bureau of Income Tax/Occupational Privilege Tax Collection.
(Ord. 48-2002. Passed 8-21-02.)

(h) (1) A weekly report shall be submitted to City Council and the City Controller of all investments, wire transfers, bank transfers, temporary investments, disposal of securities, use of cash accounts, and any and all other types of expenditures or deposits of city monies.
(Ord. 39-2004. Passed 6-16-04.)

(2) Consistent with Section 1814 of the Third Class City Code, the Director of Accounts, Finance and Budget shall provide to City Council at the first stated meeting in October of each year, a complete and itemized report of all policies of insurance contracted for the City administration for Council's information and consideration.
(Ord. 31-2006. Passed 7-5-06.)

(i) Letter of Commitment. The City Administration shall submit to the City Controller a Letter of Commitment for all Professional Service agreements under ten thousand dollars ($10,000). The Letter of Commitment shall contain information specifying the total or approximate costs of the services to be provided to the City of Erie. The City Controller shall authorize payment for such services up to ten thousand dollars ($10,000). In the event the professional services described in the Letter of Commitment shall exceed ten thousand dollars ($10,000) then the City Controller shall notify the City Administration that a contract for said professional services, approved by City Council, is needed before any additional payments are made under the terms of the Letter of Commitment, and the City Controller shall not approve any vouchers without said commitment letter.
(Ord. 67-2004. Passed 9-8-04.)

113.10 COMPUTER SYSTEMS AND SERVICES OFFICE.

(a) There is established under the Office of the Mayor a Computer Systems and Services Office.

(b) Personnel for such office shall be as ordained by the budget duly passed by Council.

(c) The duties of such office shall include, but not be limited to: improve and maintain communication between the Systems Department and systems users; provide training for all new and present employees to access the information system and; to provide technical education for programmers and systems analysts. (Ord. 27-1984 §1-3. Passed 4-25-84.)

113.11 ACT 205 REPORTS.

The Mayor or an Administrative Officer designated by the Mayor, shall be ultimately responsible for the timely filing of all reports and other documents required to be filed by the City of Erie Pension Plans in the annual application under Act 205 of 1984 of the Commonwealth of Pennsylvania (Municipal Pension Plan Funding Standard and Recovery Act). The Mayor or such designee shall on March l of each year notify Council in writing of the status of the application process for that year. On April l of each year the Mayor, or such designee, shall notify Council in writing that all required documents and reports have been filed, and shall set forth in writing the identities of reports and documents submitted and the names and addresses of Commonwealth Officials to whom they have been submitted.
(Ord. 66-1989 §1. Passed 8-9-89.)

113.12 CAPITAL IMPROVEMENTS REVOLVING FUND; USES AND PROCEDURE.

(a) As part of the annual budget cycle, the Mayor shall propose to Council a six-year plan for capital improvements and reduction of pension liability. This plan shall outline the projects to receive moneys from the Fund, which are scheduled for initiation, continuation and/or completion in the next year, and the current plans for projects for the following five years. Evaluations of proposed projects, including project descriptions, cost and benefit projections, and financing requirements (including alternative and/or adjunct sources of funds) shall be provided as part of the plan. Finally, the plan shall include a report on the status of projects which received moneys from the Fund in the current year, and identify new projects and any changes in priorities for projects proposed for the ensuing or subsequent years covered in the prior six-year plan.

(b) Council shall, within forty-five days, adopt a resolution accepting the proposed six-year plan or a modification thereof, detailing the proposed expenditures, financing options and fiscal limitations. Council may amend the six-year plan at any time by resolution. Council shall adopt an ordinance appropriating the moneys required for financing approved capital projects for the ensuing year in conjunction with the adoption of the operating budget for the City. (Ord. 39-1990 §1, 2. Passed 6-27-90.)

ARTICLE 114
Mayor's Office of Community Affairs

EDITOR'S NOTE: Former Article 114 consisting of Sections 114.01 and 114.02 was repealed by implication by the enactment of Ordinance 109-1989, passed December 27, 1989. See Section 117.06 for relevant provisions.

ARTICLE 115
Staff Positions

115.01 City Clerk.
115.02 City Solicitor.
115.03 Assistant City Solicitor.
115.04 Appointments of assistants and employees.
115.05 Staff positions of commissions and boards.
115.06 Assignment of staff duties to administrative departments.
115.07 Assignments of boards and commissions.
115.08 Staff positions as City employees.
115.09 Powers and duties of boards, commissions, advisory bodies unchanged.
115.10 Officers' statements of duties; investigations.
115.11 Nepotism policy.

CROSS REFERENCES

City Clerk - see 3rd Class Charter Law §410 (53 P.S. §41410); 3rd Class §1301 et seq. (53 P.S. §36301 et seq.)
City Solicitor - see 3rd Class Charter Law §410(b) (53 P.S. §41410(b); 3rd Class §1601 et seq. (53 P.S. §36601 et seq.)
Officers and employees - see 3rd Class Charter Law §601 et seq. (53 P. S. §41601 et seq.); 3rd Class §901 et seq. (53 P. S. §35901 et seq.)
Council to control boards, commissions, etc. - see ADM. 111.05

115.01 CITY CLERK.

Council shall appoint a City Clerk as provided by law, at the time and in the manner provided by Section 1301 of the Third Class City Code. The City Clerk shall serve as Clerk to Council, keep its minutes and records, record its proceedings, maintain and compile its ordinances and resolutions as required by law and perform such functions as may be required of him by law. The City Clerk shall have such assistants and employees as Council may by ordinance provide. (Ord. 2-1962 §106. Passed 1-12-62.)

115.02 CITY SOLICITOR.

The Mayor shall appoint a City Solicitor with the advice and consent of Council. The duties and responsibilities of the City Solicitor shall be those set forth in Article XVI of the Third Class City Code, and such other duties and functions consistent with the same that Council may by ordinance provide. (Ord. 2-1962 §107.A.1. Passed l-12-62.)

115.03 ASSISTANT CITY SOLICITOR.

The City Solicitor shall appoint all assistants and employees of his office whose number and compensation shall be fixed by budgetary provisions, and who, in all other respects, shall be considered employees of the City, provided that an Assistant City Solicitor shall be chosen by the City Solicitor from two names submitted to the City Solicitor by Council.
(Ord. 2-1962 §107.A.2. Passed 1-12-62.)

115.04 APPOINTMENTS OF ASSISTANTS AND EMPLOYEES.

The City Treasurer, City Controller, City Clerk and City Solicitor, except as provided in Section 115.03, shall each appoint all assistants and employees of his office, whose number and compensation shall be fixed as Council, by budgetary provisions, provides, and who, in all other respects, shall be considered employees of the City. (Ord. 2-1962 §108. Passed 1-12-62.)

115.05 STAFF POSITIONS OF COMMISSIONS AND BOARDS.

Council may create such staff positions for any board, commission or other advisory body as may have been established and establish the compensation thereof. When any staff positions have been authorized for any such board, commission or advisory body, such staff positions shall be filled by such board, commission or advisory body. Any person so employed shall be subject to removal from his position by such board, commission or advisory body upon written notice of same delivered to and approved by Council.
(Ord. 2-1962 §109. Passed 1-12-62.)

115.06 ASSIGNMENT OF STAFF DUTIES TO ADMINISTRATIVE DEPARTMENTS.

Council may by ordinance assign the responsibility for performance of staff duties of any board, commission or other advisory body to any administrative department of the City, and upon such assignment the director of such department shall assign such personnel to these duties as may be required. Employees so assigned shall be governed by the department head who will assume responsibility for their job performance. He shall exercise normal departmental authority, including the responsibility for determining the fitness and ability of all such employees, and he shall be responsible for their retention or dismissal on the basis of job performance, subject only to the approval of the Mayor. (Ord. 2-1962 §110. Passed 1-12-62.)

115.07 ASSIGNMENT OF BOARDS AND COMMISSIONS.

The responsibility for the performance of staff duties of the following boards, commissions or advisory bodies is assigned to the following offices or administrative departments of the City in accordance with the provisions of Section 115.06:

(a) Assigned to the Department of Public Safety:
Building Code Commission;
Electrical Code Commission;
Traffic Commission;
Civic Smoke Abatement Board;
Smoke Abatement Appeals Board;
Board of Engineering License Examiners;
Plumbing Board;
Plumbing License Examining Board;
Housing Code Advisory Board;
Board of Health.

(b) Assigned to the Department of Public Works, Property and Parks:
Shade Tree Commission;
Perry Memorial House Commission;
Municipal Golf Commission;
Parks and Playground Advisory Commission.

(c) Assigned to the office of the Mayor:
Civil Service Board A and B;
Civil Service Board C;
City Planning Commission;
Zoning Hearing Board;
The duties and functions of the former Bureau of City Planning and the property and equipment of the same are hereby transferred to the City Planning Commission in the office of the Mayor.

(d) Assigned to the office of the City Treasurer:
Sinking Fund Commission.

(e) Assigned to the office of the City Controller:
City of Erie Officers' and Employees' Retirement Board.

(f) Assigned to Council:
Erie Port Commission.

(Ord. 14-1962 §1. Passed 5-2-62; Ord. 64-1964 §1. Passed 12-9-64; Ord. 82-1971 §2. Passed 12-29-71.)

115.08 STAFF POSITIONS AS CITY EMPLOYEES.

All staff employees of any board, commission or other advisory body shall be employees of the City and subject to all personnel requirements, duties, rules, regulations and qualifications that the City may require of other employees, and they shall be entitled to all privileges and benefits of such employees. (Ord. 2-1962 §111. Passed 1-12-62.)

115.09 POWERS AND DUTIES OF BOARDS, COMMISSIONS, ADVISORY BODIES UNCHANGED .

All boards, commissions and other advisory bodies shall continue to perform and exercise the duties and powers vested in or imposed upon them by ordinance or general law as heretofore. (Ord. 14-1962 §1. Passed 5-2-62.)

115.10 OFFICERS' STATEMENTS OF DUTIES; INVESTIGATIONS.

Council may in its discretion require any City officer to prepare and submit sworn statements regarding his official duties in the performance thereof, and may otherwise investigate the conduct of any department, office or agency of the City government. However, no officer or employee of the City shall be terminated or otherwise disciplined for appearing as a witness and giving testimony when required by Council in the conduct of any official investigation hereunder. (Ord. 43-1963 §1. Passed 11-13-63.)

115.11 NEPOTISM POLICY.

All employees shall be appointed, hired, promoted and/or advanced based on qualifications and the ability to perform the job, without regard to personal influences they may have within or without City Government and in keeping with equal opportunity and other employment laws for all applicants applying for employment with the City of Erie.

(a) No public official or public employee shall influence the appointment, hiring, promotion and/or advancement of a relative or a member of his/her direct family to a City of Erie position.

(b) No public official or public employee shall have a relative or a family member under his/her direct supervision or control.

(c) Family members or relatives are defined as spouse, parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, grandparent, grandchild, co-inhabiting individual, or any step relative in any of the foregoing categories.

(d) Family members or relatives presently in the employ of the City of Erie who fall into the categories outlined in sub-section (c) of this policy shall be unaffected by this policy. This policy shall apply to all future employment to positions with the City of Erie.

(e) Nepotism for purposes of this policy shall mean favoring relatives or personal friends because of their relationship rather than because of their abilities to perform the job responsibilities of their respective positions with the City of Erie.

(f) Noncompliance with this policy may result in the termination of affected employees in accordance with the City of Erie personnel procedures and applicable law.

(Ord. 54-2005. Passed 9-22-05.)

ARTICLE 117
Departments and Bureaus

117.01 Administrative branch.
117.02 Administrative departments.
117.03 Department of Public Safety.
117.04 Department of Business Administration and Finance.
117.05 Department of Public Works, Property and Parks.
117.06 Department of Economic and Community Development.

CROSS REFERENCES
City departments - see 3rd Class Charter Law §415 (53 P.S. §41415); 3rd Class §1101 et seq. (53 P.S. §36101 et seq.)
Mayor to control administrative branch - see ADM. 113.01 et seq.

117.01 ADMINISTRATIVE BRANCH.

The administrative branch of the City shall be composed of the departments and bureaus listed herein and shall be composed of the personnel authorized by Council by ordinance.

At the head of each department there shall be an administrative officer with the title of Director, and he shall have authority to direct and supervise his department, subject to supervision and control by the Mayor. Heads of departments may also serve as heads of bureaus or other subdivisions of departments. Two or more bureaus or subdivisions thereof may be headed by the same individual. At the head of each bureau or subdivision there shall be an administrative officer known as the Chief of the Bureau or Assistant Director, subject to the department director and Mayor. The work of each bureau may be distributed among such subordinate divisions or other units as may be established by department directors and approved by the Mayor. (Ord. 59-1987 §1. Passed 9-23-87.)

117.02 ADMINISTRATIVE DEPARTMENTS.

The following administrative departments of the City government are established, and present bureaus, divisions, personnel, properties, functions and duties of the City government are assigned to them as follows in this article. (Ord. 59-1987 §1. Passed 9-23-87.)

117.03 DEPARTMENT OF PUBLIC SAFETY.

The Department of Public Safety shall be headed by a Director of Public Safety who shall be responsible to the Mayor for the administration of the laws and ordinances of the City relating to the protection of persons and property. In the absence of the Director or the vacancy of this position or if a Director of Police Operations is appointed as provided in subsection (a) hereof, the Mayor shall exercise all such functions. It is intended by this paragraph that there shall not be both a Safety Director and a Director of Police Operations at the same time. The Director shall supervise the administration of the following Bureaus:

(a) Bureau of Police. The Bureau of Police shall be headed by a Director of Police Operations appointed by the Mayor, assisted by a Chief of Police appointed by the Mayor who shall command the personnel and activities of the Bureau of Police.

(b) Bureau of Fire. The Bureau of Fire shall be headed by a Fire Chief who shall command the personnel and activities of the Bureau of Fire as well as the offices of Electrician and Radio Division. (Ord. 59-1987 §1. Passed 9-23-87.)

117.04 DEPARTMENT OF BUSINESS ADMINISTRATION AND FINANCE.

There shall be established a Department of Business Administration and Finance, headed by a Director of Business Administration and Finance, appointed by the Mayor, who shall serve in the capacity provided in Section 416 of the Optional Third Class City Charter Law. In addition, the Director shall supervise and direct the operations of the following Bureaus or Offices:

(a) Accounts and Finances;
(b) Central Purchasing;
(c) Computer Services;
(d) Human Relations;
(e) Job Partnership Training Act which office is hereby established to administer the provisions of the Federal Job Partnership Training Act; and
(f) Personnel, including Office of Contract Compliance and EEOC.
(Ord. 109-1989 §1. Passed 12-27-89.)

117.05 DEPARTMENT OF PUBLIC WORKS, PROPERTY AND PARKS.

There is hereby established a Department of Public Works, Property and Parks which shall unify the functions of the former Department of Public Works and the Department of Parks and Public Property under one Director appointed by the Mayor. The Director along with a Deputy Director and no more than three Assistant Directors plus the City Engineer appointed by the Mayor shall be responsible for the administration of the City's public works, parks, playgrounds, public facilities and public buildings not specifically delegated to the jurisdiction of another department as assigned to the following Bureaus:

(a) Bureau of Engineering. The Bureau of Engineering shall be headed by the City Engineer who shall perform such services as are required by statute and City ordinance and shall further furnish engineering services to all departments of the City, prepare plans and specifications for construction work, supervise and inspect all construction and maintain City maps and engineering data and records. In addition, the Bureau of Engineering shall supervise and direct the Bureau of Traffic Engineering and its Paint and Sign Division.

(b) Bureau of Streets.

(1) The Bureau of Streets shall be headed by a Bureau Chief who shall be responsible for the upkeep and repair of streets, the paving of streets, the construction and grading of streets and the lighting of streets.

(2) The personnel, properties, functions and duties of the following former offices, divisions and bureaus are assigned and transferred to the Bureau of Streets:
A. Bureau of Street Repairs;
B. Bureau of Asphalt Plant;
C. Bureau of Highways;
D. Division of Street Cleaning;
E. Division of Construction and Grading; and
F. Bureau of Street Lighting.

(c) Bureau of Water.
(1) The Bureau of Water shall be headed by a Bureau Chief who shall be responsible for the operation and maintenance of the water supply and distribution system of the City, except for the accounting and collection of revenues and expenditures.
(2) There is assigned and transferred to the Bureau of Water in the Department of Public Works, Parks and Property all of the former functions of the Bureau of Water of the Department of Public Affairs.

(d) Bureau of Sewers.
(1) The Bureau of Sewers shall be headed by a Bureau Chief who shall be responsible for the construction, operation and maintenance of the sewer system of the City and the Sewage Treatment Plant and facilities of the City.
(2) All of the functions, duties, personnel, equipment, plant and properties of the following former bureaus are assigned and transferred to the Bureau of Sewers:
A. Bureau of Sewers; and
B. Bureau of Sewage Disposal.

(e) Bureau of Municipal Garage.
(1) The Bureau of Municipal Garage shall be headed by a Bureau Chief who shall be responsible for the service, storage and repair of mobile equipment of all departments, bureaus and other divisions of the City government.
(2) All the former property, equipment, personnel and officers of the former Bureau of Municipal Garage are assigned and transferred to the Bureau of Municipal Garage. (Ord. 59-1987 §1. Passed 9-23-87.)

(f) Bureau of Parks and Recreation.
(1) The Bureau of Parks and Recreation shall be headed by a Bureau Chief and shall be responsible for the development, care and maintenance of all public playgrounds, golf courses, recreation areas and recreation programs of the City.
(2) The personnel, properties, functions and duties of the following former bureaus and commissions are transferred and assigned to the Bureau of Parks and Recreation:
A. Bureau of the Zoo;
B. Bureau of Parks; and
C. Golf Commission.
(Ord. 4-1991 §1. Passed 1-9-91.)

(g) Bureau of Public Buildings.

(1) The Bureau of Public Buildings shall be headed by a Bureau Chief who shall be responsible for the care and maintenance of all public buildings and facilities of the City not specifically delegated to the jurisdiction of another department. It shall be the duty of the Chief of this Bureau to allocate space in such buildings to such departments of the City government as may require them and to care for and maintain all such public buildings and facilities.

(2) The personnel, properties, functions and duties of the following former bureaus are transferred and assigned to the Bureau of Public Buildings:

A. Bureau of Public Buildings; and

B. Bureau of Comfort Stations.

(h) Bureau of Refuse Disposal.

(1) The Bureau of Refuse Disposal shall be headed by a Bureau Chief who shall be responsible for the operation, care and maintenance of all facilities of the City for the reception, collection and disposal of garbage, trash and refuse.

(2) The personnel, properties, functions and duties of the following former bureaus are transferred and assigned to the Bureau of Refuse Disposal:

A. Bureau of Garbage Collection and Disposal; and

B. Bureau of Trash Disposal.

(Ord. 59-1987 §1. Passed 9-23-87.)

117.06 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT.

There shall be established a Department of Economic and Community Development, headed by a Director of Economic and Community Development appointed by the Mayor. This Department shall succeed to all the functions and duties of the former Office of Policy, Planning, Management and Mayor's Office of Community Affairs. This Department shall compromise the Offices of:

(a) Fiscal Administration;

(b) Planning;

(c) Zoning; and

(d) Regulation, Inspection and Licensing.

(1) The Bureau of Regulation, Inspection and Licensing shall be responsible for the administration of all licenses, inspection and regulatory ordinances and regulations of the City including building, housing, plumbing and business licenses. The duties and functions of the following former officers, employees, divisions or bureaus and the property and equipment of the same are transferred to the Bureau of Regulation, Inspection and Licensing; smoke control inspections and all licenses and permits. (Ord. 109-1989 §1. Passed 12-27-89.)

ARTICLE 119
City Treasurer

119.01 Election; powers and duties.
119.02 Personnel.
119.03 Functions transferred.
119.04 Bond required.
119.05 Compensation.
119.06 Tax stabilization and reserve fund.
119.07 Non-criminal fingerprinting services.
119.08 Fee schedule.

CROSS REFERENCES
Vacancy - see 3rd Class Charter Law §406(b) (53 P.S. §41406(b))
Duties - see 3rd Class Charter Law §415(a) (53 P. S. §41415(a))
To appoint office assistants and employees - see ADM. 115.04

119.01 ELECTION; POWERS AND DUTIES.

The office of the City Treasurer shall be headed by a City Treasurer elected as provided by law. He shall perform such functions and duties and have such powers relating to the collection, receiving, safekeeping and payment over of public moneys including the City, County, institution district and school district taxes as provided by general law, and shall have such other functions, powers and duties as may be assigned to him by Council. He shall be responsible for the receipt of and accounting for all moneys due the City from whatever source, the collection of taxes and assessments, liens, fines, penalties, license fees, sewer and water rents, other rentals and fees and all other revenues due the City from whatever source. Both the City Treasurer and the City Controller shall endorse all City checks prior to issuance for payment thereon. The signature facsimile stamps shall remain in the custody of the City Treasurer. (Ord. 2-1962 §401. Passed 1-12-62; Ord. 74-1992 §1. Passed 12-2-92.)

119.02 PERSONNEL.

The office of the City Treasurer shall have such personnel as Council may by ordinance provide. (Ord. 2-1962 §402. Passed 1-12-62.)

119.03 FUNCTIONS TRANSFERRED.

There is transferred to the office of the City Treasurer the personnel, property and equipment, records, functions and duties of the following former personnel offices and bureaus of the City:

Office of the City Treasurer;

Office of the Collector of Taxes;

Municipal Lien Office of the Bureau of Law.

(Ord. 48-2002. Passed 8-21-02.)

119.04 BOND REQUIRED.

The City Treasurer shall give bond from an approved corporate surety to the City, as required by the general law, in the amount of two million dollars ($2,000,000). The required bond shall be placed on file with the City Clerk's Office no later than thirty (30) days prior to the date the duly elected City Treasurer shall take the oath of office. If this requirement is not fulfilled then the duly elected City Treasurer shall not be permitted to take the oath of office and the office of City Treasurer shall be declared vacant. If such vacancy shall occur, then the office of City Treasurer shall be immediately filled in accordance with the Optional Third Class City Charter Law. (Ord. 24-2004. Passed 4-28-04.)

119.05 COMPENSATION.

The compensation of the City Treasurer is hereby fixed at fourteen thousand five hundred dollars ($14,500), commencing the first Monday of January, 1999. The compensation of the City Treasurer acting as Tax Collector, to be divided equally between the City of Erie, County of Erie and School District of the City of Erie, is hereby established at twenty-five thousand five hundred dollars ($25,500) for an aggregate of forty thousand dollars ($40,000) per year commencing on or after the first Monday of January, 1999. The salary of the City Treasurer acting as Tax Collector shall be increased from twenty-five thousand five hundred dollars ($25,500) to twenty-seven thousand five hundred dollars ($27,500) for an aggregate of forty-two thousand dollars ($42,000) per year commencing on or after the first Monday in January, 2000; increasing to twenty-nine thousand five hundred dollars ($29,500) for an aggregate of forty-four thousand dollars ($44,000) on or after the first Monday in January, 2001; increasing to thirty-one thousand five hundred dollars ($31,500) for an aggregate of forty-six thousand dollars ($46,000) on or after the first Monday in January, 2002; and increasing to thirty-three thousand five hundred dollars ($33,500) for an aggregate of forty-eight thousand dollars ($48,000) on or after the first Monday in January, 2003.

(Ord. 5-1999. Passed 2-10-99.)

119.06 TAX STABILIZATION AND RESERVE FUND.

The City Treasurer shall deposit any and all revenues received above the authorized budgeted line item amount received from City real estate tax payments and all other accounts received by the City Treasurer, into this fund for future appropriation by a super majority vote (at least six affirmative votes) of Erie City Council.
(Ord. 40-2004. Passed 6-16-04.)

119.07 NON-CRIMINAL FINGERPRINTING SERVICES.

(a) The identification Unit of the Erie Police Bureau will provide non-criminal fingerprinting services to both residents and non-residents of the City of Erie. The cost of this service is fifteen dollars ($15.00) for residents of the City of Erie and forty dollars ($40.00) for non-residents of the City of Erie. All funds generated by this program shall be deposited in the general fund of the City of Erie.

(b) Individuals requesting fingerprints for non-criminal reasons shall go to the City Treasurer's office during regular business hours to secure a fingerprint voucher by paying the prerequisite fee. The fingerprint voucher shall be taken to the Erie Police Bureau where an appointment is made to have fingerprinting completed. A scheduling log book shall be maintained at the front counter and monitored by the Identification Unit of the Erie Police Bureau. At the time of the appointment the individual must have proper identification before being fingerprinted. Fingerprinting shall be scheduled during the following hours:

Saturday:	0900-1200 hours
Tuesday:	1300-1600 hours
Wednesday:	1900-2100 hours
Thursday:	1300-1600 hours

(c) After the fingerprinting is completed the voucher shall be maintained by the City Treasurer's Office for accounting purposes only. Said vouchers shall be immediately destroyed by the City Treasurer's Office when satisfied that they are no longer necessary for accounting purposes. (Ord. 23-2005. Passed 5-4-05.)

119.08 FEE SCHEDULE.

The following fee schedule currently in place in the City of Erie Treasurer's Office is hereby ratified and adopted as follows:

FEE SCHEDULE

NSF check fee	$30.00
Duplicate Tax Bill	$ 5.00 per bill $15.00 parcel (all 3)
Tax certification	$15.00 per year
Municipal lien form	$15.00
Tax information electronically	$150.00 per media type
Tax payment electronically	$300.00 per media type

(Ord. 70-2005. Passed 12-14-05.)

ARTICLE 121
City Controller

121.01 Election; control function powers.
121.02 Work programs and quarterly budget allotments.
121.03 Budget administration.
121.04 Personnel and pension systems.
121.05 Director and Department of Accounts and Finance assigned. (Repealed)
121.06 Personnel.
121.07 Functions transferred. (Repealed)
121.08 Annual audit.
121.09 Bond required.
121.10 Compensation of City Controller.
121.11 Vehicular Capital Reserve Account.
121.12 Notice to local vendors.

CROSS REFERENCES

Vacancy - see 3rd Class Charter Law §406(b) (53 P.S. §41406(b))
Finances; control function - see 3rd Class Charter Law §420 (53 P. S. § 41420)
To appoint office assistants and employees - see ADM. 115.04
Pension funds - see ADM. Art. 145 et seq.

121.01 ELECTION; CONTROL FUNCTION POWERS.

The City Controller shall be elected by law and shall be responsible for the exercise of the control function in the management of the finances of the City. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition and for pre-audit by the City Controller of all claims and demands against the City prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof. Both the City Controller and the City Treasurer shall endorse all City checks prior to issuance for payment thereon. (Ord. 2-1962 §501. Passed 1-12-62; Ord. 74-1992 §2. Passed 12-2-92.)

121.02 WORK PROGRAMS AND QUARTERLY BUDGET ALLOTMENTS.

The City Controller shall establish and maintain a system for work programs and quarterly allotments for operation of the budget and to develop and report appropriate unit costs of budgeted expenditures. (Ord. 2-1962 §502. Passed 1-12-62.)

121.03 BUDGET ADMINISTRATION.

The City Controller shall administer the annual budget, maintain a system of budgetary control and accounting and prepare the annual and other financial reports of the City as required by law. (Ord. 2-1962 §503. Passed 1-12-62.)

121.04 PERSONNEL AND PENSION SYSTEMS

The City Controller shall establish and administer the fiscal personnel record system of the City, including the records of the pension system of the City.
(Ord. 2-1962 §504. Passed 1-12-62.)

121.05 DIRECTOR AND DEPARTMENT OF ACCOUNTS AND FINANCE ASSIGNED.

(EDITOR'S NOTE: This section was repealed by implication by Ordinance 2-1970, passed January 14, 1970, which transferred the duties to the office of the Mayor, as provided in Section 113.09.)

121.06 PERSONNEL.

The office of the City Controller shall have such personnel as Council shall by ordinance or budget ordinance provide.
(Ord. 2-1962 §509. Passed 1-12-62.)

121.07 FUNCTIONS TRANSFERRED.

(EDITOR'S NOTE: This section was repealed by implication by Ordinance 2-1970, passed January 14, 1970, which transferred the duties to the office of the Mayor, as provided in Section 113.09.)

121.08 ANNUAL AUDIT.

All accounts of the City shall be audited in accordance with generally accepted auditing standards by an independent certified public accountant selected by resolution of Council in the month of January following the close of the fiscal year.
(Ord. 11-1965 §1. Passed 2-17-65.)

121.09 BOND REQUIRED.

The City Controller shall give bond from an approved corporate surety to the City, as required by the general law, in the amount of two hundred thousand dollars ($200,000). The required bond shall be placed on file with the City Clerk's Office no later than thirty (30) days prior to the date the duly elected City Controller shall take the oath of office. If this requirement is not fulfilled then the duly elected City Controller shall not be permitted to take the oath of office and the office of City Controller shall be declared vacant. If such vacancy shall occur, then the office of City Controller shall be immediately filled in accordance with the Optional Third Class City Charter Law.
(Ord. 25-2004. Passed 4-28-04.)

121.10 COMPENSATION OF CITY CONTROLLER.

The compensation of the City Controller is hereby fixed and established as follows:

Commencing the First Monday	Annual Compensation
January, 1998	$ 38,000

(Ord. 49-1996 §1. Passed 9-4-96.)

121.11 VEHICULAR CAPITAL RESERVE ACCOUNT.

(a) The Finance Director shall create a budget account designated as the "Vehicular Capital Reserve Account" in the City General Fund Budget for the sole purpose of disbursing funds on account for the acquisition of vehicles to be used exclusively by those City bureaus and departments funded from the City General Fund Budget.

(b) Such Account shall be first established in the 1980 General Fund Budget and annually continued and funded thereafter.

(c) The 1980 General Fund Budget, and each General Fund Budget thereafter, shall fund such Account in an amount of money not less than one mill of the total assessed valuation of all real estate taxable within the City during the fiscal year.

(d) Disbursements shall be made from this Account:

(1) Solely for the acquisition of vehicles to be used exclusively by those City bureaus or departments funded from the General Fund Budget; or

(2) For deposit into a special account to be established in a Federally-Insured Bank or Savings and Loan Institution. Such disbursement to this special account shall occur if there remains an unencumbered balance in the Vehicular Capital Reserve Account on the last day of any fiscal year, or if it is determined that the balance in the Vehicular Capital Reserve Account could be invested at interest from this special account. All disbursements from this special account shall be solely for investment purposes or acquisition of vehicles to be used exclusively by those City bureaus and departments funded from the City General Fund Budget.

(e) There shall be no other disbursements from this Account other than set forth in subsection (d) hereof.

(f) Neither this Account nor the special account provided in subsection (b)(2) hereof shall be pledged or used as security or collateral for any purposes unless specifically provided to the contrary by a duly enacted statute of the Commonwealth of Pennsylvania, or other existing obligation of the City. (Ord. 65-1979 §1-6. Passed 8-8-79.)

121.12 NOTICE TO LOCAL VENDORS.

Every effort is undertaken to ensure that all bids, contracts or professional service with RFPS be first distributed to qualified vendors, suppliers or professional service providers who have their business address located in Erie County giving notice of work available through the City of Erie, thereby affording regional business the opportunity to perform work for the City of Erie before seeking such services from outside the Erie County area.
(Ord. 14-2004. Passed 2-18-04.)

ARTICLE 123
Debt

123.01 Applicable law.
123.02 Preliminary cost estimates.
123.03 Bond counsel.
123.04 Financial advisor.
123.05 Sinking fund depositary; paying agent.
123.06 Trustee for bondholders or noteholders.
123.07 Sale of bonds or notes.
123.08 Public sale of bonds and notes.
123.09 Private sale of bonds and notes.
123.10 Debt guarantee fee.

CROSS REFERENCE
State law provisions - see 53 P. S. §6780-1 et seq.

123.01 APPLICABLE LAW.

All debt incurred by the City shall be subject to the substantive and procedural provisions set forth in the Local Government Unit Debt Act, Act No. 1978-52. The provisions of this article are intended to supplement the Local Government Unit Debt Act, and in the event of any inconsistency between the two, the provisions of the Act shall apply.
(Ord. 103-1979 §1. Passed 12-19-79.)

123.02 PRELIMINARY COST ESTIMATES.

(a) Prior to the initial authorization of bonds or notes or the issuance of any guaranty to finance any project involving construction or acquisition, the City shall obtain a realistic cost estimate for the project through actual bids, option agreements or professional estimates from registered architects, professional engineers or other persons qualified by experience.

(b) The Mayor and Council shall review the realistic cost estimates and Council shall tentatively approve the project by resolution before the City incurs additional expense in connection with the initial authorization of bonds or notes or the issuance of any guaranty to finance the project.

(c) The cost of preliminary estimates, if initially paid by the City, may be reimbursed out of the net proceeds of the issue of bonds or notes as a cost of the project.
(Ord. 103-1979 §2. Passed 12-19-79.)

123.03 BOND COUNSEL.

(a) The Mayor, with the advice of the City Solicitor, shall retain a special bond counsel to assist in the preparation of the offering, which bond counsel shall be an attorney duly admitted to practice law in the Commonwealth of Pennsylvania who is knowledgeable in the area of Pennsylvania municipal bond offerings and who has a record of marketable opinions in previous municipal bond offerings.

(b) The duties of the bond counsel shall include, but not be limited to, drafting or approving the bond resolutions and ordinances and matters related thereto; reviewing the prospectus, official notice of sale and other materials related to the offering; and rendering a final legal opinion regarding the offering.

(c) The fee of the bond counsel, if initially paid by the City, may be reimbursed out of the net proceeds of the issue of bonds or notes as a cost of the project.
(Ord. 103-1979 §3. Passed 12-19-79.)

123.04 FINANCIAL ADVISOR.

(a) The Mayor may retain an independent financial advisor, who is qualified by experience in municipal bond offerings, to provide expert advise and assist the City in connection with managing and incurring debt.

(b) The duties of the financial advisor shall include, but not be limited to, reviewing the present status of the City debt; reviewing the feasibility of incurring additional debt for the intended purpose of the issue and issuing a written report to the Mayor and Council as to that feasibility; assisting in the preparation of the prospectus and official notice of sale; and reviewing the sealed bids in the case of public sale or the proposals in the case of private sale.

(c) The financial advisor shall give his total loyalty to the City with respect to the proposed issue of bonds or notes and shall have no financial interest in such issue other than his fee for serving as financial advisor.

(d) The fee of the financial advisor, if initially paid by the City, may be reimbursed out of the net proceeds of the issue of bonds or notes as cost of the project.
(Ord. 103-1979 §4. Passed 12-19-79.)

123.05 SINKING FUND DEPOSITARY; PAYING AGENT.

(a) The Mayor shall select a sinking fund depositary which also shall serve as paying agent for the bonds or notes.

(b) The depositary and agent shall be a bank or bank and trust company authorized to do business in the Commonwealth of Pennsylvania and located in the City.

(c) The depositary and agent shall be responsible for receiving from the City an amount of funds sufficient for the payment of the principal and the interest on the notes or bonds as well as paying the principal and interest on such notes or bonds to the holders thereof as such principal and interest becomes due.

(d) Unless the depositary and agent is also serving as trustee for the bondholders or noteholders, the Mayor shall select the depositary and agent from that bank or bank and trust company which is set forth on a separate approved list compiled by the Director of Accounts, Finance and Budget and which submits the lowest responsible sealed bid pursuant to the sealed bid procedure set forth in this section. The lowest responsible bidder shall be the one who, having complied with the terms of the request for bids, offers to serve as the depositary and agent at the lowest cost to the City.

(e) The Director shall include on the approved list any bank or bank and trust company which has expressed an interest in serving as depositary and agent and which qualifies under subsection (b) hereof. The Director shall update this approved list for each issue of bonds or notes under consideration.

(f) The Director shall solicit bids for depositary and agent by sending a request for bids, by certified mail return receipt requested, to each bank or bank and trust company on the approved list not less than ten nor more than thirty days prior to the date fixed for opening bids.

(g) All bids for depositary and agent shall be received by the City Controller in sealed envelopes sufficiently labeled to indicate that they are bids for depositary and agent for the bonds or notes being sold. The bids shall be in writing, properly executed, and shall be on a bid form provided by the Director which shall contain a statement that the bid was prepared independently and without collusion with any other bidder.

(h) The sealed bids shall be publicly opened by the City Controller, or his authorized delegate, and publicly read aloud at the time and place fixed in the request for bids, unless the Mayor determines to return all bids unopened.

(i) In the event that there are two or more bids which qualify as the lowest responsible bids on identical terms conforming to the request for bids, the depositary and agent shall be selected by lot in any manner deemed fair by the Mayor.
(Ord. 103-1979 §5. Passed 12-19-79.)

123.06 TRUSTEE FOR BONDHOLDERS OR NOTEHOLDERS.

(a) The Mayor shall appoint a trustee for the bondholders or noteholders if the ordinance authorizing the issuance of the bonds or notes provides for the execution of a trust indenture appointing a trustee.

(b) The trustee shall be a bank or bank and trust company with fiduciary powers, authorized to do business in the Commonwealth of Pennsylvania and located in Erie County.

(c) The trustee shall be responsible for complying with the terms of the deed of trust, trust indenture or other agreement with the City for the protection of the bondholders or noteholders. If a trustee is appointed under this section, the trustee also shall act as the sinking fund depositary and paying agent.

(d) The Director of Accounts, Finance and Budget shall include on a separate approved list any bank or bank and trust company with fiduciary powers which has expressed an interest in serving as trustee, depositary and agent and which qualifies under subsection (b) hereof. The Director shall update this approved list for each issue of bonds or notes under consideration.

(e) The trustee shall be appointed from the approved list compiled by the Director, after consideration of factors such as previous experience as trustee, depositary and/or agent for municipal bond issues; capability to serve the City as trustee, depositary and agent; past record of earnings with respect to municipal bond issues; and the amount of the fee to be charged for serving as trustee, depositary and agent.

(f) The Director shall solicit proposals for serving as trustee, depositary and agent by sending a request for proposals, by certified mail return receipt requested to each bank or bank and trust company on the approved list not less than ten nor more than thirty days prior to the date fixed for selection.

(g) Proposals for serving as trustee, depositary and agent shall be submitted in writing to the City Controller in a sealed envelope sufficiently labeled to indicate that they are proposals for trustee, depositary and agent for the bonds or notes being sold. The proposals shall contain information as to the factors set forth in Section 123.05(e), a statement that the proposal was prepared independently and without collusion with any other bank or bank and trust company and any additional information which the bank or bank and trust company deemed relevant to the selection.

(h) The proposals shall be opened in public by the City Controller, or his authorized delegate, and publicly read aloud at the time and place fixed in the request for proposals, unless the Mayor determines to return all proposals unopened.

(i) The Mayor shall have the right to reject all proposals, which right shall be set forth in the request for proposals sent to each bank or bank and trust company on the approved list. (Ord. 103-1979 §6. Passed 12-19-79.)

123.07 SALE OF BONDS OR NOTES.

(a) Council shall determine by resolution whether the bonds or notes shall be sold at public or private sale and shall state publicly the reasons for that determination.

(b) A decision to proceed by public or private sale shall be made by Council only after a public hearing following publication of notice of such hearing in at least one and not more than two newspapers of general circulation in Erie County not less than seven days prior to such hearing. (Ord. 103-1979 §7. Passed 12-19-79.)

123.08 PUBLIC SALE OF BONDS AND NOTES.

(a) If sold at public sale, the bonds or notes shall be sold to the highest responsible bidder or bidders, after advertising for bids. The highest responsible bidder shall be the one who, having complied with the terms of the official notice of sale, offers to take all of the bonds or notes, or any separate lot thereof on which separate bids may be made, at the lowest net interest rate to the City as computed under either the street method or the present worth method set forth at Section 709 of the Local Government Unit Debt Act, Act No. 1978-52.

(b) The Director of Accounts, Finance and Budget shall advertise the sale of bonds or notes by one public notice of either the official notice of sale, or of the availability of the official notice of sale, in at least one and not more than two newspapers of general circulation in Erie County and in at least one financial journal circulated among the underwriters of securities. Advertisements shall be published not less than ten nor more than thirty days prior to the date fixed for opening bids. The content of the advertisement of the availability of the official notice of sale shall be that set forth in Section 702(a) of the Local Government Unit Debt Act, Act No. 1978-52. The content of the official notice of sale shall be that set forth in Section 702 (b) of the Local Government Unit Debt Act, Act No. 1978-52.

(c) All bids shall be received by the City Controller in sealed envelopes sufficiently labeled to indicate that they are bids for the purchase of the bonds or notes being sold. The bids shall be in writing, properly executed, and shall be on bid forms provided by the Director which shall contain a statement that the bid was prepared independently and without collusion with any other bidder.

(d) Each bidder shall give bid security by submitting cash or a certified check or official bank check payable to the City in the amount of two percent (2%) of the principal amount of the bonds or notes to be purchased. The bid security of the unsuccessful bidder or bidders shall be returned to each unsuccessful bidder, without interest, in accordance with the written instructions of the bidder conforming to the official notice of sale, promptly upon an award of the bonds or notes or upon the rejection of all bids. The bid security of the successful bidder shall be retained by the Director and shall be applied on the purchase price when the bonds or notes are actually delivered or paid for, retained as liquidated damages if the bidder defaults or returned to the bidder with interest at the judgment rate if, after an acceptance of the proposal, the bonds or notes are not issued for any reason not constituting a default by the bidder.

(e) The sealed bids shall be publicly opened by the City Controller, or his authorized delegate, and publicly read aloud at the time and place fixed in the official notice of sale, unless Council determines to return all bids unopened.

(f) In the event that there are two or more bids which qualify as the highest and the best bids on identical terms conforming to the offering, the bonds or notes shall, with the consent of the bidders, be awarded to them jointly or absent such consent, may be awarded to any one of such bidders selected by lot in any manner deemed fair by Council.

(g) Council shall have the right to reject all bids, which right shall be set forth in the official notice of sale of the bonds or notes.
(Ord. 103-1979 §8. Passed 12-19-79.)

123.09 PRIVATE SALE OF BONDS AND NOTES.

(a) If the bonds or notes are to be sold at private sale, Council shall invite written proposals from underwriting firms by means of an advertisement for proposals in at least one and not more than two newspapers of general circulation in Erie County and in at least one financial journal circulated among underwriters of securities not less than ten nor more than thirty days prior to the date fixed for selection of the underwriter. In addition, Council shall also invite written proposals by sending a request for proposals, by certified mail return receipt requested, to an underwriting firm which has expressed interest in serving as an underwriter of bonds and notes issued by the City.

(b) Proposals to act as underwriter shall be submitted in writing to the City Controller and shall set forth sufficient information to permit Council to determine the approximate net interest cost of the offering in question, a statement that the proposal was prepared independently and without collusion with any other underwriting firm, and any additional information which the underwriter deems relevant.

(c) The proposals shall be opened by the City Controller in the presence of Council, or its authorized delegates, at the time and place fixed in the request for proposals, unless Council determines to return all proposals unopened.

(d) Council, or its authorized delegates, may request a meeting with each underwriter which submits a proposal to discuss each proposal in more detail.

(e) Prior to selection of the underwriter who shall purchase the bonds or notes at private sale, any person with any knowledge of the contents of any proposal shall not discuss those contents with any other underwriter and shall not take any other action to make those contents known to any other underwriter.

(f) In making the selection of the underwriting firm to purchase the bonds or notes, Council shall state publicly the reasons why the particular selection was made.

(g) Council shall have the right to reject all proposals, which right shall be set forth in the request for proposals. (Ord. 103-1979 §9. Passed 12-19-79.)

123.10 DEBT GUARANTEE FEE.

If any Municipal authority seeks the guarantee of payment by the City for bonds, notes or other transactions, in the event of default by the authority, the City shall provide such guarantee in accordance with the fee schedule provided herein:

(a) For Original Issues

Up to $5,000,000	$ 25,000
$5,000,001 to $10,000,000	$ 45,000
$10,000,001 to $25,000,000	$100,000
$25,000,001 to $50,000,000	$175,000
$50,000,001 and up	$250,000

(b) For Debt Restructuring.
Same as schedule a.

(c) For Refunding Issues.
The issuer is entitled to first 2% if the par amount of the refunded issue, the first 25% of the savings in excess of the above 2% is payable to the City.

(d) Nothing in this Article shall be construed to relieve the City from any other requirements imposed under the Local Government Unit Debt Act or general law pertaining to debt guarantees.
(Ord. 49-2006. Passed 9-20-06.)

ARTICLE 125
Central Purchasing Office

125.01 Establishment and duties.
125.02 City Purchasing Agent.
125.03 Motor vehicle and other heavy
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CROSS REFERENCES
City Controller - see ADM. Art. 121

125.01 ESTABLISHMENT AND DUTIES.

(a) There is hereby established the Office of Central Purchasing whose purpose is to control and direct all procurement activities guided by an updated City purchasing policy and procedure manual, with purchasing objectives as follows:

(1) Centralize the Purchasing Administration.
- A. Establish a policy such that all departments apprise the Purchasing Department at the beginning of the year of all planned projects and their scheduled implementation.
- B. Establish a specification committee to review and recommend standards and specifications for commonly purchased items.
- C. Establish a policy of purchasing in accordance with existing industry and government standards and specifications as well as user input.
- D. Establish the understanding with using departments that they are responsible for specifications and purchasing is responsible for vendor selection and the business agreement.

(2) Monitor adherence of operating departments to approved purchasing policies and procedures.

(3) Commit to and assist in the implementation of future system improvements.

(4) Review current requisition procedures to improve the paperflow while retaining control.

(5) Review current voucher payment procedures.

(6) Review City asset and inventory control procedures.

(7) Review current procedures for the disposition of excess, surplus and salvage equipment and materials. (Ord. 2-1984 §1-3. Passed 4-11-84.)

(8) Review procurement practices and bid specifications in order not to exclude participation by local contractors and vendors consistent with all applicable laws, including the determination of the lowest responsible bid. (Ord. 29-1990 §1. Passed 6-13-90.)

(b) The Central Purchasing Office shall, when operational, assume sole and exclusive responsibility for control of all purchases made by and for each office, department and bureau under the jurisdiction of the City of Erie. (Ord. 2-1984 §1-3. Passed 4-11-84.)

125.02 CITY PURCHASING AGENT.

(a) The Central Purchasing Office shall be headed by the City Purchasing Agent.

(b) The Purchasing Agent shall be responsible for the following:

(1) Staff the Office of Central Purchasing with professional personnel to administer the procurement function, receiving of bids, bid deposits and the return of same.

(2) Create a contract administration function.

(3) Develop an accountability procedure by reporting on performance.

(4) Train purchasing personnel on how to achieve assigned goals and objectives.

(5) Create a professional working environment for the Office of Central Purchasing.

(6) Provide funds annually for formal training and education programs to aid in the professional development of all members of the Office of Central Purchasing.

(7) Provide continual review and update the purchasing policy and procedure manual, with Mayoral concurrence, and educate appropriate department personnel.

(8) Develop and implement a commodity forecasting and reviewing procedures.

(9) Assist in the development of bid specifications to incorporate performance, quality, service and total life cost as well as unit price.

(10) Review future data and word processing needs.

(Ord. 2-1984 §4. Passed 4-11-84.)

125.03 MOTOR VEHICLE AND OTHER HEAVY CONSTRUCTION TYPE EQUIPMENT PROCUREMENT.

(a) Motor Vehicles and Other Heavy Construction Type Equipment to be Manufactured in North America. The City shall procure only motor vehicles and other heavy construction type equipment which are manufactured in North America. Motor vehicles and other heavy construction type equipment are manufactured in North America if a substantial majority of the principal components are assembled into the final product in an assembly plant in North America. Contract documents for the procurement of motor vehicles and other heavy construction type equipment shall contain a provision that the vehicle or other heavy construction type equipment procured by the City shall be manufactured in North America.

(b) Exceptions. This section shall not apply where the Mayor shall state in writing that it is inconsistent with the public interest or that the cost is unreasonable.

(Ord. 89-1991 §1. Passed 10-9-91.)

ARTICLE 126
Intergovernmental Cooperation in Purchasing

126.01 Membership in Erie Area Council of Governments.
126.02 Scope of agreement.

126.01 MEMBERSHIP IN ERIE AREA COUNCIL OF GOVERNMENTS.

(a) The City of Erie shall be a Participating Municipality in the Erie Area Council of Governments, which presently also includes the County of Erie, the Borough of Wesleyville, the Township of Fairview, the Township of Harborcreek, the Township of Lawrence Park, the Township of Millcreek and the Township of Summit. City Council will designate one or more of its members, and the Mayor may designate an administrative official, to serve as the City's representatives in meetings or activities of the Council of Governments.

(b) The City may withdraw from the Council of Governments, or from the Joint Purchasing Agreement authorized herein, by majority vote of City Council, to be effective sixty days thereafter. (Ord. 35-1997 Secs. 2, 3. Passed 7-2-97.)

126.02 SCOPE OF AGREEMENT.

(a) The scope of the City's participation in the Council of Governments shall be defined by an Agreement for Intergovernmental Cooperation in the purchase of goods or services, as set forth in the proposed agreement attached to Ordinance 35-1997 as Exhibit A., which allows two or more participating municipalities to utilize the joint purchasing procedures of the Pennsylvania Intergovernmental Cooperation laws, including the "County piggy back option" or the "lead municipality option," or any other such provision.
(Ord. 35-1997 Sec. 4. Passed 7-2-97.)

(b) At this time the City of Erie contemplates that the Council of Governments will have some type of existence as an association or other entity to be determined by vote of the members of C.O.G., and may hire employees and provide employment benefits, contracts for policies of group insurance including Social Security for its employees, as agreed by the members of the C.O.G. Any further expansion of the scope of the Intergovernmental Cooperation Agreement of the activities of the Council of Governments will require an affirmative vote of City Council to amend this article to be effective as to the City of Erie. The City will pay its designated membership fees or dues on an annual basis or as needed until such time as a majority of Council votes to withdraw pursuant to Section 126.01(b).
(Ord. 77-1997 Sec. 1. Passed 12-17-97.)

ARTICLE 127
Discrimination and Contract Compliance

127.01 Definitions.
127.02 Application.
127.03 Contract Compliance Officer.
127.04 Equal Employment Opportunity Clause.
127.05 Contract compliance requirements.
127.06 Pre-award conference.
127.07 Goals.
127.08 Severability.

CROSS REFERENCES

Discrimination - see 18 P.S. §4653, 4654
Housing and redevelopment assistance, discrimination - see 35 P.S. §1664
Pennsylvania Human Relations Act - see 43 P. S. §951 et seq.
Human Relations Commission - see ADM. Art. 151

127.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

(a) "Discriminate", "discriminates" and "discrimination" means to distinguish, differentiate, separate or segregate on the basis of race, religion, color, sex, national origin or ancestry.

(b) "Contractor" means any person, partnership, corporation, association or joint venture which has been awarded a public contract, and includes every subcontractor on such a contract.

(c) "Subcontractor" means any person, partnership, corporation, association or joint venture which supplies any of the work, labor, supplies, equipment, materials or any combination of the foregoing under a contract with the contractor on a public contract.

(d) "Public contract" means any contract awarded by the City whereby the City is committed to expend or does expend public funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, or any lease, lease by way of concession agreement, permit or permit agreement whereby the City leases, grants or demises property of the City or otherwise grants a right or privileges to occupy or use property of the City.

(e) "Construction contract" means any public contract for the construction, rehabilitation, alteration, conversion, extension or repair of buildings, streets or other improvements to real property.

(f) A bona fide "Minority Business Enterprise" (MBE) means a business enterprise, whether a sole proprietorship, partnership, corporation, association or joint venture:
  (1) Wherein at least fifty-one percent (51%) of which is owned by minority group members and no part of its ownership, operation and control is in the hands of the respective prime contractor of the relevant City contract;
  (2) Wherein minority group members share in the risks and profits of the enterprise to the extent of their individual holdings;
  (3) Wherein minority group members participation in the business is active, as opposed to passive, and such participation is not dependent on the consent of nonminority group members who may also have holdings in the business enterprise; and
  (4) Wherein the business enterprise has experience in the area to which it claims expertise.

(g) A bona fide "Female Business Enterprise" (FBE) means:
  (1) A sole proprietorship where the sole proprietor is a female; or
  (2) A business corporation where fifty-one percent (51%) of the interests in such corporation are beneficially owned by females and females occupy the majority of management and Board positions and control all decisions concerning the corporation; or
  (3) A partnership where fifty-one percent (51%) of the partnership interests in such partnership are owned by females and females occupy the majority of management and partnership positions and control all decisions concerning the entity; or
  (4) Any other business or professional entity where fifty-one percent (51%) of the interests are owned by females and females occupy the majority of management and Board positions and control all decisions concerning the entity.

(h) "Minority" means Blacks, Hispanic-Americans, Asian-Americans, American Indians and American Aleuts.

(i) "Bidder" means any person, partnership, corporation, association or joint venture seeking to be awarded a public contract and/or construction contract.

(j) "City" means the City of Erie, Pennsylvania.

(k) "Public funds" means any moneys expended by the City from its own general funds or from State or Federal sources.

(Ord. 63-1985 §1. Passed 10-23-85.)

127.02 APPLICATION.

This article shall apply to contracts, contractors and subcontractors who perform City contracts in an amount of ten thousand dollars ($10,000) or more.

(Ord. 63-1985 §2. Passed 10-23-85.)

127.03 CONTRACT COMPLIANCE OFFICER.

In addition to his/her current duties the City's Contract Compliance Officer shall have the authority and responsibility to:

(a) Ascertain, within ninety days of the enactment of this article, the total number of bona fide minority owned businesses in the Erie Metropolitan Statistical area.

(b) Establish within ninety days of the enactment of this article minimum target goals within each department for bona fide owned business participation to meet the City goals established below.

(c) Devise within ninety days of the enactment of this article appropriate policies, regulations and procedures for insuring the participation of bona fide minority owned businesses in various City contracts.

(d) Establish procedures for monitoring and enforcing compliance with this article in cooperation with the Office of the City Solicitor.

(e) Submit a written semiannual report to the Mayor and Council indicating the progress made toward achieving the goals set out below. The report shall include, but not be limited to a summary of departmental and City contracts let during the relevant periods, and the extent and percentage of minority participation, and recommendations as to appropriate future goals.

(f) Make all determinations as to compliance with the Minority Business Enterprise Program, and shall meet with such contracting parties for such purposes.

(Ord. 63-1985 §3. Passed 10-23-85.)

127.04 EQUAL EMPLOYMENT OPPORTUNITY CLAUSE.

(a) All public contracts hereinafter entered into by the City shall incorporate an Equal Employment Opportunity Clause, which shall read as follows:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, sex or national origin. As used herein, "treated" means and includes, without limitation, the following: recruited, whether advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated. The contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of this nondiscrimination clause.

(2) The contractor shall in all solicitations or advertisements for employees place by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

(3) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or worker's representative of the contractor's commitment under the Equal Employment Opportunity Clause of the City and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor shall furnish all information and reports required by the Contract Compliance Officer and shall permit access to his books, records and accounts by the contracting agency and by the Contract Compliance Officer for purposes of investigation to ascertain compliance with the program.

(5) The contractor shall take such action with respect to any subcontractor as the City may direct as a means of enforcing the provisions of subsections (a)(1) to (8) hereof, including penalties and sanctions for noncompliance, provided, however, that in the event the contractor becomes involved in or is threatened with litigation as the result of such direction by the City, the City shall enter into such litigation as is necessary to protect the interests of the City to effectuate the City's Equal Employment Opportunity Program and in the case of contracts receiving Federal assistance, the contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.

(6) The contractor shall file and shall cause his subcontractors, if any, to file compliance reports with the City in the form and to the extent prescribed by the Contract Compliance Officer of the City. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of the contractor and his subcontractors.

(7) The contractor shall include the provisions of subsections (a)(l) through (8) of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.

(8) Refusal by the contractor or subcontractor to comply with any portion of this program as herein stated and described will subject the offending party to any and all of the following penalties:

A. Withholding of all future payments under the involved public contract to the contractor in violation until it is determined that the contractor or subcontractor is in compliance with the provisions of the contract;

B. Refusal of all future bids for any public contract with the City or any of its departments or divisions until such time as the contractor or subcontractor demonstrates that he has established and shall carry out the policies of the program as herein outlined;

C. Cancellation of the public contract and declaration of forfeiture of the performance bond;

D. In cases in which there is substantial or material violation or the threat of substantial or material violation of the compliance procedure or as may be provided for by contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of contractors, subcontractors or other organizations, individuals or groups who prevent directly, indirectly or seek to prevent directly or indirectly, compliance with the policy, as herein outlined.

(9) The above outlined procedures shall not apply to any contract already in existence or let out for bid prior to the enactment of this article. (Ord. 63-1985 §4. Passed 10-23-85.)

127.05 CONTRACT COMPLIANCE REQUIREMENTS.

(a) All notices to prospective bidders published on behalf of the City shall include as a part of the contract specifications the condition that all bidders will be required to comply with Erie Minority Female Business Enterprise Compliance Program regarding equal employment opportunity.

(b) All reports required herein shall be submitted in duplicate to the department, division or other agency letting the contract.

(c) Each bidder shall file as part of bid documents, contract employment reports with the City contracting agency or as may be directed by the Contract Compliance Officer. Such contract employment reports shall include such information as to the employment practices, policies, programs, and statistics of the contractor, and shall be in such form as the Minority Business Enterprise Compliance Officer may prescribe. Subcontractors shall also submit such contract employment reports to the City before approval by the City as subcontractor. (Ord. 63-1985 §5. Passed 10-23-85.)

(d) All contracts covered by this Article shall be executed by the Contract Compliance Officer regarding "Minority Participation/Goal Compliance" prior to appearing on the City Council agenda. (Ord. 34-2006. Passed 7-19-06.)

127.06 PRE-AWARD CONFERENCE.

(a) Following receipt and review of the employment information submitted by the bidders, and prior to award of a contract, the apparent successful bidder and his known major subcontractor shall be required to attend a pre-award conference if called by the Contract Compliance Officer, at which time such bidder and major subcontractors shall submit affirmative action programs to promote equal opportunity in employment.

(b) The Minority Contract Compliance Officer shall determine whether or not the apparent bidder has complied with this article and shall submit his determination and recommendation thereon to the Mayor or the Director of the department involved. (Ord. 63-1985 §6. Passed 10-23-85.)

127.07 GOALS.

The following goals for minority and female owned business participation shall serve as initial goals for the City to pursue during the first full fiscal year. These goals shall not be construed as absolute upper limits on the amount of City contracts such entities are able to participate in. These goals shall be applicable to all types of City contracts. The goals shall be as follows:

Dollar Amount	MBE Goal (percent)	FBE Goal (percent)
10,000 to 20,000	5	1
20,000 to 25,000	10	3
25,000 and up	15	5

(Ord. 63-1985 §7. Passed 10-23-85.)

127.08 SEVERABILITY.

If any section, subsection, clause, sentence or phrase of this article is found to be unlawful by reason of other superior laws of the United States or the Commonwealth of Pennsylvania, such a determination shall not affect the validity of the remaining portions of this article. The applicable law in determining the parties rights and liabilities under this article are the laws of the Commonwealth of Pennsylvania. (Ord. 63-1985 §8. Passed 10-23-85.)

ARTICLE 128
Elected Officials

128.01 Mayor, Council, City Treasurer and City Controller terms limited.

128.01 MAYOR, COUNCIL, CITY TREASURER AND CITY CONTROLLER TERMS LIMITED.

(a) Council members for the City of Erie, Pennsylvania shall be elected by the voters of Erie, Pennsylvania at a regular municipal election and shall serve for a term of four years, beginning on the first Monday of January next following his/her election. Council members shall be eligible to succeed themselves for only two additional terms. This limitation on the number of terms shall apply only to consecutive terms of office.

(b) The Mayor of the City of Erie, Pennsylvania shall be elected by the voters of Erie, Pennsylvania at a regular municipal election and shall serve for a term of four years, beginning on the first Monday of January next following his/her election. The Mayor of the City of Erie shall be eligible to succeed himself/herself for only two additional terms. This limitation on the number of terms to be served by the Mayor shall apply only to consecutive terms of office.

(c) The City Treasurer of the City of Erie, Pennsylvania shall be elected by the voters of Erie, Pennsylvania at a regular municipal election and shall serve for a term of four years, beginning on the first Monday of January next following his/her election. The City Treasurer of the City of Erie shall be eligible to succeed himself/herself for only two additional terms. This limitation on the number of terms to be served by the City Treasurer shall apply only to consecutive terms of office.

(d) The City Controller of the City of Erie, Pennsylvania shall be elected by the voters of Erie, Pennsylvania at a regular municipal election and shall serve for a term of four years, beginning on the first Monday of January next following his/her election. The City Controller of the City of Erie shall be eligible to succeed himself/herself for only two additional terms. This limitation on the number of terms to be served by the City Controller shall apply only to consecutive terms of office. (Ord. 41-1989 §1. Passed 6-7-89.)

TITLE FIVE - Bureaus

Art. 131. Bureau of Fire.
Art. 133. Bureau of Police.
Art. 135. Municipal Police Cooperative Agreement.

ARTICLE 131
Bureau of Fire

EDITOR'S NOTE: Vacations and sick leave for members of the Bureau of Fire are as set forth in Section 2103 of the Third Class City Code (53 P. S. §37103).

131.01 Designation of engine houses.
(Repealed)

CROSS REFERENCES

Fire Bureau - see 3rd Class §2101 et seq. (53 P.S. §37101 et seq.)
Firefighter's Pension Plan - see ADM. Art. 149

131.01 DESIGNATION OF ENGINE HOUSES.
Repealed by Ordinance 85-1974, passed November 6, 1974.

ARTICLE 133
Bureau of Police

INITIATIVE AND TENURE ORDINANCE

133.01 Definitions.
133.02 Duties of the Board.
133.03 Meetings of the Board.
133.04 Amendment of rules.
133.05 Political activity.
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133.07 Classified service.
133.08 Change of compensation.
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133.10 Character and fitness of applicants.
133.11 Scope and subjects of examinations.
133.12 Ratings and averages.
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133.26 Assignment to duty.
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INITIATIVE AND TENURE RULES

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CROSS REFERENCES

Police Bureau - see 3rd Class §2001 et seq. (53 P. S. §37001 et seq.)
Hours of work and vacations - see 3rd Class §2004 (53 P.S. §37004)
Municipal Police Cooperative Agreement - see ADM. Art. 135
Police Relief and Pension Association - see ADM. Art. 147
To enforce Traffic Code - see TRAF. 503.01

INITIATIVE AND TENURE ORDINANCE

133.01 DEFINITIONS.

As used in this article:

(a) "Board" means the Police Initiative and Tenure Board of Erie, Pennsylvania.

(b) "Board members" mean the members of the Board which are designated as follows:

(1) The Regional Director of the Pennsylvania Crime Commission.

(2) The Chief of Police of the City of Erie.

(3) The District Attorney of the County of Erie or an Assistant District Attorney designated by him.

(4) The President of Gannon College, Erie.

(5) The ranking officer of the Pennsylvania State Police stationed in Erie County.

(6) A psychologist designated by the President of Edinboro State Teachers College.

(7) One member appointed by the Mayor with the concurrence of the majority of Council.

If any of the above appointees is unwilling or unable to serve, another individual of similar capacity shall be appointed in his place by the remaining members of the Board.

(c) "Officer" or "employee" means a person holding an office or position of employment in the classified service, whether permanent or temporary, who is paid from public funds.

(d) "Position" means an office of employment as used in this article.

(e) "Release" means release of the City of Erie as a municipal organization.

(f) "Continuous service" means service not interrupted by resignations, dismissals or layoffs.

The masculine noun or pronoun includes the feminine.

(Ord. 1-1971 §1. Passed 1-6-71.)

133.02 DUTIES OF THE BOARD.

The Board shall act as an administrative agency supervising and overseeing the testing and grading of all nonexempt police officers of the City who are nonexempt under the provisions of this article, for the purpose of promotions. The Board shall have the authority to retain a professional testing service for the preparation and grading of the tests involved. The Board shall additionally have the authority to hold hearings concerning suspensions and demotions subject to the provisions of this article, the Third Class City Code and the Optional Third Class City Code.

The Board shall prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this article. All rules so prepared may, from time to time, be added to, amended or repealed. All rules and amendments thereto or rescissions thereof shall be approved by the Mayor and Council before they go into effect.

(Ord. 1-1971 §2. Passed 1-6-71.)

133.03 MEETINGS OF THE BOARD.

Meetings of the Board shall be held at the office of the Board at the call of the President or any four members and written notice of the date, time, place and object of the meeting shall be mailed to each member by the Secretary, at least five days prior to the meeting. A majority of the Board present at any meeting, for which such notice has been given, shall constitute a quorum for the transaction of business. However, any proposed amendment to

the rules of the Board shall be spread upon the minutes and action thereof postponed for at least one week and each member immediately notified in writing by the Secretary of the substance of such proposed amendment and the time and date fixed for its final consideration. (Ord. 1-1971 §3. Passed 1-6-71.)

133.04 AMENDMENT OF RULES.

No amendment to the rules of the Board shall be adopted at the same meeting at which it is proposed, and no final action shall be taken on any amendment less than seven days after it is proposed. (Ord. 1-1971 §4. Passed 1-6-71.)

133.05 POLITICAL ACTIVITY.

An employee in the classified service is encouraged to exercise his franchise as a citizen and to cast his vote in accordance with his conscience and political belief. However, no member of the classified service shall either solicit or receive any contribution, subscription or service while in uniform or on duty, from any person for any political purpose.
(Ord. 1-1971 §5. Passed 1-6-71.)

133.06 ADMINISTRATIVE PERSONNEL RULES.

Nothing in this article shall be construed to limit the power of the Mayor or the Director of the Department of Public Safety to issue and enforce reasonable personnel rules not in conflict with the Third Class City Code, the Optional Third Class City Code or this article. (Ord. 1-1971 §6. Passed 1-6-71.)

133.07 CLASSIFIED SERVICE.

Council hereby fixes the following positions in the City service as the offices of employment under the classified service, as well as the offices of Chief and Inspectors, within the Bureau of Police:

1 Chief
4 Inspectors
5 Captains
12 Lieutenants
14 Sergeants
30 Detective Sergeants
4 Radio Technicians
144 Patrolmen

The total complement shall be 214. (Ord. 1-1971 §7, 8. Passed 1-6-71.)

133.08 CHANGE OF COMPENSATION.

Changing the compensation of any position in the classified service, whether by ordinance or otherwise, shall not affect the tenure of the incumbent of such office unless in the opinion of the Board such change shall also involve a change in duties requiring a different examination. (Ord. 1-1971 §9. Passed 1-6-71.)

133.09 FORMS.

Application for positions shall be filed upon forms furnished by the Board and applicants must comply with the requirements of the forms in every respect.
(Ord. 1-1971 §10. Passed 1-6-71)

133.10 CHARACTER AND FITNESS OF APPLICANTS.

Every applicant shall be of sound health and physically able to perform the duties of the position he applies for. The Board shall require an investigation to establish or confirm evidence of fitness of applicants. The burden of establishing facts relating to fitness rests upon the applicant. (Ord. 1-1971 §11. Passed 1-6-71.)

133.11 SCOPE AND SUBJECTS OF EXAMINATIONS.

The general scope of all examinations shall include the subjects upon which applicants are to be examined with weight given to each subject by the Board to represent its value in determining a general average. The subjects of examination may include duties of positions, educational tests, personality or psychological tests, courtesy and discipline tests, reports, discussions or theses, statements of experience, tests of knowledge of civil government, tests of knowledge of the City, tests of knowledge of laws and ordinances, ascertained merit or efficiency, seniority of service, medical examinations, physical tests or any or all of them, and such subjects may be given in the form of a written or oral test, an ocular demonstration or any or all of them according to the schedules of subject set forth in the published notices of examinations. (Ord. 1-1971 §12. Passed 1-6-71.)

133.12 RATINGS AND AVERAGES.

Each subject of examination shall be rated independently on a scale of 100. The rating of each subject shall be multiplied by the weight assigned to each subject. The resulting product shall be added and the total product divided by the total weights of all subjects in the examination. The resulting quotient is the general average which shall determine the order in which the name of the eligible applicant shall appear upon an eligibility register. Failure to pass the medical or physical examination where such is required shall be sufficient cause to reject the candidate for the entire examination. (Ord. 1-1971 §13. Passed 1-6-71.)

133.13 POINT SCHEDULE.

The following point schedule shall determine promotion to all ranks other than Chief of Police, Inspector of Police, Corporal and Detective:

Written examination	20 points maximum
Oral examination	45 points maximum
Seniority	1 point per year of continuous service in the Bureau of Police; 20 points maximum
Time in grade	1 point per year as a noncommissioned or commissioned officer; 5 points maximum
College credits	3 points for every 30 college credits; 12 points maximum
Police related courses except as hereinafter provided	1 point for every 15 hours of class instruction in approved courses which shall be cumulative; no maximum
Northwestern University Police Institute	6 points
F. B. I. Academy	2 points
Pennsylvania State Police Academy	1 point
Distinguished Service Medal	5 points maximum

Valor Medal of Honor	5 points maximum
Efficiency rating	20 points maximum
Point loss	1 point to be deducted from applicant's score for the aggregate of every 4 days suspended during his employment in the Bureau of Police. How ever, an applicant shall be allowed the elimination of 2 days suspension for each subsequent year of suspension free duty.

Each police officer shall receive retroactively and prospectively, the number of points for police related courses or other courses or college credits as outlined above which have been or are successfully completed. The costs of the courses will be paid by the City when attendance is approved by the Director of the Department of Public Safety if the individual provides evidence that a passing grade has been achieved and/or the course has been completed in the case of police related courses where grades may not be offered.

Examples of police related courses are:

Constitutional Law
Statutes and Case Law of Pennsylvania
Police Patrol
Criminal Investigation
Police Supervision
Police Administration (including Public Relations, Planning and Personnel)
Police Practices (including traffic direction, accident investigation, handling
Interpreting Police Table and Texts
Legal Education (including evidence, arrest, search and seizure and criminal law
Criminal Investigation (including general techniques, investigative judgment,
(Ord. 1-1971§14. Passed 1-6-71.)

133.14 EFFICIENCY RATINGS; APPEALS.

An efficiency rating for each member of the Bureau of Police in their respective divisions shall be evaluated every year by the Deputy Chief of Police of such division, except the Chief of Police shall evaluate those members who come under the direct supervision of the Chief.

The efficiency rating shall be submitted to the officer concerned and a conference held with that individual by the evaluating officer prior to submission of the rating to the Chief of Police.

If the individual rated disagrees with the efficiency rating given him by his superior, he may appeal in writing, within thirty days of his receipt of such rating, to the Inspector of the division involved. The Inspector's decision on the appeal shall be resolved within ten days. An appeal on the efficiency rating of a commissioned officer shall be forwarded to the Chief of Police within thirty days of its receipt and the decision of the Chief of Police shall be resolved on appeal within ten days. (Ord. 1-1971 §15. Passed 1-6-71.)

133.15 ELIGIBILITY REGISTERS.

Eligibility registers shall be compiled from the averages computed according to the provisions of Sections 133.12 and 133.13. No person's name shall be entered on an eligibility register whose general average from an examination is less than seventy percent of complete proficiency in the subjects of examination taken as a whole. The names of eligible applicants shall be entered upon registers in the order of their average percentage, except when two or more eligible applicants have the same average percentage, priority in time of filing of their applications shall determine their respective standing.

All eligibility registers shall be posted as a public record in the office of the City Clerk. (Ord. 1-1971 §16. Passed 1-6-71.)

133.16 FRAUD IN EXAMINATION.

Any person who, at any examination or in any document signed or furnished by him for or in connection with any examination by himself or in cooperation with one or more persons makes any false representation regarding himself or any of the applicants, or by impersonating anyone else or by allowing anyone else to impersonate him, or in cooperation with one or more persons, makes any false representation regarding himself or any of the applicants, or who obtained, or who uses or aids someone else in using any memorandum, printed or written, whereby an advantage is obtained over other competitors at such examination, shall, upon such finding of the Board, after having had a chance to be heard in his own defense, either be reduced to the rank of patrolman and be ineligible for examination for a period of five years from the date of such finding or be dismissed from the service.
(Ord. 1-1971 §17. Passed 1-6-71.)

133.17 NOTICE OF EXAMINATION RESULTS.

Each applicant will be notified of the result of his examination by the Secretary of the Board by mail within thirty days from the date of examination. If the applicant failed to obtain an average of seventy percent, his notice shall read to that effect. If his average exceeds seventy percent and he meets all other requirements of the Board, he shall receive notice of his grade and that his name has been placed on the eligibility list and of his standing on such list. (Ord. 1-1971 §18. Passed 1-6-71.)

133.18 REVIEW OF PAPERS.

All candidates shall be entitled to inspect their written examination papers in the office of the Secretary of the Board during business hours upon written application to the Board within thirty days of notification to the applicant of the results of the examination concerned. Examination papers shall not be available to the general public.
(Ord. 1-1971 §19. Passed 1-6-71.)

133.19 INJURY IN MILITARY SERVICE.

No applicant in any examination shall be disqualified by reason of wounds or injury received in the military service of the United States providing that the Board finds that the appointment of such applicant will not be prejudicial to the service nor to the duties of the position to which such appointment is sought. In all cases the applicant must substantiate his claim as to the manner and character of his wound or injury and his capacity to do the work required by the position sought to the satisfaction of the Board.
(Ord. 1-1971 §20. Passed 1-6-71.)

133.20 INJURY IN CITY SERVICE.

When an officer or employee has been injured in the performance of his duties, such injury shall not disqualify him from promotion or advancement to a higher rank or class, providing that the head of the department in which such injuries were received certifies to the nature of the same, that they were received in the line of duty and that the head of the department to which promotion is being sought certifies that the promotion or advancement would not be prejudicial to the best interest of the service nor to the requirements of the position to which promotion is being sought subject, however, to the approval of the Board. (Ord. 1-1971 §21. Passed 1-6-71.)

133.21 FILLING OF VACANCIES.

Whenever a vacancy is to be filled in the classified service the Chief of Police, within thirty days of the creation of such a vacancy shall make a requisition, upon a form prescribed by the Board, for the certification to him of the name of an eligible applicant. The Board shall, unless the position is to be filled by reinstatement, certify to the Mayor, the names and addresses of the candidates standing first, second and third upon the register for the class to which the position belongs and one of these persons shall be appointed by the Mayor.
(Ord. 1-1971 §22. Passed 1-6-71.)

133.22 WAIVER OF CERTIFICATION OR REINSTATEMENT.

An eligible applicant who has been certified or tendered reinstatement may waive certification or reinstatement upon giving a reason satisfactory to the Board without losing his place upon the eligibility register. If the reasons assigned are not satisfactory to the Board, or the eligible applicant refuses to accept a tendered appointment, then his name shall be removed from the eligibility register.

All waivers shall be filed with the Board within five days from the date of certification. In the absence of such waiver, an eligible applicant shall be removed from the register and the next person certified in his place. If within thirty days from the date of certification, the eligible applicant so removed furnishes good and sufficient reason satisfactory to the Board for his failure to report, he may be restored to the end of the eligibility list. But in the absence of any such excuse, his removal from the eligibility list at the expiration of the thirty days shall be final.
(Ord. 1-1971 §23. Passed 1-6-71.)

133.23 BOARD DUTIES IN CERTIFICATION.

In certifying to a requisition it shall be the duty of the Board to inquire into the specifications of the position to be filled and to consider its duties, responsibilities and qualifications. The Board shall make certification from the list of eligible applicants which, in its judgment, most nearly conforms to the requirements of the position.
(Ord. 1-1971 §24. Passed 1-6-71)

133.24 VACANCIES DUE TO MILITARY LEAVE.

Whenever a vacancy occurs in the classified service due to an officer or employee taking a leave of absence for enlistment or because he has been ordered into the military forces of the United States of America, the Board may fill such vacancy by temporary appointment of a person on an eligible list for the position, should such a list be in existence. The duration of any such appointment shall be for the period of the leave of absence, and for not more than sixty days thereafter. The leave of absence shall be automatically terminated by death or the discharge of the employee from the military service. Within sixty days of the termination of the leave of absence by honorable discharge, the officer or employee shall be restored to his position without a loss of seniority, provided he is otherwise eligible. The name of such temporary appointees shall be retained on the eligibility register subject to Section 133.16. (Ord. 1-1971 §25. Passed 1-6-71.)

133.25 TEMPORARY APPOINTMENTS.

To prevent stoppage of public business or to meet extraordinary exigencies the Mayor may make a temporary appointment to remain in force not more than thirty days and only until a regular appointment can be made under these rules. Any person whose name is on the eligibility register for a position in the classified service may accept a temporary appointment to a position in the classified service other than, or including that, for which he was examined and is eligible, without losing his place upon such register. (Ord. 1-1971 §26. Passed 1-6-71.)

133.26 ASSIGNMENT TO DUTY.

All persons appointed to or promoted in the classified service shall be assigned to and perform the duties of the position to which he is appointed or promoted. In case of an emergency an employee may be temporarily assigned without extra pay to other than his regular duties, but no such assignment shall be for a period of more than sixty days without the written consent of the Board. (Ord. 1-1971 §27. Passed 1-6-71.)

133.27 CHANGE OF ADDRESS.

It is incumbent upon applicants and persons whose names are placed upon an eligibility register to notify the Board of any change of address while they are applicants or awaiting reinstatement or while their names remain on such register. (Ord. 1-1971 §28. Passed 1-6-71.)

133.28 EXPIRATION OF REGISTERS; TIME EXTENSION FOR MILITARY SERVICE.

No name shall remain upon the eligibility register for more than two years. However, if a person whose name is on the eligibility register enlists or has been, or may be in the immediate future, ordered into the military service, and his name is reached on the eligibility register and because of such service or prospective service he is unable thereby to accept the appointment, his name shall be retained on the eligibility register and his eligibility extended for one year after honorable discharge from the service or for the period of his original eligibility, whichever is the longer.
(Ord. 1-1971 §29. Passed 1-6-71.)

133.29 ELIGIBILITY FOR PROMOTION.

No person shall be examined for promotion in the classified service until he has served at least one year in the Erie Bureau of Police in the rank from which promotion is sought. However, in the initial examination, a person who has served in the grade of Sergeant for a period of three years or more may take the examination for Lieutenant and/or Captain. No person who is not a Class A patrolman or higher shall be eligible.
(Ord. 1-1971 §30. Passed 1-6-71.)

133.30 METHOD OF PROMOTION.

Promotions in the classified service shall be made on the basis of ascertained merit, examination and seniority in service. All examinations for promotions shall be competitive among such members who have served the next lower rank who desire to submit themselves to such examination. In all cases where it is practicable, vacancies in a rank higher than the lowest shall be filled by promotion.

Separate qualification tests shall be given for promotions to or within the uniformed and investigation divisions.

An eligible candidate may take one test at no charge. Should he elect to take more than one test he will be expected to reimburse the City for the actual cost of the other test or tests.
(Ord. 1-1971 §31. Passed 1-6-71.)

133.31 CAUSE FOR DISCIPLINARY ACTION.

If an employee's conduct falls below a desirable standard, he may be subject to disciplinary action. Improper conduct subjecting an employee to disciplinary action includes, but is not limited to:

(a) Failure to follow the orders of one's supervisor or department head;
(b) Being absent from duty without permission or failure to report to the supervisor or department head when absent;
(c) Being habitually absent or tardy;
(d) Failure to perform assigned duty in an efficient manner;
(e) Being wasteful of material, property or working time;
(f) Inability to get along with fellow employees so that performance is hindered and not up to required levels;
(g) Drinking on duty or arriving on duty under the influence of alcohol or narcotics;
(h) Conduct which is unbecoming a police officer; or
(i) Any criminal offense. (Ord. 1-1971 §32. Passed 1-6-71.)

133.32 SUSPENSIONS.

Suspensions shall be authorized and handed down for proven infractions of the departmental discipline code. Any authorized suspension shall be noted in the offending officer's service record and shall result in a loss of points as indicated in Section 133.13 when that officer is considered for promotion or demotion. Suspensions of more than one day but less than eleven days may be recommended by any immediate superior officer of the rank of Sergeant or higher, but may not be imposed without the approval of the Director of the Department of Public Safety.

A suspension of more than three days or an accumulation of five or more days of suspension in a sixty-day period may be appealed to the Board within thirty days of the

date of suspension. The Board shall have the authority to overrule any suspension determined to be capricious or unjust, to order the officer in question reinstated with or without loss of pay and to order or not order the suspension removed from the officer's service record. Any suspension in excess of ten days shall be governed by the provisions of the Third Class City Code. (Ord. 1-1971 §33. Passed 1-6-71.)

133.33 DEMOTIONS.

No officer or noncommissioned officer holding rank as a result of examination under this article shall be demoted without recourse to a formal hearing by the Board after the demotion. The Board may order the reinstatement of the officer with or without loss of pay and the decision of the Board shall be final. (Ord. 1-1971 §34. Passed 1-6-71.)

133.34 CHARGES FOR DISCHARGE.

Charges for discharge shall be filed in writing with the Board and shall state specifically the facts alleged to constitute the cause for discharge. The Board shall investigate the charges and render a report and recommendation thereto to Council. An employee in the classified service may request, in writing to Council, an investigation and hearing upon the charges as provided in the Third Class City Code. (Ord. 1-1971 §35. Passed 1-6-71.)

133.35 HEARINGS.

The Board, upon notification of a request for investigation and hearing, shall cause copies of the written charges to be served personally upon the officer against whom charges are filed or shall have the same mailed to his address as shown by the records of the Board, and shall notify him of the time and place of investigation of the charges. Investigations of charges or punishment may be broad in their character and evidence may be heard upon any facts and circumstances pertinent or applicable to such charges or punishment. No such investigation shall be held less than five days after the serving or mailing of notice.
(Ord. 1-1971 §36. Passed 1-6-71.)

133.36 CONTINUANCES.

The Board may, in its discretion, grant continuances of investigation of charges at the request of the officer so charged, but in case any such circumstance causes the postponement of a hearing beyond thirty days, a waiver of salary during such continuance beyond the thirty-day period shall be required. (Ord. 1-1971 §37. Passed 1-6-71.)

133.37 FINDINGS AND DECISION.

The findings and decision of the Board following an investigation of charges shall be preserved by the Secretary and notice of the findings and decision shall be sent to the department head or employing officer for enforcement. (Ord. 1-1971 §38. Passed 1-6-71.)

133.38 RESIGNATIONS.

Any employee who has resigned in writing may, within thirty days, with the consent of and after investigation by the Director of the Department of Public Safety and the Board, withdraw his resignation and be restored to the position vacated if it is still vacant or filled by a temporary employee. If the position is not vacant, he may, with the consent of

the Director of the Department of Public Safety and the Board, have his name placed at the top of the eligibility list for the class of position from which he resigned.
(Ord. 1-1971 §39. Passed 1-6-71.)

133.39 LEAVES OF ABSENCE.
The Director of the Department of Public Safety may grant leaves of absence to any officer who has been in the classified service for not less than six months for such period as he sees fit not exceeding one year. An immediate report of such leave of absence and the reasons therefor shall be made to the Board. No leave of absence shall exceed one year, except as provided by other laws. (Ord. 1-1971 §40. Passed 1-6-71.)

133.40 REINSTATEMENTS AFTER LEAVES OF ABSENCE.
Upon the expiration of a leave of absence, an officer shall report to the Director of the Department of Public Safety and be reinstated in his former position, unless the position in the meantime has been filled by certification from an eligibility register in which case he shall be reinstated only when a vacancy in the position of the same class, rank and character of work and approximate salary exists, and in order of his seniority or certifications.
(Ord. 1-1971 §41. Passed 1-6-71.)

133.41 METHODS OF REINSTATEMENT.
Whenever a vacancy occurs in any position of the classified service, the Board shall, before any new certification is made from an eligibility register, reinstate in the same class in which he was formerly employed, any person who has been appointed under its rules and who had been temporarily separated from the classified service, and his seniority of service shall be governed by the date of his original appointment, subject however, to re-examination if deemed advisable by the Board. (Ord. 1-1971 §42. Passed 1-6-71.)

133.42 RETIREMENT.
Retirement from the Bureau of Police shall be mandatory at age sixty-five or at such age that the officer becomes eligible for full Social Security benefits through either age or disability.
(Ord. 1-1971 §43. Passed 1-6-71.)

133.43 LAYOFFS AND REINSTATEMENT.
Whenever it becomes necessary through lack of work or funds or for other good cause to reduce the force in any employment the person who was last certified to such employment shall be the first laid off. Persons laid off in accordance with the foregoing procedure shall be entitled to have their names placed at the top of a reinstatement list, according to the seniority of their certification. Such reinstatement lists shall take precedence over eligibility lists.
(Ord. 1-1974 §44. Passed 1-6-71.)

133.44 ABOLITION OF OFFICE.
When any office is abolished the incumbent of that office shall be placed on a reinstatement eligibility list for such position should the same be recreated within a period of two years. However, the abolishment of any office filled by promotion shall constitute a demotion of such incumbent to the next lower office then in existence.
(Ord. 1-1971 §45. Passed 1-6-71.)

133.45 DISTINGUISHED SERVICE MEDAL; MEDAL OF HONOR.

After five years service, a police officer of any rank shall be eligible for the departmental Distinguished Service Medal. Requirements for this award include exemplary conduct during the nominee's service tenure, the receipt of laudatory commendations from his superiors or outside agencies he may have assisted and above average dedication to and performance of his assigned duties. Nominations for the departmental Distinguished Service Medal or the Medal of Honor shall be studied by the Board, the nominee interviewed and the nomination approved or rejected. Presentation shall be made by the Mayor.

A police officer of any rank or tenure shall be eligible for the departmental Medal of Honor. It shall be conferred for conspicuous acts of personal bravery in the performance of duties. Nominations for the departmental Medal of Honor shall be studied by the Board, the nominee interviewed and the nomination approved or rejected. Presentation shall be made by the Mayor. (Ord. 1-1971 §46. Passed 1-6-71.)

133.46 SPECIAL TRAINING.

Selection of appointees to the FBI Academy or other special courses financed by the City shall be confined to the commissioned and noncommissioned officer ranks and shall be awarded to the commissioned or noncommissioned officer who scores highest in the proficiency tests related to the specific course to be attended; i. e., general police procedure, investigation, traffic, etc. (Ord. 1-1971 §47. Passed 1-6-71.)

133.47 ENACTMENT AND IMPLEMENTATION.

Within one year of the enactment of this article (Ordinance 1-1971, passed January 6, 1971) all officers subject to classification shall be examined for the grade they presently hold. Those receiving a passing grade within two consecutive examining periods shall retain their positions. An officer failing to receive a passing grade within two consecutive examining periods shall be demoted to the next lowest grade and shall be examined for this position within one year of his demotion. If vacancies do not exist within that next lowest grade, the individual may be assigned to a grade below that to which he would have been assigned, but shall receive the salary of that position to which he would have been assigned had a vacancy been existent. (Ord. 1-1971 §48. Passed 1-6-71.)

133.48 SEVERABILITY.

The provisions of this article are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the article or their application to other persons and circumstances. It is hereby declared to be the legislative intent that this article would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein and if the person or circumstances to which the article or any part thereof is inapplicable had been specifically exempted therefrom. (Ord. 1-1971 §49. Passed 1-6-71.)

INITIATIVE AND TENURE RULES

GENERAL PROVISIONS

133.51 ESTABLISHMENT OF BOARD.
See Section 133.01(b) for Police Initiative and Tenure Board composition.

133.52 PURPOSE OF THESE RULES.
These rules set forth the principles and procedures that are to be followed by the Police Initiative and Tenure Board in its personnel program to the objective that the Bureau of Police and its sworn employees may have the assurance that personnel shall be dealt with on an equitable basis and that the residents of the City may derive the benefits and the advantages which can be expected to result from a competent Police Bureau.

It is the purpose of these rules to clarify the provisions of the Police Initiative and Tenure Ordinance and to establish uniform procedures which will govern all administrative actions concerning all the various personnel activities and transactions assigned to the Board by this article. These rules shall:

(a) Assure that personnel problems shall be treated consistently;
(b) Assure that each supervisor and each sworn employee is aware of his responsibilities in making the Police Initiative and Tenure Ordinance work;
(c) Clarify the interpretations the Mayor, Council and the Board intend for the various enabling provisions of this article. (Ord. 42-1971 §1. Passed 6-30-71.)

133.53 DEFINITIONS.
The following definitions set forth the meanings to be given to the terms used in these rules and regulations, except where the context in which their use clearly indicates that another meaning is intended.

(a) "Applicant" means any sworn employee of the Bureau of Police who is applying to take a promotional examination.
(b) "Appointment" means the act of assigning a sworn employee to a vacant position in the Bureau of Police. Appointment may be either promotional, temporary, emergency, demotion, reinstatement or re-employment.
(c) "Ascertained merit"means the quality of an employee's performance, as measured by a job performance evaluation made pursuant to Section 133.124.
(d) "Candidate" means any sworn employee who has applied for a promotional examination and who has had his application approved by the Police Initiative and Tenure Board and has entered into the examination process.
(e) "Certification" means the act of the Board, through its President, of submitting to the Chief of Police names of persons who are eligible for promotion to vacant positions in the Bureau of Police above the rank of patrolman and requiring sworn employees.
(f) "Classification" means the grouping of positions in the Bureau of Police into ranks, so that one job description can be used for all of the positions, so that they can all be paid at the same rate of pay, and so that one promotional examination can be developed for fairly testing the merit and fitness of persons seeking promotion to the rank.

(g) "Continuous service" means employment with the Bureau of Police uninterrupted by either resignations, dismissals or lay-offs. In computing continuous service, time spent under suspension from the Bureau of Police and time spent on authorized leave of absence, except authorized military leave of absence, shall not be counted in computing the length of continuous service, provided that the length of such leave of absence or suspension exceeds thirty calendar days.

(h) "Eligible" means any candidate for promotion who has successfully passed all parts of the promotional examination and whose name appears on an eligible list.

(i) "Eligible list" means a list, prepared by rank by the Board, showing the names and addresses of both present and former sworn employees who can properly be considered by the Mayor for appointment to vacancies in ranks above the rank of patrolman. Eligible lists may be either promotional, lay-off, reinstatement or military.

(j) "Examination part" means a subject upon which the candidates are to be examined, in promotional examinations, with weight given to each part by the Board to represent its value in determining a general average representative of the candidates ability to perform in such rank.

(k) "Fitness" means soundness in health and the physical ability of an applicant to perform the duties of the ranks for which he has applied.

(l) "Minimum passing score" means the raw, unconverted score of any part of an examination determined by the Board to be the lowest possible score a candidate can attain and still continue in the examination process.

(m) "Position" means the set of duties and responsibilities within the Bureau of Police that are to be performed by a single sworn employee. All positions are classified in one of the various ranks established by Council. Positions may be either vacant or filled by the appointment of a sworn employee.

(n) "Police Initiative and Tenure Board" means the Board of seven members specified by Section 133.01 and hereinafter referred to as the Board.

(o) "Police Initiative and Tenure Ordinance" means Ordinance No. 1-1971 adopted January 6, 1971 (Sections 133.01 to 133.48) as amended by Ordinance 42-1971 adopted June 30, 1971 (Sections 133.51 to 133.124) and referred to together as this article.

(p) "Promotion" means the act of being appointed to a position in a rank higher than the rank presently held, after competition in a promotion examination and certification from a promotion eligible list.

(q) "Rank" means a position or group of positions identified by Council as being so similar in makeup that they can be described by one job description, appropriately paid one salary rate and properly examined for by one promotional examination.

(r) "Sworn employee" means a member of the Bureau of Police appointed to a position, the duties of which require the person to take the oath of office of a police officer.

(s) "Status" means a condition that accrues to a sworn employee by virtue of filling certain requirements established by law, ordinance or these rules. A sworn employee can either have temporary status, emergency status, probationary status or tenure.

(t) "Tenure" means that a sworn employee has met all of the requirements of the rank to which his position is assigned and he can only be removed involuntarily from that rank for cause and he has full rights of appeal.

(Ord. 42-1971 §1. Passed 6-30-71.)

133.54 POSITIONS COVERED BY THESE RULES.

The classified service shall comprise all positions requiring sworn personnel in the Bureau of Police now existing or hereafter created. The classified service is divided into exempt and nonexempt service.

(a) The exempt service shall consist of the Chief of Police and the Inspectors.

(b) The nonexempt service shall comprise all other ranks, now existing or hereafter created, not specifically included in the exempt service.

(Ord. 42-1971 §1. Passed 6-30-71.)

133.55 STATUS OF PRESENT SWORN EMPLOYEES OF THE BUREAU OF POLICE.

Each present sworn employee who held an office or position above the rank of patrolman in the nonexempt classified service on January 6, 1971, the effective date of the Ordinance, shall, within one year of the date of that Ordinance, be examined with a qualifying examination for the rank he held on that date.

Those sworn employees attaining a passing grade on the qualifying examination shall be given tenure in the rank held, effective January 6, 1971, as provided in these rules.

The qualifying examination for each rank shall be developed in accordance with the general examination provisions established by these rules, except that:

(a) Any candidate who passes a regular promotion examination for a rank shall be deemed to have passed the qualifying examination for that rank and for any lower rank.

(b) The qualifying examination shall be held separately from the regular promotional examination for the same rank.

(c) The written part of the qualifying examination shall test only those knowledges required for the rank held by the sworn employee.

(d) Before the identity of the qualifier is known, the Board shall establish the passing grade for the qualifying examination, based on a detailed analysis of the overall knowledge level of the present incumbents, and this passing grade need not be seventy percent of the total possible score.

(e) Each sworn employee of the Bureau of Police shall be allowed to take two such qualifying examinations, within one year after January 6, 1971, before being demoted in accordance with Section 133.47. When a candidate fails two consecutive qualifying examinations and is demoted to a lower rank, the Board may consider his last qualifying test as suitable for examining him for the rank to which he was demoted and may qualify him for that rank, based upon his score on this test, without requiring him to submit to another qualifying examination. In no case will a sworn employee be demoted more than one rank through his failure to pass a qualifying examination. If there are no vacancies in the next lower rank, the demoted employee will be assigned to the position occupied by which each sworn employee is eventually promoted as a replacement for the demoted member and he shall be given tenure in that rank. (Ord. 42-1971 §1. Passed 6-30-71.)

133.56 CLASSIFICATION OF POSITIONS.

The ranks in the Bureau of Police and the line of promotion shall be as below listed, or as amended either by addition or deletion by Council.

(a) Chief of Police.

(b) Inspector.

(c) Captain.
(d) Lieutenant.
(e) Sergeant and Detective Sergeant.
(f) Patrolman.

The ranks of radio technician and corporal are not in the line of promotion and shall be filled by promotion from patrolman. Because special skills are required by the duties of radio technician, the Board may authorize the Chief to appoint civilian radio technicians from outside the Bureau of Police.

The Chief shall submit to the Board a written job specification for each rank. The job specification shall consist of a title; a written explanation, in paragraph form, of the generalized description of duties and responsibilities of all positions in the rank; a fairly comprehensive, but not necessarily complete, listing of specific duties performed by representative positions in the rank; and a statement of knowledges, skills and abilities that should be possessed by persons holding positions in the rank.

Whenever a new rank is created by Council, the Chief shall submit to the Board a written job specification for the new rank before any examination is announced for any rank. (Ord. 42-1971 §1. Passed 6-30-71.)

133.57 CHANGES IN COMPENSATION.

The changing of the compensation paid all positions in any rank shall not affect the status of any incumbent with tenure in that rank.

If Council increases the compensation for certain positions in a rank, but not all positions in that rank, the Chief shall provide the Board with a job specification for its specific positions whose compensation is increased. The Board shall review the duties of these positions and, if they determine that the change in duties requires a different examination, they shall determine that a new rank has been created and that a new examination shall be held, pursuant to these rules. (Ord. 42-1971 §1. Passed 6-30-71.)

133.58 CHANGES IN DUTIES.

Whenever the Chief of Police feels that the changes in the duties of a specific position or positions are such to warrant the creation of a new rank, he shall submit a complete position description for the position or positions in question to the Board. The Board shall compare the new position description with the existing specification for the present rank. If the Board feels a new rank is justified, it shall request Council to create such a rank by ordinance.
(Ord. 42-1971 §1. Passed 6-30-71.)

133.59 AMENDMENT TO THESE RULES.

The rules may be amended, including rescinded in whole or in part, by the following procedure:

(a) Text of the proposed amendment shall be presented in full at a legally held meeting of the Board. Tentative approval shall be by the majority of the members of the Board present and voting.

(b) If so tentatively approved, the text of the amendment shall be spread in full upon the minutes of the meeting and the Board shall schedule a second meeting, for adoption, which shall be at least one week after the first meeting. Each member of the Board shall be immediately notified in writing by the Secretary of the substance of the proposed amendment and the time and date fixed for its final consideration.

(c) At the second meeting, legally constituted, adoption of the amendment shall be by a majority vote of the members present and voting.
(d) If so adopted, the amendment shall be delivered to the Mayor for his consideration. He shall approve or disapprove within thirty calendar days after the amendment is delivered to him. In the event that he has not disapproved the amendment within that time limit, the amendment shall be considered to be approved.
(e) At the same time that the amendment is sent to the Mayor, a copy of the amendment shall be sent to Council. They shall approve or disapprove within thirty calendar days after the amendment is delivered to them. In the event that they have not disapproved the amendment within that time limit, the amendment shall be considered to be approved.
(f) On approval by both the Mayor and Council or upon the passage of the thirty day time limit without disapproval, the amendment shall become effective. (Ord. 42-1971 §1. Passed 6-30-71.)

ORGANIZATION

133.60 POLICE INITIATIVE AND TENURE BOARD DUTIES.
The Board shall be responsible to the Mayor and Council for the administration and technical direction of the Police Bureau's personnel program and shall:
(a) Administer and enforce the provisions of these rules.
(b) Administer such promotion examinations as they deem necessary to provide an adequate supply of competent eligibles to meet the promotion needs of the Police Bureau.
(c) Provide such forms and procedures that are necessary and appropriate for carrying out the personnel program.
(d) Represent the public interest in the improvement of personnel administration in the Police Bureau.
(e) Advise Council and the Mayor on problems concerning personnel administration within the Police Bureau.
(f) Prepare and submit an annual report to Council regarding the work of the Board.
(g) Prepare and recommend such amendments to these rules as may be necessary or advisable to carry out the intent and purpose of the Police Bureau's personnel program. (Ord. 42-1971 §2. Passed 6-30-71.)

133.61 ORGANIZATION OF THE BOARD.
At its first official meeting, the Board shall elect, from amongst its members, a President, a Vice President and a Secretary. The terms of office of the President, the Vice President and the Secretary shall run concurrently and shall be for a period of one year. All official documents of the Board, including minutes of meetings, announcements of examinations, certifications, eligible lists, etc. shall be considered effective when signed by the President and attested to by the Secretary. (Ord. 42-1971 §2. Passed 6-30-71.)

133.62 MEETINGS OF THE BOARD.
See Section 133.03 for Board meetings.

133.63 QUORUM.
Four members present shall constitute a quorum for the transaction of business for any meeting for which proper notice has been given. (Ord. 42-1971 §2. Passed 6-30-71.)

133.64 VOTING.
All business transacted shall be by a majority vote of the members present and voting. The vote, or abstention, of each member in each vote taken shall be recorded by name in the minutes of the meeting. (Ord. 42-1971 §2. Passed 6-30-71.)

133.65 MINUTES OF MEETINGS.
The Secretary shall prepare the minutes of each meeting and shall forward copies to the members with the notice of the next meeting or at an earlier date. The minutes of each meeting shall be approved with or without corrections by majority vote at the next succeeding meeting. (Ord. 42-1971 §2. Passed 6-30-71.)

PROMOTION EXAMINATIONS

133.66 ANNOUNCEMENTS.
Bureau-wide notice of all vacancies in the nonexempt service, by rank, shall be given at least two weeks in advance of the last date for filing applications, by posting of an official announcement on all Bureau bulletin boards and by placing a copy of such announcements in the mailbox of each sworn employee of the Police Bureau. The Chief of Police shall be responsible for seeing that each employee on leave away from the Bureau be mailed a copy of the announcement at his temporary address.
This official announcement shall contain a clear statement of the following information:
(a) The name of the rank for which the examination is being held.
(b) The minimum requirements to compete for the promotion.
(c) The various parts that will make up the examination and the weights that will be assigned to each part.
(d) How each competitor's final score will be computed.
(e) The passing mark required, if any, on each part of the examination.
(f) If a written test is to be a part, a listing of printed materials suggested for study purposes and on which a majority of the written test questions will be based.
(g) The subject matter areas that will be tested by the written test, and the traits that will be rated by the oral interview when such parts are used.
(h) As much as possible, a statement of the date, time and place where the various parts of the examination will be held.
(i) The last date and time for filing applications and place of filing.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.67 FILING OF APPLICATIONS.
Each person who wishes to compete in a promotion examination must file a written application in the form prescribed by the Board. The application must be filed with the Secretary of the Board before the time limit fixed by the announcement.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.68 ELIGIBILITY FOR EXAMINATIONS.

The minimum requirement for eligibility to compete in a promotion examination shall be as follows:

(a) To compete for the rank of sergeant, each applicant must have completed at least two and one-half years of service as a sworn member of the Police Bureau.

(b) To compete for any rank above sergeant, each applicant must have completed at least one year of service in the rank next lower than the rank for which he is competing, except that in the first promotion examination given under these rules, an applicant who has completed three years of service in the rank of sergeant may compete for both the ranks of lieutenant and captain.

Eligibility for any examination shall be determined as of the last date for filing applications for that examination. (Ord. 42-1971 §3. Passed 6-30-71.)

133.69 REJECTION OF APPLICATIONS.

The Board shall reject the application of any applicant when it has determined:

(a) That the application was not filed with the Secretary of the Board within that period specified by the official announcement.

(b) That the application was not filed on the prescribed form.

(c) That the applicant does not meet the eligibility requirement set forth in the official announcement.

(d) That the applicant, after sufficient notification, did not promptly present himself at the time and place designated for each part of the examination.

(e) That, upon official request of the Chief of Police, the applicant has a work record with the Police Bureau not consistent with the standards expected of potential promotable applicants. The Board shall require that the Chief of Police substantiate a request of this nature with evidence of written reprimands, with completed performance evaluation sheets or with formal records of suspensions and other disciplinary action.

Whenever an applicant is rejected, written notice of such rejection and the reasons for the action shall be given to the applicant. (Ord. 42-1971 §3. Passed 6-30-71.)

133.70 PROMOTION EXAMINATIONS.

All promotions to positions in the nonexempt service shall be made on the basis of the relative merit and fitness of the applicant, which shall be ascertained by a promotion examination which shall be prepared by, or under the direction of, the Board.

The Board shall have the authority to retain a professional testing service for the preparation and grading of the tests involved.

All examinations shall be competitive, shall be fair and impartial and shall relate to those matters which will fairly test the capacity and fitness of the applicants to discharge competently the duties of the rank for which they are competing.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.71 PARTS OF AN EXAMINATION.

The Board shall determine separately for each examination which one or ones of the following parts shall make the examination:

(a) A written test.

(b) An oral test or interview.

(c) A medical examination.

(d) A psychiatric examination.
(e) A rating of job performance (efficiency).
(f) A rating of total past service with the Police Bureau and time in grade (seniority).
(g) A rating of formal police training, college courses and awards.

A promotion examination may take into consideration such factors as education, experience, aptitude, knowledge, motivation and drive, physical fitness and any other qualifications and attributes which, in the judgment of the Board, enter into a determination of the relative fitness of the applicants. (Ord. 42-1971 §3. Passed 6-30-71.)

133.72 CONCEALMENT OF CANDIDATES' IDENTITIES.

The identity of every candidate taking a promotion written test shall be concealed from the Board by the use of a numbered identification sheet. This identification sheet shall be filled in and signed by the candidate and sealed into an identification envelope before he commences the written part of the examination. The identification envelopes shall not be opened until all written test papers have been completely rated and the Board has determined the minimum passing score for the examination. Any applicant whose written test answer paper carries his name or any other unauthorized identifying mark, and any applicant who reveals his identification number to any member of the Board or to any person or persons assisting the Board shall be disqualified and the applicant so notified. (Ord. 42-1971 §3. Passed 6-30-71.)

133.73 DETERMINING EACH PART OF THE EXAMINATION.

Any part of the promotion examination for any rank may be either qualifying, that is, scored only on a pass or fail basis, or ranking, that is, scored on a numerical basis. For each examination, the Board shall determine whether each part is to be scored on a qualifying or ranking basis and shall so specify in the official announcement.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.74 WEIGHTS OF PARTS.

In any examination in which there is more than one ranking part, the Board shall determine the weight to be assigned to each part. The weight shall be stated as, or equated to, a percentage so that the total of the weights for all ranking parts shall equal 100 percent. Each part and the weights assigned shall be specified in the official announcement of the examination.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.75 RATING THE RANKING PARTS OF AN EXAMINATION.

The Board may, at its discretion, require that each candidate pass separately any of the parts of the examination, except seniority and formal police training, etc., in order to compete in subsequent parts of the examination.

Each ranking part of the examination, except seniority and ratings for formal police training, college courses and awards, shall be rated independently on a scale of zero to 100 with 100 for maximum possible attainment, or for the highest score attained, and seventy for the required minimum passing score, and zero for the lowest possible score or the lowest score attained. Seniority and formal police training, etc. will be rated on a scale of seventy for the lowest possible score and 100 for the highest possible score.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.76 FRAUD IN EXAMINATION.
See Section 133.16 for fraud in examination.

133.77 THE WRITTEN TEST.
Whenever the Board decides that a written test shall be part of the examination, it shall make sure that the test questions sample fairly the knowledge required for successful performance in the rank under examination. (Ord. 42-1971 §3. Passed 6-30-71.)

133.78 DETERMINING THE MINIMUM PASSING SCORE.
For each written test, the Board shall determine the minimum passing score either:
(a) After the candidates' answer sheets are scored and before any candidates' identity is known to the Board; or
(b) Before the examination is announced.
The minimum passing score determined or the decision to set the minimum passing score after scoring, shall be stated in the announcement of the examination.
When the minimum passing score of a part is determined after the candidates' answer papers are scored, the Board shall determine the appropriate minimum passing score, using appropriate scientific techniques and procedures, and taking into consideration the overall quality of the candidates competing, the parts of the examination to follow and the number of vacancies anticipated in the rank during the life of the list. This passing score on a written test shall be determined before the candidates' identification envelopes are opened.
(Ord. 42-1971 §3. Passed 6-30-71.)

133. 79 CONVERTING RAW SCORES.
Whenever the Board establishes a minimum passing score which is other than seventy percent of the number of questions, it shall convert the scores of the candidates to a scale of seventy to 100, so that the minimum passing score equals seventy and, either the maximum possible attainment on the test or the highest score attained for any candidate, equals 100. The scores of failing candidates on the written test need not be converted and shall be reported to the candidate in terms of raw scores and the candidate should also be notified of the minimum passing score. (Ord. 42-1971 §3. Passed 6-30-71.)

133.80 REVIEW OF PAPERS.
Any candidate who competes in a written part of an examination, as provided by these rules, shall have the right to review his answer sheet and a copy of the examination which shows the correct answer to each question. This review shall be held within seven calendar days after the administration of the written test and shall be held under the supervision of a member of the Board.
Every candidate reviewing test papers is expressly forbidden from copying any substantive part of any question used on the test, excepting that he may take brief notes that will enable him to research source documents. All such notes taken by the candidates during the review period shall be reviewed and approved by a Board member before the candidate is allowed to take such notes with him.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.81 WRITTEN TEST APPEALS.

A candidate shall be allowed to appeal the answer to a written test question to the Board within fourteen calendar days from the date of the test. A candidate shall be allowed to present any documentation to the Board to support his appeal. The Board shall consider all such appeals and, if it deems justified, make necessary corrections in what will be considered the correct answer(s) to each question. This shall be done before the final scores are assigned the candidates and the passing score determined. (Ord. 42-1971 §3. Passed 6-30-71.)

133.82 ORAL INTERVIEWS.

Whenever the Board decides that an oral interview shall be part of the examination process, it shall prescribe the rating members of the Oral Interview Board. The Oral Interview Board members may be selected either from within or without the Bureau, except that no member of the Police Bureau shall serve on an Oral Interview Board unless he is in a rank higher than the rank being examined and a majority of the Board must be involved in work with the police profession. In addition, only one member of the Board may serve as an Oral Interview Rater on any single examination. (Ord. 42-1971 §3. Passed 6-30-71.)

133.83 RATING THE ORAL INTERVIEW.

The traits to be rated on the oral interview shall be set forth in the announcement and each trait shall be rated on a form and in a manner prescribed by the Board. On all oral interviews, a score of seventy shall be established as the minimum passing score for the oral interview and shall reflect performance that is just barely acceptable for consideration for promotion to the higher rank. (Ord. 42-1971 §3. Passed 6-30-71.)

133.84 MEDICAL EXAMINATION.

The Board may determine the fitness of applicants to compete for promotion by either requesting a certification from the Chief of Police as to the fitness of the applicants or by requiring medical examination by a qualified doctor.

Whenever the Board determines that a medical examination shall be part of the examination process, it shall employ the doctor or doctors who will examine the applicants. All costs of medical examinations conducted by a doctor specified by the Board shall be borne by the Board. (Ord. 42-1971 §3. Passed 6-30-71.)

133.85 REJECTION FOR UNFITNESS.

Any applicant who is rejected as being unfit by the Board's doctor may, at his own expense, submit a report to the Board from a doctor of his own choice. The decision of the Board, after reviewing both reports, shall be final. (Ord. 42-1971 §3. Passed 6-30-71.)

133.86 PSYCHIATRIC EXAMINATION.

The Board may determine the emotional stability and mental health of an applicant by either requesting a certification from the Chief of Police as to the character and mental health of the applicant, or by requiring that each applicant submit to a psychiatric examination.

Whenever the Board determines that a psychiatric examination shall be a part of the examination, it shall employ the doctor or doctors who will examine the applicant. Such doctor shall be either a psychiatrist who is Board eligible or Board certified by the American Board of Psychiatry and Neurology or a clinical psychologist, certified under the program administered by the Pennsylvania Psychological Association, affiliated with the American Psychological Association. (Ord. 42-1971 §3. Passed 6-30-71.)

133. 87 REJECTION FOR CHARACTER.

Any applicant who is rejected as being unfit by the Board's doctor may, at his own expense, submit a report to the Board from a doctor of his own choice. The decision of the Board, after reviewing both reports, shall be final. (Ord. 42-1971 §3. Passed 6-30-71.)

133.88 SENIORITY.

The Board shall include in each examination a rating for seniority, which shall include a rating for total continuous service in the Police Bureau and may include a rating for total continuous service in the rank from which promotion is sought.

A rating for seniority shall be initially computed in the form of additional points as follows:

(a) One point for each year of continuous service in the Police Bureau, up to a maximum of twenty points.

(b) Plus, one additional point for each year of continuous service in any rank, above the rank of patrolman, from which promotion is sought, up to a maximum of five points.

These point totals for each candidate shall be converted to a scale of seventy to 100 and added to the scores of passing candidates in accordance with the weights assigned in the announcement. The converted score seventy shall be for the least allowable years of seniority and 100 for the highest allowable years. (Ord. 42-1971 §3. Passed 6-30-71.)

133.89 EFFICIENCY RATING.

When the Board decides that a rating for efficiency shall be part of the examination, it shall use the ratings developed by the performance evaluation system, established by Section 133.124 of these rules. The ratings of efficiency shall be on a scale of one to 100, with a rating of seventy reflecting a candidate whose job performance is just barely acceptable, that is, an applicant whose performance on his present job is at the level where he is not so bad as to require demotion, but if he were a new applicant for the rank, he would not be appointed. (Ord. 42-1971 §3. Passed 6-30-71.)

133.90 FORMAL POLICE TRAINING, COLLEGE COURSES AND AWARDS.

Whenever the Board determines that a rating for formal police training, college course work or awards will be used as a part of the examination, it shall initially use the point schedule set forth in Section 133.13. These points, for each candidate, shall be converted to a scale of seventy for no points and 100 for the highest number of points accumulated by a candidate. The converted rating for formal police training, college courses and awards shall only be added to the scores of passing candidates in accordance with the weights assigned in the announcement. (Ord. 42-1971 §3. Passed 6-30-71)

133.91 GENERAL AVERAGE SCORE.

In order for a candidate's name to appear on an eligible list, he must attain a passing score on each part which candidates are required to pass separately, and also a general average score of at least seventy percent on all ranking parts of the examination.

An applicant's general average score shall be computed by multiplying his score, on each ranking part of the examination by the weight assigned in the official announcement for that part, and dividing this quotient by 100, the sum of the weights of all the ranking parts of the examination. (Ord. 42-1971 §3. Passed 6-30-71.)

133.92 POSTPONEMENT AND CANCELLATION OF EXAMINATIONS.

Any examination or any part thereof may be canceled or postponed by the Board and each applicant shall be notified of the cancellation and the reason for the action.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.93 NOTIFICATION OF RESULTS.

Each candidate who competes in any part of an examination shall be given written notice on his score on that part. Each candidate who passes the entire examination shall be given written notice, which shall include his score on each part and his rank on the eligible list. Such notice shall be given after the eligible list is officially established, but, at the discretion of the Board, may be given to all candidates simultaneously at an earlier date.
(Ord. 42-1971 §3. Passed 6-30-71.)

133.94 PROBATIONARY PERIOD.

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective judgment of how the employee adjusts to his new rank and for rejecting any employee whose performance does not meet the required work standards.

Every employee receiving a promotion, except employees reinstated or demoted, shall first attain probationary status and serve a probationary period of six months, starting from the date of appointment. Two weeks before an employee's probationary period is ended, the Chief of Police shall certify to the Board, in writing, whether or not the employee shall be given tenure or shall be returned to his old rank and a new certification sought. Employees who fail their probationary period and are returned to their old rank have no appeal for this action.

An employee who successfully passes his probationary period shall be given tenure in the rank and shall only be removed from that rank in accordance with the provisions of the these rules. An employee promoted retains tenure in his old rank until he successfully passes his probationary period. (Ord. 42-1971 §3. Passed 6-30-71.)

ELIGIBLE LISTS, CERTIFICATIONS AND APPOINTMENT

133.95 ELIGIBLE LIST.

The Board shall establish and maintain such eligible lists for each rank as are necessary to meet the needs of the Police Bureau. Each such list shall contain the names and address of each applicant who passed the examination, his final average scores and his rank on the list.
(Ord. 42-1971 §4. Passed 6-30-71.)

133.96 TYPES OF ELIGIBLE LISTS.

The Board shall maintain by rank, as required, the following eligible lists:

(a) A lay-off list, containing the names of persons who have been involuntarily reduced in rank or laid off. The names of persons shall appear on the list in reverse order of the date of lay-off.

(b) A reinstatement list, containing the names of all persons who have resigned in good standing and who have requested return to the Bureau. Such names shall appear on the list in the order of their date of resignation, the most recent resignation ranked last.

(c) A military list, containing the names of all persons certified for promotion but who could not accept promotion because of being in the military service or preparing to go into the military service. Such names shall appear on the list on the basis of the date of their first certification with the person most recently certified ranked last.

(d) A promotional list, containing the names of all persons eligible for promotion as determined by the examination procedures established by these rules. Such names shall appear on this list in the order of their final examination score as determined by these rules. (Ord. 42-1971 §4. Passed 6-30-71.)

133.97 RANK ORDER ON THE ELIGIBLE LIST.

The order of names of passing candidates on the promotion list shall be determined as follows:

(a) First, by the general average score, in descending order of scores.

(b) Second, in the event of a tie, the tie shall be broken by placing first, the name of the eligible who filed his application first.

(c) Third, if two or more eligibles with tied scores filed their application on the same date, the tie shall remain unbroken, the names on the eligible list shall be marked "tied" and they shall be certified together.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.98 CORRECTION OF ELIGIBLE LIST.

Whenever the Board determines that a manifest error in scoring or averaging a candidate's papers has occurred, the final average score and rank on the eligible list shall be corrected forthwith by the President by his signing a corrected list. Such corrected list shall, upon signature, replace the previous list which it corrects. All certifications from which no promotion has been made shall be withdrawn and new certifications made in accordance with the corrected list. However, the correcting of an eligible list shall not invalidate any appointment made prior to the discovery of the manifest error.
(Ord. 42-1971 §4. Passed 6-30-71.)

133.99 POSTING OF THE ELIGIBLE LIST.

All eligible lists shall be posted as a public record in the office of the City Clerk and in the Police Bureau. (Ord. 42-1971 §4. Passed 6-30-71.)

133.100 DURATION OF ELIGIBLE LISTS.

A promotional eligible list shall be in effect for at least six months and, at the discretion of the Board, may be extended for no more than eighteen additional months.

A lay-off list shall be in effect indefinitely or until all laid off personnel are returned to their rank. A person's name shall remain on a military list for a period of one year after the date of his honorable discharge from the military service. A person's name shall appear on a reinstatement list for a period of thirty days from his resignation.

The Board shall determine that an eligible list is exhausted whenever all persons thereon, who are willing to accept appointment, have been appointed.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.101 PROMOTIONAL APPOINTMENTS.

Whenever a position, covered by these rules, is to be filled by promotion, the Chief of Police shall make requisition to the Board for eligibles for appointment to the rank for which the vacancy exists. Such requisition shall be upon the form provided by the Board. If certification is required, the Board shall certify eligibles promptly.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.102 ORDER OF LISTS IN CERTIFICATION.

Eligibles shall be certified, in order, from eligible lists for the ranks in the following order:

(a) First, from the lay-off list (See Section 133.116).
(b) Second, from the reinstatement list (See Section 133.114).
(c) Third, from the military list (See Section 133.105).
(d) Fourth, from the promotion list.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.103 CERTIFYING NAMES TO FILL A VACANCY.

The Board shall certify the names of the three eligibles who stand highest on the appropriate eligible list or lists for the rank of the vacancy to be filled. If there are fewer than three names on a list other than the lay-off list, then names standing highest on the next list in order of priority shall be certified until three names are certified or until all lists for that rank are exhausted. All employees on lay-off lists shall be restored to their rank before certifications from other lists are commenced.

The names of all eligibles which remain in an unbroken tie with the third highest eligible certified shall also be certified.

All certifications shall be signed by either the President or the Secretary of the Board.

In the event that there are less than three names remaining on all lists for the rank, the Board shall certify those names remaining. The Mayor may appoint one of the eligibles certified or, at his option, may ask the Board to establish a new eligible list.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.104 CANCELLATION OF APPOINTMENT.

The Board may cancel the previous promotion of an employee from an eligible list when it has determined that the employee has practiced any fraud in the examination process, as set forth in Section 133.16.

(Ord. 42-1971 §4. Passed 6-30-71.)

133.105 WAIVER OF CERTIFICATION.

An eligible who has been certified or tendered reinstatement from a lay-off or reinstatement list may waive such certification or reinstatement upon giving a reason satisfactory to the Board, without losing his place on the eligible list. If the reasons assigned are not satisfactory to the Board, or the eligible refuses to accept a promotion tendered, then his name shall be removed from the eligibility list.

All waivers of certification must be filed with the Board within five days from the date of certification. In the absence of such waiver, an eligible applicant who refuses to accept a promotion tendered, shall be removed from the list and the next person certified in his place.

If, within thirty days from the date of certification, the eligible applicant so removed furnishes good and sufficient reason satisfactory to the Board for his failure to accept promotion, he may be restored to the bottom of the eligible list. But in the absence of any such excuse, his removal from the eligible list at the expiration of such thirty days shall be final.

Persons on authorized leaves of absence shall be notified of their certification for promotion and shall be given the opportunity to either return from leave to accept the promotion or to waive certification. If the employee decides to waive certification, he must notify the Board of such decision within a reasonable time as determined by the Board. However, the five day notification provision need not be adhered to in cases of employees on authorized leaves of absence.

Employees in the military service through authorized military leave shall be considered to have waived certification for the duration of time he is in service. Any employee in military service, who has waived certification because of his military service shall, at the expiration of the promotional eligible list upon which his name appears, have his name placed on a military eligible list. Employees shall be ranked upon such list in accordance with the date of their first waiver of certification with the employee who waived first ranked first, etc. An employee in military service, who was never certified, even though ranked on an eligible list, shall not have his name placed on the military list when the promotion list expires.
(Ord. 42-1971 §4. Passed 6-30-71.)

133.106 PROMOTION DECISION.

The Chief of Police shall select from the eligibles certified to him and recommend to the Mayor the eligible to be promoted. The Mayor shall make all promotion appointments. The Chief shall make such recommendation within seven calendar days from the receipt of the certification. Any certification from which no promotion has been made for a period of thirty calendar days from the date it was signed shall be invalid. If the Chief of Police still desires to fill the vacancy, he must request a new certification. (Ord. 42-1971 §4. Passed 6-30-71.)

133.107 TEMPORARY APPOINTMENTS.

A temporary appointment may be made by the Mayor to fill a vacancy in a permanent position which results from a regular employee being on an authorized leave of absence.

Each temporary appointment shall be made, if possible, from the appropriate eligible list and shall be for a specific period. The acceptance of such a temporary appointment by an eligible shall not affect his standing on the eligible list, nor his eligibility for promotional appointment.
(Ord. 42-1971 §4. Passed 6-30-71.)

133.108 EMERGENCY APPOINTMENTS.

In accordance with the provisions of Section 133.25, emergency appointments may be made by the Mayor in cases of riots, conflagration or other emergency which threatens the property or the general welfare of the City. An emergency appointment shall continue only during the period of such emergency and shall, under no condition, continue longer than thirty calendar days. No person shall be given emergency appointments which aggregate more than thirty days in any period of six consecutive months. (Ord. 42-1971 §4. Passed 6-30-71.)

133.109 DEMOTIONS.

A position may be filled by a demotion of an employee upon his own initiative or, with his concurrence, and with the approval of the Board and the Mayor. This voluntarily demoted person shall receive the same status in the new rank that he had in the rank from which he was demoted.

A position may also be filled by the involuntary demotion of any employee for inability to perform the duties of the position, such determination to be made by the Mayor upon recommendation of the Chief of Police or in accordance with the provisions of Section 133.55 of these rules. (Ord. 42-1971 §4. Passed 6-30-71.)

133.110 RE-EMPLOYMENT.

A position may also be filled by the re-employment of a person returning from authorized leave of absence or military leave of absence. (Ord. 42-1971 §4. Passed 6-30-71.)

PERSONNEL POLICIES

133.111 LEAVES OF ABSENCE WITHOUT PAY.

An employee who has tenure may be granted a leave of absence, without pay, by the Director of the Department of Public Safety for a period not to exceed one year for any reasons determined by him to be sufficient and in the best interests of the City.

When any employee returns from authorized leave, in accordance with the provisions of these rules, he shall return to his original position with full seniority as if he had not been on leave.

Except under unusual circumstances, leave of absence without pay shall not be granted in order for an employee to take other employment not in the City service. All employees on leave without pay are subject to the provisions of these rules.

All positions vacated by authorized leaves of absence shall only be filled by temporary appointment as provided by these rules. (Ord. 42-1971 §5. Passed 6-30-71.)

133.112 LEAVES OF ABSENCE FOR MILITARY REASONS.

Whenever a vacancy occurs by virtue of an employee taking a leave of absence because of his enlistment or because he has been ordered into the military force of the United States, the Board may, based upon the anticipated duration of the leave, either fill the vacancy by temporary appointment or through certification.

If the vacancy is filled by a temporary appointment, the duration of any such appointment shall be for the period of such leave of absence, and for not more than sixty days thereafter. Such leave of absence shall be automatically terminated by the death or discharge

of the employee from the military service. Within sixty days of the termination of the leave of absence by honorable discharge, the employee shall be restored to his position, without a loss of seniority, provided he is otherwise eligible. The person temporarily appointed shall, as much as possible, be taken from an eligible list for the rank and any such temporary appointment shall not prohibit the employee from being certified for other vacancies and promoted.

In the case where the vacancy is filled by a promotion from an eligible list, and the employee on leave is honorably discharged from the service and, within sixty days thereafter, presents himself to the Director of Public Safety for resumption of his duties on the Police Bureau he shall, if a vacancy exists, be appointed to that vacancy. If no vacancy exists, then the employee returning from an authorized military leave shall have the right to bump the employee in that rank with the least seniority in that rank, provided either are not temporary or probationary employees who shall be bumped first. In administering the bumping provisions of this section, the same procedure as outlined under lay-off shall apply, except that no employee shall be separated from the Police Bureau because of a returning military serviceman and Council shall approve a new patrolman position if necessary.

No leave of absence shall be granted for military service to exceed the period of time of the employee's original enlistment period or to exceed the time of the employee's original call-up period. Any employee who elects voluntarily to remain in the military service after his initial period of enlistment or call-back shall be deemed to have resigned from the Police Bureau. (Ord. 42-1971 §5. Passed 6-30-71.)

133.113 RESIGNATION IN GOOD STANDING.

Any employee in the classified service wishing to leave the City service in good standing shall file with the Chief of Police, at least two weeks before leaving, a written resignation stating the date resignation shall become effective and the reason for leaving.
(Ord. 42-1971 §5. Passed 6-30-71.)

133.114 REINSTATEMENT.

An employee who has resigned in good standing and who, within thirty days from the date of his resignation, has requested reinstatement, may have his name placed on a reinstatement list and within thirty days be reinstated.

This period of thirty days, or less, shall be considered as a temporary separation from the Police Bureau. Any resignation from the Police Bureau in excess of thirty days, shall not be considered to be a temporary separation. (Ord. 42-1971 §5. Passed 6-30-71.)

133.115 RESIGNATION NOT IN GOOD STANDING.

Any employee in the classified service who resigns without giving the Chief of Police two weeks advance written notice of his resignation shall be considered to have resigned not in good standing. An employee resigning not in good standing shall not be eligible for reinstatement. (Ord. 42-1971 §5. Passed 6-30-71.)

133.116 LAY-OFF PROCEDURE.

The Mayor may lay-off an employee in the classified service whenever such action is made necessary by reason of shortage of work or funds, the abolition of a position in accordance with Section 133.44, or because of change in organization. No employee with tenure shall be laid off while there is a temporary or probationary employee in the rank from which the employee with tenure is to be laid off. (Ord. 42-1971 §5. Passed 6-30-71.)

133.117 ORDER IN LAY-OFFS.

In a lay-off, each rank shall be considered separately. The order in which employees shall be laid off within any single rank shall be as follows: first, temporary employees; second, probationary employees; third, employees with tenure.

The order of lay-off for any one of the three above kinds of employees shall be in reverse order of total continuous service within the rank in which the lay-off is occurring. (Ord. 42-1971 §5. Passed 6-30-71.)

133.118 BUMPING RIGHTS.

Any employee with tenure, who is laid off, shall displace an employee in the next lower level rank. The determination of the employee to be displaced shall be in accordance with the order in lay-off. This bumping procedure shall be carried through the ranks so that only the least senior employees in the lowest rank are actually separated from the Bureau.
(Ord. 42-1971 §5. Passed 6-30-71.)

133.119 DEMOTION FOR INABILITY TO PERFORM.

When the Mayor has determined that an employee with tenure is unable to successfully perform the duties of his position, he may demote that employee to a position in a lower rank, the duties of which he is able to perform. The employee demoted shall have tenure in the new rank.

Generally speaking, demotion should only be made when the employee cannot perform the duties of his job for physical or mental reasons. If the reasons are disciplinary in nature, then a proper form of disciplinary action should be taken.

Every person so demoted, except those demoted in accordance with Section 133.55 of these rules, shall have the right to have his case investigated by the Board and to have a hearing in accordance with the provisions of these rules. (Ord. 42-1971 §5. Passed 6-30-71.)

133.120 SUSPENSIONS.

Suspensions shall be authorized and given for proven infractions of the Bureau's discipline code. Any authorized suspension shall be noted in the offending officer's service record and may result in a loss of points as indicated in Section 133.13 when that officer is considered for promotion or demotion and formal police training is a part of the examination. Suspensions of more than one day but less than eleven days may be recommended by any immediate superior officer of the rank of sergeant or higher, but may not be imposed without the approval of the Director of the Department of Public Safety.

A suspension of more than three days or an accumulation of five or more days of suspensions in a sixty day period may be appealed within thirty days of the date of suspension to the Board which shall have the authority to overrule any suspension determined to be capricious or unjust, to order the officer in question reinstated with or without loss of pay, and to order or not to order the suspension removed from the officer's service record. Any suspension in excess of ten days shall be governed by the provisions of the Third Class City Code. (Ord. 42-1971 §5. Passed 6-30-71.)

133.121 DISMISSALS.

Any employee, with or without tenure, may be dismissed by the Director of the Department of Public Safety for good cause which shall be clearly stated in writing by the Director. With regard to an employee with tenure, no dismissal shall take effect until at least ten days from the day a written statement of reasons therefore is submitted to the Board and to the employee in question. Hearings on charges for discharge shall be held in accordance with the provisions of the Third Class City Code.

Although dismissals and other disciplinary actions may be based on other causes, any one or more of the following shall be sufficient:

(a) Incompetency or inefficiency in the performance of duties.

(b) Conviction of a criminal offense or of a misdemeanor involving moral turpitude subsequent to his original appointment.

(c) Willful violation of any of the provisions of the rules and regulations of the Bureau of Police or of these rules.

(d) Willful violation of any lawful and meaningful regulation, order or direction made or given by a superior officer, where such violations have amounted to insubordination or serious breach of proper discipline or have resulted in a loss or injury to the public or injury to a fellow employee.

(e) Wantonly offensive conduct or language toward the public or fellow officers, or abusive public criticism of a superior or public official without first taking up such complaints through proper channels.

(f) Carelessness or negligence in the use of City property.

(g) Repeated failure to pay or make reasonable provisions for the payment of just debts.

(h) Attempting to induce any officer or employee of the City to commit an act in violation of any lawful or reasonable regulation.

(i) Hindering the regular operation of the Police Bureau or its divisions because of excessive absenteeism or by falsely claiming to be sick when physically able to work.

(j) Failure to notify the Chief of Police, within one working day, of any suspension or the revocation of the employee's valid operator's or chauffeur's licenses. (Ord. 42-1971 §5. Passed 6-30-71.)

133.122 HEARINGS.

Any employee with tenure may make an appeal to the Board and request a hearing if he:

(a) Has been suspended in accordance with the provisions of Section 133.120 of these rules.

(b) Feels that any other provisions of these rules have been interpreted or administered to his detriment.

Any such appeal or request for hearing to the Board shall be in writing and shall set forth the action complained of and the remedy sought by the appellant. Such request shall be filed within ten working days of the date the action causing the grievance took place.

Any employee with tenure appearing before the Board may be represented by counsel or by a member of a recognized employee organization and may present witnesses and such other testimony to the Board as may support his case.

The President of the Board shall have the right to administer oaths and to subpoena records and require the attendance of witnesses at such hearings. Technical rules of evidence shall not apply at such hearings.

All decisions of the Board as to matters properly appealed to them shall be final.

These hearings shall in no way be construed to include the hearings on charges for discharge before Council, as set forth in the Third Class City Code.
(Ord. 42-1971 §5. Passed 6-30-71.)

133.123 DATES OF HEARINGS.

The Board shall convene a hearing within fifteen days of receiving a written request, therefore, except that by mutual consent of the parties involved, hearing dates may be postponed beyond fifteen days.

The Board shall deliver its final decision to the Director of the Department of Public Safety within ten days after the conclusion of the hearing. (Ord. 42-1971 §5. Passed 6-30-71.)

133.124 JOB PERFORMANCE RATING PROCEDURE.

Job performance rating reports, relative to conduct, capacity and performance of all Police Bureau employees, shall be made no later than January 1, 1975, by the Police Bureau at least once a year on forms and in the manner prescribed by the Board.

In the case of probationary employees, the job performance rating shall be made approximately two weeks before the end of the probationary period and shall be a basis for the Chief of Police certifying to the Board the probationer's suitability or lack of suitability for the rank, in accordance with the provisions of Section 133.94.

Job performance ratings shall be administered under the general direction of a Division Inspector. The employees of each division shall be initially rated by their immediate supervisor, with such ratings reviewed by the Division Inspector. No ratings made by the employee's immediate supervisor shall be changed by the Inspector, except with the concurrence of the supervisor. All differences of opinion between the employee's immediate supervisor and the Division Inspector shall be resolved by the Chief of Police in a conference attended by both.

The final job performance ratings shall be shown to the employee concerned and there shall be a conference between the employee and his immediate supervisor to discuss the ratings.

Any sworn employee of the Bureau shall have the right to appeal his job performance rating within thirty days of receipt of such rating. All such appeals shall go to the Division Inspector who shall review the appeal and then make a recommendation of the disposition of the appeal which shall be forwarded to the Chief of Police within ten days of the receipt of such appeal. The decision of the Chief of Police shall be final on all appealed job performance ratings and such decisions shall be rendered within ten days of receipt of the recommendation from the Division Inspector. (Ord. 42-1971 §5. Passed 6-30-71.)

ARTICLE 135
Municipal Police Cooperative Agreement

135.01 Implementation of Agreement.
135.02 Duration.
135.03 Purpose.
135.04 Expenses.
135.05 Additional organizational structure or property not required.
135.06 Effectiveness.
135.07 Authority.
135.08 Conflict.

135.01 IMPLEMENTATION OF AGREEMENT.

The City shall enter into a Municipal Police Cooperative Agreement with the County of Erie and various municipalities throughout Erie County, under the terms of which the police officers of each municipality are granted authority to officially act as police officers of the other municipalities, subject to the terms of the Agreement, when performing duties in the other municipalities and establishing procedures for the police department for each municipality to render aid and assistance to one another.
(Ord. 70-1992 Sec. 1. Passed 12-2-92.)

135.02 DURATION.

The duration of this Agreement shall be indefinite, subject to termination by any municipality as provided for in this Agreement.
(Ord. 70-1992 Sec. 2. Passed 12-2-92.)

135.03 PURPOSE.

The purpose and objective of the Agreement is to foster improved governmental cooperation between the City and the County of Erie and the various municipalities throughout Erie County, in order to improve law enforcement in the County, by providing police officers with the authority to exercise official duties in the other municipalities, thereby alleviating problems of arrests being determined improper or unlawful by reason of jurisdictional or boundary issues.
(Ord. 70-1992 Sec. 3. Passed 12-2-92.)

135.04 EXPENSES.

Each municipality shall be responsible for all expenses incurred by reason of action taken by its police pursuant to the Agreement, with the exception of those expenses which shall be borne by the Commonwealth in accordance with 42 Pa. C.S.A. Sec. 8951, et seq.
(Ord. 70-1992 Sec. 4. Passed 12-2-92.)

135.05 ADDITIONAL ORGANIZATIONAL STRUCTURE OR PROPERTY NOT REQUIRED.

No additional organizational structure shall be necessary to implement the Agreement, nor shall any property, real or personal, be acquired, managed or disposed of, in order to effect the purpose of the Agreement.
(Ord. 70-1992 Sec. 5. Passed 12-2-92.)

135.06 EFFECTIVENESS.

The effectiveness of this article is conditioned upon the City executing the aforesaid Agreement and enacting an ordinance implementing the Agreement.
(Ord. 70-1992 Sec. 6. Passed 12-2-92.)

135.07 AUTHORITY.

This action is taken pursuant to the authority granted the City by the Intergovernmental Cooperation Act, 1972, July 12, No. 180, Sec. 1, et seq., 53 P.S. Sec. 481 et seq., as amended.
(Ord. 70-1992 Sec. 7. Passed 12-2-92.)

135.08 CONFLICT.

All ordinances and parts thereof conflicting herewith are hereby repealed.
(Ord. 70-1992 Sec. 8. Passed 12-2-92.)

TITLE SEVEN - Employment Provisions; Pensions

Art. 141. Salaries, Vacations and Sick Leave.
Art. 142. Eligibility for Board or Commission Membership.
Art. 143. Residence Requirements; Loyalty Oath.
Art. 144. City Owned Vehicles.
Art. 145. Officers' and Employees' Retirement System.
Art. 147. Police Employees Pension Plan.
Art. 149 Firefighters' Pension Plan.

ARTICLE 141
Salaries, Vacations and Sick Leave

141.01 Time of salary payments; maximum.
141.02 Length of vacations.
141.03 Vacations not cumulative.
141.04 Department directors to schedule vacations.
141.05 Holidays occurring during vacations.
141.06 Computation of vacation pay.
141.07 Annual sick leave.
141.08 Cumulative provisions to three years.
141.09 Medical certificate required.
141.10 Holidays for hourly and shift employees.
141.11 Employee lists.

CROSS REFERENCES

Officers and employees - see 3rd Class Charter Law §601 et seq. (53 P.S. §41601 et seq.); 3rd Class §901 et seq. (53 P.S. §35901 et seq.)
Compensation - see 3rd Class Charter Law § 607(c) (53 P.S. §41607(c))

141.01 TIME OF SALARY PAYMENTS; MAXIMUM.

(a) All salaried officers and employees of the City, except elected officials, shall be paid the compensation or pay established by ordinances of the City for their respective positions or job classifications upon computations of pay or compensation made every two weeks.

(b) All salaried officers and employees shall be paid the salary or compensation due them for the preceding work period on every second Friday beginning April 6, 1962, and every second Friday thereafter. (Ord. 5-1962 §1, 3. Passed 2-7-62.)

(c) (EDITOR'S NOTE: This subsection (c) relating to maximum salary was repealed by Ordinance 70-1981, passed September 9, 1981.)

141.02 LENGTH OF VACATIONS.

(a) Employees of One to Five Years. On and after January 1, 1965, and on and after the first Monday of January of each year thereafter, all officers and employees of the City, other than those employed by the Bureau of Fire and the Bureau of Police, who shall have been continuously employed by the City for a period of one year, but whose total continuous employment is less than five years, shall be entitled to two calendar weeks' vacation with pay during the year 1955 and annually thereafter.

(b) Employees of Five Years. On and after the first Monday of January 1957, and on and after the first Monday of January of each year thereafter, all officers and employees of the City, other than those employed by the Bureau of Fire and the Bureau of Police, who shall have been continuously employed by the City for five full consecutive years shall be entitled to three calendar weeks' vacation with pay during the year 1957 and annually thereafter.
(Ord. 43-1957 §1, 2. Passed 4-30-57.)

(c) Employees of Eighteen Years. On and after January 1, 1962, all officers and employees of the City, including those employed in the Bureau of Fire and the Bureau of Police, who shall have been continuously employed by the City for a period of eighteen years and upwards, shall be entitled to one additional day's vacation with pay for each additional year of such continuous employment. However, the total vacation period shall not exceed four calendar weeks annually. (Ord. 80-1961 §1. Passed 12-29-61.)

141.03 VACATIONS NOT CUMULATIVE.

Vacation periods provided for in Section 141.02 shall not be cumulative.
(Ord. 43-1957 §3. Passed 4-30-57.)

141.04 DEPARTMENT DIRECTORS TO SCHEDULE VACATIONS.

The vacation schedules of all employees of the City entitled to vacations as provided herein shall be prepared and arranged by the directors of the departments having supervision of such employees. (Ord. 43-1957 §4. Passed 4-30-57.)

141.05 HOLIDAYS OCCURRING DURING VACATIONS.

Any employee having a vacation period within which one of the following holidays occurs on a regularly scheduled work day shall be entitled to one additional day's vacation with pay: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; Christmas Day; Good Friday; General Election Day, and, in the event of a death in the immediate family, meaning wife, husband, child, parent, brother, sister, mother-in-law or father-in-law, the employee shall be granted up to a maximum of four additional consecutive working days off with pay at the straight time rate. Any nonwork days included in the maximum of four days shall be included in the total of the days but not compensated for.
(Ord. 17-1938 §1. Passed 4-1-58.)

141.06 COMPUTATION OF VACATION PAY.

The vacation wages will be computed on an eight-hour day for a full work week at the prevailing wage rate of the employee during his vacation, but any employee who shall qualify by reason of a full continuous year's employment but whose employment by the City is on an hourly basis for less than eight hours per day, shall have his vacation pay determined on the average hours per day worked during the prior year at the prevailing rate for his employment. (Ord. 43-1957 §6. Passed 4-30-57.)

141.07 ANNUAL SICK LEAVE.

Subject to the conditions hereinafter stated, all hourly wage and salaried employees of the City, other than those employed in the Bureau of Fire and the Bureau of Police, who have been continuously employed by the City for not less than one year, shall be entitled to sick leave when unable to work because of illness or incapacity resulting from injury or other causes, for a period or periods not exceeding ten days in the aggregate in any year, without diminution of the wages or salary fixed by ordinance or resolution.
(Ord. 8642 §1. Passed 5-29-51.)

141.08 CUMULATIVE PROVISIONS TO THREE YEARS.

Sick leave shall be cumulative for a period not exceeding three years and not exceeding a maximum of thirty days for such accumulation for any employee entitled thereto who shall not have taken such sick leave within the prior three-year period.
(Ord. 75-1961 §1. Passed 12-26-61.)

141.09 MEDICAL CERTIFICATE REQUIRED.

In order to be entitled to wages or salary during the period of leave on account of illness or incapacity, an employee shall, if required by the official in charge of the department wherein the employee is employed, furnish the official with a certificate issued by a duly registered physician certifying the nature of such employee's illness or incapacity, the period of time the employee has been or may normally be expected to be incapacitated and whether, in the physician's opinion, such illness or incapacity is of such nature as to require the employee to be absent from his work during such time. (Ord. 8642 §2. Passed 5-29-51.)

141.10 HOLIDAYS FOR HOURLY AND SHIFT EMPLOYEES.

All hourly wage employees of the City, including all hourly wage and salaried employees who work on shifts or are otherwise employed in any department or bureau of the City wherein it is necessary that the work must go on at all times, shall be entitled to the following holidays in each year: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; Christmas Day; Good Friday; General Election Day; and, in the event of a death in the immediate family as defined herein, being the husband, wife, child, parent, brother, sister, mother-in-law or father-in-law, the employee shall be granted up to a maximum of four additional consecutive working days off with pay at the straight time rate. Any nonwork days included in the maximum of four days shall be included in the total of the days but not compensated for, without diminution of the wages or salary fixed by ordinance or resolution.

However, any such hourly wage or salaried employee in any such all-time work basis department or bureau shall be required to work on any or all of the aforesaid holidays or other days on which he is entitled to leave, if the official in immediate charge of such department or bureau notifies such employee that he is required to work on any such day or days, but in such case, the employee shall be entitled to one additional day's pay at his regular wage or salary rate for each holiday or other days on which he is entitled to leave.
(Ord. 18-1958 §1. Passed 4-1-58)

141.11 EMPLOYEE LISTS.

(a) The office of the Director of Personnel shall furnish and submit to Council on or before May 1, 1975, a list of all present City employees, excluding policemen and firemen, indicating: the department in which employed, the job classification and current salary.

(b) Thereafter, on a bi-weekly basis, the office of the Director shall furnish and submit to Council a current list of lay-offs, salary increments, transfers, reclassifications, terminations (voluntary or involuntary) and newly hired employees with their job classifications occurring within the preceding two week period.

(Ord. 31-1975 §1, 2. Passed 4-16-75.)

ARTICLE 142
Eligibility for Board or Commission Membership

142.01 Definitions.
142.02 Eligibility.
142.03 City residence required.
142.04 Loyalty oath of affirmation required.
142.05 Text of oath or affirmation.
142.06 Exceptions.
142.07 Noncompliance.
142.08 Appointments.

142.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

(a) "Employee" means any person presently employed or who may become employed by the City of Erie in any capacity whatsoever.

(b) "Residence" means the inhabitancy of a permanent dwelling place by an appointee with his family, if any. The requirement of residence shall not be met by such appointee renting a room in the City of Erie, for the purpose of establishing a mailing address, a voting address or an address for other purposes while, in fact, he maintains his actual or family residence elsewhere.

(Ord. 13-1987 §1. Passed 4-8-87.)

142.02 ELIGIBILITY.

Any person who is appointed to any board, commission or authority of the City of Erie, under the jurisdiction of Council, shall not be an employee of the City of Erie during the period of such appointment.

(Ord. 13-1987 §1. Passed 4-8-87.)

142.03 CITY RESIDENCE REQUIRED.

All persons appointed to any board, commission or authority, under the jurisdiction of Council, shall be residents of the City, as that term is defined above, at the time of appointment and shall maintain such residence in the City during the term of such appointment. This shall not apply to persons appointed by Council to the Erie Civic Center Authority, the Erie Sewer Authority, the Erie Airport Authority and the Board of License Examiners.

(Ord. 64-1996 §1. Passed 11-13-96.)

142.04 LOYALTY OATH OF AFFIRMATION REQUIRED.

All appointees to any board, commission or authority under the jurisdiction of Council, are hereby required to swear or affirm and sign the oath or affirmation of allegiance and support hereinafter set forth before the City Clerk.
(Ord. 13-1987 §1. Passed 4-8-87.)

142.05 TEXT OF OATH OR AFFIRMATION.

The oath or affirmation shall contain the following words and shall be signed at the bottom or end thereof:

"I, _____ hereby swear, or affirm, allegiance to, and support of the Government of the United States of America and its Constitution, the Government of the Commonwealth of Pennsylvania and its Constitution and the City of Erie. I hereby declare that I am not and will not knowingly become a member of any organization which advocates or supports the overthrow of the Government of the United States of America, the Commonwealth of Pennsylvania or the City of Erie by force or violence."
(Ord. 13-1987 §1. Passed 4-8-87.)

142.06 EXCEPTIONS.

Notwithstanding the provisions found in Sections 142.02 and 142.03, any person who is currently serving on any board, commission or authority, and who is either an employee of the City of Erie or a nonresident, may continue to serve the term of his appointment until its expiration. Additionally, any City employee who serves on any board, commission or authority as either an ex-officio member or nonvoting member may continue to do so. This provision also applies to their successors.
(Ord. 13-1987 §1. Passed 4-8-87.)

142.07 NONCOMPLIANCE.

Any appointee found to be in violation of any provision contained in this article shall be removed from the board, commission or authority that he serves.
(Ord. 13-1987 §1. Passed 4-8-87.)

142.08 APPOINTMENTS.

No appointee shall serve on any board or commission under the jurisdiction of City Council for more than three consecutive terms of which each term shall be three years in duration. No appointee shall serve on any authority under the jurisdiction of City Council for more than two consecutive terms. Notwithstanding this term limitation, any board, commission or authority appointee presently serving a second, third or successive term shall continue until the expiration of his or her term. Thereafter, at the expiration of such term, such individual shall not be reappointed.

In those cases where board or commission appointees serve for a term of five years by virtue of state statute, those appointees shall not serve more than two consecutive terms. Notwithstanding this term limitation, any appointee to a board or commission currently serving in the first or second term of their appointment at the date of the enactment of this section shall be eligible for one additional five-year term at the expiration of such first or second term. Further, this provision shall not prohibit an individual from later serving nonconsecutive terms on a board, commission or authority under the jurisdiction of City Council.
(Ord. 63-2006. Passed 12-6-06.)

ARTICLE 143
Residence Requirements; Loyalty Oath

143.01 Definition.
143.02 Residence within fifteen miles required.
143.03 Exceptions.
143.04 Continued residence required; noncompliance. (Repealed)
143.05 Loyalty oath or affirmation required.
143.06 Text of oath or affirmation.
143.07 Noncompliance.

CROSS REFERENCES
Oath of office - see 3rd Class §905 (53 P.S. §35905)

143.01 DEFINITION.
"Residence", as used in this article, means the inhabitancy of a permanent dwelling place by an employee with his family, if any. (Ord. 106-1989 § 1. Passed 12-27-89.)

143.02 RESIDENCE WITHIN FIFTEEN MILES REQUIRED.
All persons appointed to any office or position of employment by the City in any of its departments, bureaus and offices shall maintain a residence within a fifteen mile radius of the Municipal Building during the term of such employment. The requirement of residence shall not be met by such officer or employee renting a room in the City, for the purpose of establishing a mailing address, a voting address or an address for other purposes while, in fact, he maintains his actual or family residence outside a fifteen mile radius.
(Ord. 106-1989 § 1. Passed 12-27-89.)

143.03 EXCEPTIONS.
The one year residency requirement found in Section 143.01 shall not apply to members of the Police Bureau. (Ord. 26-1989 §1. Passed 5-3-89.)

143.04 CONTINUED RESIDENCE REQUIRED; NONCOMPLIANCE.
(EDITOR'S NOTE: This section was repealed by Ordinance 14-1989, passed February 15, 1989.)

143.05 LOYALTY OATH OR AFFIRMATION REQUIRED.

All officers and employees of the City are hereby required to swear to or affirm and sign the oath or affirmation of allegiance and support hereinafter set forth, before the Mayor or the City Clerk. (Ord. 8588 §1. Passed 10-1-50.)

143.06 TEXT OF OATH OR AFFIRMATION.

The oath or affirmation shall contain the following words and shall be signed at the bottom or end thereof:

"I, _____, hereby swear, or affirm, allegiance to, and support of the Government of the United States of America and its Constitution, the Government of the Commonwealth of Pennsylvania and its Constitution and the City of Erie. I hereby declare that I am not and will not knowingly become a member of any organization which advocates or supports the overthrow of the Government of the United States of America, the Commonwealth of Pennsylvania or the City of Erie by force or violence."

(Ord. 8588 §2. Passed 10-1-50.)

143.07 NONCOMPLIANCE.

Any officer or employee failing or refusing to take the oath or affirmation provided for in Section 143.06 shall be immediately suspended from his employment with the City and, after being given a hearing or the opportunity to be heard before the Mayor and Council, within ten days after such suspension, shall, upon being found guilty of failing or refusing to swear to or affirm and sign the oath or affirmation, be discharged from his employment with the City. (Ord. 8588 §3. Passed 10-1-50.)

ARTICLE 144
City Owned Vehicles

144.01 Definition.
144.02 Use.
144.03 Penalty.

144.01 DEFINITION.

"City vehicle" means any automobile, truck, motorcycle or other driveable machinery in the possession and under the control of the City. (Ord. 56-1981 Sec. 1. Passed 7-22-81.)

144.02 USE.

City vehicles shall be maintained in a central pool and be assigned on an as needed basis to City employees in the furtherance of their employment with the City. City vehicles shall not be used by employees for travel between their residences and their job with the following exceptions.

(a) The Mayor;
(b) The Director of Public Works, Parks and Public Property;
(c) The Bureau Chief of Streets;
(d) The designated individual of HAZMAT in Public Works, Parks and Public Property;
(e) The Chief of Police;
(f) The Deputy Chief of Detectives;
(g) The Bureau of Police Drug Task Force (confiscated or procured vehicles);
(h) The Fire Chief;
(i) The Assistant Fire Chief (HAZMAT);
(j) Police Officers assigned to K-9 duty;
(k) Motorcycle Patrolmen when assigned to motorcycle duty;
(l) Those individuals temporarily assigned a vehicle as the result of a special or temporary assignment by the Office of the Mayor in which the use of a City vehicle is needed to carry out the assignment (not to exceed one week), and
(m) The Chief Fire Inspector. (Ord. 12-1997 Sec. 1. Passed 3-12-97.)

144.03 PENALTY.

Any officer or employee who violates the provision of this article shall be subject to a suspension of one day upon a first offense and up to five days suspension for subsequent violations. (Ord. 56-1981 Sec. 3. Passed 7-22-81.)

ARTICLE 145
Officers' and Employees' Retirement System

145.01 Establishment of system.
145.02 Definitions.
145.03 Establishment of Retirement Board, membership, duties, term.
145.04 Duties of heads of departments and offices.
145.05 Contributions.
145.06 Retirement eligibility.
145.07 Retirement benefits.
145.08 Refunds of contributions.
145.09 Pension for survivors of City employees.
145.10 Increase of retirement benefits after retirement.
145.11 Pension exempt from attachment or execution; nonassignable.
145.12 Water Authority employees election.
145.13 Controlling provisions of the Internal Revenue Code.
145.14 Administration of the Plan and the Pension Fund.
145.15 Miscellaneous.

CROSS REFERENCES

Employees' pension fund - see 3rd Class §4340 et seq. (53 P.S. §39340 et seq.)
City Controller to administer - see ADM. 121.04

145.01 ESTABLISHMENT OF SYSTEM.

A Retirement System for the retirement and pensioning of officers and employees of the City of Erie, other than firemen and policemen, was established effective July 1, 1946 under the provisions of Act 362 of May 23,1945, (P.L. 903), as amended (53 P.S. §36371 et seq.) by the adoption of Ordinance 15-1962 on May 9, 1962. The Plan was amended and restated effective as of January 1, 2010, except where otherwise specified to meet the requirements for qualification under the Internal Revenue Code.
(Ord. 3-2011. Passed 1-19-11.)

145.02 DEFINITIONS.

The following words or phrases as used in this Plan shall have the meaning set below unless a different meaning is clearly required by the context:

(a) "**Accrued Retirement Benefit"** means the amount of Retirement Benefit credited to the Participant as of any date pursuant to Section 145.07 calculated on the basis of the Participant's Final Pay determined as of such date and multiplied by a fraction not to exceed one (1.0), the numerator of which shall be the Participant's completed years of Service as of such date and the denominator of which shall be the number of years of Service which the Participant would complete as of his/her Normal Retirement Date under the Plan, assuming no interruption of Service to his/her Normal Retirement Date.

(b) **"Act 205"** means the Municipal Pension Plan Funding Standard and Recovery Act, enacted as P.L. 1005 (Act 205 of 1984), 53 P.S. §895.101 et seq, as the same may be amended from time to time.

(c) **"Actuarial Equivalent"** means a benefit or amount of equivalent actuarial value computed, except as otherwise specified herein, on the basis of the 1983 Group Annuity Mortality Table for Males, and interest at eight percent (8%) per annum.

(d) **"Actuarially Sound"** means a Plan that is being funded annually at a level not lower than the financial requirements of the Plan pursuant to Act 205.

(e) **"Actuary"** means the person, partnership, association or corporation that at any given time serves as Actuary to the plan; provided that such Actuary must be an "Approved Actuary" as defined in Act 205.

(f) **"Age"** means the age of a Participant calculated as of his/her last birthday.

(g) **"Board"** means the Officers' and Employees' Retirement Board, which shall be established and function in accordance with Sections 145.03 and 145.14.

(h) **"City"** means the City of Erie, Pennsylvania.

(i) "**City Council"** or **"Council"** means the governing body of the Employer.

(j) **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

(k) **"Compensation"** with respect to any Participant means such Participant's wages as defined in Code Section 3401(a) and all other payments of compensation by the City (in the course of the City's business) for a Plan Year for which the City is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. "Compensation" must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). Compensation shall include contributions "picked up" under Section 145.05(b).

(l) **"Disability Retirement Benefit"** shall have the meaning specified in Section 145.07(f).

(m) The **"Effective Date"** of this Amendment and Restatement of the Plan is January 1, 2010, except where otherwise specified in this Plan.

(n) **"Employee"** means any non-uniformed officer or employee of the City who is duly hired, appointed or elected to a permanent position, other than uniformed firemen and policemen. This definition shall not include any persons hired, elected or appointed for the first time to City service on less than a full-time basis after the effective date of Ordinance 26, 1992, passed May 20, 1992, such as members of Council.

(o) **"Employer"** means the City of Erie.

(p) **"Final Pay"** means a Participant's Compensation paid by the City in the form of regular pay, longevity increments, holiday pay, overtime pay, shift differential pay and contributions to the Plan by the Participant which are "picked up" by the City under Code Section 414(h)(2), but excluding sell back of unused sick leave pay, sell back of unused vacation time, clothing allowance and cleaning allowance, at the greater of: (i) the annual rate in effect at the earlier of the time of the Participant's termination of employment or retirement under the Plan, or (ii) the highest average annual Compensation within the meaning of subparagraph (k) which the Participant received during any five (5) Plan Years of the Participant's Service with the City prior to the Participant's termination of employment or retirement. Effective as of January 1, 1998, Final Pay includes elective amounts of Compensation not included in income by reason of Code Sections 125, 132(f)(4), 401(k), 402(g)(3), 403(b) or 457(b).

The Final Pay which is taken into account in determining benefit accruals in any Plan Year for each Employee who first became a Participant in the Plan on or after January 1, 1989 is subject to the annual limits of Code Section 401(a)(17), which specifies $200,000 for the Plan Years 1989 through 1993, reduced by OBRA-1993 to $150,000 for the 1994 Plan Year, increased to $160,000 for the 1996 Plan Year, and as adjusted for the cost-of-living in accordance with Code Section 401(a)(17)(B) to $200,000 for the 2002 Plan Year. The $200,000 limit on Compensation included in Final Pay shall be adjusted after the 2002 Plan Year for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Family Aggregation rules do not apply for Plan years beginning after December 31, 1996.

(q) **"Intervening Uniformed Service"** means honorable active duty service in the Uniformed Services by a Participant for up to five years (subject to extension of such 5-year period as permitted by USERRA), whether on a voluntary or involuntary basis, and who returns to the employ of the Employer at the conclusion of such Uniformed Service within the Report-Back Period permitted by USERRA.

(r) **"Normal Retirement Benefit"** shall have the meaning specified in Section 145.07(a).

(s) **"Normal Retirement Date"** means the date on which a Participant shall have accrued twenty (20) years of Service as an Employee of the Employer, and who shall have attained the age of fifty-five (55) years.

(t) **"Participant"** means any Employee who is contributing to the Pension Fund out of his/her Compensation the amounts required by Section 145.05(b).

(u) **"Pension Fund"** shall mean the assets of this Plan administered under the terms of this Plan and Act 205, and which shall include all money, property, investments, policies and contracts that are a part of the Plan, which shall be held in trust by the City according to the laws of the Commonwealth of Pennsylvania.

(v) **"Pick-Up Contributions"** means Employee Contributions otherwise due from Participants in the Plan that are made by the City on a pre-federal (but not pre-Pennsylvania) income tax basis pursuant to Subsection 414(h)(2) of the Code commencing January 1, 1994.

(w) **"Plan"** means the defined benefit pension plan set forth in this Article 145 (including any trust forming a part hereof), as amended and supplemented from time to time, all of which shall be known as the City of Erie Officers' and Employees' Retirement Plan.

(x) **"Plan Administrator"** shall be the Board which is designated as the Plan Administrator in Subsection 145.03 below.

(y) **"Plan Year"** means each twelve (12) month period beginning on January 1st and ending on the following December 31st.

(z) **"Preparation Time"** means the reasonable period that the Employee may need after leaving his/her position with the Employer to put his/her affairs in order, or to prepare or travel for duty in one of the Uniformed Services as allowed under USERRA.

(aa) **"Prior Military Service"** means service on active duty in the U.S. Armed Forces completed prior to the Participant's initial employment by the Employer as an Employee, as evidenced by a Department of Defense Form 214 issued to the Participant.

(bb) **"Repayment Period"** means the period following the re-employment by the Employer of a Participant after Intervening Uniformed Service within which the Participant must repay to the Plan (1) any Employee Contributions which the Participant withdrew from the Plan in connection with such Intervening Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (2) the amount of any Employee Contributions otherwise due to the Plan during the Participant's Intervening Uniformed Service and related Report-Back Periods, without interest, provided that the Participant remains employed with the Employer throughout such Repayment Period. This Repayment Period equals three (3) times the period of the Participant's Uniformed Service, but not more than five (5) years.

(cc) **"Report-Back Period"** means the period allowed under USERRA for a Participant to report back to work or apply for re-employment with the Employer after completion of Intervening Uniformed Service. Depending on the length of the Participant's Intervening Uniformed Service, s/he is allowed up to ninety days following completion of Intervening Uniformed Service to apply for re-employment or report back to work at the Employer. This Report-Back Period is extended for the period that is necessary (up to two years) for a Participant to recover from an illness or injury incurred in or aggravated during Uniformed Service.

(dd) **"Retirement Benefit"** means the total monthly retirement benefit payable to a Participant under Sections 145.06 and 145.07 below.

(ee) **"Retirement Date"** means the first day coincident with or following a Participant's 55th birthday and termination of employment with a Normal Retirement Benefit or the first day coincident with or following a Participant's 60th birthday and termination of employment with a Vested Reduced Retirement Benefit.

(ff) **"Service"** means the total number of full years during which a Participant was an Employee of the Employer and made the required contributions to the Plan from Compensation paid by the City, or with respect to Prior Military Service or Intervening Uniformed Service which the Participant purchased or was credited under Sections 145.05(c) or (d) below. Service does not include any period for which the Participant's contributions were refunded and not timely repaid to the Fund. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan except as provided in the case of purchase of Prior Military Service or Intervening Uniformed Service under Sections 145.05(c) or (d) below. No Participant may purchase Service credit for any period of active duty Military or Uniformed Service under this Plan with respect to which s/he purchases or has purchased similar credit under any other pension plan of the Commonwealth of Pennsylvania or its subdivisions in which s/he is a Participant.

(gg) **"Service Increment"** means the component of monthly Retirement Benefit attributable to full years of Service above twenty (20), pursuant to Section 145.07(a)(2) below. (Ord. 3-2011. Passed 1-19-11.)

(hh) **"Surviving Spouse"** if married prior to retirement means a living individual who was legally married to the Participant and is married to the Participant at the time of the Participant's death. If married post-retirement- a living individual who was legally married to the Participant and is married to the Participant at the time of the Participant's death and for the twelve months immediately preceding the participant's death.

(ii) **"Survivor"** means the Participant's Surviving Spouse. If there is no Surviving Spouse following the death of the Participant, or at the subsequent death of the Surviving Spouse, "Survivor" shall mean the surviving children of the deceased Participant in equal shares so long as they are under the age of eighteen (18). (Ord. 27-2014. Passed 8-6-14.)

(jj) **"Uniformed Service"** and **"Uniformed Services"** means active duty in the Armed Forces of the United States (which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and National Guard and their Reserve components), the Army National Guard and the Air National Guard when engaged in active duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency, or specified in regulations promulgated under USERRA, together with any period for which an Employee is absent from the employ of the Employer for a determination of the Employee's fitness to perform any such duty or for the purpose of performing funeral honors duty as authorized by 10 USCS §12503 or 32 USCS §115. Uniformed Service shall also include any related Preparation Time. If an Employee is dismissed or separated from Uniformed Service under other than honorable conditions that related period of Uniformed Service shall not be credited as Service under the Plan.

(kk) **"USERRA"** means the Uniformed Services and Reemployment Rights Act of 1994, 38 USC §§4301 et seq., as amended from time to time.

(ll) "**Vested Benefit"** and **"Vested Reduced Benefit"** means Participants shall be vested in the Retirement Benefit that they have accrued in the Plan after at least twelve (12) years of Service. Being "vested" means that the Accrued Retirement Benefit to which the Participant is credited as of any date cannot be forfeited unless the Participant dies without a Survivor. In that event any undistributed Employee Contributions shall be refunded to the Participant's Estate, without interest. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan, except as required by USERRA.

The Vested Reduced Benefit to which a Participant who has completed the minimum number of years of Service required for vesting is calculated by multiplying the Normal Retirement Benefit to which the Participant would be entitled at age sixty (60) if s/he had completed twenty (20) years of Service (but using the actual Final Pay which the Participant had received to the date his/her employment by the City was terminated) by the fraction determined by dividing the Participant's actual full years of Service by twenty (20), provided that the amount of such monthly Retirement Benefit shall be reduced by three percent (3%) for the remainder of the twenty (20)-year period of Service which would have been required for the Participant to receive an unreduced Normal Retirement Benefit. In the event that the City terminates the Plan or discontinues making contributions to it, the Accrued Retirement Benefit of all Participants shall become fully vested, to the extent funded, regardless of the Participant's years of Service. (Ord. 3-2011. Passed 1-19-11.)

145.03 ESTABLISHMENT OF RETIREMENT BOARD, MEMBERSHIP, DUTIES, TERM.

(a) There is hereby established the Officers' and Employees' Retirement Board which shall consist of the Mayor, the City Controller, the Business Administrator, such Administrator having the same functions as the Director of Finance as set forth in Pennsylvania's Third Class City Code, a member of Council chosen by Council, three employees to be chosen by the Participants contributing to the Retirement Fund; and a retired City employee receiving a City Pension under the Plan, such appointment to be made by the Mayor from any name or names submitted by the Erie City Retirees Association, subject to confirmation by Council. Where a retired City Employee Association exists, nominations for appointment shall be accepted by the Mayor and Council. It shall be the duty of the Board to register all persons employed by the City on a permanent, full-time basis, as provided for by ordinance, other than firemen and policemen, and to administer the collections and distributions of the Fund herein provided for, and make such reasonable rules in the premises as the Board may deem necessary to carry into effect the provisions of this Article. A majority of the members of the Board shall constitute a quorum.

(b) The three (3) employees chosen by the Participants contributing to the Retirement Fund shall serve a term of four (4) years. In the event that an employee so elected is unable to complete his/her term and a vacancy exists, then an employee shall be elected by the Participants contributing to the Retirement System to fill such unexpired term.

(1) The first regular election shall take place in September of 1989, and in September of every fourth year thereafter.

(2) Each of the bargaining units representing the blue collar, white collar and fire non-suppression civilian employees shall make their respective nominations for members to be elected to the Board from the floor at their respective meetings, with acceptance of such nomination in person or by the nominee's formal written notice given at the time of nomination. Each of such bargaining units shall submit their nominations to the Board prior to September 1 of the year of the election.

(3) The Board shall give proper notice of the individuals nominated for election to the Board to all eligible voting Participants at least fifteen (15) days prior to each election.

(4) Elections shall be by secret ballot or by voting machine, with provisions affording all eligible voting participants the opportunity to vote.

(5) Eligible voting Participants shall have the opportunity to vote for three (3) individuals, with the individual receiving the highest number of votes cast for the nominee of the blue collar bargaining unit employees to be declared elected, the individual receiving the highest number of votes cast for the nominee of the white collar bargaining unit employees to be declared elected, and the individual receiving the highest number of votes cast for the nominee of the fire nonsuppression civilian employees under the Firefighters' union collective bargaining agreement to be declared elected.

In the event that no fire nonsuppression civilian employees under the Firefighters' union collective bargaining unit participate in the Plan the number of representatives elected by Participants contributing to the Plan shall be reduced to two (2) individuals, one a member of the white collar bargaining unit and the other a member of the blue collar bargaining unit.

(6) Those individuals so elected shall take office at the first meeting of the Officers and Employees Retirement Board held in January of the year following such election.

(c) It shall be the duty of the Board to receive and retain and, when deemed advisable, to invest the funds payable in accordance with the provisions of this Article and to pay the amount of Retirement Benefits due to the Participants.
(Ord. 3-2011. Passed 1-19-11.)

145.04 DUTIES OF HEADS OF DEPARTMENTS AND OFFICES.

The head of every department and office employing persons entitled under the provisions of this Article to receive a Retirement Benefit shall certify to the Board all persons so employed and the amount of compensation which is paid to each employee, together with dismissals, resignations or terminations of service, and from the records of their office or department shall furnish such other relevant information as the Board shall require.
(Ord. 3-2011. Passed 1-19-11.)

145.05 CONTRIBUTIONS

(a) Contributions by Employer: Out of all taxes and income of the City, Council shall annually set aside and appropriate to the Board a sum sufficient to maintain the Retirement Benefits due under this Article and to satisfy the minimum funding standards of Act 205 of 1984.

(b) Participant Contributions: Participant contributions to the Pension Fund shall be made as follows:

(1) All officers and employees of the City shall pay into such Fund monthly an amount equal to six and one-half (6½%) percent of their monthly Compensation, which shall be applied to the purpose of this Article.

(2) If any Retirement Benefit is granted to a person who has not been a contributor to the Fund for an aggregate period of twenty (20) years, such person shall be required to pay to the Board for the benefit of the Fund monthly an amount equal to three percent (3%) of his/her Retirement Benefit deducted from his/her monthly Retirement Benefit, until such time as his contributions shall have been extended to a period of twenty (20) years.

(3) No Participant shall have the option of choosing to receive these contributions in cash instead of having them paid by the Employer to the Plan. No Participant shall be allowed to withdraw his/her contributions from the Retirement Fund while employed by the City.

(4) Commencement of Contributions: Contributions shall commence by payroll deductions upon registration by the Board of persons employed by the City on a permanent, full-time basis in accordance with Subsection 145.03(a). No officer or individual in the administration of the City has authority to countermand this requirement for automatic payroll deduction of Employee contributions to the Plan.

(5) Discontinuance of Contributions: Contributions shall discontinue at Retirement, death, termination of employment or change of employment status to part-time.

(6) Refund of Contributions: If the employment by the City of a Participant who has not reached the age of fifty-five (55) is terminated, voluntarily or involuntarily, prior to accruing twenty (20) Years of Service, upon application to the Board s/he shall be entitled to the refund of his/her Participant Contributions, without interest, in accordance with the provisions of Subsection 145.08.

(7) Pick-Up Contributions: Effective January 1, 1994, contributions to the Retirement Fund by Participants shall be picked-up by the City under Code Section 414(h)(2). Contributions picked-up under this Code Section shall be considered Employee contributions for all other purposes.

(8) Any Participant receiving either Workers' Compensation or long-term sickness and accident benefits shall return to the Fund his/her contributions owed during the period of such disability or illness prior to his/her Retirement Date, or the Board shall deduct any amounts which a Participant owes under this subparagraph from Retirement Benefits payable hereunder.

(9) All Contributions made to the Pension Fund by Participants pursuant to this subsection 145.05(b) shall be separately accounted for each Participant.

(c) Purchase of Prior Military Service.

(1) Any Participant who is a contributor to the Plan and who has served in the Armed Forces of the United States subsequent to September 1, 1940, but who was not a Participant in the Plan prior to such Military Service, shall be entitled to purchase Military Service for credit toward the accrual of a full pension under the Plan in accordance with the definition of Normal Retirement Benefit and the provisions of this subparagraph for and the provisions of this subparagraph for each year or fraction thereof, not to exceed five years of such Prior Military Service. Credit for Service under the Plan for Prior Military Service shall be given only upon payment to the Pension Fund by the Participant of an amount equal to (i) six percent (6%) (three percent (3%) if hired before January 1, 1976) of the Participant's monthly Compensation determined at the time of his/her initial employment by the City during the period of Prior Military Service for which the Participant desires credit for Service

under the Plan, and (ii) the contributions which the City would have otherwise paid on account of such Prior Military Service. Participants electing to purchase Service credit for Military Service in the Armed Forces of the United States subsequent to September 1, 1940, shall make such election in writing within six months of employment by the City, and shall pay the total sum to the Pension Fund within twenty-four (24) months of the date of their election.

(2) However, for any Participant hired on or after December 1, 2006 such purchased Prior Military Service shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(3) No Participant may purchase Service credit for any period of active duty military service under this Plan with respect to which s/he purchases or has purchased similar credit under any other pension plan of the Commonwealth of Pennsylvania in which s/he is a Participant.

(d) Credit for and Purchase of Intervening Uniformed Service.

(1) A former Employee who serves more than five (5) years in Intervening Uniformed Service (not counting any related Report-Back Period and necessary Preparation Time included in such Uniformed Service) does not have any right under USERRA to be re-employed by the Employer or to receive Service credit under the Plan for such Uniformed Service. However, the five (5) year service limit is extended under the Final Regulations issued by the Department of Labor under USERRA for additional periods of active duty in the Uniformed Services required by military necessity, national emergency or in support of a critical mission of the Uniformed Service, and not within the control of the former Participant.

(2) Upon re-employment by the Employer of a Participant after completing a period of Intervening Uniformed Service following application within the Report-Back Period the Participant has the option (i) to repay any amounts previously withdrawn by the Participant from the Plan in connection with such Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (ii) to make-up any Employee Contributions that would have been due to the Plan during such period of Intervening Uniformed Service and related Report Back Period, without interest.

(3) The Employee's rate of pay and required contribution rate during said Intervening Uniformed Service and Report-Back Periods shall be calculated using the rate of pay that the Employee would have received and the contribution rate that the Employee would have been required to make had s/he not been absent during such intervening Uniformed Service and Report-Back periods, or if not reasonably certain, then it shall be the Employee's average level of Compensation and rate of contribution during the twelve (12)-month or shorter period of employment immediately preceding his/her Intervening Uniformed Service.

(4) The Participant has the Repayment Period within which to repay to the Plan any such Employee withdrawals with interest and such Employee make-up Contributions without interest.

(5) At the time of, and to the extent of, the Participant's repayment to the Plan of any such Employee withdrawals with interest and of such Employee make-up Contributions without interest, the Employer shall pay the Employer Contributions to the Plan that relate to and are contingent upon the Participant's restoration to the Plan of the Employee Contributions withdrawn in connection with or otherwise due during such Intervening Uniformed Service and Report-Back Periods.

(6) However, any Intervening Uniformed Service for which any Participant hired on or after December 1, 2006 makes up Employee Contributions within the Repayment Period shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(7) To the extent that the preceding conditions are met within the Repayment Period the effect of intervening Uniformed Service and related Report-Back Periods upon the Retirement Benefit of a Participant retiring from the Plan shall be the same as though the Participant had remained continuously employed by the Employer during such Periods.

(8) No Participant may purchase Service credit for any period of active duty military service under this Plan with respect to which s/he purchases or has purchased similar credit under any other pension plan of the Commonwealth of Pennsylvania in which s/he is a Participant.

(e) Forfeitures. Upon the forfeiture of any non-vested portion of a Participant's Accrued Benefit, or of any other amount payable hereunder, the amount of such forfeiture shall be credited against the future contributions of the Employer under the Plan.
(Ord. 3-2011. Passed 1-19-11.)

145.06 RETIREMENT ELIGIBILITY

(a) Normal Retirement: Upon application to the Board, each Participant who retires from the employ of the Employer shall be entitled to receive the benefits provided for in Subsection 145.07(a) commencing on the day after the Participant's employment is terminated, provided that no retirement benefits are payable for any period prior to the Board's receipt of the Participant's application.

(b) Late Retirement: A Participant who remains in the employ of the Employer after his Normal Retirement Date shall continue to be a Participant in the Plan until his/her actual Retirement Date ("Late Retirement Date") and shall be entitled to receive the benefit provided for in Subsection 145.07(c).

(c) Total and Permanent Disability Retirement: As specified in Subsection 145.07(d).

(d) Vesting: A Participant whose employment is terminated after completing at least twelve (12) years of Service shall be entitled to the Vested Reduced Retirement Benefit set forth in Subsection 145.07(d), but in the case of Participants hired on or after December 1, 2006, excluding Prior Military Service and Intervening Uniformed Service purchased prior to the completion of twelve (12) years of non-Military and non-Uniformed Service, unless ortherwise required by applicable law.

145.07 RETIREMENT BENEFITS.

(a) Normal Retirement Benefit: The amount of monthly retirement benefit to be provided for each Participant who retires on or after accruing twenty (20) years on active duty as an Employee of the Employer and reaching the age of fifty-five (55) years shall be equal to:

(1) Fifty percent (50%) of 1/12 of the Participant's Final Pay, plus

(2) A Service Increment of 1/40 of fifty percent (50%) of 1/12 of the Participant's Final Pay for each full year of Service after twenty (20) years.

This benefit is referred to herein as a Participant's Normal Retirement Benefit.

(b) Normal Form of Benefit: The Normal Retirement Benefit payable to a Retired Participant pursuant to Subsection 147.05(a) shall be a monthly pension commencing on his/her Retirement Date and continuing for the remainder of his/her life. Upon the death of the Participant his/her Survivor shall be entitled to the reduced monthly Retirement Benefit provided by Section 145.09 hereof.

(c) Late Retirement Benefit: A Participant who remains in the employ of the Employer beyond his/her Normal Retirement Date shall be entitled to receive, commencing on his/her Late Retirement Date, the benefit calculated pursuant to Subsection 145.07(a), considering his/her Final Pay as of his/her Late Retirement Date.

(d) Vested Reduced Benefit: A Participant whose tenure of office or employment is terminated before the completion of twenty (20) years of Service and attainment of age sixty (60) shall be entitled to receive such portion of the Normal Retirement Benefit as the period of his/her Service to the date of its termination bears to the full twenty (20)-year period of Service required for a Normal Retirement Benefit, payable commencing not earlier than his/her attainment of age sixty (60), provided that the amount of such monthly Retirement Benefit shall be reduced by three percent (3%) for the remainder of the twenty (20)-year period of Service which would have been required for the Participant to receive an unreduced Normal Retirement Benefit, and provided further that the Participant had completed at least twelve (12) years of Service at the time of his/her termination of office or of employment, but in the case of Participants hired on or after December 1, 2006, excluding Prior Military Service and Intervening Uniformed Service purchased prior to the completion of twelve (12) years of non-Military and non-Uniformed Service, unless otherwise required by applicable law. Periods of suspension, leave of absence, layoff or part-time status do not interrupt Service but are not credited to the accrual of Retirement Benefits payable under the Plan.

(e) Full Vested Benefit After Twenty (20) Years of Service. Where an officer or employee has served for twenty (20) years or more, and his/her tenure of office or employment shall be terminated either voluntarily or involuntarily, s/he shall be entitled to full retirement benefits for the remainder of his/her life, after attaining age fifty-five (55), and conditioned upon his/her continuing his contributions into the Fund at the same rate as when his/her employment was terminated until he/she attains age fifty-five (55). Such officer or employee shall not be entitled to a refund of his/her contributions except as provided in Section 145.08(d).

(f) Disability Retirement Benefit.

(1) Should an officer or employee become so permanently disabled as to be unable to perform the duties of his/her position or office after fifteen (15) years of Service, s/he shall be entitled to full retirement benefit during such permanent disability, provided that such permanent disability was not caused by a pre-employment condition. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the Board, that the employee is in a condition of health which would permanently disable him/her from performing the duties of his/her position or office. Such person shall thereafter be subject to physical examination at any reasonable time upon order of the Board. Upon his/her refusal to submit to any such examination, his/her pension shall cease.

(2) New employees hired by the City on and after October 22, 1975, shall not be entitled to include credit for Prior Military Service purchased under Section 145.05(c) toward the Service required for a Disability Retirement Benefit.

(Ord. 3-2011. Passed 1-19-11.)

(g) A Deferred Retirement Option Plan, shall be effective beginning in 2014 for any participants in the Officers and Employees Retirement Plan ("DROP") who have reached the age of 62 years and otherwise qualify under the terms of the aforesaid Agreement to commence such a DROP agreement no sooner than August 1 of any year for a term of no more than three years; during which their pension payments shall accumulate in a DROP account while the employee continues employment while accruing no further pension time through the actual termination of service. (Ord. 7-2014. Passed 2-5-14.)

145.08 REFUNDS OF CONTRIBUTIONS.

(a) Participants Terminating Employment With Less Than Twelve (12) Years of Service: Any Participant who shall cease to be employed by the City after completing less than twelve (12) years of Service shall, upon application to the Board and submission of the required executed termination forms, be entitled to receive a refund of the total amount of his/her contributions to the Fund, including Pick-up Contributions, but without interest.

(b) Participants Terminating Employment Under Age Fifty-Five (55) With At Least Twelve (12) But Less Than Twenty (20) Years of Service: Any Participant who has not reached the age of fifty-five (55) who shall cease to be employed by the City after completing at least twelve (12), but less than twenty (20), years of Service, shall be entitled to receive a refund of the total amount of his/her contributions to the Fund, without interest, upon application to the Board and submission of the required executed termination forms. If the Participant is married the Participant and the Participant's spouse must execute a release of all rights to Pension Benefits.

(c) Re-Entry Into City Service: Any Participant who has ceased to be employed by the City and who has applied for and received a refund of his/her contributions to the Fund pursuant to subparagraph (a) or (b) hereof who shall afterward re-enter the Service of the City, shall not be entitled to the retirement benefit designated unless s/he shall return to the Fund the amount withdrawn within two years from the date of re-entry into the Service of the City, in which event the required period of Service under this Article shall be computed from the time s/he first entered the Service of the City, but excluding his/her period of absence from the Service of the City; otherwise the date of his/her period of Service shall commence upon re-entry.

(d) Refund of Participant's Undistributed Contributions on Death: In the event of the death of a Participant, and in the case of a married Participant, the death of his/her surviving spouse or the death of his/her/their surviving children prior to their attaining age eighteen (18), any excess of the total amount of the Participant's contributions to the Plan, including Pick-Up Contributions, without interest, over the total of all benefits distributed from the Plan to the Participant, to his/her surviving spouse and to his/her/their surviving children prior to the death of the last survivor, shall be paid to the Participant's designated beneficiary, and if no beneficiary has been designated, to his/her estate, provided, that in case payment of the deceased Participant's retirement benefits is subject to a domestic relations order in favor of a former spouse, no refund of the benefits undistributed from the Plan shall be made to the Participant's designated beneficiary or estate until all obligations of the Plan to the Participant's former spouse under the domestic relations order are satisfied, and the amount of refund owing from the Plan to the Participant's designated beneficiary or estate for undistributed benefits under this paragraph shall be calculated after deducting all payments made from the Plan to the Participant's former spouse under the domestic relations order, as well as the payments made from the Plan to the Participant, his/her surviving spouse and his/her/their surviving children prior to the death of the last survivor.

(e) Refund of Participant's Contributions Forfeits Right to Retirement Benefits: Any Participant who applies for and receives a refund of his/her contributions to the Fund thereby gives up and forfeits all rights to receive any further Retirement Benefits under the Plan unless he/she restores such withdrawn contributions to the Fund in accordance with subsection (c) hereof.

(f) Re-employment of Terminated Vested Participant: Upon re-employment by the City in a permanent, full-time position of any Participant who has terminated his/her Service with a vested right to receive or who is receiving a Retirement Benefit under this Plan, such Participant must suspend the right to receive Retirement Benefits hereunder while again participating in this Plan as an Employee of the City until his/her ultimate termination of Service, at which time his/her Retirement Benefit shall be calculated and paid on the basis of his/her age and total years of Service accrued to the date of his/her ultimate termination of Service. (Ord. 3-2011. Passed 1-19-11.)

145.09 PENSION FOR SURVIVORS OF CITY EMPLOYEES.

(a) The surviving spouse of a Participant who dies after completing at least twelve (12) years of Service shall be entitled to receive a Pension Benefit commencing upon the Participant's death equal to one-half of the Retirement Benefit which the Participant had accrued to his date of death, determined by the fraction which the Participant's years of Service up to his/her date of death bears to the full twenty (20)-year period of Service required for a full Normal Retirement Benefit, regardless of the Participant's age at death. The amount of the Pension Benefit payable to the Participant's surviving spouse shall be reduced by three percent (3%) for the remainder of the twenty (20)-year period of Service otherwise required for the Participant to have qualified for a full Normal Retirement Benefit. The surviving spouse of a City employee killed in the line of duty during the course of his or her employment with the City of Erie shall receive a Pension Benefit payable commencing upon the Participant's death equal to twenty-five percent (25%) of the annual Compensation such employee was receiving at the time of his or her death.

(b) Should the surviving spouse remarry, his/her right to a Pension Benefit under this section shall cease. If a deceased Participant is not survived by a spouse or is survived by a spouse who subsequently becomes deceased or remarries, and the deceased Participant is survived by children under the age of eighteen (18) years, a Pension Benefit calculated at fifty percent (50%) of the Pension the Participant was entitled to receive under the provisions of this Article at the time of his/her death, shall be payable to and divided equally among his/her surviving children under the age of eighteen (18) years. The payee of a deceased Participant under this Section, whether surviving spouse or surviving children under age eighteen (18), is referred to herein as a "Survivor" of the deceased Participant.

(c) In the event a distribution is to be made to a minor, then the Board shall direct that such distribution be paid to the guardian of the estate of, or if none, to the trustee for, or if none, to a parent of, such minor, or if no parent survives, then to a responsible adult with whom such minor resides. Payment to such guardian, trustee or parent of a minor, or responsible adult with whom the minor resides, shall fully discharge the Board, Employer and Plan from liability on account thereof.
(Ord. 3-2011. Passed 1-19-11.)

145.10 INCREASE OF RETIREMENT BENEFITS AFTER RETIREMENT.

(a) Persons receiving Retirement Benefits from the Officers' and Employees' Retirement System of the City by reason of and after the termination of twenty (20) years service with the City whose monthly pension is less than two hundred dollars ($200.00) shall have their pension benefit increased by fifteen dollars ($15.00) per month but in no event will such increase be more than that which is sufficient to bring their total City monthly pension benefit to two hundred dollars ($200.00) effective on April 1, 1973.

(b) Persons receiving Retirement Benefits from the Officers' and Employees' Retirement System of the City by reason of and after the completion of twelve (12) years service and before the completion of twenty (20) years service shall have the Retirement Benefits provided by subsection (a) hereof computed on the same basis as the computation for Service up to date of termination bears to the full twenty (20) year period of Service.

(c) Surviving spouses of retired Participants whose monthly pension is less than one hundred dollars ($100.00) as of March 14, 1973 shall have their Retirement Benefit increased by seven dollars and fifty cents ($7.50) per month but in no event shall such increase be more than that which is sufficient to bring their total City monthly pension to one hundred dollars ($100.00) as of April 1, 1973.

(d) Effective January 1, 2005, the monthly Retirement Benefit payable to retired Participants and the spouses of deceased Participants who were receiving Retirement Benefits as of January 1, 2004, shall be increased by three dollars ($3.00) per month for each full year that elapsed from the date on which the retired Participant and/or the spouse of a deceased Participant commenced receiving Retirement Benefits under the Plan to January 1, 2004; provided, however, that no person shall be entitled to an increase in the Retirement Benefit payable hereunder which exceeds the increase in the Consumer Price Index between the year in which such person commenced receiving Retirement Benefits hereunder and the Consumer Price Index as of January, 2004, and provided further that the increase in the monthly Retirement

Benefit provided by this subsection shall not be paid to any retired Participant or spouse of a deceased retired Participant who retired as an employee of the City of Erie Water Authority until and unless the City of Erie Water Authority contributes to the Fund the monies required to pay the cost of this increase for such Participant (and his/her spouse in the case of deceased Participants) who retired as employees of said Authority.

(e) The Board may, subject to the approval required under subsection (f) hereof, increase the retirement benefit of any member of the Fund by reason of and after the termination of the services of such member of the Fund. Such increases shall be in conformity with a uniform scale, which shall be based on the Consumer Price Index for all urban consumers calculated by the Bureau of Labor Statistics of the United States Department of Labor, but the total of any such allowance shall not at any time exceed one-half of the current salary being paid to non-Uniformed employees of the highest pay grade.

(f) The Board may recommend the increase described in subsection (e) hereof to Council at any time. Provided that the provisions of Act 205 of 1984 have been satisfied, Council, by ordinance, may approve this increase subject, however, to the approval of the Mayor.
(Ord. 3-2011. Passed 1-19-11.)

145.11 PENSION EXEMPT FROM ATTACHMENT OR EXECUTION; NONASSIGNABLE.

The Retirement Benefits herein provided for shall not be subject to attachment or execution and shall be payable only to the beneficiary designated by this Article and shall not be subject to assignment or transfer, except for what is recognized pursuant to State law support provisions or as a "qualified domestic relations order". However, the Participant's Contributions to the Fund are subject to assignment prior to the Participant's completion of the number of years of Service necessary to have a Vested Benefit in the Plan, but any such assignment shall be void and of no effect upon the Participant's becoming vested in a Retirement Benefit.
(Ord. 3-2011. Passed 1-19-11.)

145.12 WATER AUTHORITY EMPLOYEES ELECTION.

(a) (1) An employee of a water authority created by a City that commenced operations after September 30, 1991, who satisfies the requirements of subsection (a)(2) hereof, may file a written election with the Board and the Water Authority to remain, or return as, a member of the retirement system established pursuant to Act 49 of 1992 approved June 10, 1992. The qualified employee shall file the written election within one year after the effective date of this section, which was August 10, 1992, or within one year after becoming an employee of the water authority, whichever is later.

(2) In order to qualify for the option under subsection (a)(1) hereof, an employee shall satisfy both of the following requirements when becoming an employee of the Water Authority:

A. Be an employee of the City that established the water authority; and

B. Be an active member of the City's retirement system established pursuant to said Act 49 of 1992.

(3) For any employee who files an election under subsection (a)(1) hereof, the affected water authority shall:

A. Deduct from the employee's salary an amount equal to the employee contribution that would have been deducted had the employee continued to be a City employee and shall pay the deducted amount to the Fund; and

B. Pay to the Fund an employer contribution equal to the employer normal cost plus anticipated administrative expenses and amortization, pursuant to Act 205 of 1984,as subsequently amended and applied to the payroll of the employee.

(b) All employees who elect to remain in the retirement system shall be treated as City employees in determining the City's annual allocation of general municipal pension system State aid pursuant to Section 402(e) of Act 205 of 1984.
(Ord. 3-2011. Passed 1-19-11.)

145.13 CONTROLLING PROVISIONS OF THE INTERNAL REVENUE CODE.

(a) Qualification of Plan Under Internal Revenue Code. In order to be entitled to favorable income tax treatment available under federal law, this Plan is intended to be qualified under the provisions of the Internal Revenue Code of 1986 (the "Code"). In the event of any inconsistency between the provisions of this Section and any other provisions of Article 145, this Section shall control, and shall apply to all Participants regardless of whether they retired under the Plan or terminated their employment with the City before the Effective Date.

(b) Limitations on Benefits - Code Section 415.

(1) This Section 145.13(b) is intended to comply with the limitations of Code Section 415 as interpreted by final regulations issued on April 5, 2007 generally effective for Limitation Years beginning on and after July 1, 2007, and this Section 145.13(b) shall be applied and interpreted accordingly. Notwithstanding any contrary provisions, and in accordance with said final regulations under Code Section 415, the application of this Section 145.13(b) shall not reduce the amount of Accrued Retirement Benefit below the amount of benefit payable or accrued as of the last day of the Limitation Year immediately prior to the effective date of said final regulations for the Plan, as determined under the provisions of the Plan adopted and in effect before April 5, 2007 to the extent the same were in compliance with the requirements of Code Section 415 in effect prior to the effective date of said final regulations for the Plan.

(2) The following words and phrases used in this Section 145.13 (b) shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Annual Addition means any Employee Contributions, other than Pick-Up Contributions, and other amounts treated as annual additions made to a Defined Contribution Plan under Code Section 415.

B. Code Section 415 Affiliated Employer means any entity required to be included with the Employer in a controlled group under Code Section 415(g) and (h).

C. Defined Benefit Plan means a plan described in Code Section 414(j) (and qualified under Code Section 401(a)).

D. Defined Contribution Plan means a plan described in Code Section 414(i) (and qualified under Code Section 401(a)).

E. Limitation Year means the Plan Year.

F. Section 415 Compensation means compensation determined as follows:

1. Section 415 Compensation means all amounts actually paid or made available to the Employee for services rendered to the Employer or a Code Section 415 Affiliated Company which are wages within the meaning of Code Section 3401(a) and all other payments of compensation for which the Employer is required to furnish a written statement to the Employee under Code Sections 6041(d), 6051(a)(3) and 6052 (for purposes of income tax reporting) determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed, plus elective deferrals and similar amounts that would have otherwise been wages and reportable but for Code Sections 125 (including "deemed section 125 compensation" as provided for and within the meaning of Revenue Ruling 2002 27), 132(f)(4), 402(e)(3), 402(h), 402(k), 403(b), 414(h), and 457(b).

2. Except as otherwise provided herein, Section 415 Compensation shall include only amounts paid or treated as paid under Code Section 415 before a severance of employment with the Employer and Code Section 415 Affiliated Employer.

3. An amount paid to an Employee after a severance of employment with the Employer and/or Code Section 415 Affiliated Employer that would otherwise be Section 415 compensation and that is paid by the later of two and one-half (2½) months after the severance from employment or the end of the calendar year that includes the date of severance from employment shall be included in Section 415 compensation if: (1) the amount is regular compensation for services during the Employee's regular working hours, or compensation for services outside of the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and the amount would have been paid to the Employee before a severance from employment if the

Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer; (2) the amount is payment for unused accrued bona fide sick, vacation, or other leave, and the employee would have been able to use the leave if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer; or (3) the amount is received pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer, but only to the extent said amount is includible in the Employee's gross income.

4. Notwithstanding the foregoing, the Section 415 Compensation taken into account for each Limitation Year shall not exceed $200,000, with said dollar amount proportionately reduced for any Limitation Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code Section 401(a)(17).

(3) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall not exceed $160,000 (and for this purpose, the annual amount of Accrued Retirement Benefit attributable to Employee Contributions shall be determined under Code Section 411(c) to the extent and in the manner required by Code Section 415).

(4) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall be deemed not to exceed the general limitation described in Section 145.13(b)(3) if:

A. Such Accrued Retirement Benefit does not exceed $10,000 at any time during the Limitation Year; and

B. The Participant has never participated in a Defined Contribution Plan maintained by the Employer or Code Section 415 Affiliated Employer (and for this purpose, and as provided for in final regulations under Code Section 415, the Employee Contributions shall not be considered to be a separate Defined Contribution Plan).

(5) If a Participant's benefit commencement date is before attainment of age sixty-two (62), the general dollar limitation described in Section 145.13(b)(3) shall be adjusted to an "age sixty-two (62) dollar limit" equal to the amount of a single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a deferred single life annuity at age sixty-two (62), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent (5%) per annum; provided however:

A. If the Plan has an immediate single life annuity payable both at age sixty-two (62) and the age at benefit commencement, the "age sixty-two (62) dollar limit" (if less than the foregoing age sixty-two (62) dollar limit) shall be equal to the general dollar limitation described in Section 145.13(b)(3) multiplied by the ratio of the amount of the immediate single life annuity payable under the Plan to the amount of single life annuity payable under the Plan at age sixty-two (62), with both said amounts determined without applying the limitations of Code § 415;

B. For purposes of determining the age sixty-two (62) dollar limit, no adjustment shall be made for the probability of the Participant's death after the benefit commencement date and before age sixty-two (62) to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date;

C. The reduction for payment before age sixty-two (62) shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness;

D. The reduction for payment before age sixty-two (62) shall not apply to a Participant who has at least fifteen (15) years of Service (taken into account for purposes of determining the amount of the Participant's Accrued Retirement Benefit) as a full-time employee of the police department or fire department of the Employer (regardless of job classification during said employment) or as a member of the Armed Forces of the United States; and

E. The age sixty-two (62) dollar limit shall not decrease on account of an increase in age or the performance of additional service.

(6) If a Participant's benefit commencement date is before attainment of age sixty-five (65), the general dollar limitation described in Section 145.13(b)(3) shall be adjusted to an "age sixty-five (65) dollar limit" equal to the amount of single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a single life annuity at age sixty-five (65), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent (5%)per annum; provided however,

A. If the Plan has an immediate single life annuity payable both at the benefit commencement date and at age sixty-five (65), the "age sixty-five (65) dollar limit" (if less than the foregoing age sixty-five (65) dollar limit) shall be equal to the general dollar limitation described in Section 145.13(b)(3) multiplied by the ratio of (1) the amount of the immediate single life annuity payable to the Participant, computed disregarding the accruals after age sixty-five (65), but including any actuarial adjustments, and without applying the limitations of Code Section 415 to (2) the amount of single life annuity that would be payable to an age sixty-five (65) hypothetical participant with the same accrued

benefit (with no increases for commencement after age sixty-five (65)) as the Participant, determined disregarding the accruals after age sixty-five (65) and without applying the limitations of Code Section 415; and

B. For purposes of determining the age sixty-five (65) dollar limit, no adjustment shall be made for the probability of the Participant's death after age sixty-five (65) and before the benefit commencement date to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date.

(7) If a Participant's Accrued Retirement Benefit is paid in a form other than a single life annuity (as otherwise may be provided for in the Plan), it shall be adjusted as follows to its actuarial equivalent on a single life annuity basis for the purpose of applying the general dollar limitation described in Section 145.13(b)(3), except that no adjustment shall be made for any joint and survivor annuity form of payment (where the spouse is the survivor annuitant) and for the value of any ancillary benefits:

A. For payment of Accrued Retirement Benefit in a form not subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greater of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under the single life annuity form of payment of the Plan; and
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity if determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent (5%) per annum.

B. For payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greatest of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors;
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent (5½%) per annum; and

3. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment (computed by using the applicable mortality table and applicable interest rate), divided by 1.05.

C. Notwithstanding any contrary provisions, for payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415) with a benefit commencement date falling in the Plan Years beginning in 2004 and 2005 (except as provided in section 101(d)(3) of the Pension Funding Equity Act of 2004), the actuarial equivalent single life annuity for this purpose shall be the greater of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors; and
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent per annum.

(8) If a Participant has less than ten (10) years of service, the general dollar limitation described in Section 145.13(b)(3) and the special dollar limitation described in Section 145.13(b)(4) shall each be multiplied by the ratio of the Participant's years of service to ten (10) but not by less than one tenth; provided, however, this adjustment shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness. For this purpose, a year of service shall be credited for each annual computation period in which the Participant is credited with the service required to accrue a benefit for the period taking into account service with the Employer (or a predecessor employer) and a Code Section 415 Affiliated Company.

(9) The general dollar limitation described in Section 145.13(b)(3) shall be adjusted by substituting as of January 1 of each calendar year and effective for the Limitation Year that ends in or with said calendar year, the limitation determined by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1). Such adjusted limitation shall apply to all Participants. Said adjustment shall be made for purposes of applying the limitations of this Section, regardless of whether the Plan actually provides for any cost-of-living adjustments for retirement benefits.

(10) If a Participant has multiple "annuity starting dates" within the meaning of Code Section 415, the limitations of this Section shall be applied as of each of the annuity starting dates taking into account the benefits that have been or will be provided at all of the annuity starting dates to the extent and in the manner required by Code Section 415.

(11) Notwithstanding any contrary provisions, the Annual Additions allocated to a Participant for any Limitation Year shall not exceed the lesser of:

A. $40,000, provided that as of January 1 of each calendar year and effective for the Limitation Year ending in or with said calendar year, the dollar amount as adjusted for cost of living increases by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1) shall be substituted for this specified dollar amount, and provided further, that said dollar amount for any Limitation Year shorter than twelve months shall be proportionately reduced; and

B. 100 percent of the Participant's Section 415 Compensation for the Limitation Year, (whether or not he is a Participant during the entire Limitation Year).

(12) For the purpose of applying the limitations of this Section 145.13(b), all Defined Benefit Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Benefit Plan, and all Defined Contribution Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Contribution Plan.

(13) If the Employer or any Code Section 415 Affiliated Employer maintains a multiemployer plan as defined in Code Section 414(f) (and qualified under Code § 401(a)), benefits under said multiemployer plan shall be taken into account only to the extent provided by contributions of the Employer or Code Section 415 Affiliated Employer.

(14) If this Plan is aggregated with a plan that is subject to the special limitation and/or transitional rules with respect to Code Section 415, satisfaction of the requirements of Code Section 415 shall be determined by reference to the larger of the limitations set forth in this Section 145.13(b) or the limitations applicable to said other plan in the manner provided for in Code Section 415.

(15) If the limitations imposed by this Section 145.13(b) and Code Section 415 are exceeded by reason of the aggregation of this Plan with a plan not previously required to be aggregated, said limitations may be exceeded, provided that the requirements of Code Section 415 for doing so are satisfied.

(16) If a Participant's Accrued Retirement Benefit must be reduced to satisfy the requirements set forth in this Section 145.13(b) and in Code Section 415, such reduction shall be accomplished first by reducing the Participant's Accrued Retirement Benefit under the Defined Benefit Plan in which the Participant is an active participant and then by reducing the Participant's retirement benefit under the other Defined Benefit Plans in which the Participant was an active participant, starting with the Defined Benefit Plan in which the Participant was last an active participant and moving, successively, and to the extent necessary, to the next preceding Defined Benefit Plan and so forth.

(17) If a Participant's Annual Additions must be reduced to satisfy the requirements set forth in this Section 145.13(b) and in Code Section 415, the Annual Addition last allocated shall be reduced.

(18) Notwithstanding any contrary provisions, a repayment of a distribution (including interest thereon) shall not be taken into account for purposes of this Section 145.13(b) and the limitations imposed by Code § 415.

(c) Required Payment Provisions - Code Section 401(a)(9).

(1) Notwithstanding any contrary provisions, the payment of benefits under the Plan shall be made in accordance with a reasonable good faith interpretation of Code § 401(a)(9). The provisions in this Section 145.13(c) shall be applicable to the extent a benefit is otherwise payable under the applicable substantive provisions of the Plan, and to the extent applicable, the provisions in this Section 145.13(c) shall supersede any inconsistent benefit payment provisions in the Plan.

(2) Payment of benefits to a Participant shall begin no later than the required beginning date of April 1 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 from employment by the Employer.

(3) A joint and survivor annuity form of payment with a survivor annuitant not the Participant's spouse shall be available to a Participant only if the percentage of the pension payable to the survivor annuitant on or after the Participant's required beginning date and following the Participant's death does not exceed the applicable percentage determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(4) A certain and life annuity form of payment shall be available to a Participant only if the certain period does not exceed the applicable distribution period under the Uniform Lifetime Table Treas. Reg. § 1.72 9 determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(5) If a Participant dies before the required beginning date, payment of benefits to a beneficiary:

A. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is the Participant's spouse and the sole designated beneficiary, shall be made or begin no later than the later of December 31 of the calendar year following the calendar year in which the Participant to whom such spouse was married died or December 31 of the calendar year in which such Participant would have attained age seventy and one-half (70½);

B. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is not the Participant's spouse, or if the Participant's spouse is not the sole designated beneficiary, shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death, or if paid for the life of, or for a period not exceeding the life expectancy of, the beneficiary, shall begin no later than December 31 of the calendar year following the calendar year in which the Participant died; and

C. If there is no designated beneficiary (within the meaning of Code Section 401(a)(9) as of September 30 of the calendar year following the calendar year in which the Participant died), shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death.

(6) If the designated beneficiary is the Participant's surviving spouse and is the sole designated beneficiary, and if the spouse dies after the Participant but before payment to the Participant's spouse is required to begin under this Section 149.13(c), this Section shall apply to the spouse as if the spouse were a participant without a spouse.

(7) If a Participant dies after payment has commenced to him/her under an annuity form of payment, any payments to be made thereafter shall continue in accordance with the requirements of Code Section 401(a)(9).

(d) Direct Rollovers - Code Section 401(a)(31).

(1) A Distributee who is eligible to receive a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.

(2) Notwithstanding any contrary provisions of this Section 149.13(d) (except as otherwise required by Code Section 401(a)(31)), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least five hundred dollars ($500.00), (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than two hundred dollars ($200.00) (when aggregated with all other Eligible Rollover Distributions for the taxable year).

(3) For purposes of this Section 145.13(d), the following words and phrases shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Direct Rollover means a payment by the Plan to the Eligible Rollover Plan specified by the Distributee.

B. Distributee means (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a qualified domestic relations order, as defined in Code § 414(p), with respect to the interest of the spouse or former spouse.

C. Eligible Rollover Plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA described in Code Section 408A (effective January 1, 2008), a qualified trust described in Code Section 401(a), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), and an eligible deferred compensation plan described in Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that will separately account for a direct rollover (from this Plan).

D. Eligible Rollover Distribution means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which 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 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) any hardship distribution; provided, however, the portion of a distribution that is not includible in gross income shall not fail to be treated as an Eligible Rollover Distribution merely because that portion is not includible in gross income, but only with respect to (i) prior to January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified defined contribution plan described in Code Section 401(a) or Code Section 403(a) that will separately account for such a Direct Rollover and (ii) from and after January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified trust, annuity plan or annuity contract described in Code Section 401(a), 403(a) or 403(b) respectively that will separately account for such a Direct Rollover.

(4) Effective January 1, 2010, and in conformance with Code Section 402(c)(11), a beneficiary eligible to receive a distribution from the Plan on account of a Participant's death may elect to transfer said distribution in a direct rollover to an individual retirement plan (described in clause (i) or (ii) of Code Section 402(c)(8) and including a Roth IRA) established by the beneficiary for this purpose, provided that (i) the beneficiary is not otherwise a Distributee, (ii) the beneficiary is a designated beneficiary as defined in Code Section 401(a)(9)(E), and (iii) the distribution would otherwise be an Eligible Rollover Distribution but for the requirement that the distribution be made to a Distributee.

(5) Said election and Direct Rollover shall be made in accordance with procedures established under the Plan in accordance with Code Section 401(a)(31).

(e) Rollovers from Other Plans. Effective January 1, 2007, the Plan will accept Participant rollover contributions and direct rollovers of eligible rollover distributions from the following types of plans, contracts and accounts for the purpose of purchasing service credit (including military service credit) under this Plan or repaying a cash-out of contributions refunded under this Plan, but only to the extent otherwise permitted under this Plan:

(1) A qualified plan described in Code Section 401(a) or 403(a), including employee after-tax contributions.
(2) An annuity contract described in Code Section 403(b), excluding employee after-tax contributions.
(3) An eligible plan under Code Section 457 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.
(4) The portion of a distribution from an individual retirement count or annuity described in Code Sections 408(a) or (b) that is eligible to be rolled over and would otherwise be includible in the Participant's gross income.

(f) Death in Qualified Military Service - Code Section 401(a)(37). As and to the extent required by Code Section 401(a)(37), a Participant who dies on or after January 1, 2007 while performing qualified military service (within the meaning of Code Section 414(u)) and who would have been entitled to reemployment rights under the Plan under the Uniformed Services Employment and Reemployment Rights Act of 1994 at death shall be treated as follows:

(1) Years of Service shall be credited for the period of the Participant's qualified military service to determine whether the Participant is vested in a benefit under the Plan for purposes of the death benefits payable under the Plan; and
(2) The Participant shall be treated as if death had occurred while employed by the Employer for purposes of the death benefits payable under this Plan.

(g) Credit for Qualified Military Service - Code Section 414(u). Contributions, benefits and service credit with respect to qualified military service shall be provided under the Plan in accordance with Code Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. Section 4318.

(h) Domestic Relations Orders.

(1) Notwithstanding any contrary provisions, to the extent permitted by law, all or a part of a Participant's benefits may be assigned and paid to an "alternate payee" to the extent required and in the manner determined by the Plan with respect to a "qualified domestic relations order." For this purpose, an "alternate payee" and "qualified domestic relations order" shall be determined by the Plan Administrator who may use as guidance Code Section 414(p).

(2) The Plan may establish such procedures as it deems necessary or desirable to review domestic relations orders and to administer payments under domestic relations orders.

(i) Exclusive Benefit - Code Section 401(a)(2). All contributions made by the City to the Plan shall be used and applied for the exclusive benefit of Participants and their beneficiaries, and such contributions shall not be used for, nor diverted to, purposes other than for such exclusive benefit of the Participants and their beneficiaries; provided, that, for this purpose, payment of administrative expenses by the Plan to the extent not paid by the City, shall be considered paid for such exclusive benefit.

(j) Forfeitures - Code Section 401(a)(8). Forfeitures arising under the Plan because of a severance of Service before a Participant becomes eligible for a retirement allowance, or for any other reason, shall be applied to reduce the cost of the Plan, and not to increase the benefits otherwise payable to Participants.

(k) Vesting Upon Termination - Code Section 401(a)(7) (as in effect September 1, 1974). Upon a complete or partial termination of the Plan, or upon the complete discontinuance of contributions, as and to the extent required by the Code, each affected Participant shall be fully vested in his or her accrued benefit as of the date of such termination, partial termination or discontinuance to the extent then funded. In the event of a complete termination of the Plan, the Plan assets shall be allocated and paid in accordance with applicable law and regulations, and upon satisfaction of all liabilities of the Plan to Participants and their beneficiaries, any residual assets of the Plan shall be returned to the City.

(l) Leased Employees - Code Section 414(n).

(1) A person who is a leased employee shall be treated as in employment with the Employer, but shall not participate in the Plan or accrue any benefits under the Plan except as specifically provided for in the Plan. If a person is eligible for benefits under the Plan as a leased employee, to the extent and in the manner prescribed by Code § 414(n), the benefits provided by the leasing organization to said person shall be taken into account in determining benefits under the Plan.

(2) For this purpose, a leased employee means, for Plan Years beginning on and after January 1, 1997, as determined in accordance with Code Section 414(n), any person who is not an employee of the Employer and who, pursuant to an agreement between a leasing organization and the Employer, performs services for the Employer on a substantially full-time basis for a period of at least one year under the primary control and direction of the Employer, but excluding any such person if (i) such person is covered under a money purchase pension plan maintained by the leasing organization that provides for a ten percent (10%) nonintegrated employer contribution for each of its participants, full and immediate vesting, and immediate participation for each non excluded employee of the leasing organization, and (ii) leased employees (determined without regard to this exclusion) do not constitute more than twenty percent (20%) of the Employer's nonhighly compensated employee workforce.
(Ord. 3-2011. Passed 1-19-11.)

145.14 ADMINISTRATION OF THE PLAN AND THE PENSION FUND.

(a) Designation, Powers and Duties of the Plan Administrator: The Board of Directors ("Board") of the Pension Fund is hereby designated to be the Administrator of the Plan. The Board shall have primary responsibility to administer the Plan for the exclusive benefit of the Participants and their Survivors, subject to the specific terms of the Plan. The Board shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Board shall be conclusive and binding upon all persons. The Board may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purposes of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401 (a), and shall comply with the terms of Act 205 and all regulations issued pursuant thereto. The Board shall have all powers necessary or appropriate to accomplish the Board's duties as Administrator under the Plan. The Board shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

(1) The discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
(2) To compute, certify, and direct the custodian or trustee of the Pension Fund with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
(3) To authorize and direct the custodian or trustee of the Pension Fund with respect to all discretionary or otherwise directed disbursements from the Pension Fund;
(4) To maintain all necessary records for the administration of the Plan;
(5) To interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
(6) To determine the size and type of any contract to be purchased from any insurer and to designate the insurer from which such contract shall be purchased;
(7) To compute and certify to the Employer and to the custodian or trustee of the Pension Fund from time to time the sums of money necessary or desirable to be contributed to the Plan;
(8) To consult with the Employer and the Aggregate Pension Board (referred to in subparagraph (j) below) regarding the short and long-term liquidity needs of the Plan in order that the Aggregate Pension Board can exercise any investment discretion in a manner designed to accomplish specific objectives;
(9) To determine the validity of, and take appropriate action with respect to, any domestic relations order received by it, whether or not "qualified" within the meaning of the Code; and
(10) To assist any Participant regarding the Participant's rights, benefit, or elections available under the Plan.

(b) Bylaws, Meetings, Records and Reports: The Board shall adopt Bylaws regulating its organization and operations and shall hold such meetings as the efficient discharge of its duties may require. The Board shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Survivors and others as required by law.

(c) Appointment of Advisors: The Board may appoint counsel, actuaries, accountants, physicians, specialists, advisors, agents (including nonfiduciary agents) and other persons as the Board deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisors to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Board may appoint, assistance with maintaining Plan records and the providing of investment information to the Investment Managers (defined in subparagraph (h)(12) below) of the Pension Fund

(d) Payment of Expenses: All expenses of administration that are approved by the Board may be paid out of the Pension Fund unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Board, or any person or persons retained or appointed by the Board incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, actuaries, counsel, Investment Managers, and other specialists and their agents, the costs of any bonds required pursuant to law, and other costs of administering the Plan.

(e) Claims Procedure: Claims for benefits under the Plan may be filed in writing with the Board. Written notice of the disposition of a claim shall be furnished to the claimant within sixty (60) days after the application is filed, or such other period as may be required by applicable law. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(f) Claims Review Procedure: Any Participant, former Participant or Survivor of either, who has been denied a benefit by a decision of the Board pursuant to subsection (e) hereof shall be entitled to request the Board to give further consideration to a claim by filing with the Board a written request for a hearing. Such request, together with a written statement of the reasons why the Claimant believes the claim should be allowed, shall be filed with the Board no later than thirty (30) days after the receipt of the written notification provided for in subsection (e) hereof. The Board shall then conduct a hearing within the next thirty (30) days, at which Claimant may be represented by an attorney or any other representative of Claimant's choosing and expense. The Claimant shall have an opportunity to submit written and oral evidence and arguments to the Board in support of the claim. At the hearing (or prior thereto upon five (5) business days written notice to the Board) the Claimant or the Claimant's representative shall have an opportunity to review all documents in the possession of the Board which are pertinent to the claim at issue and its disallowance. Either the Claimant or the Board may cause a court reporter to attend the hearing and record the proceedings. In that event, a

complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expense of any such court reporter and such transcripts shall be borne by the party causing the reporter to attend the hearing. A final written decision as to the allowance or denial of the claim shall be made by the Board and delivered to the Claimant or the Claimant's counsel personally or by deposit in first class mail within sixty (60) days of receipt of the appeal. Such decision shall be written in a manner calculated to be understood by the Claimant and shall include specific references to the Plan provisions on which the decision is based.

(g) Claims Appeal Procedure: Any Participant, former Participant or Survivor of either, who is aggrieved by a decision of the Board affecting his or her benefit under the Plan may appeal such decision to the Court of Common Pleas of Erie County in accordance with the provisions of the Local Agency Law, 2 Pa. C.S.A§752, and the Judicial Code, 42 Pa. C.S.A. §§§933(a)(2) and 5571 (b), or their respective successor provisions and amendments, within the time established by law for filing an appeal from the decision of a local agency.

(h) Investment Powers and Duties of the Board: The Board shall have the following powers, rights and duties with respect to the Pension Fund, subject to subsection (j) below:

(1) 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.

(2) To invest and reinvest the principal and income of the Pension Fund and keep said Fund invested, without distinction between principal and income, in securities which are at the time legal investments fro fiduciaries under the Pennsylvania Fiduciaries Investment Act, or as the same may be subsequently modified or amended.

(3) 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.

(4) To consent to and participate in any plan or 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.

(5) To exercise all conversion and subscription rights pertaining to property held in the fund.

(6) To exercise all voting rights with respect to property held in the fund and in connection therewith to grant proxies, discretionary or otherwise.

(7) To place money at any time in a deposit bank deemed to be appropriate for the purposes of 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.

(8) In addition to the foregoing powers, the Board 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 Association may deem necessary to administer the Pension Fund.

(9) 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 Employer, provided that the assets of each respective plan shall be accounted for and administered separately.

(10) To invest the assets of the Pension Fun in any collective commingled trust fund maintained by a bank or trust company, including any bank or trust company that 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.

(11) 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 Association, such trustee shall make such distribution only at the direction of the Association.

(12) To retain the services of one or more Investment Managers to manage (with the power to acquire and dispose of) all or any part of the Pension Fund assets, provided that each of such Investment Managers 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 or omissions of such Investment Manager or Managers with respect to the acquisition and disposition of fund assets, nor shall it be under any obligation to review or otherwise manage any Pension Fund assets which are subject to the management of such Investment Manager or Managers.

(i) Gifts, Bequests and Fees to the Pension Fund: The Board is authorized to:

(1) Take and accept by gift, grant or bequest, money and property, real, personal and mixed, for the benefit of the Pension Fund, in trust, to be added to the Fund, subject to such directions as the donors of such money and property may prescribe.

(2) Deposit into the Pension Fund all rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any Participant or to the Pension Fund on account of services as a non-uniformed officer or employee of the City, except such as may under the law be payable to the City; all bequests, legacies, gifts or donations made to the Pension Fund or the City in trust, for the benefit of the non-uniformed officers and employees of the City for the period of one year or more, and for which there shall be no lawful claimant.

(j) Aggregate Pension Board: Effective November 25, 1987, the assets of the Pension Fund were transferred to a trust fund under the control of the Aggregate Pension Board as set forth in Article 173 of the City of Erie Codified Ordinances. The Aggregate Pension Board shall establish investment guidelines and be responsible for the investment of all assets of the Pension Fund. In the event that Article 173 is repealed and the assets of the Pension Fund are no longer under the control of the Aggregate Pension Board, control of the assets of the Pension Fund will revert to the Board which shall have the investment powers and duties set forth in subsection (h) above.

(k) Value of the Pension Fund: All determination as to the value of assets of the Pension Fund, and as to the amount of the liabilities thereof, shall be made by the Board or its appointed trustee, whose decisions shall be final. In making any such determination, the Board 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.

(l) Provisions to comply with the Municipal Pension Plan Funding Standard and Recovery Act of 1984, Elsewhere Referred to Herein as Act 205.

(1) Actuarial evaluations. The Plan's Actuary shall perform an actuarial valuation at least biennially unless the Employer is applying or has applied for supplemental state assistance pursuant to Section 603 of Act 205, whereupon actuarial valuation reports shall be made annually. Such biennial actuarial valuation report shall be made as of the beginning of each Play 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 experience investigation required by Act 205 or any other expenses which is permissible under the terms of the act and which are directly associated with administering the plan shall be an allowable administrative expense payable from the assets of the Pension Fund. Such allowable expenses shall include, but 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 expense for pension plan officials; provided, however, that the municipal officials of the Employer, in their fiduciary role, shall monitor the services provided to the Plan to ensure that the expenses are necessary, reasonable, and benefit the pension plan and, further provided, that the Plan Administrator shall document all such expenses item by item, and where necessary, hour by hour.

(2) Act 205 reports. The actuarial reports required by subparagraph (l)(l) above shall be prepared and filed under the supervision of the Chief Administrative Officer, which shall be the Mayor of the City or his designee. The Chief Administrative Officer shall determine the financial requirements of the plan on the basis of the most recent actuarial report and shall determine the "Minimum Municipal Obligation" (as defined in Act 205) of the Employer with respect to funding the plan for any given Plan Year. The Chief Administrative Officer shall submit the financial requirements of the Plan and the Minimum Municipal Obligation of the Employer to the City Council annually and shall certify the accuracy of such calculations and their conformance with Act 205.

(3) Benefit modifications. Prior to the adoption of any benefit plan modification by the Employer, the Chief Administrative Officer of the Plan shall provide to the City Council a cost estimate of the proposed benefit plan modification. Such estimate shall be prepared by an approved Actuary, which estimate shall disclose to the City Council the impact of the proposed benefit plan modification on the future financial requirements of the Plan and the future Minimum Municipal Obligation of the Employer with respect to the Plan.
(Ord. 3-2011. Passed 1-19-11.)

145.15 MISCELLANEOUS.

(a) Funding Policy: The Employer shall make contributions to the Pension Fund in accordance with Section 145.05(a) and the Board shall invest the Pension Fund in accordance with the terms of the Plan and Act 205.

(b) Other City Funds Not Liable: So long as the City funds the Plan in conformance with Act 205, payment of pensions and allowances as provided under this Plan shall not be a charge on any other fund of the Employer or account under its control, other than the Fund related to the Officers' and Employees' Retirement Plan established hereunder.

(c) Information to be Furnished by the Employer: The Employer shall furnish to the Board such information in the Employer's possession as the Board requires from time to time to perform its duties under the Plan.

(d) Prohibition Against Diversion of Funds:

(1) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Pension Fund, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of the Pension Fund maintained pursuant to the Plan or any Funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, former Participants or their Survivors.

(2) In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one (1) year following the term of payment and the trustee or custodian of the Pension Fund shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

(e) Participant's Rights: This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant in this Plan. (Ord. 3-2011. Passed 1-19-11.)

(f) Anti-Alienation Provision.

(1) Subject to the exceptions provided below, no benefit which shall be payable out of the Pension Fund to any person (including a Participant or Any Survivor) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, or claim of any Creditor. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Board, except to such extent as may be required by law.

(2) Subparagraph (1) shall not apply to a "qualified domestic relations order" defined in Code Section 414 (p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984 or other federal or state law. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, a former spouse of a Participant shall not be treated as the spouse or surviving spouse for any purposes under the plan.
(Ord. 27-2014. Passed 8-6-14.)

(g) Incapacity of Recipient of Benefits: If any person entitled to receive benefits shall be physically or mentally incapable of receiving or acknowledging receipt of any payment of benefits, the Board, upon the receipt of satisfactory evidence that such person is so incapacitated and that another person or institution is maintaining him and that no guardian or committee has been appointed for him, may provide for the payment of benefits hereunder to such person or institution so maintaining him, and any such payments so made shall be deemed for every purpose to have been made to or for the benefit of such incapacitated person.

(h) Ownership of Plan Assets: Nothing contained herein shall be deemed to give any Participant or his beneficiary any interest in any specific property of the Plan or any right except to receive such distributions as are expressly provided for in this Plan.

(i) Legal Action: In the event any claim, suit or proceeding is brought regarding the pension Fund and/or the Plan established hereunder to which the Employer or the Board or members of the Board may be a party, and such claim, suit or proceeding is resolved in favor of the Employer or the Board, they shall be entitled to be reimbursed from the Pension Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

(j) Indemnification of Fiduciaries. To the fullest extent allowed by Act 205, the Employer shall defend and hold harmless City Council, the Board and their members, and shall indemnify the same, against any and all claims or liabilities which may be asserted against any of them by reason of any action or omission in the administration or operation of the Plan, except in the case of any criminal liability, fraud or willful wrongdoing.

(k) Headings: The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

(l) Gender and Number: Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(m) Receipt and Release for Payments: Any payment to a Participant, the Participant's legal representative, Survivor, or to any guardian or committee appointed for such Participant or Survivor in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Board and the Employer, either of whom may require such Participant, legal representative, Survivor, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Board or the Employer.

(n) Governing Law To Prevail Over Inconsistent Plan Provisions: The Plan shall be governed by, and construed in accordance with Act 205 and the laws of the Commonwealth of Pennsylvania except to the extent that such laws have been specifically preempted by the Code or other Federal legislation. 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 Internal Revenue Code and regulations duly promulgated thereunder. The plan and benefits hereunder shall be conformed and amended to the extent necessary to comply with all applicable laws.
(Ord. 3-2011. Passed 1-19-11.)

ARTICLE 147
Police Relief and Pension Association

147.01 Definitions.
147.02 Eligibility and membership in association and its board of directors.
147.03 Contributions.
147.04 Retirement eligibility.
147.05 Retirement benefits.
147.06 Death benefits.
147.07 Termination of service before vesting.
147.08 Controlling provisions of the Internal Revenue Code.
147.09 Administration of the Plan and the Pension Fund.
147.10 Partial lump sum distribution option.
147.11 Miscellaneous.

CROSS REFERENCES

Police pension funds - see 3rd Class §4301 et seq. (53 P. S. §39301 et seq.)
Bureau of Police - see ADM. Art. 133

147.01 DEFINITIONS.

The following words and phrases as used in this Plan shall have the meaning set below unless a different meaning is clearly required by the context:

(a) **"Accrued Retirement Benefit"** means the amount of Retirement Benefit credited to the Participant as of any date pursuant to Section 147.05(a) calculated on the basis of the Participant's Final Pay determined as of such date and multiplied by a fraction not to exceed one (1.0), the numerator of which shall be the Participant's completed years of Service as of such date and the denominator of which shall be the number of years of Service which the Participant would complete as of his/her Normal Retirement Date under the Plan, assuming no interruption of Service to his/her Normal Retirement Date.

(b) **"Act 205"** means the Municipal Pension Plan Funding Standard and Recovery Act, enacted as P.L. 1005 (Act 205 of 1984), 53 P.S. §895.101 et seq, as the same may be amended from time to time.

(c) **"Actuarial Equivalent"** means a benefit or amount of equivalent actuarial value computed, except as otherwise specified herein, on the basis of the 1983 Group Annuity Mortality Table for males, and interest at eight percent (8%) per annum.

(d) **"Actuarially Sound"** means a Plan that is being funded annually at a level not lower than the financial requirements of the Plan pursuant to Act 205.

(e) **"Actuary"** means the person, partnership, association or corporation that at any given time serves as Actuary to the plan; provided that such Actuary must be an "Approved Actuary" as defined in Act 205.

(f) **"Age"** means the age of a Participant calculated as of his last birthday.

(g) **"Anniversary Date"** means January 1st of each year following the Effective Date of the Plan.

(h) **"Association** means the Police Relief and Pension Association of Erie, Pennsylvania.

(i) **"Board**" means the Board of Directors of the Police Relief and Pension Association, which shall be established and function in accordance with Sections 147.02 and 147.09.

(j) **"Bylaws"** means the bylaws of the Association which shall govern the internal operations of the Association.

(k) "**City Council"** or **"Council"** means the governing body of the Employer.

(l) **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

(m) **"Compensation"** with respect to any Participant means such Participant's wages as defined in Code Section 3401(a) and all other payments of compensation by the City (in the course of the City's business) for a Plan Year for which the City is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. "Compensation" must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). Compensation shall include contributions "picked up" under Section 147.03(b).

(n) **"Disability"** means the total and permanent inability of a Participant to perform adequately and reasonably the Participant's duties as a police officer.

(o) **"Disability Retirement Benefit"** shall have the meaning specified in Sections 147.05(e) and (f).

(p) The **"Effective Date"** of this Amendment and Restatement of the Plan is January 1, 2010 except where otherwise specified in this Plan. The Partial Lump-Sum Distribution Option of Subsection 147.10 is effective December 1, 2003.

(q) **"Employee"** means any duly appointed and sworn member of the police force of the Employer.

(r) **"Employer"** means the City of Erie.

(s) **"Final Pay"** means a Participant's Compensation paid by the City in the form of regular pay, longevity increments, holiday pay and contributions to the Plan by the Participant which are "picked up" by the City under Code Section 414(h)(2), but excluding Compensation for overtime, shift differential, clothing allowance and cleaning allowance, at the greater of: (1) the annual rate in effect at the earlier of the time of the Participant's termination of employment or retirement under the Plan or the Pension Lookback Date which the Participant selects under Section 147.10 hereof, or (2) the highest annual Compensation within the meaning of sub-paragraph (m) which the Participant received during any of the five (5) Plan Years prior to the Participant's termination of employment or retirement or the Pension Lookback Date which the Participant selects under Section 147.10 hereof. Effective as of January 1, 1998, Final Pay includes elective amounts of Compensation not included in income by reason of Code Sections 125, 132(f)(4), 401(k), 402(g)(3), 403(b) or 457(b).

The Final Pay which is taken into account in determining benefit accruals in any Plan Year for each Employee who first became a participant in the Plan on or after January 1, 1989 is subject to the annual limits of Code Section 401(a)(17), which specifies $200,000 for Plan Year 1989, $209,200 for Plan Year 1990, $222,220 for Plan Year 1991, $228,860 for Plan Year 1992, $235,840 for Plan Year 1993, reduced by OBRA-1993 to $150,000 for Plan Years 1994 through 1996, increased to $160,000 for Plan Years 1997 through 1999, increased to $170,000 for Plan Years 2000 and 2001, and increased to $200,000 for the 2002 Plan Year. The $200,000 limit on Compensation included in Final Pay shall be adjusted after the 2002 Plan Year for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Family Aggregation Rules do not apply for Plan Years beginning after December 31, 1996.

(t) **"Intervening Uniformed Service Service"** means honorable active duty service in the Uniformed Services by a Participant for up to five years (subject to extension of such five (5)-year period as permitted by USERRA), whether on a voluntary or involuntary basis, and who returns to the employ of the Employer at the conclusion of such Uniformed Service within the Report-Back Period permitted by USERRA.

(u) **"Normal Retirement Benefit"** shall have the meaning specified in Section 147.05(a).

(v) **"Normal Retirement Date"** means the date on which a Participant shall have accrued twenty (20) years of Service on active duty as a police officer with the Employer and who shall have attained the age of fifty (50) years.

(w) **"Participant"** means any Employee who is a member of the Association as described in Section 147.02(b) and is contributing to the Pension Fund out of their Compensation the amounts required by Section 147.03(b).

(x) **"Pension Fund"** shall mean the assets of this Plan administered under the terms of this Plan and Act 205, and which shall include all money, property, investments, policies and contracts that are a part of the Plan, which shall be held in trust by the City according to the laws of the Commonwealth of Pennsylvania.

(y) **"Pick-Up Contributions"** means Employee Contributions otherwise due from Participants in the Plan that are made by the City on a pre-federal (but not pre-Pennsylvania) income tax basis pursuant to Section 414(h) of the Code commencing January 1, 1994.

(z) **"Plan"** means the defined benefit pension plan set forth in this Article 147 (including any trust forming a part hereof), as amended and supplemented from time to time, all of which shall be known as the City of Erie Police Pension Plan.

(aa) **"Plan Administrator"** shall be the Board which is designated as the Plan Administrator in Subsection 147.09(a) below.

(bb) **"Plan Year"** means each twelve (12) month period beginning on January 1st and ending on the following December 31st.

(cc) **"Preparation Time"** means the reasonable period that the Employee may need after leaving his/her position with the Employer to put his/her affairs in order, or to prepare or travel for duty in one of the Uniformed Services as allowed under USERRA.

(dd) **"Prior Military Service"** means service on active duty in the U.S. Armed Forces completed prior to the Participant's initial employment by the Employer as an Employee, as evidenced by a Department of Defense Form 214 issued to the Participant.

(ee) **"Repayment Period"** means the period following the re-employment by the Employer of a Participant after Intervening Uniformed Service within which the Participant must repay to the Plan (1) any Employee Contributions which the Participant withdrew from the Plan in connection with such Intervening Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (2) the amount of any Employee Contributions otherwise due to the Plan during the Participant's Intervening Uniformed Service and related Report-Back Periods (beyond the first twelve (12) months), without interest, provided that the Participant remains employed with the Employer throughout such Repayment Period. This Repayment Period equals three (3) times the period of the Participant's Uniformed Service, but not more than five (5) years.

(ff) **"Report-Back Period"** means the period allowed under USERRA for a Participant to report back to work or apply for re-employment with the Employer after completion of Intervening Uniformed Service. Depending on the length of the Participant's Intervening Uniformed Service, s/he is allowed up to ninety days following completion of Intervening Uniformed Service to apply for re-employment or report back to work at the Employer. This Report-Back Period is extended for the period that is necessary (up to two years) for a Participant to recover from an illness or injury incurred in or aggravated during Uniformed Service.

(gg) **"Retirement Benefit"** means the total monthly retirement benefit payable to a Participant under Sections 147.04 and 147.05 below.

(hh) **"Retirement Date"** means the first day coincident with or following a Participant's 50th birthday and termination of employment with a Vested Retirement Benefit or a Vested Reduced Retirement Benefit.

(ii) **"Service**" means the total number of full years during which a Participant was an Employee of the Employer and made the required contributions to the Plan from Compensation paid by the City or with respect to Prior Military Service or Intervening Uniformed Service which the Participant purchased or was credited under Sections 147.03(c) or (d) below. Service does not include any period for which the Participant's contributions were refunded and not timely repaid to the Fund. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan except as provided in the case of purchase of Prior Military Service or Intervening Uniformed Service under Sections 147.03(c) or (d) below. No participant may purchase Service credit for any period of active duty Military or Uniformed Service under this Plan with respect to which s/he purchases or has purchased similar credit under any other pension plan of the Commonwealth of Pennsylvania or its subdivisions in which s/he is a Participant.

(jj) **"Service-Connected Disability"** means a disability resulting from an injury, illness or mental incapacity suffered while in the performance of or related to the performance of the Participant's duties as a police officer for The City of Erie Police.

(kk) "**Service Increment"** means the component of monthly Retirement Benefit attributable to full years of Service above twenty (20), pursuant to Section 147.05(a)(2) below, not to exceed five hundred dollars ($500.00) per month.

(ll) **"Surviving Spouse"** means if married prior to retirement - a living individual who was legally married to the Participant and is married to the Participant at the time of the Participant's death. If married post-retirement-a living individual who was legally married to the Participant and is married to the Participant at the time of the Participant's death and for the twelve months immediately preceding the Participant's death.

(mm) **"Survivor**" means the Participant's Surviving Spouse. If there is no Surviving Spouse following the death of the Participant, or at the subsequent death of the Surviving Spouse, "Survivor" shall mean the surviving children of the deceased Participant in equal shares so long as they are under the age of eighteen (18).

(nn) **"Traumatic Event"** means an event that:

(1) Is identifiable and documented as to both time and place;

(2) Occurred during and as a result of the Participant's regular or assigned duties;

(3) Occurred when the Participant was involuntarily confronted with the object or matter that was the source of harm; and

(4) Causes physical harm that requires prompt treatment from a licensed medical provider.

(oo) **"Uniformed Service"** and **"Uniformed Services"** means active duty in the Armed Forces of the United States (which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and National Guard and their Reserve components), the Army National Guard and the Air National Guard when engaged in active duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency, or specified in regulations promulgated under USERRA, together with any period for which an Employee is absent from the employ of the Employer for a determination of the Employee's fitness to perform any such duty or for the purpose of performing funeral honors duty as authorized by 10 USCS §12503 or 32 USCS §115. Uniformed Service shall also include any related Preparation Time. If an Employee is dismissed or separated from Uniformed Service under other than honorable conditions that related period of Uniformed Service shall not be credited as Service under the Plan.

(pp) **"USERRA"** means the Uniformed Services and Reemployment Rights Act of 1994, 38 USC §§4301 et seq., as amended from time to time.

(qq) **"Vested Benefit"** and **"Vested Reduced Benefit"** means Participants shall be vested in the Retirement Benefit that they have accrued in the Plan after at least twelve (12) years of Service. Being "vested" means that the Accrued Retirement Benefit to which the Participant is credited as of any date cannot be forfeited unless the Participant dies without a Survivor. In that event any undistributed Employee Contributions shall be refunded to the Participant's Estate, without interest. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan, except as required by USERRA.

The Vested Reduced Benefit to which a Participant who has completed the minimum number of years of Service required for vesting is calculated by multiplying the Normal Retirement Benefit to which the Participant would be

entitled at age fifty (50) if s/he had completed twenty(20) years of Service (but using the actual Final Pay which the Participant had received to the date his/her employment by the City was terminated) by the fraction determined by dividing the Participant's actual full years of Service by twenty (20). In the event that the City terminates the Plan or discontinues making contributions to it, the Accrued Retirement Benefit of all Participants shall become fully vested, to the extent funded, regardless of the Participant's years of Service.
(Ord. 4-2011. Passed 1-19-11; Ord. 23-2013. Passed 8-7-13.)

147.02 ELIGIBILITY AND MEMBERSHIP IN ASSOCIATION AND ITS BOARD OF DIRECTORS.

(a) Eligibility Requirements: Any Employee who was a Participant as of the Effective Date of this amendment and restatement of the Plan shall continue to participate in the Plan. Thereafter, any Employee upon his admission to the Association pursuant to Subsection 147.02(b) will become a Participant provided that such Employee contributes to this Plan pursuant to Subsection 147.03(b).

(b) Membership in Association: Each policeman of the City shall be required to become a member of the Police Relief and Pension Association (Association) immediately upon receipt of his/her appointment as a police officer. Upon the commencement of his/her service as a policeman, the Secretary of the Association shall notify the City Treasurer of each new police appointment and of the fact that such appointed policeman has commenced his/her service with the Bureau of Police. The Secretary shall thereupon demand that the City Treasurer thereafter make regular monthly deductions from the policeman's pay to the extent of all dues, fees and assessments levied in accordance with the Bylaws of the Association and this Plan.

(c) Board of Directors of Association: Twelve (12) Directors shall be elected by the members of the Association from among active members of the Association, in four (4) classes comprised of three (3) Directors in each class. Each class shall be elected for a term of four (4) years, or until their successors shall have been duly elected and qualified. The terms of each class of Directors shall expire in successive years. The members of the Association shall elect one class of Directors at each annual meeting of the Association, to succeed the class of Directors whose terms are expiring. In the event of a vacancy on the Board of Directors, the remaining members of the Board shall elect a member of the Association to fill that vacancy for the remainder of its term.

The following elected officials, or their designee, shall be ex officio members of the Board, by virtue of their offices, with full voting rights, to comprise the total membership on the Board of fifteen (15) Directors:

The Mayor.
The City Controller.
The President of City Council.

(1) From the twelve Directors who are elected by the members of the Association to serve as the Board of Directors, there shall be elected four individuals to serve as Officers of the Board of Directors. Said officers shall be a President, Vice-President, Secretary and Treasurer, each serving a term of two years.

A. In the event that there remain unresolved and outstanding issues pending before the Association and Board at the expiration of the term of any of the officers, the officer's term may be renewed for one year and thus enable the officer to remain and serve in his/her capacity as an officer of the Board due to said outstanding issues and the officer's familiarity with same.

The aforementioned one (1) year term shall be renewable at one (1) year increments at the discretion of the Board of Directors of the Association and said renewal will not have to be re-approved by City Council whenever this section is invoked. Moreover, as a result of the officer's term being extended, his/her position as a Board member will also be extended accordingly. At the time when the officer's term is not renewed, his/her Board vacancy will be filled pursuant to normal operating procedures.
(Ord. 4-2011. Passed 1-19-11.)

147.03 CONTRIBUTIONS.

(a) Contributions by Employer: The Employer shall contribute to the Pension Fund for investment at least such amounts each year as are necessary to satisfy the minimum funding standards of Act 205.

(b) Participant Contributions: Participant contributions to the Pension Fund shall be made as follows:

(1) Participants who were hired before January 1, 1981 shall contribute monthly an amount equal to: five percent (5%) of monthly Compensation, but excluding overtime, shift differential and clothing and cleaning allowance, plus one dollar ($1.00) per month for the Service Increment.

(2) Participants who were hired on or after January 1, 1981 shall contribute six percent (6%) of monthly Compensation, but excluding overtime, shift differential and clothing and cleaning allowance, plus one dollar ($1.00) per month for the Service Increment.

(3) No Participant shall have the option of choosing to receive these contributions in cash instead of having them paid by the Employer to the Plan.

(4) Commencement of Contributions: Contributions shall commence by payroll deductions in accordance with Subsection 147.02(b).

(5) Termination of Contributions: Contributions shall terminate at Retirement, permanent disability, death or termination of employment.

(6) Refund of Contributions: If a Participant terminates Service prior to accruing a Vested Benefit in the Plan, s/he shall be entitled to the refund of his/her Participant Contributions, without interest, in accordance with the provisions of Subsection 147.07(b).

(7) Pick-Up Contributions: Effective January 1, 1994, contributions to the Pension Fund by Participants shall be picked-up by the City under Code Section 414(h)(2). Contributions picked-up under this Code Section shall be considered Employee contributions for all other purposes.

(8) All Contributions made to the Pension Fund by Participants pursuant to this subsection 147.03(b) shall be separately accounted for each Participant.

(c) Purchase of Prior Military Service.

(1) Any Participant who is a contributor to the Plan and who has served in the Armed Forces of the United States subsequent to September 1, 1940, but who was not a Participant in the Plan prior to such Military Service, shall be entitled to purchase Military Service for credit toward the accrual of a full pension under the Plan in accordance with the definition of Normal Retirement Benefit and the provisions of this subparagraph for each year or fraction thereof, not to exceed five years of such Prior Military Service. Credit for Service under the Plan for Prior Military Service shall be given only upon payment to the Pension Fund by the Participant of an amount equal to (i) that which the Participant would have paid had s/he been a Participant in the Plan during the period of Prior Military Service for which the Participant desires credit for Service under the Plan, and (ii) the contributions which the City would have otherwise paid on account of such Prior Military Service. Participants electing to purchase Service credit for Military Service in the Armed Forces of the United States subsequent to September 1, 1940, shall make such election in writing within six (6) months of employment by the City, and shall pay the total sum to the Pension Fund within twenty-four (24) months of the date of their election.

(2) However, such purchased Prior Military Service shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(d) Credit for and Purchase of Intervening Uniformed Service.

(1) A former Participant who serves more than five (5) years in Intervening Uniformed Service (not counting any related Report-Back Period and necessary Preparation Time included in such Uniformed Service) does not have any right to be re-employed by the Employer or to receive Service credit under the Plan for such Uniformed Service. However, the five (5) year service limit is extended under the Final Regulations issued by the Department of Labor under USERRA for additional periods of active duty in the Uniformed Services required by military necessity, national emergency or in support of a critical mission of the Uniformed Service, and not within the control of the former Participant.

(2) Upon re-employment by the Employer of a Participant after completing a period of Intervening Uniformed Service following application within the Report-Back Period the Participant has the option (i) to repay any amounts previously withdrawn by the Participant from the Plan in connection with such Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (ii) to make-up any Employee Contributions that would have been due to the Plan after the first twelve (12) month of Intervening Uniformed Service and related Report Back Period, without interest. The City shall make all contributions to the Plan necessary for the Participant to receive credit for Service under the Plan with respect to the first twelve (12) months of such intervening Uniformed Service and related Report-Back Period.

(3) The Employee's rate of pay and required contribution rate during said Intervening Uniformed Service and Report-Back Periods shall be calculated using the rate of pay that the Employee would have received and the contribution rate that the Employee would have been required to make had s/he not been absent during such intervening Uniformed Service and Report-Back periods, or if not reasonably certain, then it shall be the Employee's average level of Compensation and rate of contribution during the twelve (12)-month or shorter period of employment immediately preceding his/her Intervening Uniformed Service.

(4) The Participant has the Repayment Period within which to repay to the Plan any such Employee withdrawals with interest and such Employee make-up Contributions without interest.

(5) At the time of, and to the extent of, the Participant's repayment to the Plan of any such Employee withdrawals with interest and of such Employee make-up Contributions without interest, the Employer shall pay the Employer Contributions to the Plan that relate to and are contingent upon the Participant's restoration to the Plan of the Employee Contributions withdrawn in connection with or otherwise due during such Intervening Uniformed Service and Report-Back Periods.

(6) However, any Intervening Uniformed Service for which the Participant makes up Employee Contributions within the Repayment Period shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(7) To the extent that the preceding conditions are met within the Repayment Period the effect of intervening Uniformed Service and related Report-Back Periods upon the Retirement Benefit of a Participant retiring from the Plan shall be the same as though the Participant had remained continuously employed by the Employer during such Periods.
(Ord. 4-2011. Passed 1-19-11.)

147.04 RETIREMENT ELIGIBILITY.

(a) Normal Retirement: Each Participant who retires from the employ of the Employer on the first day of the calendar month coincident with or next following his Normal Retirement Age ("Normal Retirement Date") shall be entitled to receive the benefits provided for in Subsection 147.05(a).

(b) Late Retirement: A Participant who remains in the employ of the Employer after his Normal Retirement Date shall continue to be a Participant in the Plan until his actual retirement date ("Late Retirement Date") and shall be entitled to receive the benefit provided for in Subsection 147.05(c).

(c) Disability Retirement: As specified in Subsection 147.05(e) or (f).

(d) Vesting: A Participant who terminates employment after at least twelve (12) years of continuous Service shall be entitled to the vested retirement benefit set forth in Section 147.05(d).
(Ord. 4-2011. Passed 1-19-11.)

147.05 RETIREMENT BENEFITS.

(a) Normal Retirement Benefit: The amount of monthly retirement benefit to be provided for each Participant who retires on his Normal Retirement Date (which benefit is herein called his Normal Retirement Benefit) shall be equal to:

(1) Fifty percent (50%) of 1/12 of the Participant's Final Pay, plus

(2) 1/40th of the monthly retirement benefit determined by (1) above, multiplied by each full year of Service after twenty (20) years of Service but earned prior to age sixty-five (65), not to exceed five hundred dollars ($500.00) ("Service Increment").

(b) Normal Form of Benefit: The Normal Retirement Benefit payable to a Retired Participant pursuant to Subsection 147.05(a) shall be a monthly pension commencing on his Retirement Date and continuing after his death to the Survivor as set forth in Section 147.06.

(c) Late Retirement Benefit: A Participant who remains in the employ of the Employer beyond his Normal Retirement Date shall be entitled to receive, commencing on his Late Retirement Date, his benefit calculated pursuant to Subsection 147.05(a) considering his Final Pay as of his Late Retirement Date.

(d) Vested Benefit or Vested Reduced Benefit: Where a Participant has completed twelve (12) years or more of Service, excluding Military or Uniformed Service purchased prior to the completion of twelve (12) years of non Uniformed Service, unless otherwise provided by applicable law, and his/her tenure of office or employment shall be terminated before the expiration of twenty (20) years of Service, or before his/her attainment of age fifty (50) s/he shall, in such event, after attaining the age of fifty (50) years, during the remainder of his/her life, be entitled to receive such portion of the full pension as the period of his/her Service (counting Prior Military Service and Intervening Uniformed Service purchased for credit as Service under Sections 147.03(c) and (d) after completion of twelve (12) years of non-Uniformed Service) to the date of its termination bears to the full twenty (20)-year period of Service for a Normal Retirement Benefit. The continuity of twelve (12) years of Service shall not be affected by interruptions of Service for suspension, leave of absence or layoff of less than thirty-one (31) days in the aggregate. (Ord. 4-2011. Passed 1-19-11.)

(e) Disability Retirement Pension.

(1) Disability- Not Service-Connected.

A. Eligibility for and calculation of pension payment.

1. Less than ten (10) years of service. Any Participant who accrues less than ten years of Service and who is totally and permanently disabled due to a Non Service-Connected injury, illness or mental incapacity shall be entitled to a Disability Retirement Pension of twenty-five percent (25%) of the Participant's Final Pay at the time such Disability is finally determined, payable at the rate of 1/112 of such amount per month.

2. Ten (10) or more years of service. Any Participant who is totally and permanently disabled due to Non Service-Connected injury, illness or mental incapacity incurred after ten years of Service shall be entitled to a Disability Retirement Pension of fifty percent (50%) of the Participant's Final Pay at the time such Disability is finally determined, payable at the rate of 1/12 of such amount per month plus Service Increments.

B. Duration of Payments. The Disability Retirement Pension payable under this Section 147.05(e)(l), shall be payable to the Participant during the Participant's lifetime and if the Participant shall die, the Disability Retirement Pension payment that the Participant was receiving shall be continued to be paid to the Participant's Surviving Spouse. If the Participant's Surviving Spouse subsequently dies or if the Participant does not have a Surviving Spouse, the Disability Retirement Pension shall be payable to and divided equally between the Participant's surviving children under the age of eighteen years until they reach their 18th birthday. Where a Participant who has received benefits under this section dies and there is no Survivor eligible for benefits under this section, no further benefits shall be payable from the Pension.

(2) Service-Connected Disability.

A. Eligibility for and calculation of pension payment.

1. Standard service-connected disability retirement pension. Any Participant who is totally and permanently disabled due to a Service-Connected injury, illness or mental incapacity shall be entitled to a Standard Service-Connected Disability Retirement Pension of fifty percent (50%) of the Participant's Final Pay at the time such Disability is finally determined, payable at the rate of 1/12 of such amount per month plus Service Increments.

2. Enhanced service-connected disability retirement pension. Any Participant who suffers a Service-Connected Disability shall be eligible to receive an Enhanced Service-Connected Disability Retirement Pension if all of the following criteria are met:

a. The Disability is physical in nature;

b. The Disability is the result of a Traumatic Event;

c. The Disability was not induced by the stress or strain of normal work effort of a police officer;

d. The Disability was unexpected to, and not intended by, the Participant;

e. The Disability originated from a source other than the Participant and was caused by a circumstance external to the Participant (not the result of pre-existing disease that is aggravated or accelerated by the Participant's performance of the duties of a police officer);

f. The Disability was not the result of the Participant's willful or reckless conduct or the performance of an illegal act; and

g. The onset of the Disability is immediate such that at no time following the Traumatic Event was the Participant able to return to work and reasonably perform the duties of a police officer as unanimously confirmed by a panel comprised of three (3) physicians (M.D. or D.O.) with one selected by the Participant, one selected by The City of Erie, and one selected by The City of Erie Police Pension Board. The Enhanced Service-Connected Disability Retirement Pension shall be seventy-five percent (75%) of the eligible Participant's Final Pay at the time such Disability is finally determined, payable at the rate of 1/12 of such amount per month. The amount of the Enhanced Service-Connected Disability Retirement Pension shall not be increased by Service Increments. The amount of the Enhanced Service-Connected Disability Retirement Pension shall not be increased by any cost of living adjustments (COLA) until such time that it is equal to or less than the amount of a Class A Officer's Standard Service-Connected Disability Retirement Pension, exclusive of any Service Increments.

B. Duration of Payments.

1. Standard Service-Connected Disability Retirement Pension. The Standard Service-Connected Disability Retirement Pension shall be payable to the Participant during the Participant's lifetime. Upon the death of a Participant receiving a Standard Service-Connected Disability Retirement Pension, the Standard Service-Connected Disability Retirement Pension shall continue be paid to the Participant's Surviving Spouse. If the Participant's Surviving Spouse subsequently dies or if the Participant does not have a Surviving Spouse, the Standard Service-Connected Disability Retirement Pension shall be payable to and divided equally between the Participant's surviving children under the age of eighteen years until they reach their 18th birthday. Where a Participant who has received a Standard Service-Connected Disability Retirement Pension dies and there is no Survivor eligible for benefits, no further benefits shall be payable from the Pension.

2. Enhanced Service-Connected Disability Retirement Pension. The Enhanced Service-Connected Disability Retirement Pension shall be payable to the Participant during the Participant's lifetime. Upon the death of a Participant receiving an Enhanced Service-Connected Disability Retirement Pension, the Enhanced Service-Connected Disability Retirement Pension shall continue be paid to the Participant's Surviving Spouse only if he or she was married to the Participant at the time of the onset of the Participant's Disability. In cases where the Surviving Spouse married the Participant after the date of the onset of the Participant's Disability, the Standard Service-Connected Disability Retirement Pension shall be paid to the Participant's Surviving Spouse pursuant to Section 147.05 (e)(2)B.1. If the Participant's Surviving Spouse subsequently dies or if the Participant does not have a Surviving Spouse, a Standard Service-Connected Disability Retirement Pension shall be payable to anddivided equally between the Participant's surviving children under the age of eighteen years until they reach their 18th birthday. The dollar amount difference between the Participant's Enhanced Service-Connected Disability Retirement Pension and a Standard Service-Connected Disability Retirement Pension shall be payable to and divided equally between the Participant's surviving children under the age of eighteen years until they reach their 18th birthday provided that said children were born on or before the date of the onset of the Participant's Disability. Where a Participant who has received an Enhanced Service-Connected Disability Retirement Pension dies and there is no Survivor eligible for benefits, no further benefits shall be payable from the Pension.

(3) Ineligibility for deferred retirement option programs. Any Participant accepting a Disability Retirement Pension payable under this section shall be ineligible to participate in any Deferred Retirement Option Programs (D.R.O.P.) offered by the City of Erie.
(Ord. 23-2013. Passed 8-7-13.)

(f) (EDITOR'S NOTE: Former subsection (f) was repealed by Ordinance 23-2013, passed August 7, 2013.)

(g) Cost of Living Adjustments: Cost-of-living adjustments shall be provided under either (1) or (2) below, as applicable:

(1) Participants who were appointed police officers prior to January 1, 1981, or the individuals receiving survivor benefits under the Plan as the result of the death of an individual appointed as a police officer of the City prior to January 1, 1981, and who receive retirement benefits under the Plan by reason of and after the termination of the Service of any such Participant, shall have such retirement benefits increased by the percentage increase in the cost of living index for the month of October, 1970, and subsequent Octobers thereafter as compared with the cost of living index for the month of October, 1969. The increase shall become effective initially on the first day of the month after the passage of this section (September 1, 1971), and on the first day of January of each and every year thereafter, provided, however, that the total of any such allowance shall not at any time exceed one-half of the current monthly salary being paid a patrolman of the highest pay grade.

The cost of living index referred to above shall be that published by the United States Department of Labor, Bureau of Labor Statistics, which index shows the changing average cost of living based on the Consumer Price Index, U. S. City Average, all items, for the years 1957-1959 base.

(2) Participants who are appointed police officers of the City of Erie on or after January 1, 1981, or individuals receiving survivor benefits under the Plan as the result of the death of an individual appointed as a police officer of the City on or after January 1, 1981 and who retire on or after January 1, 2001, shall in future years receive such increases to their allowances under the Pension Plan so that their Retirement Benefits shall not fall below fifty percent (50%) of the basic monthly salary currently being paid to a Class A patrolman of the City, except that the monthly pension payable to Participants who qualify for a Disability Retirement Benefit for Disability Not in Line of Duty after less than ten (10) years of Service, and to their Survivors, shall be adjusted for the Cost of Living so that their pensions shall not fall below twenty-five percent (25%) of the basic monthly salary currently being paid to a Class A patrolman. Participants receiving a Vested Reduced Benefit pursuant to Section 147.05(d) who are otherwise entitled to a cost of living increase under this Section 147.05(g)(2) shall be entitled to receive only such portion of fifty percent (50%) of the basic monthly salary of a Class A patrolman as his/her years of Service to the date of termination bears to the full twenty years of Service required for a Normal Retirement Benefit. (Ord. 4-2011. Passed 1-19-11.)

147.06 DEATH BENEFITS.

(a) Death Benefits: The surviving spouse of a Participant who has retired or is eligible to retire on pension on or after January 1, 1962, and who dies on or after August 1, 1963, shall, during his or her lifetime be entitled to receive the pension the Participant was receiving or would have been receiving had s/he been retired at the time of his/her death. For a Participant who dies while entitled to a Vested Reduced Benefit pursuant to Section 147.05(d), but before s/he has commenced the receipt of retirement benefits, the Survivor Benefit shall not be payable to the Participant's Survivor until the date that the Participant would have been eligible to commence to receive retirement benefits had s/he not died.

(b) Killed in Line of Duty Benefit: The surviving spouse of a Participant who is killed in the line of duty on or after February 25, 1970 shall receive during his or her lifetime a pension equal to fifty percent of the Compensation, but excluding overtime, shift differential, and clothing and cleaning allowance, the Participant was receiving at the time of his/her death, payable at the rate of 1/12 of such amount per month.

(c) Survivor Benefit: The survivor benefit paid pursuant to Sections 147.06(a) or (b) shall be paid to the surviving spouse until the date of death of the surviving spouse. Upon the death of the surviving spouse of a Participant, the survivor benefit shall be paid monthly in equal shares to the surviving children of the deceased Participant until the earliest of the death or attainment of age eighteen (18) of each child. The share payable to the surviving children shall be adjusted as each child ceases to be eligible to receive a share of the benefit hereunder due to death or attainment of age eighteen (18). The payee above, whether the spouse or the children, shall be defined herein as the Survivor.

(d) Distribution on Behalf of Minor Beneficiary: In the event a distribution is to be made to a minor, then the Board shall direct that such distribution be paid to the guardian of the estate of, or if none, to the trustee for, or if none, to a parent of, such minor, or if no parent survives, then to a responsible adult with whom such minor maintains his residence. Payment to such guardian, trustee or parent of a minor, or responsible adult with whom the minor resides, shall fully discharge the Board, Employer and Plan from liability on account thereof. (Ord. 4-2011. Passed 1-19-11.)

147.07 TERMINATION OF SERVICE BEFORE VESTING.

(a) Forfeitures: Upon the forfeiture of any non-vested portion of a Participant's Accrued Benefit, the amount of such forfeiture shall be credited against the future contributions of the Employer under the Plan.

(b) Refund of Contributions to Terminated Non-Vested Participants: A Participant who terminates employment for causes other than death or disability prior to becoming vested in a Vested Benefit hereunder, shall be entitled to receive the refund of the total amount of the contributions paid into the Pension Fund by such Participant, including Pick-up Contributions, but without interest.

(c) No Right to Return Contributions Upon Re-employment of a Terminated Non-Vested Participant: A non-vested Participant who receives a refund of his/her contributions to the Pension Fund upon termination of employment shall have no right to return such refunded contributions to the Pension Fund in the event of re-employment by the City, and the years of Service which such non-vested Participant had accrued prior to termination of employment shall not receive any credit under the Plan under any circumstance.

(d) Refund of Participant's Undistributed Contributions Upon Death: In the event of the death of a Participant, and in the case of a married Participant, the death of his/her surviving spouse or the death of his/her/their surviving children prior to their attaining age eighteen (18), any excess of the total amount of the Participant's contributions to the Plan, including Pick-Up Contributions, without interest, over the total of all benefits distributed from the Plan to the Participant, to his/her surviving spouse and to his/her their surviving children

prior to the death of the last survivor, shall be paid to the Participant's designated beneficiary, and if no beneficiary has been designated, to his/her estate, provided, that in case payment of the deceased Participant's retirement benefits is subject to a domestic relations order in favor of a former spouse, no refund of the benefits undistributed from the Plan shall be made to the Participant's designated beneficiary or estate until all obligations of the Plan to the Participant's former spouse under the domestic relations order are satisfied, and the amount of refund owing from the Plan to the Participant's designated beneficiary or estate for undistributed benefits under this paragraph shall be calculated after deducting all payments made from the Plan to the Participant's former spouse under the domestic relations order, as well as the payments made from the Plan to the Participant, his/her surviving spouse and his/her/their surviving children prior to the death of the last survivor.
(Ord. 4-2011. Passed 1-19-11.)

147.08 CONTROLLING PROVISIONS OF THE INTERNAL REVENUE CODE.

(a) Qualification of Plan Under Internal Revenue Code. In order to be entitled to favorable income tax treatment available under federal law, this Plan is intended to be qualified under the provisions of the Internal Revenue Code of 1986 (the "Code"). In the event of any inconsistency between the provisions of this Section and any other provisions of Article 147, this Section shall control, and shall apply to all Participants regardless of whether they retired under the Plan or terminated their employment with the City before the Effective Date.

(b) Limitations on Benefits - Code Section 415.

(1) This Section 147.08(b) is intended to comply with the limitations of Code Section 415 as interpreted by final regulations issued on April 5, 2007 generally effective for Limitation Years beginning on and after July 1, 2007, and this Section 147.08(b) shall be applied and interpreted accordingly. Notwithstanding any contrary provisions, and in accordance with said final regulations under Code Section 415, the application of this Section 147.08(b) shall not reduce the amount of Accrued Retirement Benefit below the amount of benefit payable or accrued as of the last day of the Limitation Year immediately prior to the effective date of said final regulations for the Plan, as determined under the provisions of the Plan adopted and in effect before April 5, 2007 to the extent the same were in compliance with the requirements of Code Section 415 in effect prior to the effective date of said final regulations for the Plan.

(2) The following words and phrases used in this Section 147.08(b) shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Annual Addition means any Employee Contributions, other than Pick-Up Contributions, and other amounts treated as annual additions made to a Defined Contribution Plan under Code Section 415.

B. Code Section 415 Affiliated Employer means any entity required to be included with the Employer in a controlled group under Code Section 415(g) and (h).

C. Defined Benefit Plan means a plan described in Code Section 414(j) (and qualified under Code Section 401(a)).

D. Defined Contribution Plan means a plan described in Code Section 414(i) (and qualified under Code Section 401(a)).

E. Limitation Year means the Plan Year.

F. Section 415 Compensation means compensation determined as follows:

1. Section 415 Compensation means all amounts actually paid or made available to the Employee for services rendered to the Employer or a Code Section 415 Affiliated Company which are wages within the meaning of Code Section 3401(a) and all other payments of compensation for which the Employer is required to furnish a written statement to the Employee under Code Sections 6041(d), 6051(a)(3) and 6052 (for purposes of income tax reporting) determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed, plus elective deferrals and similar amounts that would have otherwise been wages and reportable but for Code Sections 125 (including "deemed section 125 compensation" as provided for and within the meaning of Revenue Ruling 2002 27), 132(f)(4), 402(e)(3), 402(h), 402(k), 403(b), 414(h), and 457(b).

2. Except as otherwise provided herein, Section 415 Compensation shall include only amounts paid or treated as paid under Code Section 415 before a severance of employment with the Employer and Code Section 415 Affiliated Employer.

3. An amount paid to an Employee after a severance of employment with the Employer and/or Code Section 415 Affiliated Employer that would otherwise be Section 415 compensation and that is paid by the later of two and one-half months after the severance from employment or the end of the calendar year that includes the date of severance from employment shall be included in Section 415 compensation if: (1) the amount is regular compensation for services during the Employee's regular working hours, or compensation for services outside of the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and the amount would have been paid to the Employee before a severance from employment if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer;

(2) the amount is payment for unused accrued bona fide sick, vacation, or other leave, and the employee would have been able to use the leave if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer; or (3) the amount is received pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer, but only to the extent said amount is includible in the Employee's gross income.

4. Notwithstanding the foregoing, the Section 415 Compensation taken into account for each Limitation Year shall not exceed $200,000, with said dollar amount proportionately reduced for any Limitation Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code Section 401(a)(17).

(3) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall not exceed $160,000 (and for this purpose, the annual amount of Accrued Retirement Benefit attributable to Employee Contributions shall be determined under Code Section 411(c) to the extent and in the manner required by Code Section 415).

(4) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall be deemed not to exceed the general limitation described in Section 147.08(b)(3) if:

A. Such Accrued Retirement Benefit does not exceed $10,000 at any time during the Limitation Year; and

B. The Participant has never participated in a Defined Contribution Plan maintained by the Employer or Code Section 415 Affiliated Employer (and for this purpose, and as provided for in final regulations under Code Section 415, the Employee Contributions shall not be considered to be a separate Defined Contribution Plan).

(5) If a Participant's benefit commencement date is before attainment of age sixty-two (62), the general dollar limitation described in Section 147.08(b)(3) shall be adjusted to an "age sixty-two (62) dollar limit" equal to the amount of a single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a deferred single life annuity at age sixty-two (62), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent (5%) per annum; provided however:

A. If the Plan has an immediate single life annuity payable both at age sixty-two (62) and the age at benefit commencement, the "age sixty-two (62) dollar limit" (if less than the foregoing age sixty-two (62) dollar limit) shall be equal to the general dollar limitation described in Section 147.08(b)(3) multiplied by the ratio of the amount of the immediate single life annuity payable under the Plan to the amount of single life annuity payable under the Plan at age sixty-two (62), with both said amounts determined without applying the limitations of Code § 415;

B. For purposes of determining the age sixty-two (62) dollar limit, no adjustment shall be made for the probability of the Participant's death after the benefit commencement date and before age sixty-two (62) to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date;

C. The reduction for payment before age sixty-two (62) shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness;

D. The reduction for payment before age sixty-two (62) shall not apply to a Participant who has at least fifteen (15) years of Service (taken into account for purposes of determining the amount of the Participant's Accrued Retirement Benefit) as a full-time employee of the police department or fire department of the Employer (regardless of job classification during said employment) or as a member of the Armed Forces of the United States; and

E. The age sixty-two (62) dollar limit shall not decrease on account of an increase in age or the performance of additional service.

(6) If a Participant's benefit commencement date is before attainment of age sixty-five (65), the general dollar limitation described in Section 147.08(b)(3) shall be adjusted to an "age sixty-five (65) dollar limit" equal to the amount of single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a single life annuity at age sixty-five (65), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent per annum; provided however,

A. If the Plan has an immediate single life annuity payable both at the benefit commencement date and at age sixty-five (65), the "age sixty-five (65) dollar limit" (if less than the foregoing age 65 dollar limit) shall be equal to the general dollar limitation described in Section 147.08(b)(3) multiplied by the ratio of (1) the amount of the immediate single life annuity payable to the Participant, computed disregarding the accruals after age sixty-five (65), but including any actuarial adjustments, and without

applying the limitations of Code Section 415 to (2) the amount of single life annuity that would be payable to an age sixty-five (65) hypothetical participant with the same accrued benefit (with no increases for commencement after age sixty-five (65)) as the Participant, determined disregarding the accruals after age sixty-five (65) and without applying the limitations of Code Section 415; and

B. For purposes of determining the age sixty-five (65) dollar limit, no adjustment shall be made for the probability of the Participant's death after age sixty-five (65) and before the benefit commencement date to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date.

(7) If a Participant's Accrued Retirement Benefit is paid in a form other than a single life annuity (as otherwise may be provided for in the Plan), it shall be adjusted as follows to its actuarial equivalent on a single life annuity basis for the purpose of applying the general dollar limitation described in Section 147.08(b)(3), except that no adjustment shall be made for any joint and survivor annuity form of payment (where the spouse is the survivor annuitant) and for the value of any ancillary benefits:

A. For payment of Accrued Retirement Benefit in a form not subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greater of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under the single life annuity form of payment of the Plan; and

2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity if determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent per annum.

B. For payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greatest of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors;

2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent (5½%) per annum; and
3. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment (computed by using the applicable mortality table and applicable interest rate), divided by 1.05.

C. Notwithstanding any contrary provisions, for payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415) with a benefit commencement date falling in the Plan Years beginning in 2004 and 2005 (except as provided in section 101(d)(3) of the Pension Funding Equity Act of 2004), the actuarial equivalent single life annuity for this purpose shall be the greater of:
1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors; and
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent (5½%) per annum.

(8) If a Participant has less than 10 years of service, the general dollar limitation described in Section 147.08(b)(3) and the special dollar limitation described in Section 147.08(b)(4) shall each be multiplied by the ratio of the Participant's years of service to ten (10) but not by less than one tenth; provided, however, this adjustment shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness. For this purpose, a year of service shall be credited for each annual computation period in which the Participant is credited with the service required to accrue a benefit for the period taking into account service with the Employer (or a predecessor employer) and a Code Section 415 Affiliated Company.

(9) The general dollar limitation described in Section 147.08(b)(3) shall be adjusted by substituting as of January 1 of each calendar year and effective for the Limitation Year that ends in or with said calendar year, the limitation determined by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1). Such adjusted limitation shall apply to all Participants. Said adjustment shall be made for purposes of applying the limitations of this Section, regardless of whether the Plan actually provides for any cost-of-living adjustments for retirement benefits.

(10) If a Participant has multiple "annuity starting dates" within the meaning of Code Section 415, the limitations of this Section shall be applied as of each of the annuity starting dates taking into account the benefits that have been or will be provided at all of the annuity starting dates to the extent and in the manner required by Code Section 415.

(11) Notwithstanding any contrary provisions, the Annual Additions allocated to a Participant for any Limitation Year shall not exceed the lesser of:

A. $40,000, provided that as of January 1 of each calendar year and effective for the Limitation Year ending in or with said calendar year, the dollar amount as adjusted for cost of living increases by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1) shall be substituted for this specified dollar amount, and provided further, that said dollar amount for any Limitation Year shorter than twelve (12) months shall be proportionately reduced; and

B. 100 percent of the Participant's Section 415 Compensation for the Limitation Year, (whether or not he is a Participant during the entire Limitation Year).

(12) For the purpose of applying the limitations of this Section 147.08(b), all Defined Benefit Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Benefit Plan, and all Defined Contribution Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Contribution Plan.

(13) If the Employer or any Code Section 415 Affiliated Employer maintains a multiemployer plan as defined in Code Section 414(f) (and qualified under Code § 401(a)), benefits under said multiemployer plan shall be taken into account only to the extent provided by contributions of the Employer or Code Section 415 Affiliated Employer.

(14) If this Plan is aggregated with a plan that is subject to the special limitation and/or transitional rules with respect to Code Section 415, satisfaction of the requirements of Code Section 415 shall be determined by reference to the larger of the limitations set forth in this Section 147.08(b) or the limitations applicable to said other plan in the manner provided for in Code Section 415.

(15) If the limitations imposed by this Section 147.08(b) and Code Section 415 are exceeded by reason of the aggregation of this Plan with a plan not previously required to be aggregated, said limitations may be exceeded, provided that the requirements of Code Section 415 for doing so are satisfied.

(16) If a Participant's Accrued Retirement Benefit must be reduced to satisfy the requirements set forth in this Section 147.08(b) and in Code Section 415, such reduction shall be accomplished first by reducing the Participant's Accrued Retirement Benefit under the Defined Benefit Plan in which the Participant is an active participant and then by reducing the Participant's retirement benefit under the other Defined Benefit Plans in which the Participant was an active participant, starting with the Defined Benefit Plan in which the Participant was last an active participant and moving, successively, and to the extent necessary, to the next preceding Defined Benefit Plan and so forth.

(17) If a Participant's Annual Additions must be reduced to satisfy the requirements set forth in this Section 147.08(b) and in Code Section 415, the Annual Addition last allocated shall be reduced.

(18) Notwithstanding any contrary provisions, a repayment of a distribution (including interest thereon) shall not be taken into account for purposes of this Section 147.08(b) and the limitations imposed by Code § 415.

(c) Required Payment Provisions - Code Section 401(a)(9).

(1) Notwithstanding any contrary provisions, the payment of benefits under the Plan shall be made in accordance with a reasonable good faith interpretation of Code § 401(a)(9). The provisions in this Section 147.08(c) shall be applicable to the extent a benefit is otherwise payable under the applicable substantive provisions of the Plan, and to the extent applicable, the provisions in this Section 147.08(c) shall supersede any inconsistent benefit payment provisions in the Plan.

(2) Payment of benefits to a Participant shall begin no later than the required beginning date of April 1 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 from employment by the Employer.

(3) A joint and survivor annuity form of payment with a survivor annuitant not the Participant's spouse shall be available to a Participant only if the percentage of the pension payable to the survivor annuitant on or after the Participant's required beginning date and following the Participant's death does not exceed the applicable percentage determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(4) A certain and life annuity form of payment shall be available to a Participant only if the certain period does not exceed the applicable distribution period under the Uniform Lifetime Table Treas. Reg. § 1.72 9 determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(5) If a Participant dies before the required beginning date, payment of benefits to a beneficiary:

A. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is the Participant's spouse and the sole designated beneficiary, shall be made or begin no later than the later of December 31 of the calendar year following the calendar year in which the Participant to whom such spouse was married died or December 31 of the calendar year in which such Participant would have attained age seventy and one-half (70½);

B. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is not the Participant's spouse, or if the Participant's spouse is not the sole designated beneficiary, shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death, or if paid for the life of, or for a period not exceeding the life expectancy of, the beneficiary, shall begin no later than December 31 of the calendar year following the calendar year in which the Participant died; and

C. If there is no designated beneficiary (within the meaning of Code Section 401(a)(9) as of September 30 of the calendar year following the calendar year in which the Participant died), shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death.

(6) If the designated beneficiary is the Participant's surviving spouse and is the sole designated beneficiary, and if the spouse dies after the Participant but before payment to the Participant's spouse is required to begin under this Section 147.08(c), this Section shall apply to the spouse as if the spouse were a participant without a spouse.

(7) If a Participant dies after payment has commenced to him/her under an annuity form of payment, any payments to be made thereafter shall continue in accordance with the requirements of Code Section 401(a)(9).

(d) Direct Rollovers - Code Section 401(a)(31).

(1) A Distributee who is eligible to receive a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.

(2) Notwithstanding any contrary provisions of this Section 147.08(d) (except as otherwise required by Code Section 401(a)(31)), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least five hundred dollars ($500.00), (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than two hundred dollars ($200.00) (when aggregated with all other Eligible Rollover Distributions for the taxable year).

(3) For purposes of this Section 147.08(d), the following words and phrases shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Direct Rollover means a payment by the Plan to the Eligible Rollover Plan specified by the Distributee.

B. Distributee means (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a qualified domestic relations order, as defined in Code § 414(p), with respect to the interest of the spouse or former spouse.

C. Eligible Rollover Plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA described in Code Section 408A (effective January 1, 2008), a qualified trust described in Code Section 401(a), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), and an eligible deferred compensation plan described in Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that will separately account for a direct rollover (from this Plan).

D. Eligible Rollover Distribution means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which 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 and the Distributee's designated beneficiary or for a specified period of ten (10) 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) any hardship distribution; provided, however, the portion of a distribution that is not includible in gross income shall not fail to be treated as an Eligible Rollover Distribution merely because that portion is not includible in gross income, but only with respect to (i) prior to January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified defined contribution plan described in Code Section 401(a) or Code Section 403(a) that will separately account for such a Direct Rollover and (ii) from and after January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified trust, annuity plan or annuity contract described in Code Section 401(a), 403(a) or 403(b) respectively that will separately account for such a Direct Rollover.

(4) Effective January 1, 2010, and in conformance with Code Section 402(c)(11), a beneficiary eligible to receive a distribution from the Plan on account of a Participant's death may elect to transfer said distribution in a direct rollover to an individual retirement plan (described in clause (i) or (ii) of Code Section 402(c)(8) and including a Roth IRA) established by the beneficiary for this purpose, provided that (i) the beneficiary is not otherwise a Distributee, (ii) the beneficiary is a designated beneficiary as defined in Code Section 401(a)(9)(E), and (iii) the distribution would otherwise be an Eligible Rollover Distribution but for the requirement that the distribution be made to a Distributee.

(5) Said election and Direct Rollover shall be made in accordance with procedures established under the Plan in accordance with Code Section 401(a)(31).

(e) Rollovers from Other Plans. Effective January 1, 2007, the Plan will accept Participant rollover contributions and direct rollovers of eligible rollover distributions from the following types of plans, contracts and accounts for the purpose of purchasing service credit (including military service credit) under this Plan or repaying a cash-out of contributions refunded under this Plan, but only to the extent otherwise permitted under this Plan:

(1) A qualified plan described in Code Section 401(a) or 403(a), including employee after-tax contributions.

(2) An annuity contract described in Code Section 403(b), excluding employee after-tax contributions.

(3) An eligible plan under Code Section 457 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.

(4) The portion of a distribution from an individual retirement count or annuity described in Code Sections 408(a) or (b) that is eligible to be rolled over and would otherwise be includible in the Participant's gross income.

(f) Death in Qualified Military Service - Code Section 401(a)(37). As and to the extent required by Code Section 401(a)(37), a Participant who dies on or after January 1, 2007 while performing qualified military service (within the meaning of Code Section 414(u)) and who would have been entitled to reemployment rights under the Plan under the Uniformed Services Employment and Reemployment Rights Act of 1994 at death shall be treated as follows:

(1) Years of Service shall be credited for the period of the Participant's qualified military service to determine whether the Participant is vested in a benefit under the Plan for purposes of the death benefits payable under the Plan; and

(2) The Participant shall be treated as if death had occurred while employed by the Employer for purposes of the death benefits payable under this Plan.

(g) Credit for Qualified Military Service - Code Section 414(u). Contributions, benefits and service credit with respect to qualified military service shall be provided under the Plan in accordance with Code Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. Section 4318. Upon a Participant's return to employment by the City following a period of qualified military service, the City shall make the contributions to this Plan with respect to the first twelve (12) months of such qualified service that the Participant would otherwise be required to make pursuant to this Plan, Code Section 414(u) and USERRA in order to be entitled to service credit under this Plan for the first twelve (12) months of such qualified military service. Such Participant shall be required to make contributions to this Plan pursuant to Code Section 414(u), USERRA and 51 Pa.C.S. Section 7306 in order to be entitled to service credits under this Plan for qualified military service in excess of twelve (12) months.

(h) Domestic Relations Orders.

(1) Notwithstanding any contrary provisions, to the extent permitted by law, all or a part of a Participant's benefits may be assigned and paid to an "alternate payee" to the extent required and in the manner determined by the Plan with respect to a "qualified domestic relations order." For this purpose, an "alternate payee" and "qualified domestic relations order" shall be determined by the Plan Administrator who may use as guidance Code Section 414(p).

(2) The Plan may establish such procedures as it deems necessary or desirable to review domestic relations orders and to administer payments under domestic relations orders.

(i) Exclusive Benefit - Code Section 401(a)(2). All contributions made by the City to the Plan shall be used and applied for the exclusive benefit of Participants and their beneficiaries, and such contributions shall not be used for, nor diverted to, purposes other than for such exclusive benefit of the Participants and their beneficiaries; provided, that, for this purpose, payment of administrative expenses by the Plan to the extent not paid by the City, shall be considered paid for such exclusive benefit.

(j) Forfeitures - Code Section 401(a)(8). Forfeitures arising under the Plan because of a severance of Service before a Participant becomes eligible for a retirement allowance, or for any other reason, shall be applied to reduce the cost of the Plan, and not to increase the benefits otherwise payable to Participants.

(k) Vesting Upon Termination - Code Section 401(a)(7) (as in effect September 1, 1974). Upon a complete or partial termination of the Plan, or upon the complete discontinuance of contributions, as and to the extent required by the Code, each affected Participant shall be fully vested in his or her accrued benefit as of the date of such termination, partial termination or discontinuance to the extent then funded. In the event of a complete termination of the Plan, the Plan assets shall be allocated and paid in accordance with applicable law and regulations, and upon satisfaction of all liabilities of the Plan to Participants and their beneficiaries, any residual assets of the Plan shall be returned to the City.

(l) Leased Employees - Code Section 414(n).

(1) A person who is a leased employee shall be treated as in employment with the Employer, but shall not participate in the Plan or accrue any benefits under the Plan except as specifically provided for in the Plan. If a person is eligible for benefits under the Plan as a leased employee, to the extent and in the manner prescribed by Code § 414(n), the benefits provided by the leasing organization to said person shall be taken into account in determining benefits under the Plan.

(2) For this purpose a Leased Employee means, for Plan Years beginning on and after January 1, 1997, as determined in accordance with Code Section 414(n), any person who is not an employee of the Employer and who, pursuant to an agreement between a leasing organization and the Employer, performs services for the Employer on a substantially full-time basis for a period of at least one year under the primary control and direction of the Employer, but excluding any such person if (i) such person is covered under a money purchase pension plan maintained by the leasing organization that provides for a ten percent (10%) nonintegrated employer contribution for each of its participants, full and immediate vesting, and immediate participation for each non excluded employee of the leasing organization, and (ii) leased employees (determined without regard to this exclusion) do not constitute more than twenty percent (20%) of the Employer's nonhighly compensated employee workforce.
(Ord. 4-2011. Passed 1-19-11.)

147.09 ADMINISTRATION OF THE PLAN AND THE PENSION FUND.

(a) Designation, Powers and Duties of the Plan Administrator: The Board of Directors ("Board") of the Police Relief and Pension Association ("Association") is hereby designated to be the Administrator of the Plan. The Board shall have primary responsibility to administer the Plan for the exclusive benefit of the Participants and their Survivors, subject to the specific terms of the Plan. The Board shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Board shall be conclusive and binding upon all persons. The Board may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purposes of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401(a), and shall comply with the terms of Act 205 and all regulations issued pursuant thereto. The Association shall have all powers necessary or appropriate to accomplish the Association's duties as Administrator under the Plan.

The Board shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

(1) The discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;

(2) To compute, certify, and direct the custodian or trustee of the Pension Fund with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;

(3) To authorize and direct the custodian or trustee of the Pension Fund with respect to all discretionary or otherwise directed disbursements from the Pension Fund;

(4) To maintain all necessary records for the administration of the Plan;

(5) To interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;

(6) To determine the size and type of any contract to be purchased from any insurer and to designate the insurer from which such contract shall be purchased;

(7) To compute and certify to the Employer and to the custodian or trustee of the Pension Fund from time to time the sums of money necessary or desirable to be contributed to the Plan;

(8) To consult with the Employer and the Aggregate Pension Board (referred to in subparagraph (j) below) regarding the short and long-term liquidity needs of the Plan in order that the Aggregate Pension Board can exercise any investment discretion in a manner designed to accomplish specific objectives;

(9) To determine the validity of, and take appropriate action with respect to, any domestic relations order received by it, whether or not "qualified" within the meaning of the Code; and

(10) To assist any Participant regarding the Participant's rights, benefits, or elections available under the Plan.

(b) Bylaws, Meetings, Records and Reports: The Board shall adopt Bylaws regulating its organization and operations and shall hold such meetings as the efficient discharge of its duties may require. The Board shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Survivors and others as required by law.

(c) Appointment of Advisors: The Board may appoint counsel, actuaries, accountants, physicians, specialists, advisors, agents (including nonfiduciary agents) and other persons as the Board deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisors to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Board may appoint, assistance with maintaining Plan records and the providing of investment information to the Investment Managers (defined in subparagraph (h)(12) below) of the Pension Fund.

(d) Payment of Expenses: All expenses of administration that are approved by the Board may be paid out of the Pension Fund unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Association, or any person or persons retained or appointed by the Board incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, actuaries, counsel, Investment Managers, and other specialists and their agents, the costs of any bonds required pursuant to law, and other costs of administering the Plan.

(e) Claims Procedure: Claims for benefits under the Plan may be filed in writing with the Board. Written notice of the disposition of a claim shall be furnished to the claimant within sixty (60) days after the application is filed, or such other period as may be required by applicable law. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(f) Claims Review Procedure: Any Participant, former Participant, or Survivor of either, who has been denied a benefit by a decision of the Board pursuant to subparagraph (e) shall be entitled to request the Board to give further consideration to a claim by filing with the Board a written request for a hearing. Such request, together with a written statement of the reasons why the claimant believes the claim should be allowed, shall be filed with the Board no later than thirty (30) days after receipt of the written notification provided for in subparagraph (e). The Board shall then conduct a hearing within the next thirty (30) days, at which the claimant may be represented by an attorney or any other representative of such claimant's choosing and expense and at which the claimant shall have an opportunity to submit written and oral evidence and arguments in support of the claim. At the hearing (or prior thereto upon five (5) business days written notice to the Board) the claimant or the claimant's representative shall have an opportunity to review all documents in the possession of the Association which are pertinent to the claim at issue and its disallowance. Either the claimant or the Board may cause a court reporter to attend the hearing and record the proceedings. In such event, a complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expense of any such court reporter and such transcripts shall be borne by the party causing the court reporter to attend the hearing. A final decision as to the allowance of the claim shall be made by the Board within sixty (60) days of receipt of the appeal (unless there has been an extension of sixty (60) days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

(g) Claims Appeal Procedure: Any Participant, former Participant or Survivor of either, who is aggrieved by a decision of the Board affecting his or her benefit under the Plan may appeal such decision to the Court of Common Pleas of Erie County in accordance with the provisions of the Local Agency Law, 2 Pa. C.S.A. §752, and the Judicial Code, 42 Pa. C.S.A. §§ 933(a)(2) and 5571(b), or their respective successor provisions and amendments, within the time established by law for filing an appeal from the decision of a local agency.

(h) Investment Powers and Duties of the Board: The Board shall have the following powers, rights and duties with respect to the Pension Fund, subject to subparagraph (j) below:

(1) 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.

(2) To invest and reinvest the principal and income of the Pension 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.

(3) 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.

(4) 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.

(5) To exercise all conversion and subscription rights pertaining to property held in the fund.

(6) To exercise all voting rights with respect to property held in the fund and in connection therewith to grant proxies, discretionary or otherwise.

(7) 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.

(8) In addition to the foregoing powers, the Board 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 Association may deem necessary to administer the Pension Fund.

(9) 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 Employer, provided that the assets of each respective plan shall be accounted for and administered separately.

(10) 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 that 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.

(11) 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 Association, such trustee shall make such distribution only at the direction of the Association.

(12) To retain the services of one or more Investment Managers to manage (with the power to acquire and dispose of) all or any part of the Pension Fund assets, provided that each of such Investment Managers 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 or omissions of such Investment Manager or Managers with respect to the acquisition and disposition of fund assets, nor shall it be under any obligation to review or otherwise manage any Pension Fund assets which are subject to the management of such Investment Manager or Managers.

(i) Gifts, Bequests and Fees to the Pension Fund: The Board is authorized to:

(1) Take and accept by gift, grant or bequest, money and property, real, personal and mixed, for the benefit of the Pension Fund, in trust, to be added to the Fund, subject to such directions as the donors of such money and property may prescribe.

(2) Deposit into the Pension Fund all rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member or to the Pension Fund on account of police services, except such as may under the law be payable to the City; all bequests, legacies, gifts or donations made to the Pension Fund or the City in trust, for the benefit of the Bureau of Police for the period of one year or more, and for which there shall be no lawful claimant, and all income resulting from activities conducted by or under the supervision of the Bureau of Police, by and with the approval of Council, except money obtained from entertainment sponsored by the Erie Fraternal Order of Police, Lodge 7.

(j) Aggregate Pension Board: Effective November 25, 1987, the assets of the Pension Fund were transferred to a trust fund under the control of the Aggregate Pension Board as set forth in Article 173 of the City of Erie Codified Ordinances. The Aggregate Pension Board shall establish investment guidelines and be responsible for the investment of all assets of the Pension Fund. In the event that Article 173 is repealed and the assets of the Pension Fund are no longer under the control of the Aggregate Pension Board, control of the assets of the Pension Fund will revert to the Association which shall have the investment powers and duties set forth in paragraph (h) above.

(k) Value of the Pension Fund: All determination 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 Board or its appointed trustee, whose decisions shall be final. In making any such determination, the Board 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.

(l) Provisions to comply with the Municipal Pension Plan Funding Standard and Recovery Act of 1984, Elsewhere Referred to Herein as Act 205.

(1) Actuarial Evaluations. The Plan's Actuary shall perform an actuarial valuation at least biennially unless the Employer is applying or has applied for supplemental state assistance pursuant to Section 603 of Act 205, whereupon actuarial valuation reports shall be made annually. Such 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 experience investigation required by Act 205 or any other expenses which is permissible under the terms of the Act and which are directly associated with administering the Plan shall be an allowable administrative expense payable from the assets of the Pension Fund. Such allowable expenses shall include, but 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 expense for pension plan officials; provided, however, that the municipal officials of the Employer, in their fiduciary role, shall monitor the services provided to the Plan to ensure that the expenses are necessary, reasonable, and benefit the pension plan and, further provided, that the Plan Administrator shall document all such expenses item by item, and where necessary, hour by hour.

(2) Act 205 Reports. The actuarial reports required by subparagraph (1)(l) above shall be prepared and filed under the supervision of the Chief Administrative Officer, which shall be the Mayor of the City or his/her designee.

The Chief Administrative Officer shall determine the financial requirements of the plan on the basis of the most recent actuarial report and shall determine the "Minimum Municipal Obligation" (as defined in Act 205) of the Employer with respect to funding the plan for any given Plan Year. The Chief Administrative Officer shall submit the financial requirements of the Plan and the Minimum Municipal Obligation of the Employer to the Council annually and shall certify the accuracy of such calculations and their conformance with Act 205.

(3) Benefit Modifications. Prior to the adoption of any benefit plan modification by the Employer, the Chief Administrative Officer of the Plan shall provide to the Council a cost estimate of the proposed benefit plan modification. Such estimate shall be prepared by an approved Actuary, which estimate shall disclose to the Council the impact of the proposed benefit plan modification on the future financial requirements of the Plan and the future Minimum Municipal Obligation of the Employer with respect to the Plan.
(Ord. 4-2011. Passed 1-19-11.)

147.10 PARTIAL LUMP SUM DISTRIBUTION OPTION.

(a) Effective as of December 1, 2003, every full-time active police officer (hereinafter "Participant") that is participating in the Plan who shall have accrued at least twenty-one (21) years of Service on active duty as a police officer and who shall have attained the age of fifty-one (51) years or more, and who is otherwise eligible for the Normal Retirement Benefit provided under Subsection147.05 hereof, may elect the Partial Lump Sum Distribution Option ("PLSDO") provided by subparagraph (c) below in lieu of any other benefits under the Plan.

(b) A Participant may elect the PLSDO at any time after six (6) months following attainment of his/her Normal Retirement Date by delivering to the Association and the Employer a written notice stating his/her intention to terminate his/her employment with the City on an Employment Termination Date which follows by at least six (6) months the date of delivery of such notice to the Association and the Employer, and his/her intention to retire under the Plan as of a Pension Lookback Date which precedes his/her selected Employment Termination Date by either twelve (12), twenty-four (24) or thirty-six (36) months, as selected by the Participant in such Notice, which is hereinafter referred to as the "PLSDO Notice." (This six (6) months advance notice period for selecting an Employment Termination Date shall be waived for those Participants who submit their PLSDO Notice to the Association and the Employer during the first full calendar month following the adoption of the Ordinance containing this PLSDO.) A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Termination Date by twelve (12) months unless he/she shall have accrued at least twenty-one (21) years of Service under the Plan and shall have attained at least age fifty-one (51) at his/her selected Employment Termination Date. A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Termination Date by twenty-four (24) months unless he/she shall have accrued at least twenty-two (22) years of Service under the Plan and shall have attained at least age fifty-two (52) at his/her selected Employment Termination Date. A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Termination Date by thirty-six (36) months unless he/she shall have accrued at least twenty-three (23) years of Service and shall have attained at least age fifty-three (53) at his/her selected Employment Termination Date. A Participant may revoke his/her notice of intention to terminate employment with the City and to retire under the Plan by delivery of another written notice to the Association and the Employer to that effect at any time prior to the Employment Termination Date stated in his/her previous PLSDO Notice.

(c) A Participant who elects the PLSDO pursuant to paragraph (b) above shall receive, commencing with or within thirty (30) days following the Employment Termination Date selected in his/her PLSDO Notice:

(1) His/her Normal Retirement Benefit determined as of the Pension Lookback Date specified in his/her PLSDO Notice; and

(2) A lump sum cash distribution equal to the monthly retirement benefit provided in (1) above, multiplied by the number of months, twelve (12), twenty-four (24) or thirty-six (36), specified in the Participant's PLSDO Notice, or the number of months which elapsed from the Pension Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which occurs his/her death or actual termination of employment, if earlier. This lump sum cash distribution shall be eligible for rollover to the Participant's Individual Retirement Account or to another qualified plan pursuant to Subsection147.08(d) hereof, subject to the limitations and requirements of the Internal Revenue Code.

After commencement of payment to a Participant pursuant to his/her PLSDO election, such Participant shall not be eligible for any other benefit under the Plan.

(d) The Cost of Living Adjustment provided by Subsection 147.05(g)(1) hereof (applicable to Participants hired prior to January 1, 1981) to the Normal Retirement Benefit provided under (c)(1) above shall be calculated as of the prior month, which is determined from time to time by the number of months, twelve (12), twenty-four (24) or thirty-six (36) by which the Pension Lookback Date specified in the Participant's PLSDO Notice precedes the Employment Termination Date specified in such Notice, or the number of months which elapsed from the Pension Lookback Date specified in such Notice to the last day of the month in which occurs his/her death or actual termination of employment, if earlier. The Cost of Living Adjustment provided by Subsection 147.05(g)(2) hereof (applicable to Participants hired on or after January 1, 1981) to the Normal Retirement Benefit provided under (c)(2) above shall be based upon the basic monthly salary paid to a Class A patrolman of the City at a prior month, which is determined from time to time by the number of months, twelve (12), twenty-four (24) or thirty-six (36) , by which the Pension Lookback Date specified in the Participant's PLSDO Notice precedes the Employment Termination Date specified in such Notice, or the number of months which elapsed from the Pension Lookback Date specified in such Notice to the last day of the month in which occurs his/her death or actual termination of employment, if earlier. No Cost of Living Adjustment shall be calculated or credited under Subsection 147.05(g)(1) or (2) hereof with respect to any period prior to a Participant's Employment Termination Date.

(e) A Participant who delivers a PLSDO Notice to the City and who subsequently becomes permanently and totally disabled and eligible for a Disability Retirement Benefit under Subsections 147.05(e) or (f) hereof prior to the Employment Termination Date specified in such PLSDO Notice may revoke such Notice prior to the Employment Termination Date, in which case it shall be deemed of no effect, and the Participant shall retire with the Disability Retirement Benefit for which s/he is eligible under the Plan.

(f) In the event that a Participant who delivers a PLSDO Notice to the City dies prior to the actual payment of the lump sum cash distribution required by his/her election of a PLSDO and subparagraph (c)(2) above, then it shall be paid to his/her surviving spouse, or if none, to his/her surviving children per stirpes or if none, to his/her estate, but the amount of such lump sum cash distribution shall be calculated by multiplying the monthly retirement benefit provided in subparagraph (c)(1) above by the number of whole months which elapsed from the Pension Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which his/her death occurs. In the event that a Participant who delivers a PLSDO Notice to the City suffers a total and permanent disability which results in the termination of his/her employment prior to the Employment Termination Date selected in such Notice and does not revoke his/her PLSDO Election, then the amount of such lump sum cash distribution shall be calculated by multiplying the monthly retirement benefit provided in subparagraph (c)(1) above by the number of whole months which elapsed from the Pension Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which his/her termination of employment occurs. Further, in the event of the death of a Participant prior to his/her receipt of a lump sum cash distribution required by his/her election of the PLSDO, such Participant's surviving spouse shall have the option of voiding the Participant's election of the PLSDO, forfeiting the lump sum cash distribution and receiving the retirement benefits provided by the Plan to the surviving spouse as though the Participant had never elected the PLSDO. In the event such Participant's surviving spouse elects to receive the lump sum cash distribution elected by the Participant prior to his/her death and in accordance with subparagraph (c)(2) above, then the monthly retirement benefit payable to such surviving spouse shall be reduced in accordance with the deceased Participant's election of a PLSDO and subparagraph (c)(1) above.

(g) Any lump sum cash distribution payable in accordance with this Section 147.10 shall be subject to applicable Federal and State Income tax Regulations and withholding and excise taxes.

(h) A Participant who elects a PLSDO shall continue to make all required Participant Contributions to the Plan until his/her selected Employment Termination Date.
(Ord. 4-2011. Passed 1-19-11.)

147.11 MISCELLANEOUS.

(a) Funding Policy: The Employer shall make contributions to the Pension Fund in accordance with Subsection 147.03(a) and the Association shall invest the Pension Fund in accordance with the terms of the Plan and Act 205.

(b) Other City Funds Not Liable: So long as the City funds the Plan in conformance with Act 205, payment of pensions and allowances as provided under this Plan shall not be a charge on any other fund of the Employer or account under its control, other than the Fund related to the Police Pension Plan established hereunder.

(c) Information to be Furnished by the Employer: The Employer shall furnish to the Board such information in the Employer's possession as the Association requires from time to time to perform its duties under the Plan.

(d) Prohibition Against Diversion of Funds:

(1) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Pension Fund, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of the Pension Fund maintained pursuant to the Plan or any Funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, former Participants or their Survivors.

(2) In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one (1) year following the time of payment and the trustee or custodian of the Pension Fund shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

(e) Participant's Rights: This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant in this Plan.

(f) Anti-Alienation Provision:

(1) Subject to the exceptions provided below, no benefit which shall be payable out of the Pension Fund to any person (including a Participant or any Survivor) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, or claim of any creditor, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Board, except to such extent as may be required by law.

(2) Subparagraph (1) shall not apply to a "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984 or other federal or state law. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order," a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(g) Incapacity of Recipient of Benefits: If any person entitled to receive benefits shall be physically or mentally incapable of receiving or acknowledging receipt of any payment of benefits, the Board of Directors, upon the receipt of satisfactory evidence that such person is so incapacitated and that another person or institution is maintaining him/her and that no guardian or committee has been appointed for him/her, may provide for the payment of benefits hereunder to such person or institution so maintaining him/her, and any such payments so made shall be deemed for every purpose to have been made to or for the benefit of such incapacitated person.

(h) Ownership of Plan Assets: Nothing contained herein shall be deemed to give any Participant or his/her beneficiary any interest in any specific property of the Plan or any right except to receive such distributions as are expressly provided for in this Plan.

(i) Legal Action: In the event any claim, suit or proceeding is brought regarding the Pension Fund and/or the Plan established hereunder to which the Employer, the Association or the members of the Association may be a party, and such claim, suit or proceeding is resolved in favor of the Employer, the Association, or the members of the Association, they shall be entitled to be reimbursed from the Pension Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

(j) Indemnification of Fiduciaries. To the fullest extent allowed by Act 205, the Employer shall defend and hold harmless Council, the Board, the Association and their members, and shall indemnify the same, against any and all claims or liabilities which may be asserted against any of them by reason of any action or omission in the administration or operation of the Plan, except in the case of any criminal liability, fraud or willful wrongdoing.

(k) Headings: The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

(l) Gender and Number: Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(m) Receipt and Release for Payments: Any payment to a Participant, the Participant's legal representative, Survivor, or to any guardian or committee appointed for such Participant or Survivor in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Association and the Employer, either of whom may require such Participant, legal representative, Survivor, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Association or the Employer.

(n) Governing Law To Prevail Over Inconsistent Plan Provisions: The Plan shall be governed by, and construed in accordance with Act 205 and the laws of the Commonwealth of Pennsylvania except to the extent that such laws have been specifically preempted by the Code or other Federal legislation. 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 Internal Revenue Code and regulations duly promulgated thereunder. The plan and benefits hereunder shall be conformed and amended to the extent necessary to comply with all applicable laws.
(Ord. 4-2011. Passed 1-19-11.)

ARTICLE 149
Firefighter's Pension Plan

149.01 Definitions.
149.02 Contributions.
149.03 Retirement eligibility.
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149.05 Death benefits.
149.06 Termination of service before vesting.
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149.09 Partial lump sum distribution option.
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149.01 DEFINITIONS.

The following words and phrases as used in this Plan shall have the meaning set below unless a different meaning is clearly required by the context:

(a) **"Accrued Retirement Benefit"** means the amount of retirement benefit credited to the Participant as of any date pursuant to Section 149.04(a) calculated on the basis of the Participant's Final Pay determined as of such date and multiplied by a fraction not to exceed one (1.0), the numerator of which shall be the Participant's completed years of Service as of such date and the denominator of which shall be the number of years of Service which the Participant would complete as of his Normal Retirement Date under the Plan, assuming no interruption of Service to his Normal Retirement Date.

(b) **"Act 205"** means the Municipal Pension Plan Funding Standard and Recovery Act, enacted as P.L. 1005 (Act 205 of 1984), 53 P.S. §895.101 et seq., as amended from time to time.

(c) **"Actuarial Equivalent"** means a benefit or an amount of equivalent actuarial value computed, except as otherwise specified herein, on the basis of the 1983 Group Annuity Mortality Table for Males, and interest at the rate of eight percent (8%) per annum.

(d) **"Actuarially Sound"** means a Plan that is being funded annually at a level not lower than the financial requirements of the Plan pursuant to Act 205.

(e) **"Actuary"** means the person, partnership, association or corporation that at any given time serves as Actuary to the plan; provided that such Actuary must be an "Approved Actuary" as defined in Act 205.

(f) **"Age"** means the age of a Participant calculated as of his/her last birthday.

(g) **"Board"** or **"Board of Managers"** means the Board of Managers of the City of Erie Firefighters' Pension Fund, which is in charge of the administration of the Plan. There are nine (9) members of the Board, consisting of the Mayor, the Director of Finance, the Director of Public Safety, the City Controller, the Fire Chief (or the replacement or substitute officer of the City performing substantially the same functions as any of the foregoing listed officers), two (2) members elected by the Employees in the Bureau of Fire, and effective May 1, 2005, two (2) members elected by the dues-paying members of the City of Erie Retired Firefighters Association from among their members who are currently receiving monthly pension payments from the Pension Fund ("Retirees"). The two (2) members elected by the active Employees shall serve for a term of four (4) years, with the term of one to expire two (2) years after the term of the other. One of these Employee-elected members shall serve as Secretary and the other shall serve as Treasurer of the Board. There shall be an election every two (2) years to fill the position of the Employee-elected member whose term has expired. In the event of a vacancy among the Employee-elected members of the Board the active Employees shall elect a successor to complete the unexpired term. The two (2) members elected by the Retirees shall serve for four (4)-year terms, except that one of the two (2) members initially elected by the Retirees shall serve for an initial term of six (6) years. There shall be an election every two (2) years to fill the position of the Retiree-elected member whose term has expired. In the event of a vacancy among the Retiree-elected members of the Board the Retirees shall elect a successor to complete the unexpired term.

(h) **"Bylaws**" means the bylaws of the Association which shall govern the internal operations of the Association.

(i) **"City Council"** or **"Council** means the governing body of the Employer.

(j) **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

(k) **"Compensation"** means a Participant's wages or compensation as reported on IRS Form W-2 each year, including regular pay, shift differential, longevity increments, holiday pay, and contributions to the Plan which are picked up by the City under Code Section 414(h)(2), plus uniform cleaning allowances, whether or not included in W-2 income, but excluding overtime pay, sell back of unused vacation time or unused sick leave pay and "out of rank pay" (pay above regular pay while serving in a temporary position) even though included in W-2 income. Effective January 1, 1998 Compensation also includes elective amounts not included in W-2 income by reason of Code Sections 125, 132(f)(4), 401(k), 402(g)(3), 403(b) or 457(b). Compensation shall include contributions "picked up" under Section 149.02(b).

(l) **"Disability Retirement Benefit"** shall have the meaning specified in Sections 149.04(e) and (f).

(m) The **"Effective Date"** of this Amendment and Restatement of the Plan is January 1, 2010, except where otherwise specified in this Plan. The Partial Lump-Sum Distribution Option of Section 149.09 was effective February 15, 2004. Section 149.09 was repealed effective December 20, 2006.

(n) **"Employee"** means a sworn firefighter employed in the Employer's Fire Department to suppress fires on a full-time basis, including the Chief, Assistant Chiefs, Fire Inspectors, Emergency Medical Services Coordinator, and the Quartermaster, but excluding support personnel such as dispatchers, mechanics, electricians, clerks and secretaries.

(o) **"Employer**" means the City of Erie.

(p) **"Final Pay"** means a Participant's Compensation paid by the City in the form of regular pay, longevity increments, holiday pay, uniform cleaning allowance and contributions to the Plan by the Participant which are "picked up" by the City under Code Section 414(h)(2), but excluding Compensation for overtime, sell back of unused vacation time, sell back of unused sick leave pay, and pay exceeding regular pay while serving in a temporary position ("out of rank pay"), at the greater of: (a) the annual rate in effect at the earlier of the time of the Participant's termination of employment or retirement under the Plan or the Pension Lookback Date which the Participant selects under Section 149.09 hereof, or (b) the highest annual Compensation withing the meaning of this paragraph (p) which the Participant received during any of the five (5) Plan Years of the Participant's Service with the City prior to the Participant's termination of employment or retirement under the Plan or the Pension Lookback Date which the Participant selects under Section 149.09 hereof. Effective as of January 1, 1998 Final Pay includes elective amounts of Compensation not included in income by reason of Code Sections 125, 132(f)(4), 401(k), 402(g)(3), 403(b) or 457(b).

The Final Pay which is taken into account in determining benefit accruals in any Plan Year for each Employee who first became a participant in the Plan on or after January 1, 1989 is subject to the annual limits of Code Section 401(a)(17), which specifies $200,000 for Plan Year 1989, $209,200 for Plan Year 1990, $222,220 for Plan Year 1991, $228,860 for Plan Year 1992, $235,840 for Plan Year 1993, reduced by OBRA-1993 to $150,000 for Plan Years 1994 through 1996, increased to $160,000 for Plan Years 1997 through 1999, increased to $170,000 for Plan Years 2000 and 2001, and increased to $200,000 for the 2002 Plan Year. The $200,000 limit on Compensation included in Final Pay shall be adjusted after the 2002 Plan Year for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Family Aggregation Rules do not apply for Plan Years beginning after December 31, 1996.

Section 149.09 (Partial Lump Sum Distribution Option) has been eliminated in accordance with the repealer passed by City Council on December 20, 2006 at Official Ordinance No. 75-2006.

(q) **"Intervening Uniformed Service"** means honorable active duty service in the Uniformed Services by a Participant for up to five years (subject to extension of such five (5)-year period as permitted by USERRA), whether on a voluntary or involuntary basis, and who returns to the employ of the Employer at the conclusion of such Uniformed Service within the Report-Back Period permitted by USERRA.

(r) **"Normal Retirement Benefit"** shall have the meaning specified in Section 149.04(a).

(s) **"Normal Retirement Date"** means the date on which a Participant shall have accrued twenty (20) years of Service on active duty as an Employee with the Employer and who shall have attained the age of fifty (50) years.

(t) **"Participant"** means any Employee who is contributing to the Pension Fund out of their Compensation the amounts required by Section 149.02(b).

(u) **"Pension Fund"** shall mean the assets of this Plan held and administered under the terms of this Plan and Act 205, and which shall include all money, property, investments, policies and contracts that are a part of the Plan, which shall be held in trust by the City according to the laws of the Commonwealth of Pennsylvania.

(v) **"Pick-Up Contributions"** means Employee Contributions otherwise due from Participants in the Plan that are made by the City on a pre-federal (but not pre-Pennsylvania) income tax basis pursuant to Subsection 414(h)(2) of the Code commencing January 1, 1994.

(w) **"Plan"** means the defined benefit pension plan set forth in this Article 149 (including any trust forming a part hereof), as amended and supplemented from time to time, all of which shall be known as the City of Erie Firefighters' Pension Plan.

(x) **"Plan Administrator"** shall be the Board which is designated as the Plan Administrator in Section 149.08(a) below.

(y) **"Plan Year"** means each twelve (12) month period beginning on January 1st and ending on the following December 31st.

(z) **"Preparation Time"** means the reasonable period that the Employee may need after leaving his/her position with the Employer to put his/her affairs in order, or to prepare or travel for duty in one of the Uniformed Services as allowed under USERRA.

(aa) **"Prior Military Service"** means service on active duty in the U.S. Armed Forces completed prior to the Participant's initial employment by the Employer as an Employee, as evidenced by a Department of Defense Form 214 issued to the Participant.

(bb) **"Repayment Period"** means the period following the re-employment by the Employer of a Participant after Intervening Uniformed Service within which the Participant must repay to the Plan (1) any Employee Contributions which the Participant withdrew from the Plan in connection with such Intervening Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (2) the amount of any Employee Contributions otherwise due to the Plan during the Participant's Intervening Uniformed Service and related Report-Back Periods (beyond the first twelve (12) months), without interest, provided that the Participant remains employed with the Employer throughout such Repayment Period. This Repayment Period equals three (3) times the period of the Participant's Uniformed Service, but not more than five (5) years.

(cc) "**Report-Back Period"** means the period allowed under USERRA for a Participant to report back to work or apply for re-employment with the Employer after completion of Intervening Uniformed Service. Depending on the length of the Participant's intervening Uniformed Service, s/he is allowed up to ninety days following completion of intervening Uniformed Service to apply for re-employment or report back to work at the Employer. This Report-Back Period is extended for the period that is necessary (up to two (2)years) for a Participant to recover from an illness or injury incurred in or aggravated during Uniformed Service.

(dd) **"Retirement Benefit"** means the total monthly retirement benefit payable to a Participant under Sections 149.03 and 149.04 below.

(ee) **"Retirement Date"** means the first day coincident with or following a Participant's 50th birthday and termination of employment with a Vested Retirement Benefit or a Vested Reduced Retirement Benefit.

(ff) **"Service**" means the total number of full years during which a Participant was an Employee of the Employer and made the required contributions to the Plan from Compensation paid by the City, or with respect to Prior Military Service or Intervening Uniformed Service which the Participant purchased or was credited under Sections 149.02(c) or (d) below. Service does not include any period for which the Participant's contributions were refunded and not timely repaid to the Fund. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan except as provided in the case of purchase of Prior Military Service or Intervening Uniformed Service under Sections 149.02(c) or (d) below. No Participant may purchase Service credit for any period of active Military or Uniformed Service under this Plan with respect to which s/he purchases or has purchased similar credit under any other pension plan of the Commonwealth of Pennsylvania or its subdivision in which s/he is a Participant.

(gg) **"Service Increment"** means the component of monthly Retirement Benefit attributable to full years of Service above twenty (20), pursuant to Section 149.04(a)(2) below, not to exceed five hundred dollars ($500.00) per month.

(hh) **"Survivor**" means the Participant's surviving spouse. Following the death of both the Participant and his/her spouse "Survivor" shall mean the surviving children of the deceased Participant in equal shares for so long as they are under age 18.

(ii) **"Total and Permanent Disability"**, **"Totally and Permanently Disabled"** means a condition as determined by sworn statements of three practicing physicians designated by the Board of Managers that, in their opinion, to a reasonable degree of medical certainty, a Participant is totally and permanently disabled from performing the duties of a firefighter. Any Participant found to have such condition shall be subject to periodic physical examination and review by three practicing physicians at any reasonable time designated by the Board for determination whether his/her total and permanent disability continues. If the three practicing physicians do not confirm by their sworn statements that the Participant continues to be totally and permanently disabled from performing the duties of a firefighter, or if the Participant refuses to submit to such examination, he/she shall cease to be Totally and Permanently Disabled or to have the condition of Total and Permanent Disability.

(jj) **"Uniformed Service"** and **"Uniformed Services"** means active duty in the Armed Forces of the United States (which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and National Guard and their Reserve components), the Army National Guard and the Air National Guard when engaged in active duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency, or specified in regulations promulgated under USERRA, together with any period for which an Employee is absent from the employ of the Employer for a determination of the Employee's fitness to perform any such duty or for the purpose of performing funeral honors duty as authorized by 10 USCS §12503 or 32 USCS §115. Uniformed Service shall also include any related Preparation Time. If an Employee is dismissed or separated from Uniformed Service under other than honorable conditions that related period of Uniformed Service shall not be credited as Service under the Plan.

(kk) **"USERRA**" means the Uniformed Services and Reemployment Rights Act of 1994, 38 USC §§4301 et seq., as amended from time to time.

(ll) **"Vested Benefit"** and **"Vested Reduced Benefit"** means Participants shall be vested in the Retirement Benefit that they have accrued in the Plan after at least twelve (12) years of Service. Being "vested" means that the Accrued Retirement Benefit to which the Participant is credited as of any date cannot be forfeited unless the Participant dies without a Survivor. In that event any undistributed Employee Contributions shall be refunded to the Participant's Estate, without interest. Periods of layoff, suspension or leave of absence do not interrupt Service, but are not credited to the accrual of Retirement Benefits payable under the Plan, except as required by USERRA.

The Vested Reduced Benefit to which a Participant who has completed the minimum number of years of Service required for vesting is calculated by multiplying the Normal Retirement Benefit to which the Participant would be entitled at age fifty (50) if s/he had completed twenty (20) years of Service (but using the actual Final Pay which the Participant had received to the date his/her employment by the City was terminated) by the fraction determined by dividing the Participant's actual full years of Service by twenty (20). In the event that the City terminates the Plan or discontinues making contributions to it, the Accrued Retirement Benefit of all Participants shall become fully vested, to the extent funded, regardless of the Participant's years of Service.
(Ord. 5-2011. Passed 1-19-11.)

149.02 CONTRIBUTIONS.

(a) Contributions by Employer: The Employer shall contribute to the Pension Fund for investment at least such amounts each year as are necessary to satisfy the minimum funding standards of Act 205.

(b) Participant Contributions: Participant contributions to the Pension Fund shall be made as follows:

(1) Participants shall contribute monthly an amount equal to: six percent (6%) of monthly Compensation, but excluding overtime pay, out of rank pay, sell back of unused vacation time, sell back of unused sick leave pay, plus one dollar ($1.00) per month for the Service Increment. The amount required to be contributed for the Service Increment shall be contributed until a Participant terminates employment.

(2) No Participant shall have the option of choosing to receive these contributions in cash instead of having them paid by the Employer to the Plan.

(3) Commencement of Contributions: Contributions shall commence by payroll deductions upon commencement of employment.

(4) Termination of Contributions: Contributions shall terminate at Retirement, disability, death or termination of employment.

(5) Return of Contributions: If a Participant terminates Service prior to accruing a Vested Benefit in the Plan, s/he shall be entitled to the return of his/her Contributions, without interest, in accordance with the provisions of Section 149.06(b).

(6) Pick-Up Contributions: Effective January 1, 1994, contributions to the Pension Fund by Participants shall be picked-up by the City under Section 414(h)(2) of the Internal Revenue Code. Contributions picked-up under this Code Section shall be considered Employee contributions for all other purposes.

(7) All Contributions made to the Pension Fund by Participants pursuant to this subsection shall be separately accounted for each Participant.

(8) Buyback Contributions for Certain Service Prior to January 1, 1985: Consistent with past practice Participants may purchase their Service for periods of employment as an Employee prior to January 1, 1985 during which they were not permitted to make contributions to the Pension Fund because they were on probation or due to administrative error following completion of probation by making a lump sum payment to the Pension Fund of five percent (5%) of the pay which a Class A Firefighter received during such prior period of Service. All Participants having such Service prior to January 1, 1985 must make the required lump sum contribution to the Pension Fund on or before December 31, 2006 to have such prior Service credited under the Plan.

(c) Purchase of Prior Military Service.

(1) Any Participant who is a contributor to the Plan and who has served in the Armed Forces of the United States subsequent to September 1, 1940, but who was not a Participant in the Plan prior to such Military Service, shall be entitled to purchase Military Service for credit toward the accrual of a full pension under the Plan in accordance with the definition of Normal Retirement Date and the provisions of this subparagraph for each year or fraction thereof, not to exceed five years of such Prior Military Service. Credit for Service under the Plan for Prior Military Service shall be given only upon payment to the Pension Fund by the Participant of an amount equal to (i) that which the Participant would

have paid had s/he been a Participant in the Plan during the period of Prior Military Service for which the Participant desires credit for Service under the Plan, and (ii) the contributions which the City would have otherwise paid on account of such Prior Military Service. Participants electing to purchase Service credit for Military Service in the Armed Forces of the United States subsequent to September 1, 1940, shall make such election in writing within six (6) months of employment by the City, and shall pay the total sum to the Pension Fund within twenty-four (24) months of the date of their election.

(2) Effective January 1, 2008, Participants who did not previously purchase their Prior Military Service may at any time prior to their Retirement Date purchase such Prior Military Service for credit as Service under the Plan by payment to the Pension Fund of an amount equal to (i) the amount which the Participant would have paid had s/he been a Participant in the Plan during the period of Prior Military Service for which the Participant desires credit for Service under the Plan, but not to exceed five (5) years, on the basis of the Compensation payable to a Class A firefighter during the period of Prior Military Service purchased, (ii) one dollar ($1.00) per month of Prior Military Service purchased, for the Service increment, (iii) the amount which the City would have contributed to the Fund during the period of Prior Military Service purchased by such Participant, and (iv) interest on (i), (ii) and (iii) at the annual rate of return on Plan assets which is calculated by the Actuary for the Plan from the date which is two and one-half (2½) years after the Participant's initial date of employment as an Employee, compounded annually to the date of payment to the Plan.

(3) However, such purchased Prior Military Service shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(d) Credit for and Purchase of Intervening Uniformed Service.

(1) A former Participant who serves more than five (5) years in Uniformed Service (not counting any related Report-Back Period and necessary Preparation Time included in such Uniformed Service) does not have any right to be re-employed by the Employer or to receive Service credit under the Plan for such Uniformed Service. However, the five (5) year service limit is extended under the Final Regulations issued by the Department of Labor under USERRA for additional periods of active duty in the Uniformed Services required by military necessity, national emergency or in support of a critical mission of the Uniformed Service, and not within the control of the former Participant.

(2) Upon re-employment by the Employer of a Participant after completing a period of Intervening Uniformed Service following application within the Report-Back Period the Participant has the option (i) to repay any amounts previously withdrawn by the Participant from the Plan in connection with such Uniformed Service, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of repayment, and (ii) to make-up any Employee Contributions that would have been due to the Plan after the first twelve (12) month of Intervening Uniformed Service and related Report Back Period, without interest. The City shall make all contributions to the Plan necessary for the Participant to receive credit for Service under the Plan with respect to the first twelve (12) months of such intervening Uniformed Service and related Report-Back Period.

(3) The Employee's rate of pay and required contribution rate during said Intervening Uniformed Service and Report-Back Periods shall be calculated using the rate of pay that the Employee would have received and the contribution rate that the Employee would have been required to make had s/he not been absent during such intervening Uniformed Service and Report-Back periods, or if not reasonably certain, then it shall be the Employee's average level of Compensation and rate of contribution during the twelve (12)-month or shorter period of employment immediately preceding his/her Intervening Uniformed Service.

(4) The Participant has the Repayment Period within which to repay to the Plan any such Employee withdrawals with interest and such Employee make-up Contributions without interest.

(5) At the time of, and to the extent of, the Participant's repayment to the Plan of any such Employee withdrawals with interest and of such Employee make-up Contributions without interest, the Employer shall pay the Employer Contributions to the Plan that relate to and are contingent upon the Participant's restoration to the Plan of the Employee Contributions withdrawn in connection with or otherwise due during such Intervening Uniformed Service and Report-Back Periods.

(6) However, any Intervening Uniformed Service for which the Participant makes up Employee Contributions within the Repayment Period shall not be credited towards the accrual of a Normal Retirement Benefit, a Vested Benefit, or a Vested Reduced Benefit until the Participant has accrued at least twelve (12) years of non-Military and non-Uniformed Service.

(7) To the extent that the preceding conditions are met within the Repayment Period the effect of intervening Uniformed Service and related Report-Back Periods upon the Retirement Benefit of a Participant retiring from the Plan shall be the same as though the Participant had remained continuously employed by the Employer during such Periods.

(Ord. 5-2011. Passed 1-19-11.)

149.03 RETIREMENT ELIGIBILITY.

(a) Normal Retirement: Each Participant who retires from the employ of the Employer on the first day of the calendar month coincident with or next following his/her Normal Retirement Age ("Normal Retirement Date") shall be entitled to receive the benefits provided for in Section 149.04(a).

(b) Late Retirement: A Participant who remains in the employ of the Employer after his/her Normal Retirement Date shall continue to be a Participant in the Plan until his/her actual retirement date ("Late Retirement Date") and shall be entitled to receive the benefit provided for in Section 149.04(c).

(c) Disability Retirement: As specified in Section 149.04(e) or (f).

(d) Vesting: A Participant who terminates employment after at least twelve (12) years of continuous Service excluding Military and Uniformed Service purchased prior to the completion of twelve (12) years of non-Military and non-Uniformed Service, unless otherwise required by applicable law, shall be entitled to the Vested Reduced Benefit set forth in Section 149.04(d).

(e) Retirees Subject to Recall for Emergency Service: Every retired Participant shall be subject to service, from time to time, as a firefighter's reserve in cases of emergency until unfitted for such service, at which time he/she shall be finally discharged by reason of age and/or disability.
(Ord. 5-2011. Passed 1-19-11.)

149.04 RETIREMENT BENEFITS.

(a) Normal Retirement Benefit: The amount of monthly retirement benefit to be provided for each Participant who retires on his/her Normal Retirement Date (which benefit is herein called his Normal Retirement Benefit) shall be equal to:

(1) Fifty percent (50%) of 1/12 of the Participant's Final Pay, plus

(2) 1/40th of the monthly retirement benefit determined by (1) above, multiplied by each full year of Service after twenty (20) years of Service but earned prior to age sixty-five (65), not to exceed five hundred dollars ($500.00) ("Service Increment").

(b) Normal Form of Benefit: the Normal Retirement Benefit payable to a Retired Participant pursuant to Section 149.04(a) shall be a monthly pension commencing on his/her Retirement Date and continuing after his/her death to the Survivor as set forth in Section 149.05.

(c) Late Retirement Benefit: A Participant who remains in the employ of the Employer beyond his/her Normal Retirement Date shall be entitled to receive, commencing on his/her Late Retirement Date, his/her benefit calculated pursuant to subsection (a) hereof considering his/her Final Pay as of his/her Late Retirement Date.

(d) Vested Benefit or Vested Reduced Benefit: Where a Participant has completed twelve (12) years or more of Service, excluding Military or Uniformed Service purchased prior to the completion of twelve (12) years of non-Uniformed Service, unless otherwise provided by applicable law, and his/her tenure of office or employment shall be terminated before the expiration of twenty (20) years of Service, or before his/her attainment of age fifty (50),s/he shall, in such event, after attaining the age of fifty (50) years, during the remainder of his/her life, be entitled to receive such portion of the full pension as the period of his/her Service (counting Prior Military Service and Intervening Uniformed Service purchased for credit as Service under Sections 149.02(c) and (d) after completion of twelve (12) years of non-Uniformed Service) to the date of its termination bears to the full twenty-year period of Service for a Normal Retirement Pension. The continuity of twelve (12) years of Service shall not be affected by interruptions of Service for suspension, leave of absence or Intervening Uniformed Service.

(e) Disability Retirement Benefit for Disability Not in Line of Duty: A Participant who accrues less than twelve (12) years of Service and who becomes Totally and Permanently Disabled due to injuries or mental incapacities incurred outside of the line of duty and who is unable to perform the duties of a firefighter, shall be entitled to a Disability Retirement Benefit equal to twenty-five percent (25%), or if the Participant had completed twelve (12) or more years of Service at the time of Total and Permanent Disability not in the line of duty, then fifty percent (50%), of his/her Final Pay at the time such disability is incurred, payable at the rate of 1/12 of such amount per month commencing immediately, and thereafter for so long as the Participant remains Totally and Permanently Disabled. If such disabled Participant shall die, the pension payment that s/he was receiving shall continue to be paid to his/her Survivor. Where a Participant who has received benefits under this subsection dies and there is no Survivor eligible for benefits under this subsection, no further benefits shall be payable from the Pension Fund, except as provided in Section 149.06(d) with respect to any Participant Contributions which remain undistributed.

(f) Disability Retirement Benefit for Disability in Line of Duty: A Disability Retirement Benefit shall be provided for any Participant who incurs Total and Permanent Disability in the line of duty, regardless of the number of years of Service accrued at the time of such disability, which shall be equal to fifty percent (50%) of the Participant's Final Pay at the time such disability is incurred on or prior to December 31, 2005, and which shall be equal to seventy-five percent (75%) of the Participant's Final Pay at the time such disability is incurred on or after January 1, 2006, in either case payable at the rate of 1/12 of such amount per month from the effective date of Total and Permanent Disability.

Such Participants shall also receive a Service Increment for each full year of Service which the Participant earned over twenty (20), but prior to age sixty-five (65), calculated at 1/40th of fifty percent (50%) of 1/12th of the Participant's Final Pay at the time s/he incurred such Total and Permanent Disability in the line of duty, not to exceed five hundred dollars ($500.00) per month.

The Disability Retirement Benefit payable under this subsection shall be payable to the Participant during his/her lifetime and if s/he shall die, Disability Retirement Benefit that the Participant was receiving shall be continued to be paid to his/her Survivor. Where a Participant who has received benefits under this subsection dies and there is no Survivor eligible for benefits under this subsection, no further benefits shall be payable from the Pension Fund, except as provided in Section 149.06(d) with respect to any Participant Contributions which remain undistributed.

(g) Cost of Living Adjustments: Shall be provided to increase the monthly pension payable pursuant to Sections 149.04(a) (Normal Retirement) or (c) (Late Retirement) of the Plan to Participants who retire on or after January 1, 1998 with at least twenty (20) years of Service, and to their Survivors, if any, so that their pensions shall not fall below fifty percent (50%) of the monthly salary currently being paid to a Class A firefighter of the City. Participants receiving a Vested Reduced Benefit pursuant to Section 149.04(d) hereof, and their Survivors, if any, shall be entitled to a cost of living increase so that their pensions shall not fall below that portion of fifty percent (50%) of the monthly salary of a Class A firefighter as his/her years of Service to date of termination bears to the full twenty (20) years of Service required for a Normal Retirement Benefit.

Participants who qualify for a Disability Retirement Benefit for a Disability Not in Line of Duty under Section 149.04(e) hereof with less than twelve (12) years of Service shall be adjusted for the Cost of Living so that their pensions shall not fall below twenty-five percent (25%) of the monthly salary currently being paid to a Class A firefighter of the City.

Participants who qualify for a Disability Retirement Benefit for Disability Not In the Line of Duty under Section 149.04(e) hereof with twelve (12) or more years of Service shall be adjusted for the Cost of Living so that their pensions (and the pensions of their Survivors, if any) do not fall below that portion of fifty percent (50%) of the monthly salary currently being paid to a Class A firefighter.

(h) Minimum Pension: On and after January 1, 1974, persons receiving monthly benefits of any kind from the Pension Fund shall receive a benefit of not less than $200 per month.
(Ord. 5-2011. Passed 1-19-11.)

149.05 DEATH BENEFITS.

(a) Survivor Benefit for Death When Retired or Eligible to Retire: The Survivor of a Participant who dies while receiving or while eligible to receive a Normal Retirement Benefit under Section 149.04(a), a Late Retirement Benefit under Section 149.04(c) or a Vested Reduced Benefit under Section 149.04(d) shall be entitled during his/her lifetime to receive the Retirement Benefit that the Participant was receiving or would have been receiving had s/he been retired at the time s/he died, commencing at his/her death. With respect to a Participant who dies while entitled to a Vested Reduced Benefit under Section 149.04(d) but before s/he has commenced to receive it, the Retirement Benefit that the Participant had accrued at his/her death shall be paid to his/her Survivor commencing at the date the Participant would have been eligible to receive Retirement Benefits had s/he not died. In case a Survivor is the surviving spouse of more than one deceased Participant the Survivor Benefit payable to that Survivor shall not exceed the highest Retirement Benefit accrued by any deceased Participant to whom the Survivor was married at the time such Participant died.

(b) Survivor Benefit for Death In Line of Duty After 1967: The Survivor of a Participant who is killed in the line of duty on or after January 1, 1968 shall receive during his/her lifetime the Retirement Benefit which the Participant had accrued at the time of his/her death, payable commencing with the Participant's death, regardless of the number of years of Service which the Participant had completed at his/her death.

(c) Survivor Benefit for Death Outside of Line of Duty: The Survivor of a Participant who is killed or dies outside of the line of duty prior to completion of twelve (12) years of Service shall be entitled to receive a monthly Retirement Benefit commencing with the Participant's death, equal to twenty-five percent (25%) of 1/12 of the Participant's Final Pay. The Survivor of a Participant who is killed or dies outside of the line of duty following the completion of twelve (12) years of Service shall be entitled to receive a monthly Retirement Benefit equal to the greater of fifty percent (50%) of 1/12 of the Participant's Final Pay or of the Participant's Accrued Retirement Benefit, payable commencing with the Participant's death.

(d) Payment of Survivor Benefit: The survivor benefit paid pursuant to subsections (a), (b) or (c) hereof shall be paid to the surviving spouse until the date of death of the surviving spouse. Upon the death of surviving spouse of a Participant, the survivor benefit shall be paid monthly in equal shares to the surviving children of the deceased Participant until the earliest of the death or attainment of age eighteen (18) of each child. The shares payable to the surviving children shall be adjusted as each child ceases to be eligible to receive a share of the benefit hereunder due to death or attainment of age eighteen (18). The payee above whether the spouse or the children, shall be defined herein as the Survivor.

(e) Death Benefit for Participants in Plan Prior to June 11, 1966: In addition to the Participant Contributions required by Section 149.02(h), a Participant in the Plan prior to June 11, 1966 who contributed one dollar and forty cents ($1.40) per month to the Plan and to its predecessor plan, the Erie Fire Department Relief Association, during his/her employment by the Employer out of his/her monthly compensation, and during his/her retirement out of his/her monthly Retirement Benefit, is entitled to a death benefit of two thousand dollars ($2,000.00) payable to his/her designated beneficiary, or if no beneficiary is designated, to his/her estate. A Participant in the Plan prior to June 11, 1966 who did not make such additional monthly contributions during his/her employment and throughout his/her retirement, is entitled to a death benefit of one thousand dollars ($1,000.00) payable to his/her designated beneficiary, or if no beneficiary is designated, to his/her estate. The last Participant eligible for this death benefit retired from the Plan on July 1, 2004.

(f) Distribution on Behalf of Minor Beneficiary: In the event a distribution is to be made to a minor, then the Board shall direct that such distribution be paid to the guardian of the estate of, or if none, to the trustee for, or if none, to a parent of, such minor, or if no parent survives, then to a responsible adult with whom such minor maintains his residence. Payment to such guardian, trustee or parent of a minor, or responsible adult with whom the minor resides, shall fully discharge the Board, Employer and Plan from liability on account thereof.
(Ord. 5-2011. Passed 1-19-11.)

149.06 TERMINATION OF SERVICE BEFORE VESTING.

(a) Forfeitures: Upon the forfeiture of any non-vested portion of a Participant's Accrued Benefit, the amount of such forfeiture shall be credited against the future contributions of the Employer under the Plan.

(b) Refund of Contributions to Terminated Non-Vested Participants: A Participant who terminates employment with the City for causes other than layoff for less than two (2) years, death or disability prior to becoming vested in a Vested Benefit hereunder, shall receive the refund of the total amount of the contributions paid into the Pension Fund by such Participant, including Pick-up Contributions, but without interest.

(c) Right of Terminated, Non-Vested Participant to Return Withdrawn Contributions Upon Re-Employment: A Participant who receives a refund of the total amount of his/her contributions to the Pension Fund as the result of the termination of his/her employment who subsequently becomes re-employed by the Fire Department and a Participant in the Plan shall be entitled to credit under the Plan for his/her Service prior to his/her termination of employment, provided s/he returns to the Pension Fund the amount of contributions withdrawn from it, with interest at the annual rate of return on Plan assets which is calculated by the Plan Actuary, compounded annually from the date of withdrawal to the date of payment, within two (2) years from the date of his/her reemployment by the Fire Department as a Participant.

(d) Refund of Participant's Undistributed Contributions Upon Death: In the event of the death of a Participant, and in the case of a married Participant, the death of his/her surviving spouse or the death of his/her/their surviving children prior to their attaining age eighteen (18), any excess of the total amount of the Participant's contributions to the Plan, including Pick-Up Contributions, without interest, over the total of all benefits distributed from the Plan to the Participant, to his/her surviving spouse and to his/her their surviving children prior to the death of the last survivor, shall be paid to the Participant's designated beneficiary, and if no beneficiary has been designated, to his/her estate, provided, that in case payment of the deceased Participant's retirement benefits is subject to a domestic relations order in favor of a former spouse, no refund of the benefits undistributed from the Plan shall be made to the Participant's designated beneficiary or estate until all obligations of the Plan to the Participant's former spouse under the domestic relations order are satisfied, and the amount of refund owing from the Plan to the Participant's designated beneficiary or estate for undistributed benefits under this paragraph shall be calculated after deducting all payments made from the Plan to the Participant's former spouse under the domestic relations order, as well as the payments made from the Plan to the Participant, his/her surviving spouse and his/her/their surviving children prior to the death of the last survivor.
(Ord. 5-2011. Passed 1-19-11.)

149.07 CONTROLLING PROVISIONS OF THE INTERNAL REVENUE CODE.

(a) Qualification of Plan Under Internal Revenue Code. In order to be entitled to favorable income tax treatment available under federal law, this Plan is intended to be qualified under the provisions of the Internal Revenue Code of 1986 (the "Code"). In the event of any inconsistency between the provisions of this Section and any other provisions of Article 149, this Section shall control, and shall apply to all Participants regardless of whether they retired under the Plan or terminated their employment with the City before the Effective Date.

(b) Limitations on Benefits - Code Section 415.

(1) This Section 149.07(b) is intended to comply with the limitations of Code Section 415 as interpreted by final regulations issued on April 5, 2007 generally effective for Limitation Years beginning on and after July 1, 2007, and this Section 149.07(b) shall be applied and interpreted accordingly. Notwithstanding any contrary provisions, and in accordance with said final regulations under Code Section 415, the application of this Section 149.07(b) shall not reduce the amount of Accrued Retirement Benefit below the amount of benefit payable or accrued as of the last day of the Limitation Year immediately prior to the effective date of said final regulations for the Plan, as determined under the provisions of the Plan adopted and in effect before April 5, 2007 to the extent the same were in compliance with the requirements of Code Section 415 in effect prior to the effective date of said final regulations for the Plan.

(2) The following words and phrases used in this Section 149.07(b) shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Annual Addition means any Employee Contributions, other than Pick-Up Contributions, and other amounts treated as annual additions made to a Defined Contribution Plan under Code Section 415.

B. Code Section 415 Affiliated Employer means any entity required to be included with the Employer in a controlled group under Code Section 415(g) and (h).

C. Defined Benefit Plan means a plan described in Code Section 414(j) (and qualified under Code Section 401(a)).

D. Defined Contribution Plan means a plan described in Code Section 414(i) (and qualified under Code Section 401(a)).

E. Limitation Year means the Plan Year.

F. Section 415 Compensation means compensation determined as follows:

1. Section 415 Compensation means all amounts actually paid or made available to the Employee for services rendered to the Employer or a Code Section 415 Affiliated Company which are wages within the meaning of Code Section 3401(a) and all other payments of compensation for which the Employer is required to furnish a written statement to the Employee under Code Sections 6041(d), 6051(a)(3) and 6052 (for purposes of income tax reporting) determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed, plus elective deferrals and similar amounts that would have otherwise been wages and reportable but for Code Sections 125 (including "deemed section 125 compensation" as provided for and within the meaning of Revenue Ruling 2002 27), 132(f)(4), 402(e)(3), 402(h), 402(k), 403(b), 414(h), and 457(b).

2. Except as otherwise provided herein, Section 415 Compensation shall include only amounts paid or treated as paid under Code Section 415 before a severance of employment with the Employer and Code Section 415 Affiliated Employer.
3. An amount paid to an Employee after a severance of employment with the Employer and/or Code Section 415 Affiliated Employer that would otherwise be Section 415 compensation and that is paid by the later of two and one-half months after the severance from employment or the end of the calendar year that includes the date of severance from employment shall be included in Section 415 compensation if: (1) the amount is regular compensation for services during the Employee's regular working hours, or compensation for services outside of the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and the amount would have been paid to the Employee before a severance from employment if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer; (2) the amount is payment for unused accrued bona fide sick, vacation, or other leave, and the employee would have been able to use the leave if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer; or (3) the amount is received pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if the Employee had continued in employment with the Employer and/or Code Section 415 Affiliated Employer, but only to the extent said amount is includible in the Employee's gross income.
4. Notwithstanding the foregoing, the Section 415 Compensation taken into account for each Limitation Year shall not exceed $200,000, with said dollar amount proportionately reduced for any Limitation Year shorter than twelve months and adjusted at the same time and in the same manner as provided by Code Section 401(a)(17).

(3) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall not exceed $160,000 (and for this purpose, the annual amount of Accrued Retirement Benefit attributable to Employee Contributions shall be determined under Code Section 411(c) to the extent and in the manner required by Code Section 415).

(4) The annual amount of Accrued Retirement Benefit payable to a Participant that is attributable to contributions of the Employer shall be deemed not to exceed the general limitation described in Section 149.07(b)(3) if:

A. Such Accrued Retirement Benefit does not exceed $10,000 at any time during the Limitation Year; and

B. The Participant has never participated in a Defined Contribution Plan maintained by the Employer or Code Section 415 Affiliated Employer (and for this purpose, and as provided for in final regulations under Code Section 415, the Employee Contributions shall not be considered to be a separate Defined Contribution Plan).

(5) If a Participant's benefit commencement date is before attainment of age sixty-two (62), the general dollar limitation described in Section 149.07(b)(3) shall be adjusted to an "age sixty-two (62) dollar limit" equal to the amount of a single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a deferred single life annuity at age sixty-two (62), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent (5%) per annum; provided however:

A. If the Plan has an immediate single life annuity payable both at age sixty-two (62) and the age at benefit commencement, the "age sixty-two (62) dollar limit" (if less than the foregoing age sixty-two (62) dollar limit) shall be equal to the general dollar limitation described in Section 149.07(b)(3) multiplied by the ratio of the amount of the immediate single life annuity payable under the Plan to the amount of single life annuity payable under the Plan at age sixty-two (62), with both said amounts determined without applying the limitations of Code § 415;

B. For purposes of determining the age sixty-two (62) dollar limit, no adjustment shall be made for the probability of the Participant's death after the benefit commencement date and before age sixty-two (62) to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date;

C. The reduction for payment before age sixty-two (62) shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness;

D. The reduction for payment before age sixty-two (62) shall not apply to a Participant who has at least fifteen (15) years of Service (taken into account for purposes of determining the amount of the Participant's Accrued Retirement Benefit) as a full-time employee of the police department or fire department of the Employer (regardless of job classification during said employment) or as a member of the Armed Forces of the United States; and

E. The age sixty-two (62) dollar limit shall not decrease on account of an increase in age or the performance of additional service.

(6) If a Participant's benefit commencement date is before attainment of age sixty-five (65), the general dollar limitation described in Section 149.07(b)(3) shall be adjusted to an "age sixty-five (65) dollar limit" equal to the amount of single life annuity payable as of the benefit commencement date that has the same actuarial equivalent present value of said dollar limitation payable as a single life annuity at age sixty-five (65), with the actuarial equivalent present value determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent per annum; provided however,

A. If the Plan has an immediate single life annuity payable both at the benefit commencement date and at age sixty-five (65), the "age sixty-five (65) dollar limit" (if less than the foregoing age sixty-five (65) dollar limit) shall be equal to the general dollar limitation described in Section 149.07(b)(3) multiplied by the ratio of (1) the amount of the immediate single life annuity payable to the Participant, computed disregarding the accruals after age sixty-five (65), but including any actuarial adjustments, and without applying the limitations of Code Section 415 to (2) the amount of single life annuity that would be payable to an age sixty-five (65) hypothetical participant with the same accrued benefit (with no increases for commencement after age sixty-five (65)) as the Participant, determined disregarding the accruals after age sixty-five (65) and without applying the limitations of Code Section 415; and

B. For purposes of determining the age sixty-five (65) dollar limit, no adjustment shall be made for the probability of the Participant's death after age sixty-five (65) and before the benefit commencement date to the extent a forfeiture does not occur upon the participant's death before the benefit commencement date.

(7) If a Participant's Accrued Retirement Benefit is paid in a form other than a single life annuity (as otherwise may be provided for in the Plan), it shall be adjusted as follows to its actuarial equivalent on a single life annuity basis for the purpose of applying the general dollar limitation described in Section 149.07(b)(3), except that no adjustment shall be made for any joint and survivor annuity form of payment (where the spouse is the survivor annuitant) and for the value of any ancillary benefits:

A. For payment of Accrued Retirement Benefit in a form not subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greater of:

1. The amount that would be payable to the Participant as of the same benefit commencement date under the single life annuity form of payment of the Plan; and
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity if determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five percent per annum.

B. For payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415), the actuarial equivalent single life annuity for this purpose shall be the greatest of:
1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors;
2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent (5½%)per annum; and
3. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment (computed by using the applicable mortality table and applicable interest rate), divided by 1.05.

C. Notwithstanding any contrary provisions, for payment of Accrued Retirement Benefit in a form subject to Code Section 417(e)(3) (assuming Code Section 417(e)(3) applies to the Plan to the extent and in the manner required by Code Section 415) with a benefit commencement date falling in the Plan Years beginning in 2004 and 2005 (except as provided in section 101(d)(3) of the Pension Funding Equity Act of 2004), the actuarial equivalent single life annuity for this purpose shall be the greater of:
1. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the Plan's Actuarial Equivalent factors; and

2. The amount that would be payable to the Participant as of the same benefit commencement date under a single life annuity that has the same present value as the actual form of payment when determined on the basis of the applicable mortality table prescribed by the Commissioner of Internal Revenue under Code Section 415(b)(2)(E)(v) for purposes of the adjustment of the Code Section 415 limitation for defined benefit plans and interest at the rate of five and one half percent (5½%) per annum.

(8) If a Participant has less than ten (10) years of service, the general dollar limitation described in Section 149.07(b)(3) and the special dollar limitation described in Section 149.07(b)(4) shall each be multiplied by the ratio of the Participant's years of service to ten (10) but not by less than one tenth; provided, however, this adjustment shall not apply to any benefit payable on account of the death of a Participant or on account of a Participant becoming disabled by reason of personal injuries or sickness. For this purpose, a year of service shall be credited for each annual computation period in which the Participant is credited with the service required to accrue a benefit for the period taking into account service with the Employer (or a predecessor employer) and a Code Section 415 Affiliated Company.

(9) The general dollar limitation described in Section 149.07(b)(3) shall be adjusted by substituting as of January 1 of each calendar year and effective for the Limitation Year that ends in or with said calendar year, the limitation determined by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1). Such adjusted limitation shall apply to all Participants. Said adjustment shall be made for purposes of applying the limitations of this Section, regardless of whether the Plan actually provides for any cost-of-living adjustments for retirement benefits.

(10) If a Participant has multiple "annuity starting dates" within the meaning of Code Section 415, the limitations of this Section shall be applied as of each of the annuity starting dates taking into account the benefits that have been or will be provided at all of the annuity starting dates to the extent and in the manner required by Code Section 415.

(11) Notwithstanding any contrary provisions, the Annual Additions allocated to a Participant for any Limitation Year shall not exceed the lesser of:

A. $40,000, provided that as of January 1 of each calendar year and effective for the Limitation Year ending in or with said calendar year, the dollar amount as adjusted for cost of living increases by the Commissioner of Internal Revenue pursuant to Code Section 415(d)(1) shall be substituted for this specified dollar amount, and provided further, that said dollar amount for any Limitation Year shorter than twelve (12) months shall be proportionately reduced; and

B. 100 percent of the Participant's Section 415 Compensation for the Limitation Year, (whether or not he is a Participant during the entire Limitation Year).

(12) For the purpose of applying the limitations of this Section 149.07(b), all Defined Benefit Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Benefit Plan, and all Defined Contribution Plans, whether or not terminated, of the Employer and any Code Section 415 Affiliated Employer shall be treated as one Defined Contribution Plan.

(13) If the Employer or any Code Section 415 Affiliated Employer maintains a multi-employer plan as defined in Code Section 414(f) (and qualified under Code § 401(a)), benefits under said multi-employer plan shall be taken into account only to the extent provided by contributions of the Employer or Code Section 415 Affiliated Employer.

(14) If this Plan is aggregated with a plan that is subject to the special limitation and/or transitional rules with respect to Code Section 415, satisfaction of the requirements of Code Section 415 shall be determined by reference to the larger of the limitations set forth in this Section 149.07(b) or the limitations applicable to said other plan in the manner provided for in Code Section 415.

(15) If the limitations imposed by this Section 149.07(b) and Code Section 415 are exceeded by reason of the aggregation of this Plan with a plan not previously required to be aggregated, said limitations may be exceeded, provided that the requirements of Code Section 415 for doing so are satisfied.

(16) If a Participant's Accrued Retirement Benefit must be reduced to satisfy the requirements set forth in this Section 149.07(b) and in Code Section 415, such reduction shall be accomplished first by reducing the Participant's Accrued Retirement Benefit under the Defined Benefit Plan in which the Participant is an active participant and then by reducing the Participant's retirement benefit under the other Defined Benefit Plans in which the Participant was an active participant, starting with the Defined Benefit Plan in which the Participant was last an active participant and moving, successively, and to the extent necessary, to the next preceding Defined Benefit Plan and so forth.

(17) If a Participant's Annual Additions must be reduced to satisfy the requirements set forth in this Section 149.07(b) and in Code Section 415, the Annual Addition last allocated shall be reduced.

(18) Notwithstanding any contrary provisions, a repayment of a distribution (including interest thereon) shall not be taken into account for purposes of this Section 149.07(b) and the limitations imposed by Code § 415.

(c) Required Payment Provisions - Code Section 401(a)(9).

(1) Notwithstanding any contrary provisions, the payment of benefits under the Plan shall be made in accordance with a reasonable good faith interpretation of Code § 401(a)(9). The provisions in this Section 149.07(c) shall be applicable to the extent a benefit is otherwise payable under the applicable substantive provisions of the Plan, and to the extent applicable, the provisions in this Section 149.07(c) shall supersede any inconsistent benefit payment provisions in the Plan.

(2) Payment of benefits to a Participant shall begin no later than the required beginning date of April 1 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 from employment by the Employer.

(3) A joint and survivor annuity form of payment with a survivor annuitant not the Participant's spouse shall be available to a Participant only if the percentage of the pension payable to the survivor annuitant on or after the Participant's required beginning date and following the Participant's death does not exceed the applicable percentage determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(4) A certain and life annuity form of payment shall be available to a Participant only if the certain period does not exceed the applicable distribution period under the Uniform Lifetime Table Treas. Reg. § 1.72 9 determined under Treas. Reg. § 1.401(a)(9)-6 in the manner specified thereunder.

(5) If a Participant dies before the required beginning date, payment of benefits to a beneficiary:

A. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is the Participant's spouse and the sole designated beneficiary, shall be made or begin no later than the later of December 31 of the calendar year following the calendar year in which the Participant to whom such spouse was married died or December 31 of the calendar year in which such Participant would have attained age seventy and one-half (70½);

B. If made to a designated beneficiary (within the meaning of Code Section 401(a)(9)) who is not the Participant's spouse, or if the Participant's spouse is not the sole designated beneficiary, shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death, or if paid for the life of, or for a period not exceeding the life expectancy of, the beneficiary, shall begin no later than December 31 of the calendar year following the calendar year in which the Participant died; and

C. If there is no designated beneficiary (within the meaning of Code Section 401(a)(9) as of September 30 of the calendar year following the calendar year in which the Participant died), shall be made no later than December 31 of the calendar year in which falls the fifth anniversary of the Participant's death.

(6) If the designated beneficiary is the Participant's surviving spouse and is the sole designated beneficiary, and if the spouse dies after the Participant but before payment to the Participant's spouse is required to begin under this Section 149.07(c), this Section shall apply to the spouse as if the spouse were a participant without a spouse.

(7) If a Participant dies after payment has commenced to him/her under an annuity form of payment, any payments to be made thereafter shall continue in accordance with the requirements of Code Section 401(a)(9).

(d) Direct Rollovers - Code Section 401(a)(31).

(1) A Distributee who is eligible to receive a distribution from the Plan which is an Eligible Rollover Distribution may elect to transfer said distribution to an Eligible Rollover Plan specified by the Distributee in a Direct Rollover.

(2) Notwithstanding any contrary provisions of this Section 149.07(d) (except as otherwise required by Code Section 401(a)(31)), (i) a Direct Rollover can be elected for part of an Eligible Rollover Distribution only if the amount so elected is at least five hundred dollars ($500.00), (ii) only one Eligible Rollover Plan may be designated for a Direct Rollover, (iii) a Direct Rollover election made with respect to one payment in a series of payments shall apply to all subsequent payments until another election is made by the Distributee, and (iv) no Direct Rollover election is required to be provided for an Eligible Rollover Distribution of less than two hundred dollars ($200.00) (when aggregated with all other Eligible Rollover Distributions for the taxable year).

(3) For purposes of this Section 149.07(d), the following words and phrases shall have the meaning set forth below unless a different meaning is clearly required by the context:

A. Direct Rollover means a payment by the Plan to the Eligible Rollover Plan specified by the Distributee.

B. Distributee means (i) an employee or former employee and (ii) the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is an alternative payee under a qualified domestic relations order, as defined in Code § 414(p), with respect to the interest of the spouse or former spouse.

C. Eligible Rollover Plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA described in Code Section 408A (effective January 1, 2008), a qualified trust described in Code Section 401(a), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), and an eligible deferred compensation plan described in Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that will separately account for a direct rollover (from this Plan).

D. Eligible Rollover Distribution means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, but excluding (as applicable) (i) any distribution which 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 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) any hardship distribution; provided, however, the portion of a distribution that is not includible in gross income shall not fail to be treated as an Eligible Rollover Distribution merely because that portion is not includible in gross income, but only with respect to (i) prior to January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified defined contribution plan described in Code Section 401(a) or Code Section 403(a) that will separately account for such a Direct Rollover and (ii) from and after January 1, 2007, an Eligible Retirement Plan that is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified trust, annuity plan or annuity contract described in Code Section 401(a), 403(a) or 403(b) respectively that will separately account for such a Direct Rollover.

(4) Effective January 1, 2010, and in conformance with Code Section 402(c)(11), a beneficiary eligible to receive a distribution from the Plan on account of a Participant's death may elect to transfer said distribution in a direct rollover to an individual retirement plan (described in clause (i) or (ii) of Code Section 402(c)(8) and including a Roth IRA) established by the beneficiary for this purpose, provided that (i) the beneficiary is not otherwise a Distributee, (ii) the beneficiary is a designated beneficiary as defined in Code Section 401(a)(9)(E), and (iii) the distribution would otherwise be an Eligible Rollover Distribution but for the requirement that the distribution be made to a Distributee.

(5) Said election and Direct Rollover shall be made in accordance with procedures established under the Plan in accordance with Code Section 401(a)(31).

(e) Rollovers from Other Plans. Effective January 1, 2007, the Plan will accept Participant rollover contributions and direct rollovers of eligible rollover distributions from the following types of plans, contracts and accounts for the purpose of purchasing service credit (including military service credit) under this Plan or repaying a cash-out of contributions refunded under this Plan, but only to the extent otherwise permitted under this Plan:

(1) A qualified plan described in Code Section 401(a) or 403(a), including employee after-tax contributions.

(2) An annuity contract described in Code Section 403(b), excluding employee after-tax contributions.

(3) An eligible plan under Code Section 457 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.

(4) The portion of a distribution from an individual retirement count or annuity described in Code Sections 408(a) or (b) that is eligible to be rolled over and would otherwise be includible in the Participant's gross income.

(f) Death in Qualified Military Service - Code Section 401(a)(37). As and to the extent required by Code Section 401(a)(37), a Participant who dies on or after January 1, 2007 while performing qualified military service (within the meaning of Code Section 414(u)) and who would have been entitled to reemployment rights under the Plan under the Uniformed Services Employment and Reemployment Rights Act of 1994 at death shall be treated as follows:

(1) Years of Service shall be credited for the period of the Participant's qualified military service to determine whether the Participant is vested in a benefit under the Plan for purposes of the death benefits payable under the Plan; and

(2) The Participant shall be treated as if death had occurred while employed by the Employer for purposes of the death benefits payable under this Plan.

(g) Credit for Qualified Military Service - Code Section 414(u). Contributions, benefits and service credit with respect to qualified military service shall be provided under the Plan in accordance with Code Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. Section 4318. Upon a Participant's return to employment by the City following a period of qualified military service, the City shall make the contributions to this Plan with respect to the first twelve (12) months of such qualified service that the Participant would otherwise be required to make pursuant to this Plan, Code Section 414(u) and USERRA in order to be entitled to service credit under this Plan for the first twelve (12) months of such qualified military service. Such Participant shall be required to make contributions to this Plan pursuant to Code Section 414(u), USERRA and 51 Pa.C.S. Section 7306 in order to be entitled to service credits under this Plan for qualified military service in excess of twelve (12) months.

(h) Domestic Relations Orders.

(1) Notwithstanding any contrary provisions, to the extent permitted by law, all or a part of a Participant's benefits may be assigned and paid to an "alternate payee" to the extent required and in the manner determined by the Plan with respect to a "qualified domestic relations order." For this purpose, an "alternate payee" and "qualified domestic relations order" shall be determined by the Plan Administrator who may use as guidance Code Section 414(p).

(2) The Plan may establish such procedures as it deems necessary or desirable to review domestic relations orders and to administer payments under domestic relations orders.

(i) Exclusive Benefit - Code Section 401(a)(2). All contributions made by the City to the Plan shall be used and applied for the exclusive benefit of Participants and their beneficiaries, and such contributions shall not be used for, nor diverted to, purposes other than for such exclusive benefit of the Participants and their beneficiaries; provided, that, for this purpose, payment of administrative expenses by the Plan to the extent not paid by the City, shall be considered paid for such exclusive benefit.

(j) Forfeitures - Code Section 401(a)(8). Forfeitures arising under the Plan because of a severance of Service before a Participant becomes eligible for a retirement allowance, or for any other reason, shall be applied to reduce the cost of the Plan, and not to increase the benefits otherwise payable to Participants.

(k) Vesting Upon Termination - Code Section 401(a)(7) (as in effect September 1, 1974). Upon a complete or partial termination of the Plan, or upon the complete discontinuance of contributions, as and to the extent required by the Code, each affected Participant shall be fully vested in his or her accrued benefit as of the date of such termination, partial termination or discontinuance to the extent then funded. In the event of a complete termination of the Plan, the Plan assets shall be allocated and paid in accordance with applicable law and regulations, and upon satisfaction of all liabilities of the Plan to Participants and their beneficiaries, any residual assets of the Plan shall be returned to the City.

(l) Leased Employees - Code Section 414(n).

(1) A person who is a leased employee shall be treated as in employment with the Employer, but shall not participate in the Plan or accrue any benefits under the Plan except as specifically provided for in the Plan. If a person is eligible for benefits under the Plan as a leased employee, to the extent and in the manner prescribed by Code § 414(n), the benefits provided by the leasing organization to said person shall be taken into account in determining benefits under the Plan.

(2) For this purpose, a leased employee means, for Plan Years beginning on and after January 1, 1997, as determined in accordance with Code Section 414(n), any person who is not an employee of the Employer and who, pursuant to an agreement between a leasing organization and the Employer, performs services for the Employer on a substantially full-time basis for a period of at least one year under the primary control and direction of the Employer, but excluding any such person if (i) such person is covered under a money purchase pension plan maintained by the leasing organization that provides for a ten percent (10%) nonintegrated employer contribution for each of its participants, full and immediate vesting, and immediate participation for each non excluded employee of the leasing organization, and (ii) leased employees (determined without regard to this exclusion) do not constitute more than twenty percent (20%) of the Employer's nonhighly compensated employee workforce.
(Ord. 5-2011. Passed 1-19-11.)

149.08 ADMINISTRATION OF THE PLAN AND THE PENSION FUND.

(a) Designation, Powers and Duties of the Plan Administrator: The Board of Managers ("Board") of the Pension Fund is hereby designated to be the Administrator of the Plan. The Board shall have primary responsibility to administer the Plan for the exclusive benefit of the Participants and their Survivors, subject to the specific terms of the Plan. The Board shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by

the Board shall be conclusive and binding upon all persons. The Board may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purposes of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401 (a), and shall comply with the terms of Act 205 and all regulations issued pursuant thereto. The Board shall have all powers necessary or appropriate to accomplish the Board's duties as Administrator under the Plan. The Board shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

(1) The discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
(2) To compute, certify, and direct the custodian or trustee of the Pension Fund with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
(3) To authorize and direct the custodian or trustee of the Pension Fund with respect to all discretionary or otherwise directed disbursements from the Pension Fund;
(4) To maintain all necessary records for the administration of the Plan;
(5) To interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
(6) To determine the size and type of any contract to be purchased from any insurer and to designate the insurer from which such contract shall be purchased;
(7) To compute and certify to the Employer and to the custodian or trustee of the Pension Fund from time to time the sums of money necessary or desirable to be contributed to the Plan;
(8) To consult with the Employer and the Aggregate Pension Board (referred to in subparagraph (j) below) regarding the short and long-term liquidity needs of the Plan in order that the Aggregate Pension Board can exercise any investment discretion in a manner designed to accomplish specific objectives;
(9) To determine the validity of, and take appropriate action with respect to, any domestic relations order received by it, whether or not "qualified" within the meaning of the Code; and
(10) To assist any Participant regarding the Participant's rights, benefit, or elections available under the Plan.

(b) Bylaws, Meetings, Records and Reports: The Board shall adopt Bylaws regulating its organization and operations and shall hold such meetings as the efficient discharge of its duties may require. The Board shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Survivors and others as required by law.

(c) Appointment of Advisors: The Board may appoint counsel, actuaries, accountants, physicians, specialists, advisors, agents (including nonfiduciary agents) and other persons as the Board deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisors to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Board may appoint, assistance with maintaining Plan records and the providing of investment information to the Investment Managers (defined in paragraph (g)(12) below) of the Pension Fund.

(d) Payment of Expenses: All expenses of administration that are approved by the Board may be paid out of the Pension Fund unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Board, or any person or persons retained or appointed by the Board incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, actuaries, counsel, Investment Managers, and other specialists and their agents, the costs of any bonds required pursuant to law, and other costs of administering the Plan.

(e) Claims Procedure: Claims for benefits under the Plan may be filed in writing with the Board. Written notice of the disposition of a claim shall be furnished to the claimant within sixty (60) days after the application is filed, or such other period as may be required by applicable law. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(f) Claims Review Procedure: Any Participant, former Participant or Survivor of either, who has been denied a benefit by a decision of the Board pursuant to subparagraph (e) hereof shall be entitled to request the Board to give further consideration to a claim by filing with the Board a written request for a hearing. Such request, together with a written statement of the reasons why the Claimant believes the claim should be allowed, shall be filed with the Board no later than thirty (30) days after the receipt of the written notification provided for in subparagraph (e) hereof. The Board shall then conduct a hearing within the next thirty (30) days, at which Claimant may be represented by an attorney or any other representative of Claimant's choosing and expense. The Claimant shall have an opportunity to submit written and oral evidence and arguments to the Board in support of the claim. At the hearing (or prior thereto upon five (5) business days written notice to the Board) the Claimant or the Claimant's representative shall have an opportunity to review all documents in the possession of the Board which are pertinent to the claim at issue and its disallowance. Either the Claimant or the Board may cause a court reporter to attend the hearing and record the proceedings. In that event, a complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expense of any such court reporter and such transcripts shall be borne by the party causing the reporter to attend the hearing. A final written decision as to the allowance or denial of the claim shall be made by the Board and delivered to the Claimant or the Claimant's counsel personally or by deposit in first class mail within sixty (60) days of receipt of the appeal. Such decision shall be written in a manner calculated to be understood by the Claimant and shall include specific references to the Plan provisions on which the decision is based.

(g) Claims Appeal Procedure: Any Participant, former Participant or Survivor of either, who is aggrieved by a decision of the Board affecting his or her benefit under the Plan may appeal such decision to the Court of Common Pleas of Erie County in accordance with the provisions of the Local Agency Law, 2 Pa. C.S.A.§752, and the Judicial Code, 42 Pa. C.S.A. §§ 933(a)(2) and 5571(b), or their respective successor provisions and amendments, within the time established by law for filing an appeal from the decision of a local agency.

(h) Investment Powers and Duties of the Board: The Board shall have the following powers, rights and duties with respect to the Pension Fund, subject to subparagraph (j) below:

(1) 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.

(2) To invest and reinvest the principal and income of the Pension Fund and keep said Fund invested, without distinction between principal and income, in securities which are at the time legal investments fro fiduciaries under the Pennsylvania Fiduciaries Investment Act, or as the same may be subsequently modified or amended.

(3) 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.

(4) To consent to and participate in any plan or 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.

(5) To exercise all conversion and subscription rights pertaining to property held in the fund.

(6) To exercise all voting rights with respect to property held in the fund and in connection therewith to grant proxies, discretionary or otherwise.

(7) To place money at any time in a deposit bank deemed to be appropriate for the purposes of 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.

(8) In addition to the foregoing powers, the Board 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 Association may deem necessary to administer the Pension Fund.

(9) 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 Employer, provided that the assets of each respective plan shall be accounted for and administered separately.

(10) To invest the assets of the Pension Fun in any collective commingled trust fund maintained by a bank or trust company, including any bank or trust company that 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.

(11) 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 Association, such trustee shall make such distribution only at the direction of the Association.

(12) To retain the services of one or more Investment Managers to manage (with the power to acquire and dispose of) all or any part of the Pension Fund assets, provided that each of such Investment Managers 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 or omissions of such Investment Manager or Managers with respect to the acquisition and disposition of fund assets, nor shall it be under any obligation to review or otherwise manage any Pension Fund assets which are subject to the management of such Investment Manger or Managers.

(i) Gifts, Bequests and Fees to the Pension Fund: The Board is authorized to:

(1) Take and accept by gift, grant or bequest, money and property, real, personal and mixed, for the benefit of the Pension Fund, in trust, to be added to the Fund, subject to such directions as the donors of such money and property may prescribe.

(2) Deposit into the Pension Fund all rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member or to the Pension Fund on account of firefighting services, except such as may under the law be payable to the City; all bequests, legacies, gifts or donations made to the Pension Fund or the City in trust, for the benefit of the Fire Department for the period of one year or more, and for which there shall be no lawful claimant, and all income resulting from activities conducted by or under the supervision of the Fire Department, by and with the approval of City Council.

(j) Aggregate Pension Board: Effective November 25, 1987, the assets of the Pension Fund were transferred to a trust fund under the control of the Aggregate Pension Board as set forth in Article 173 of the City of Erie Codified Ordinances. The Aggregate Pension Board shall establish investment guidelines and be responsible for the investment of all assets of the Pension Fund. In the event that Article 173 is repealed and the assets of the Pension Fund are no longer under the control of the Aggregate Pension Board, control of the assets of the Pension Fund will revert to the Board which shall have the investment powers and duties set forth in subparagraph (h) above.

(k) Value of the Pension Fund: All determination as to the value of assets of the Pension Fund, and as to the amount of the liabilities thereof, shall be made by the Board or its appointed trustee, whose decisions shall be final. In making any such determination, the Board 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.

(l) Provisions to comply with the Municipal Pension Plan Funding Standard and Recovery Act of 1984. Elsewhere Referred to Herein as Act 205.

(1) Actuarial evaluations. The Plan's Actuary shall perform an actuarial valuation at least biennially unless the Employer is applying or has applied for supplemental state assistance pursuant to Section 603 of Act 205, whereupon actuarial valuation reports shall be made annually. Such biennial actuarial valuation report shall be made as of the beginning of each Play 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 experience investigation required by Act 205 or any other expenses which is permissible under the terms of the act and which are directly associated with administering the plan shall be an allowable administrative expense payable from the assets of the Pension Fund. Such allowable expenses shall include, but 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 expense for pension plan officials; provided, however, that the municipal officials of the Employer, in their fiduciary role, shall monitor the services provided to the Plan to ensure that the expenses are necessary, reasonable, and benefit the pension plan and, further provided, that the Plan Administrator shall document all such expenses item by item, and where necessary, hour by hour.

(2) Act 205 reports. The actuarial reports required by subparagraph (1)(l) above shall be prepared and filed under the supervision of the Chief Administrative Officer, which shall be the Mayor of the City or his designee. The Chief Administrative Officer shall determine the financial requirements of the plan on the basis of the most recent actuarial report and shall determine the "Minimum Municipal Obligation" (as defined in Act 205) of the Employer with respect to funding the plan for any given Plan Year. The Chief Administrative Officer shall submit the financial requirements of the Plan and the Minimum Municipal Obligation of the Employer to the City Council annually and shall certify the accuracy of such calculations and their conformance with Act 205.

(3) Benefit modifications. Prior to the adoption of any benefit plan modification by the Employer, the Chief Administrative Officer of the Plan shall provide to the City Council a cost estimate of the proposed benefit plan modification. Such estimate shall be prepared by an approved Actuary, which estimate shall disclose to the City Council the impact of the proposed benefit plan modification on the future financial requirements of the Plan and the future Minimum Municipal Obligation of the Employer with respect to the Plan. (Ord. 5-2011. Passed 1-19-11.)

149.09 PARTIAL LUMP SUM DISTRIBUTION OPTION.

(a) Effective as of February 15, 2004, every full-time active firefighter who is a participant in the Plan who shall have accrued at least twenty-one (21) years of service on active duty as a participant and who shall have attained the age of fifty-one (51) years or more, and who is otherwise eligible for the Normal Retirement benefit provided under Section 149.04 hereof, may elect the Partial Lump Sum Distribution Option ("PLSDO") provided by subparagraph (c) below in lieu of any other benefits under the Plan.

(b) A Participant may elect the PLSDO at any time after six (6) months following attainment of his/her Normal Retirement Date by delivering to the Employer a written notice stating his/her intention to terminate his/her employment with the City on an Employment Termination Date which follows by at least six (6) months the date of delivery of such notice to the Employer, and his/her intention to retire under the Plan as of a Pension Lookback Date which precedes his/her selected Employment Termination Date by either twelve (12), twenty-four (24) or thirty-six (36) months, as selected by the Participant in such Notice, which is hereinafter referred to as the "PLSDO Notice:" (This six (6) months advance notice period for selecting an Employment Termination Date shall be waived for those Participants who submit their PLSDO Notice to the Employer during the first full calendar month following the adoption of the Ordinance containing this PLSDO.) A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Termination Date by twelve (12) months unless he/she shall have accrued at least twenty-one (21) years of Service under the Plan and shall have attained at least age fifty-one (51) at his/her selected Employment Termination Date. A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Termination Date by twenty-four (24) months unless he/she shall have accrued at least twenty-two (22) years of Service under the Plan and shall have attained at least age fifty-two (52) at his/her selected Employment Termination Date. A Participant may not select a Pension Lookback Date in his/her PLSDO Notice which precedes his/her selected Employment Terminatione Date by thirty-six (36) months unless he/she shall have accrued at least twenty-three (23) years of Service and shall have attained at least age fifty-three (53) at his/her selected Employment Termination Date. A Participant may revoke his/her notice of intention to terminate employment with the City and to retire under the Plan by delivery of another written notice to the Employer to that effect at any time prior to the Employment Termination Date stated in his/her previous PLSDO Notice.

(c) A Participant who elects the PLSDO Pursuant to paragraph (b) above shall receive, commencing with or within thirty (30) days following the Employment Termination Date selected in his/her PLSDO Notice:

(1) His/her Normal Retirement Benefit determined as of the Pension Lookback Date specified in his/her PLSDO Notice; and

(2) A lump sum cash distribution equal to the monthly retirement benefit provided in (1) above, multiplied by the number of months, 12, 24 or 36 specified in the Participant's PLSDO Notice, or the number of months which elapsed from the Pension Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which occurs his/her death or actual termination of employment, if earlier. This lump sum cash distribution shall be eligible for rollover to the Participant's Individual Retirement Account or to another qualified plan pursuant to Subsections 149.07(m) and (n) hereof, subject to the limitations and requirements of the Internal Revenue Code.

After commencement of payment to a Participant pursuant to his/her PLSDO election, such Participant shall not be eligible for any other benefit under the Plan, except for the Normal Retirement Benefit provided by (1) above and the Cost of Living Adjustment thereon provided by (d) below.

(d) The Cost of Living Adjustment provided by Subsection 149.04(g) hereof to the Normal Retirement Benefit provided under (c)(1) above shall be based upon the basic monthly salary paid to a Class A firefighter of the City at a prior month, which is determined from time to time by the number of months, 12, 24, or 36, by which the Pension Lookback Date specified in the Participant's PLSDO Notice precedes the Employment Termination Date specified in such Notice, or the number of months which elapsed from the Pension Lookback Date specified in such Notice to the last day of the month in which occurs his/her death or actual termination of employment, if earlier. No Cost of Living Adjustment shall be calculated or credited under Subsection 149.04(g) hereof with respect to any period prior to a Participant's Employment Termination Date.

(e) A Participant who delivers a PLSDO Notice to the City and who subsequently becomes permanently and totally disabled and eligible for a Disability Retirement Benefit under Subsections 149.04(e) or (f) hereof prior to the Employment Termination Date specified in such PLSDO Notice may revoke such Notice prior to the Employment Termination Date, in which case it shall be deemed of no effect, and the Participant shall retire with the Disability Retirement Benefit for which he/she is eligible under the Plan.

(f) In the event that a Participant who delivers a PLSDO Notice to the City dies prior to the actual payment of the lump sum cash distribution required by his/her election of a PLSDO and subparagraph (c)(2) above, then it shall be paid to his/her surviving spouse, or if none, to his/her surviving children per stirpes or if none, to his/her estate, but the amount of such lump sum cash distribution shall be calculated by multiplying the monthly retirement benefit provided in subparagraph (c)(1) above by the number of whole months which elapsed from the Pension Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which his/her death occurs. In the event that a Participant who delivers a PLSDO Notice to the City suffers a total and permanent disability which results in the termination of his/her employment prior to the Employment Termination Date selected in such Notice and does not revoke his/her PLSDO Election, then the amount of such lump sum cash distribution shall be calculated by multiplying the monthly retirement benefit provided in subparagraph (c)(1) above by the number of whole months which elapsed from the Pension

Lookback Date which the Participant selected in his/her PLSDO Notice to the last day of the month in which his/her termination of employment occurs. Further, in the event of the death of a Participant prior to his/her receipt of a lump sum cash distribution required by his/her election of the PLSDO, such Participant's surviving spouse shall have the option of voiding the Participant's election of the PLSDO, forfeiting the lump sum cash distribution and receiving the retirement benefits provided by the Plan to the surviving spouse as though the Participant had never elected the PLSDO. In the event such Participant's surviving spouse elects to receive the lump sum cash distribution elected by the Participant prior to his/her death and in accordance with subparagraph (c)(2) above, then the monthly retirement benefit payable to such surviving spouse shall be reduced in accordance with the deceased Participant's election of a PLSDO and subparagraph (c)(1) above.

(g) Any lump sum cash distribution payable in accordance with this Section 149.09 shall be subject to applicable Federal and State Income Tax Regulations and withholding and excise taxes.

(h) A Participant who elects a PLSDO shall continue to make all required Participant Contributions to the Plan until his/her selected Employment Termination Date.
(Ord. 3-2012. Passed 2-1-12.)

149.10 MISCELLANEOUS.

(a) Funding Policy: The Employer shall make contributions to the Pension Fund in accordance with Section 149.02(a) and the Board shall invest the Pension Fund in accordance with Section 149.02(a) and the Board shall invest the Pension Fund in accordance with the terms of the Plan and Act 205.

(b) Other City Funds Not Liable: So long as the City funds the Plan in conformance with Act 205, payment of pensions and allowances as provided under this Plan shall not be a charge on any other fund of the Employer or account under its control, other than the Fund related to the Firefighters' Pension Plan established hereunder.

(c) Information to be Furnished by the Employer: The Employer shall furnish to the Board such information in the Employer's possession as the Board requires from time to time to perform its duties under the Plan.

(d) Prohibition Against Diversion of Funds:

(1) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Pension Fund, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of the Pension Fund maintained pursuant to the Plan or any Funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, former Participants or their Survivors. (2)In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one (1) year following the term of payment and the trustee or custodian of the Pension Fund shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

(e) Participant's Rights: This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant in this Plan.

(f) Anti-Alienation Provision:

(1) Subject to the exceptions provided below, no benefit which shall be payable out of the Pension Fund to any person (including a Participant or any Survivor) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, or claim of any creditor. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Board, except to such extent as may be required by law.

(2) Subparagraph (1) shall not apply to a "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984 or other federal or state law. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order," a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(g) Incapacity of Recipient of Benefits: If any person entitled to receive benefits shall be physically or mentally incapable of receiving or acknowledging receipt of any payment of benefits, the Board, upon the receipt of satisfactory evidence that such person is so incapacitated and that another person or institution is maintaining him and that no guardian or committee has been appointed for him, may provide for the payment of benefits hereunder to such person or institution so maintaining him, and any such payments so made shall be deemed for every purpose to have been made to or for the benefit of such incapacitated person.

(h) Ownership of Plan Assets: Nothing contained herein shall be deemed to give any Participant or his beneficiary any interest in any specific property of the Plan or any right except to receive such distributions as are expressly provided for in this Plan.

(i) Legal Action: In the event any claim, suit or proceeding is brought regarding the pension Fund and/or the Plan established hereunder to which the Employer or the Board or members of the Board may be a party, and such claim, suit or proceeding is resolved in favor of the Employer or the Board, they shall be entitled to be reimbursed from the Pension Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

(j) Indemnification of Fiduciaries: To the fullest extent allowed by Act 205, the Employer shall defend and hold harmless City Council, the Board and their members, and shall indemnify the same, against any and all claims or liabilities which may be asserted against any of them by reason of any action or omission in the administration or operation of the Plan, except in the case of any criminal liability, fraud or willful wrongdoing.

(k) Headings: The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

(l) Gender and Number: Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(m) Receipt and Release for Payments: Any payment to a Participant, the Participant's legal representative, Survivor, or to any guardian or committee appointed for such Participant or Survivor in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Board and the Employer, either of whom may require such Participant, legal representative, Survivor, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Board or the Employer.

(n) Governing Law To Prevail Over Inconsistent Plan Provisions: The Plan shall be governed by, and construed in accordance with Act 205 and the laws of the Commonwealth of Pennsylvania except to the extent that such laws have been specifically preempted by the Code or other Federal legislation. 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 Internal Revenue Code and regulations duly promulgated thereunder. The plan and benefits hereunder shall be conformed and amended to the extent necessary to comply with all applicable laws.
(Ord. 5-2011. Passed 1-19-11.)

TITLE NINE - Commissions

Art. 151. Human Relations Commission. (Repealed)
Art. 153. Port Commission. (Repealed)
Art. 155. City Planning Commission.
Art. 157. Building Code Commission.
Art. 159. Electrical Code Commission.
Art. 161. Plumbing Board.
Art. 163. Traffic Commission. (Repealed)
Art. 165. Urban Forest Committee.
Art. 167. Municipal Golf Commission. (Repealed)
Art. 169. Perry Memorial House Commission. (Repealed)
Art. 171. Recreation Advisory Commission. (Repealed)
Art. 173. Aggregate Pension Board.

ARTICLE 151
Human Relations Commission

EDITOR'S NOTE: Former Article 151 consisting of Sections 151.01 to 151.09 and 151.99, was repealed by Ordinance 85-1994, passed November 9, 1994.

ARTICLE 153
Port Commission

EDITOR'S NOTE: Article 153 (Port Commission) is hereby repealed by Ordinance 48-1974, passed June 12, 1974, and the Port Commission of the City established thereunder is hereby abolished, effective following creation and organization of the Port Authority of the City and the planned assumption by such body of the operating control of the Port of Erie, on or about July 1, 1974.

All of the functions, responsibilities, leases and assets of the Port Commission are hereby transferred, assigned and set over to the Port Authority of the City, subject to its liabilities, such assets and liabilities for convenience to be computed as of June 1, 1974, and adjusted as of the effective date of the transition from Commission to Authority as specified herein.

Ordinance 46-1973, passed June 13, 1973, established, organized and created the Port Authority of the City of Erie. The Authority shall be governed and regulated by and carry out the purposes and provisions of Act No. 298, approved December 6, 1972.

Ordinance 10-1974, passed March 13, 1974, reconfirmed the establishment and creation of the Port Authority of the City of Erie.

CROSS REFERENCES

State law provisions - see 55 P.S. §571 et seq.

ARTICLE 155
City Planning Commission

155.01 Recommendations to public authorities; approval of plans.

CROSS REFERENCES
City Planning Commission - see 3rd Class §4001 et seq. (53 P.S. §39001 et seq.); 3rd Class Charter Law §410(b) (53 P. S. §41410(b))

155.01 RECOMMENDATIONS TO PUBLIC AUTHORITIES; APPROVAL OF PLANS.

The City Planning Commission may make recommendations to any public authorities, corporations or individuals in the City, with reference to the location of any buildings, structures or works to be erected or constructed by them. No improvement, redevelopment or revitalizing project shall be constructed or otherwise undertaken, in whole or in part, by any agency, authority or department, without first acquiring approval of the City Planning Commission that such project complies with the comprehensive and detailed planning and programming for the improvement, redevelopment and revitalizing of the City and, secondly, without acquiring Council's approval thereof by ordinance. (Ord. 16-1962 §1. Passed 5-9-62.)

ARTICLE 157
Building Code Commission

157.01 Establishment; purpose.
157.02 Title.
157.03 Appointment; membership.
157.04 Recommendations.
157.05 Duties.
157.06 Organization.
157.07 Majority of members necessary.

CROSS REFERENCES
Power to enact building ordinance - see 3rd Class §4130 et seq.
(53 P.S. §39130 et seq.)

157.01 ESTABLISHMENT; PURPOSE.
There is established a Building Code Commission consisting of eleven members to review, prepare and report to Council for consideration such ordinances as the Commission shall consider wise for the regulation of erection, alteration, additions to, demolition, removal from one location to another, arrangement, use and occupancy of buildings and structures in the City. (Ord. 6073 §1. Passed 8-16-27.)

157.02 TITLE.
The Commission so appointed is hereby known as the Building Code Commission. (Ord. 6073 §2. Passed 8-16-27.)

157.03 APPOINTMENT; MEMBERSHIP.
The Building Code Commission shall be appointed by Council and shall be composed of the following:

(a) The Building Administrator.
(b) The City Solicitor.
(c) One member recommended by the Northwest Pennsylvania Chapter of American Institute of Architects.
(d) One member recommended by the Erie Construction Council, Inc.
(e) One member recommended by the Greater Erie Chamber of Commerce.
(f) One member recommended by the Erie Engineering Society's Council.
(g) One member recommended by the Erie County Agents Association.
(h) One member recommended by the Home Builders Association of Northwestern Pennsylvania.
(i) The Chief Fire Inspector.
(j) One member recommended by the Erie Industrial Conference Committee.
(k) One member recommended by the Manufacturer's Association of Erie.
(l) One member recommended by the National Electric Contractors Association.

(m) One member recommended by the Greater Erie Board of Realtors.
(n) One member recommended by the Erie Chapter of Pennsylvania Society of Professional Engineers.
(o) One member recommended by the Central Labor Union and Industrial Union Council. (Ord. 17-1973 §1. Passed 3-14-73.)

157.04 RECOMMENDATIONS.
Members of the Building Code Commission shall be recommended by the above mentioned organizations to the Mayor and Council in writing by the secretary of such organizations. (Ord. 6073 §4. Passed 8-16-27.)

157.05 DUTIES.
The duties of the Building Code Commission shall be as follows:
(a) Review, prepare and submit to Council legislation regulating the construction, maintenance, alteration and inspection of the buildings in the City;
(b) Investigate for approval or disapproval by Council new methods of construction;
(c) View all plans, specifications and methods of construction submitted to it by the Inspector of Buildings, by any other department of the City or by Council, and report thereon. (Ord. 6073 §5. Passed 8-16-27.)

157.06 ORGANIZATION.
The Building Code Commission shall meet and organize immediately upon being appointed by Council. The stenographer in the Department of Public Safety shall act as secretary. (Ord. 6073 §6. Passed 8-16-27.)

157.07 MAJORITY OF MEMBERS NECESSARY.
The Building Code Commission shall be considered in existence when a majority of the members eligible to appointment shall have been appointed by Council.
(Ord. 6073 §7. Passed 8-16-27)

ARTICLE 159
Electrical Code Commission

159.01 Establishment; purpose.
159.02 Title
159.03 Membership.
159.04 Recommendations to Council.
159.05 Duties.
159.06 Organization.
159.07 Majority of members required.

CROSS REFERENCES
Electric power lines - see S.U. & P.S. Art. 921

159.01 ESTABLISHMENT; PURPOSE.
There is established an Electrical Code Commission, consisting of eleven members, to review, prepare and report to Council for consideration such ordinances as the Commission shall consider wise for the installation, alteration, addition or extension in any electrical wiring, device or material, and for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling and for other purposes within the City. (Ord. 32-1963 §1. Passed 8-21-63.)

159.02 TITLE.
The Commission so appointed shall be known as the Electrical Code Commission. (Ord. 32-1963 §2. Passed 8-21-63.)

159.03 MEMBERSHIP.
Members of the Electrical Code Commission shall be appointed by Council and shall be composed of the following:
(a) City Building Inspector;
(b) City Electrician;
(c) An electrical engineer;
(d) A representative of the electric utilities company;
(e) A representative of the International Brotherhood of Electrical Workers;
(f) A representative of the National Electrical Contractors' Association;
(g) A representative of the Electrical Contractors' Association of Erie;
(h) A representative of the Keystone Electrical Inspection Service;
(i) A representative of the independent electrical contractors;
(j) A representative of the Greater Erie Safety Council;
(k) A representative of the Department of Fire Underwriters.
(Ord. 32-1963 §3. Passed 8-21-63; Ord. 11-1964 §1. Passed 3-11-64.)

159.04 RECOMMENDATIONS TO COUNCIL.

Members of the Electrical Code Commission shall be recommended to Council, in writing, by the organizations referred to in Section 159.03.
(Ord. 32-1963 §4. Passed 8-21-63.)

159.05 DUTIES.

The duties of the Electrical Code Commission shall be to review, prepare and submit to Council recommendations for legislation regarding the installation, alteration, addition or extension of electrical wiring, devices or materials, and for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling and for other purposes within the City.
(Ord. 32-1963 §5. Passed 8-21-63.)

159.06 ORGANIZATION.

The Electrical Code Commission shall meet and organize immediately upon being appointed by Council. (Ord. 32-1963 §6. Passed 8-21-63.)

159.07 MAJORITY OF MEMBERS REQUIRED.

The Electrical Code Commission shall be considered in existence when a majority of the members eligible to appointment shall have been appointed by Council.
(Ord. 32-1963 §7. Passed 8-21-63.)

ARTICLE 161
Plumbing Board

161.01 Establishment; duties.
161.02 Membership.
161.03 Compensation.
161.04 Secretary.
161.05 Chief Plumbing Inspector to attend meetings.

161.01 ESTABLISHMENT; DUTIES.

There is established a Plumbing Board, to review, prepare and recommend to Council and the Mayor, for their consideration, such changes, improvements and regulations as the Board shall consider wise for the regulation and governing of the plumbing and house drainage in the City.

The Chief Plumbing Inspector shall present to the Board all disputes, grievances or violations of the State Code, or any section thereof, or any matter pertaining to the installation of the plumbing or building drainage in the City, and the Board, after careful consideration, shall present to Council a recommendation for its approval.
(Ord. 7641 §1. Passed 4-4-33.)

161.02 MEMBERSHIP.

Council shall appoint a Plumbing Board, consisting of eleven members, hereinafter referred to as the Board, to consist of the following:

(a) Three members recommended by the Master Plumbers' Association.
(b) Three members recommended by the Journeyman's Plumbing Union.

The above six members shall be approved by the organizations with which they are affiliated, and the Secretaries of such organizations shall notify the Mayor and Council in writing of such approval.

(c) One member to be selected and recommended by the above six members of the Plumbing Board. The person as selected shall not be a member of either organization.
(d) One member, being a licensed Architect, recommended by the Erie Chapter of the American Institute of Architects appointed by the Mayor.
(e) One member, recommended by the Erie Home Builder's Association appointed by the Mayor.
(f) Two members being either Journeymen or Master Plumbers appointed by Council.

(Ord. 74-1994 §1. Passed 9-21-94.)

161.03 COMPENSATION.

All of the members of the Plumbing Board shall serve without compensation.
(Ord. 7641 §6. Passed 4-4-33.)

161.04 SECRETARY.

The Plumbing Board shall meet and organize immediately upon being appointed by Council, and the stenographer of the Department of Public Safety shall act as secretary.
(Ord. 7641 §5. Passed 4-4-33.)

161.05 CHIEF PLUMBING INSPECTOR TO ATTEND MEETINGS.

The Chief Plumbing Inspector shall attend any meeting on request of the Plumbing Board, when notified to do so by the secretary of the Board.
(Ord. 7641 §2. Passed 4-4-33.)

ARTICLE 163
Traffic Commission

(EDITOR'S NOTE: Former Article 163 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 165
Urban Forest Committee

165.01 Establishment.
165.02 Definitions.
165.03 Membership; compensation.
165.04 Term; vacancies.
165.05 Duties of Committee.
165.06 Urban Forest Plan.
165.07 Permits required.
165.08 Duties and responsibilities of private property owners.
165.09 Rules and regulations; authority of the Director of Public Works, Property and Parks.
165.10 Abuse or mutilation of trees or plants.
165.11 Abatement of hazardous conditions; appeals.
165.12 Noncompliance; City to do the work; cost a lien.
165.13 Administration and enforcement.
165.14 Live plant material required.
165.15 Reserved.
165.16 Conflicts.
165.17 Severability.
165.99 Penalty.

165.01 ESTABLISHMENT.

There is established in the City a Committee to be known as the Urban Forest Committee. Hereafter to be referred to as the Committee.
(Ord. 79-2005. Passed 12-28-05.)

165.02 DEFINITIONS.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word shall is mandatory and not merely directory.

(a) Urban Forest shall mean the collection of trees, shrubs, other vegetation, and associated natural features that make up the urban tree canopy and its growing zone.

(b) Urban Forest Plan shall mean a written document that guides the work of the Urban Forest Committee. City is the City of Erie, County of Erie, Commonwealth of Pennsylvania.

(c) Person is any person, firm, partnership, association, corporation, company or organization of any kind.

(d) Street or Highway means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

(e) Park shall include all public parks having individual names.
(f) Public Places shall include all other grounds owned by the City or other properties owned by County, State or Federal Government in which the Urban Forest Committee has established a cooperative arrangement for tree care.
(g) Property Line shall mean the outer edge of a street or highway right of way (R.O.W.).
(h) Tree lawn (R.O.W. edge) is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
(i) Public Trees shall include all shade and ornamental trees now or hereafter growing on any street or on any public land where otherwise indicated.
(j) Large Trees are designated as those attaining a height of forty-five (45) feet or more with a mature spread of 30 feet or more.
(k) Medium trees are designated as those attaining a height of thirty (30) feet to forty-five (45) feet with a mature spread of 20 feet or more.
(l) Small Trees are designated as those attaining a height of less than thirty (30) feet with a mature spread of 10 feet or more.
(m) Principal Thoroughfare shall mean major cross-town streets upon which trucks are permitted.
(n) Property Owner shall mean the person owning such property as shown on Municipal Plat Maps.
(o) Caliper tree trunk diameter, which is the diameter measured at one (1) foot above ground level.
(p) D.B.H. tree trunk diameter at breast height, which is the diameter measured at four and one half (4.5) feet above ground level.
(Ord. 79-2005. Passed 12-28-05.)

165.03 MEMBERSHIP; COMPENSATION.

The Committee shall be composed of five to seven knowledgeable residents of the City who shall be appointed by the Mayor and who shall serve without compensation. Knowledgeable citizens may include citizens with experience, formal training, or knowledge of: tree care, gardening, forestry, landscape architecture, horticulture, public utilities, civil engineering, architecture, contracting, arboriculture, planning, or environment.
(Ord. 79-2005. Passed 12-28-05.)

165.04 TERM; VACANCIES.

Of the initial appointees to the Committee, two Committee members shall serve for a term of one year; two for a term of two years; and one to three for a term of three years and, after the expiration of the term of any Committee member, a successor shall be appointed by the Mayor to serve for a term of three years. Vacancies in the office of a Committee member shall be filled by the Mayor for the unexpired term. Committee members shall serve no more than three consecutive terms.
(Ord. 79-2005. Passed 12-28-05.)

165.05 DUTIES OF COMMITTEE.

The Committee shall exercise stewardship of the public trees and landscaping affecting them in the City and, upon approval of the Director of the Department of Public Works, Property and Parks, is authorized to plant, maintain, protect and remove trees on the public streets and property within Erie City limits. Specific duties include, but are not limited to the following:

(a) Plan for Planting, Maintenance and Care. To study the problems and determine the needs of the City of Erie, County of Erie, pertaining to its tree program. To formulate an Urban Forest Plan or single project plans and to supervise and/or recommend actions to the Director of the Department of Public Works, Property and Parks for planting, maintenance, and care of trees along the rights of way, streets, and lands of the City best suited to satisfy the problems common to utilities, traffic, industry, weather, stormwater, environment, and the protection and preservation of properties in the City and the public at large. To recommend to the Director of the Department of Public Works, Property and Parks, streetscape designs illustrating the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks as is designated in the Landscape Plan.

(1) To provide regular and special meetings at which the subject of landscapes and trees may be discussed by the members of the Committee, officers and personnel of the City and its several divisions, and all others interested in the landscape program.

(2) That within a reasonable time after the appointment of the Committee, the Committee shall meet and organize by the election of a chairman, vice chairman and standing committee chairs.

(3) A majority of voting members shall constitute a quorum to transact business. Any member who fails to attend three consecutive scheduled meetings may be subject to removal by the Chair, and shall be replaced for the balance of his or her term by the appointing authority.

(4) The said Committee shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Committee shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be recorded.

(b) Meetings. To meet at least four times a year at a public place and time of their choosing. The meeting shall be open to the public.

(c) Legislation. To propose such legislation as may be needed to pursue the purposes for which the Committee was created.

(d) Review of Plans. To review design or construction plans for public or private improvements that may call for the removal, planting, or preservation of public trees.

(e) Protection from Disease. To develop and recommend to Director of the Department of Public Works, Property and Parks an effective program to protect trees within the City from damage by insects, pests, or disease and to recommend techniques for the pruning or treating of trees with the least toxic effective control methods to include both trees along the lands, ways, streets and public properties of the City, and with the consent of the property owners, trees on private lands.

(f) Budget. To develop and recommend to the Director of Public Works, Property and Parks a budget to provide for an effective program of tree protection and restoration and other activities necessary to carry out the purposes of the Committee and upon approval of the Director of the Department of Public Works, Property and Parks to actively pursue support funding for those purposes.

(g) Professional Assistants. To determine and recommend to the Director of the Department of Public Works, Property and Parks the need for a professional forester, arborist, tree warden or other assistants and such other employees as may be required to provide for an adequate and continuous urban forest program in the City and the administration and enforcement of this article and to recommend a list of preferred qualifications and duties for such professional assistants.

(h) Public Education. To develop a sound educational program as it pertains to the public's understanding of and cooperation with the program of the Committee.

(1) To assist the proper officials of the City of Erie, as well as citizens and community groups, in the dissemination of news and information regarding the selection, planting, and maintenance of trees and other plants located within the corporate limits, whether they be on private or public property.

(2) To make such recommendations from time to time to the Director of the Department of Public Works, Property and Parks as to desirable legislation concerning the landscape program and activities for the City.

(i) Program of Protection and Replacement. To encourage proper pruning, maintenance, protection and replacement of all trees within the City and to develop an effective program to accomplish the same.

(j) Inspections. To conduct inspections of trees within the City and, with the consent of the property owners involved, to enter on private property to make such inspections, in order to determine whether such trees are hazardous to persons or property.

(k) Removal of Trees or Branches. To recommend for the removal of trees or limbs of trees on streets and lands of the City found to be hazardous to persons or property or so affected by disease or by insect infestations as to endanger the life or health of other trees in the City.

(l) Additional Duties. To perform such other duties and responsibilities in connection with trees and the urban forest as a whole in the City as are properly within the powers of the City and consistent with the program set forth herein.

(m) Rules and Regulations. To issue rules and regulations governing the planting, maintenance, care, removal and replacement of trees in furtherance of the powers granted the Committee by statutes of the Commonwealth and the ordinances of the City. Such rules and regulations shall be approved by the Committee and submitted to the Director of Public Works, Property and Parks for approval. Upon such approval, the rules and regulations shall have the same effect as this article.

(n) Variations. The Committee, upon approval of the Director of the Department of Public Works, Property and Parks, in each case shall have the power to grant variations and exceptions from the strict applications of the terms of this article and any rules and regulations issued thereunder upon the written application of the property owner involved and the showing of a good and sufficient reason therefor. In granting such variations and exceptions, the Committee, upon approval of the Department of Public Works, Property and Parks, may impose such conditions as it deems necessary to insure compliance with the purposes of this article.

(o) Ordinance Review. To review the Urban Forest Ordinance every five years ensuring its relevance to current City needs.

(p) Additional Activities. The Committee, upon the approval of the Director of the Department of Public Works, Property and Parks, may engage in any other lawful activity in pursuit of the mission, which may benefit the urban forest including such activities as:

(1) Apply for Tree City Status with the National Arbor Day Foundation.
(2) Conduct seminars and public education programs.
(3) Plan and coordinate an annual Arbor Week observance.
(4) Develop a community tree bank.
(5) Develop or support botanical gardens and arboreta.
(6) Identify and protect community forest preserves and natural areas.
(7) Provide technical advise and assistance to developers, builders, contractors, public utilities, public agencies, homeowners and community groups in selecting tree species to be planted or naturally occurring trees to be protected during the development of wooded areas.
(8) Organize Urban Forestry projects.
(9) Seek grant money, public funding and private contributions to further the work of the Committee.

(Ord. 79-2005. Passed 12-28-05.)

165.06 URBAN FOREST PLAN.

(a) The Committee shall have the authority to formulate an Urban Forest Plan with the advice of consultants, city agencies, public hearings, and approval of the Director of the Department of Public Works, Property and Parks.

(1) The Urban Forest Plan shall include, but not be limited to, the goals and mission of the Committee; an inventory of resources; needed work; associated cost and time schedules for such work; and relevant information, such as activities of the Committee, standard tree maintenance and planting specifications, and permit application procedures.
(2) The Urban Forest Plan following formation by the Committee shall be sent forward to the Director of the Department of Public Works, Property and Parks with recommendations for action.

(b) The City Arborist, with the approval of the Committee and the Director of the Department of Public Works, Property and Parks, shall have the authority to amend or add to the Plan at any time. (Ord. 79-2005. Passed 12-28-05.)

165.07 PERMITS REQUIRED.

No person shall plant, maintain, remove or disturb any tree or shrub on any street or municipal owned property without filing an application and procuring a permit from the City Arborist.

(a) Planting Permit. The following are required in permit application:
(1) Application Data. When making application for a planting permit, the Applicant shall submit a landscape design which illustrates the number of trees or other plants to be planted, their location, grade, species, or variety of each plant; the method of planting; and such other information as the City Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.
(2) Proper Planting. Whenever any tree shall be planted on public land, it shall be planted, staked as necessary, watered and mulched in accordance with proper planting specifications issued by the City Arborist.

(b) Maintenance Permit. The following are required in permit application:
(1) Application Data. When making application for a maintenance permit the Applicant shall state the number and kinds of trees to be pruned, treated, or otherwise manipulated; the composition of any chemical treatment to be applied; and such other information as the City Arborist shall require to determine whether a permit should be issued.
(2) The City Arborist shall annually issue area permits allowing public utilities to prune and maintain vegetation on public places. Non emergency utility pruning or other treatment shall be done in accordance with standard arboricultural practices and nearby neighbors shall be informed by posted door notices at least three weeks in advance.

(c) Removal and Replacement Permit. The following are required in permit application:
(1) When making application for a tree removal permit, the Applicant shall illustrate the number and kinds of trees to be removed, their size, locations, health and age condition, reason for removal, the method of removal, and such other information as the City Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.
(2) When an applicant requests a tree removal permit to cut down a sound, properly placed and positively valued contributing tree, the City Arborist may propose a viable alternative.

(d) Special Collection Permit. A permit may be issued for special educational sampling, specimen collecting, or demonstration purposes. The City Arborist shall evaluate such applications for merit and assurance of not harming the urban forest resources. (Ord. 79-2005. Passed 12-28-05.)

(e) Fees. An administrative fee of fifty dollars ($50.00) shall be collected for every tree removal application as required by Article 165.07(c). (Removal and Replacement Permit) upon the approval of the City Arborist. This fee may be waived in the case of hazardous tree removals as determined by the City Arborist. (Ord. 35-2008. Passed 7-2-08.)

165.08 DUTIES AND RESPONSIBILITIES OF PRIVATE PROPERTY OWNERS.

Upon obtaining the necessary permits, the owners of properties abutting the streets and highways of the City shall be permitted to plant, maintain, and remove trees on the lands abutting their properties between the front property lines of such property and the traveled portion of such streets and highways only in accordance with the terms and provisions of this article and any rules and regulations of the Committee of the City adopted in accordance herewith. (Ord. 79-2005. Passed 12-28-05.)

165.09 RULES AND REGULATIONS; AUTHORITY OF THE DIRECTOR OF PUBLIC WORKS, PROPERTY AND PARKS.

It shall be the duty and responsibility of the Director of the Department of Public Works, Property and Parks to prepare and administer the rules and regulations governing the planting, maintenance and removal of trees on public property and within the City rights of way. These rules and regulations shall contain all necessary provisions to provide for the safety of the public and the overall health and care of the trees and the urban forest as a whole within the City of Erie. The rules and regulations are incorporated herein by reference so as to become part of this article. The Director of the Department of Public Works, Property and Parks is empowered to make changes to program regulations as necessary.
(Ord. 79-2005. Passed 12-28-05.)

165.10 ABUSE OR MUTILATION OF TREES OR PLANTS.

With respect to the areas defined and regulated in Section 165.08 and 165.09, no person shall:

(a) Damage, cut, carve, transplant or remove any tree or plant or injure the bark.
(b) Pick the flowers or seeds of any tree or plant.
(c) Attach any sign, rope, wire or other contrivance to any tree or plant.
(d) Dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area;
(e) Cause or permit any wire charged with electricity to come in contact with any tree or plant or allow any gaseous, liquid or solid substance, which is harmful to such trees or plants to come in contact with them.
(Ord. 79-2005. Passed 12-28-05.)

165.11 ABATEMENT OF HAZARDOUS CONDITIONS; APPEALS.

(a) The City Arborist is authorized and empowered to issue written orders to the owner or occupant of any property abutting the public streets or highways in the City where trees are located on the land abutting the front property line of the property, between the front property line thereof and the traveled portion of such street or highway, to remove, abate or correct any dangerous or hazardous condition, infestation or disease of any tree located thereon. Such order shall be in writing and issued by authority of the City Arborist and shall be served upon the person concerned, either personally or by registered or certified mail, or in the event that no owner or occupant can be found, by posting a copy of the same on the premises. The order shall provide a time limit for compliance as determine by the City Arborist.

(b) Any person or party affected by such order shall have the right of appeal therefrom to the Director of Public Works, Property and Parks or such officer designated by him/her to hear and determine such appeals. Such appeals shall be made in writing within seven days from the service of the order of the City Arborist, and the appeal officer designated herein, shall, upon review of the written appeal, affirm, modify or revoke the order of the City Arborist and deliver notice thereof to the person appealing within seven days from the filing of the appeal, together with a date for compliance with the order as affirmed or modified.
(Ord. 79-2005. Passed 12-28-05.)

165.12 NONCOMPLIANCE; CITY TO DO THE WORK; COST A LIEN.

(a) Whenever any person or party to whom an order is directed shall fail to comply with any order issued by the City Arborist or the appeal officer designated herein under the authority of this article, of the removal, abatement, correction or replacement of any tree or condition of any tree subject to the provisions of this article, within the time provided for such actions, the City is authorized to undertake such action through its agents or employees or to contract with others for such purpose, and the charges and costs of same shall be charged against the property which abuts the location where such condition exists, and in the event of replacement of a tree, such replacement cost shall not exceed four hundred dollars ($400.00). (Ord. 35-2008. Passed 7-2-08.)

(b) The officer or agent of the City charged with the performance of such duties under the terms of this article shall, upon completion of the work, certify the cost of same to the City Treasurer who shall bill the owner of the property involved for the amount thereof as a special assessment. In the event of nonpayment of the assessment within thirty days from the date of notice of same, the City Treasurer shall forward the same to the City Solicitor who shall promptly enter the same as a lien against the property involved.

(c) The undertaking of such work by the City, and the entering of an assessment and lien in the event of nonpayment of the assessment, shall in no way operate to relieve any person violating any of the provisions of this article or the rules and regulations of the Committee, issued under the authority of this article, or failing to comply within the period stated in any order of the City Arborist from the penalties provided herein for the violation of the provisions hereof. (Ord. 79-2005. Passed 12-28-05.)

165.13 ADMINISTRATION AND ENFORCEMENT.

The powers, functions and duties of the Committee and the administration and enforcement of this article are assigned to the Department of Public Works, Property and Parks and such personnel of that Department as the Director shall designate to such duties. (Ord. 79-2005. Passed 12-28-05.)

165.14 LIVE PLANT MATERIAL REQUIRED.

All foliage placed on public property of the City shall consist of live natural plant life. (Ord. 79-2005. Passed 12-28-05.)

165.15 RESERVED.

165.16 CONFLICTS.

Should the Courts declare any section, clause, or provisions of this article to be invalid, the same shall not affect the validity of the article as a whole, or parts thereof, other than the part declared to be invalid. (Ord. 79-2005. Passed 12-28-05.)

165.17 SEVERABILITY.

If any subsection, sentence, clause, provision or part of this article shall be held invalid for any reason, the remainder of this article shall not be affected thereby, but shall remain in force and effect. (Ord. 79-2005. Passed 12-28-05.)

165.99 PENALTY.

(a) Whoever violates Article 165.07(c) (Removal and Replacement Permit) by failing to obtain a permit for tree removal and replacement shall be fined not more than three hundred dollars ($300.00) and, in default of payment thereof, imprisoned not more than thirty (30) days.

(b) Whoever violates Article 165.10 (Abuse or mutilation of trees or plants) shall be fined not more than five hundred dollars ($500.00) for small trees, seven hundred and fifty dollars ($750.00) for medium trees, and one thousand dollars ($1,000.00) for large trees, as defined by Article 165.02(j), (k) and (l), respectively and, in default of payment thereof, imprisoned not more than thirty (30) days. (Ord. 35-2008. Passed 7-2-08.)

ARTICLE 167
Municipal Golf Commission

EDITOR'S NOTE: Former Article 167 consisting of Sections 167.01 to 167.07 was repealed by Ordinance 82-1990, passed December 12, 1990. See Section 117.05(f) for relevant provisions.

ARTICLE 169
Perry Memorial House Commission

(EDITOR'S NOTE: Former Article 169 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 171
Recreation Advisory Commission

(EDITOR'S NOTE: Former Article 171 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 173
Aggregate Pension Board

173.01 Aggregation of the three Municipal Pension Plans.
173.02 Composition.
173.03 Term of office.
173.04 Investments.
173.05 Earnings.
173.06 Interfund loans.
173.07 Rules and regulations.

CROSS REFERENCES
Municipal Pension Plan Funding Standard and Recovery Act - see 53 P.S. §895.101 et seq.

173.01 AGGREGATION OF THE THREE MUNICIPAL PENSION PLANS.
The assets of the three Municipal Pension Plans are hereby transferred to the City of Erie, as Trustee. These assets are to be managed by a single pension trust fund. This single pension trust fund shall be the funding mechanism for all three pension plans existing prior to the date of this aggregation. The aggregation of the pension plans shall be done in strict compliance with Act 205. (Ord. 76-1987 §1. Passed 11-25-87.)

173.02 COMPOSITION.
The Aggregate Board shall be comprised of fourteen members. The membership of the Board shall be as follows: The Mayor, the City Controller, the Director of Business Administration, one representative of the Erie City Retirees Association, one representative of the City of Erie Retired Firefighters' Association, one representative elected by the members of each of the three pension plans (total of three), one representative elected by the members of the four Collective Bargaining Units (total of four), one representative selected by City Council from among the City Council members and one retired FOP member in good-standing. The Mayor shall serve as the Chairman. (Ord. 1-2012. Passed 2-1-12.)

173.03 TERM OF OFFICE.
With the exception of the Mayor, City Controller, Director of Administration and Council representative, all of the members of the Aggregate Pension Board shall serve for a term of four years. Except that in the initial election of the three pension plan representatives one shall be elected for a two year term, one for a three year term and one for a four year term. Also, in the initial election of the four Collective Bargaining Representatives one shall be elected for a one year term, one for a two year term, one for a three year term and one for a four year term. All subsequent elections after the initial election shall be for four years.
(Ord. 76-1987 §1. Passed 11-25-87.)

173.04 INVESTMENTS.

The Aggregate Pension Board shall establish investment guidelines and be responsible for the investment of all assets of the Board. The assets of the aggregated Pension Trust Fund shall be invested in investment securities which are authorized investments pursuant to any applicable law for any of the associated plans. (Ord. 82-1989 § 1. Passed 10-4-89.)

173.05 EARNINGS.

Investment earnings shall be allocated to each associated pension plan in proportion to the most recently determined participation value. (Ord. 76-1987 §1. Passed 11-25-87.)

173.06 INTERFUND LOANS.

The Aggregate Pension Board shall have the power to make loans to any of the associated Pension Plans, to avoid the necessity of the Plans selling their assets. The Board shall charge interest at the prevailing rate of its investment.
(Ord. 76-1987 §1. Passed 11-25-87.)

173.07 RULES AND REGULATIONS.

The Aggregate Pension Board shall establish rules and regulations necessary to carry out its duties as established herein. All rules and regulations shall be approved by Council prior to taking effect. (Ord. 76-1987 §1. Passed 11-25-87.)

TITLE ELEVEN - Authorities and Boards

Art. 180. Erie Recreation Board. (Repealed)
Art. 181. Erie Sewer Authority.
Art. 182. Erie Parking Authority.
Art. 183. Erie Regional Airport Authority.
Art. 184. Erie Redevelopment Authority.
Art. 185. Erie Housing Authority.
Art. 186. Erie Municipal Park Authority.
Art. 187. Erie Metropolitan Transit Authority.
Art. 188. Erie City Water Authority.
Art. 189. Erie Port Authority.
Art. 190. Erie Civic Center Authority.
Art. 191. Downtown Center City Authority. (Repealed)
Art. 192. Higher Education Building Authority.
Art. 193. Civil Service Boards.
Art. 194. Blighted Property Review Committee.
Art. 195. Erie County Solid Waste Management Council.
Art. 196. Erie Cable TV Public Access Authority. (Repealed)
Art. 197. Erie County Convention Center Authority.

ARTICLE 180
Erie Recreation Board

(EDITOR'S NOTE: Former Article 180 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 181
Erie Sewer Authority

EDITOR'S NOTE: The Erie Sewer Authority was created under the provisions of Act of May 2, 1945 (P.L. 382), as amended, and by Ordinance 98-1952, passed December 19, 1952. The Authority owns the municipal sewer systems and sewage treatment works in the City of Erie, which are operated by the City under lease from the Authority. (Ord. 57-1954. Passed 6-1-54.)

Ordinance 66-1971, passed October 20, 1971, extends the Sewer Authority term to fifty years.

CROSS REFERENCES

Sewers - see 3rd Class §3201 et seq. (53 P.S. §38201 et seq.);
S.U. & P.S. Art. 931 et seq.

ARTICLE 182
Erie Parking Authority

EDITOR'S NOTE: The Erie Parking Authority was created under the provisions of the Parking Authority Law, Act of June 5, 1947 (P.L. 458), as amended, and by Ordinance 8687, passed August 21, 1951. The Authority acquires, constructs, improves, maintains and operates parking projects and establishes a permanent coordinated system of parking facilities. Ordinance 57-1967, passed November 22, 1967, extended the term of existence of the Erie Parking Authority for a period of fifty years.

Ordinance 24-1995, passed March 22, 1995, extended the term of existence of the Erie Parking Authority for a period of fifty years.

CROSS REFERENCES

Power to acquire land - see 3rd Class §2403(54) (53 P.S. §37403(54))

ARTICLE 183
Erie Regional Airport Authority

EDITOR'S NOTE: Under the provisions of The Municipal Authorities Act 164, approved May 2, 1945 (P.L. 382), as amended; and Ordinance 8602, passed November 28, 1950, amended by Ordinance 44-1989, passed June 7, 1989, the Erie Municipal Airport Authority was created. Under provisions of Ordinance 76-1956, passed July 3, 1956, the City leases the Airport from the Authority for a term ending in 1970. Under Ordinance 1-2009 the name was changed to Erie Regional Airport Authority.

CROSS REFERENCES

Aeronautics - see 3rd Class §4201 et seq. (53 P.S. §39201 et seq.)

ARTICLE 184
Erie Redevelopment Authority

EDITOR'S NOTE: The Erie Redevelopment Authority was created under the provisions of the Urban Redevelopment Law, Act 385, approved May 24, 1945 (P.L. 991), as amended, and Ordinance 82-1955, passed July 26, 1955. The purpose of the Authority is to acquire blighted areas and to plan for their sound economic and social redevelopment.

CROSS REFERENCE
Urban Redevelopment Law - see 35 P. S. §1701 et seq.

ARTICLE 185
Erie Housing Authority

EDITOR'S NOTE: Under the provisions of Act 493, approved May 20, 1949, the Housing and Redevelopment Assistance Law, and of Ordinance 8577, passed July 25, 1950, the Housing Authority of the City of Erie undertakes to develop and administer housing projects in the City.

CROSS REFERENCE

Housing Authorities Law - see 35 P. S. §1541 et seq.

ARTICLE 186
Erie Municipal Park Authority

EDITOR'S NOTE: Under provisions of Municipal Authorities Act of May 2, 1945 (P.L. 382), and Ordinance 25-1964, passed May 20, 1964, Council established the Erie Municipal Park Authority to own and operate a zoological park, playgrounds and recreation facilities within the City. Council, by Ordinance 36-1964, passed July 22, 1964, conveyed title of the Public Zoo and park properties at Glenwood Park to the Authority. Ordinance 37-1964, passed July 22, 1964, provides that the City lease the zoo and park properties from the Authority for a term of thirty-nine years.

CROSS REFERENCES

Parks and playgrounds - see 3rd Class §3701 et seq. (53 P.S. §38701 et seq.)

Locations of City parks and playgrounds - see S.U. & P.S. Art. 555

ARTICLE 187
Erie Metropolitan Transit Authority

EDITOR'S NOTE: Under the provisions of the Municipal Authorities Act of 1945, approved May 2, 1945 (P. L. 382), as amended, and Ordinance 38-1966, passed August 10, 1966, the Erie Metropolitan Transit Authority was created. The Authority is designed to acquire, hold, construct, improve, maintain and operate, own or lease all facilities necessary or incidental to the operation of a mass transportation system in the City and its environs within the County of Erie.

CROSS REFERENCE

Contracts with transportation companies - see 3rd Class §1913 (53 P.S. §36913)

ARTICLE 188
Erie City Water Authority

EDITOR'S NOTE: The Erie City Water Authority was created under the provisions of the Municipal Authorities Act of 1945, approved May 2, 1945 (P.L. 382), as amended, and Ordinance 40-1966, passed August 17, 1966. The purpose of the Authority is to acquire, hold, construct, improve, maintain, operate, own and lease facilities for the operation of a water system in the City and its environs within the County of Erie. Ordinance 90-1989, passed October 18, 1989, amended Ordinance 40-1966, to revise the Water Authority purposes and to increase the membership from seven to nine members and amended their qualifications, appointment and succession. The lease of the Water Bureau of the Department of Public Works to the Erie City Water Authority was approved by Ordinance 91-1990, passed December 26, 1990.

CROSS REFERENCES

Water supply - see 3rd Class §3501 et seq. (53 P.S. §38501 et seq.)
Water sprinkling - see GEN. OFF. Art. 723
Water connections - see S.U. & P.S. 935.04 et seq.

ARTICLE 189
Erie Port Authority

EDITOR'S NOTE: The Port Commission was abolished by Ordinance 48-1974, passed June 6, 1974, effective following creation and organization of the Port Authority of the City and the planned assumption by such body of the operating control of the Port of Erie, on or about July 1, 1974.

All of the functions, responsibilities, leases and assets of the Port Commission are hereby transferred, assigned and set over to the Port Authority of the City, subject to its liabilities, such assets and liabilities for convenience to be computed as of June 1, 1974, and adjusted as of the effective date of the transition from Commission to Authority as specified herein.

Ordinance 46-1973, passed June 13, 1973, established, organized and created the Port Authority of the City of Erie. The Authority shall be governed and regulated by and carry out the purposes and provisions of Act No. 298, approved December 6, 1972.

Ordinance 10-1974, passed March 13, 1974, reconfirmed the establishment and creation of the Port Authority of the City of Erie .

CROSS REFERENCES
State law provisions - see 55 P.S. §571 et seq.

ARTICLE 190
Erie Civic Center Authority

EDITOR'S NOTE: The Erie Civic Center Authority was created under the provisions of the Municipal Authorities Act of 1945, approved May 2, 1945 (P. L. 382) as amended, and Ordinance 69-1976, passed September 15, 1976, as amended by Ordinance 72-1982, passed September 8, 1982. The purpose of the Authority is to acquire, hold, construct, improve, maintain and operate, own, lease, either in the capacity of lessor or lessee, all facilities necessary or incidental therefor for the operation of a Civic Center Complex in the City.

CROSS REFERENCE

Municipal Authorities Act - see 53 P.S. §301 et seq..

ARTICLE 191
Downtown Center City Authority

(EDITOR'S NOTE: Former Chapter 191 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 192
Higher Education Building Authority

EDITOR'S NOTE: The Erie Higher Education Building Authority was created under the provisions of the Municipal Authorities Act of 1945, approved May 2, 1945 (P.L. 382), as amended and Ordinance 64-1985, passed November 13, 1985. The purpose of the Authority is to undertake any project for any college, university or institution of higher learning at such locations within or outside the City.

CROSS REFERENCES

Municipal Authorities Act - see 53 P.S. §301 et seq.

ARTICLE 193
Civil Service Boards

EDITOR'S NOTE: There are no sections in Article 193. This article has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Examination of appointees - see 3rd Class §4401 (53 P.S. §39401)
Appointment of examining boards - see 3rd Class §4402 (53 P. S. §39402)
Examination regulations - see 3rd Class §4404 (53 P.S. §39404)
Selection of appointee from lists - see 3rd Class §4406 (53 P. S. §39406)
Suspension and discharge - see 3rd Class §4408 (53 P. S. §39408)
Review of eligibility lists - see 3rd Class §4410 (53 P. S. §39410)

ARTICLE 194
Blighted Property Review Committee

194.01 Creation.
194.02 Membership; appointment.
194.03 Quorum.
194.04 Meetings.
194.05 Powers and duties.

CROSS REFERENCES
Erie Redevelopment Authority - see ADM. Art. 184
Blighted property removal - see 35 P.S. Sec. 1712.1

194.01 CREATION.
There is hereby created a Blighted Property Review Committee.
(Ord. 47-2006. Passed 9-20-06.)

194.02 MEMBERSHIP; APPOINTMENT.
(a) The membership of the Blighted Property Review Committee shall be as follows:
(1) One City Councilperson;
(2) The Executive Director of the City Redevelopment Authority;
(3) The Mayor's designee;
(4) The Mayor's designee;
(5) A representative of the City Planning Commission; and
(6) Four adult citizens of the City to be appointed by Council for a two year term. (Ord. 47-2006. Passed 9-20-06.)

(b) All of the above-mentioned members of the Committee shall be voting members.

(c) In addition to the voting members mentioned above, the Committee shall include the following nonvoting members:
(1) Supervisor, City Housing Office;
(2) Manager, City Code Enforcement Office;
(3) Chief, City Fire Department;
(4) Chief, City Police Department;
(5) Director of Tax Claim Bureau, County of Erie.
(Ord. 37-1994 Secs. 2, 3, 5. Passed 4-20-94.)

194.03 QUORUM.
Five shall be the minimum number of voting members required to be present at any meeting to constitute a quorum.
(Ord. 47-2006. Passed 9-20-06.)

194.04 MEETINGS.

(a) The Blighted Property Review Committee shall meet at least once each month on a date to be determined at its first meeting.
(Ord. 47-2006. Passed 9-20-06.)

(b) At its first meeting the Committee shall elect a chairperson and promulgate procedural rules and regulations consistent with this article.
(Ord. 37-1994 Secs. 6, 7. Passed 4-20-94.)

194.05 POWERS AND DUTIES.

(a) The Blighted Property Review Committee shall make a good faith effort to utilize the informal mechanism already in place whereby appropriate officers and/or employees of the City and County of Erie coordinate efforts to facilitate the private sales of properties located within the City which real estate taxes are in arrears for two or more years.

(b) The Committee shall otherwise take all reasonable steps to facilitate the identification, rehabilitation (where feasible) and/or disposition of blighted property as that term is defined in Pennsylvania P.L. 991, No. 385.
(Ord. 47-2006. Passed 9-20-06.)

2000 Replacement

ARTICLE 195
Erie County Solid Waste Management Council

EDITOR'S NOTE: In accordance with the Intergovernmental Cooperation Law, Act of July 12, 1972, (P.L. 762), and Ordinance 52-1985, passed September 11, 1985, the City of Erie elects to become a party to the Erie County Solid Waste Management Council. Its purpose is to foster a cooperative effort to resolve problems, determine policies, and formulate and implement plans relating to solid waste management. Ordinance 87-1988, passed September 21, 1988 changed the quorum to consist of a simple majority of the total voting memberships.

CROSS REFERENCES

Refuse Disposal Bureau - see ADM. 117.05(c)
Garbage and rubbish - see S.U. & P.S. Art. 951
Landfills - see S.U. & P.S. Art. 957

ARTICLE 196
Erie Cable TV Public Access Authority

(EDITOR'S NOTE: Former Article 196 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 197
Erie County Convention Center Authority

197.01 Established.

197.01 ESTABLISHED.

The Erie County Convention Center Authority is hereby incorporated and established as a body politic and corporate, for the public purpose of promoting, attracting, stimulating, developing and expanding business, industry, commerce and tourism in this County, as more fully set forth in the Amended and Restated Articles of Incorporation attached to Ordinance 11-2015, as Appendix A.

(Ord. 11-2015. Passed 5-6-15.)