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PART 1

ELECTED OFFICERS

A. Mayor

§101. Mayor's Salary Fixed.

The salary of the Mayor of New Oxford is hereby set at \$950 a year.

(Ord. 201, 12/2/1963, §1; as amended by Ord. 403, 2/3/2003, §1)

§102. Payment of Mayor's Salary.

The Mayor shall be paid the salary in equal quarterly installments.

(Ord. 201, 12/2/1963, §2)

B. Council Members

§111. Compensation.

The members of the Borough Council of the Borough of New Oxford shall be compensated in the amount of \$75 per month. Such payment of the monthly compensation amount to a member of Borough Council shall be conditioned upon the council member attending the regularly-scheduled business meeting of Council for that month. The maximum compensation to which any one member of Council shall be entitled in a calendar year shall be \$950.

(Ord. 402, 2/3/2003, §1)

§112. Payment.

The compensation to members of Council shall be paid in quarterly installments.

(Ord. 402, 2/3/2003, §2)

PART 2

APPOINTED OFFICERS

A. Secretary and Treasurer

§201. Offices of Secretary and Treasurer May be Held by Same Person.

The offices of Secretary of the Borough of New Oxford and of Treasurer of the Borough of New Oxford may be held by one and the same person, and that the Borough Council may, at such times in the future, when filling by appointment the said offices, appoint one person to hold both the office of the Secretary and the office of the Treasurer of the Borough.

(Ord. 202, 3/2/1964)

B. Independent Auditor

§211. Requirements.

The Borough Council of the Borough of New Oxford shall, by resolution adopted annually before the commencement of a fiscal year, appoint an Independent Auditor who shall be a certified public accountant, registered in Pennsylvania, a firm of certified public accountants so registered or a competent public accountant or a competent firm of public accountants to audit, for such fiscal year, the accounts, records and all other evidences of financial transactions of the Borough of New Oxford and file a report thereof with the Borough Council of the Borough of New Oxford. The Independent Auditor shall perform all other duties and exercise such powers as required of, or conferred upon him, by law.

(Ord. 347, 6/3/1991, §1)

§212. Office Abolished.

Upon appointment of an Independent Auditor as provided for in §211 of this Part, the office of Elected Auditor is hereby abolished; however, the Elected Auditors now in office, if any, shall continue to hold such office for the term for which elected, and shall perform the duties of their office, except that they shall not audit, settle or adjust accounts audited by such Independent Auditor.

(Ord. 347, 6/3/1991, §2)

§213. Compensation.

The resolution appointing an Independent Auditor shall state the compensation, if any, to be paid from Borough funds for said services.

(Ord. 347, 6/3/1991, §3)

§214. Right to Abolish Office Reserved.

The Borough Council of the Borough of New Oxford hereby reserves the right at any time to repeal this Part, thereupon abolishing the office of Appointed Auditor and to reestablish the office of Elected Auditor.

(Ord. 347, 6/3/1991, §4)

C. Code Enforcement Officer

§221. Office Established.

The Office of Code Enforcement Officer (hereinafter referred to as "CEO") is hereby created by the Borough Council of the Borough of New Oxford, subject to the right of the Borough, by Ordinance at any time, to abolish such office. Various ordinances of the Borough previously designated specific officers for the enforcement of those ordinances including Zoning Officer, Police Officer and Chief of Police. It is the purpose of the creation of the Office of Code Enforcement to consolidate the enforcement positions and to further provide the enforcement of the various Borough ordinances which previously designated the Chief of Police, police officers or law enforcement officers of the Borough to enforce the same.

(Ord. 383, 5/3/1999, §1)

§222. Appointment of Officer.

The Borough Council shall appoint, by majority vote of all of its members, one person to fill the office of CEO. In the case of a vacancy, the Borough Council shall fill such office by majority vote of all of its members. The CEO shall, however, be subject to removal without cause at any time by a majority vote of all of the members of Borough Council.

(Ord. 383, 5/3/1999, §2)

§223. Qualifications.

The CEO shall be chosen solely on the basis of his or her supervisory and administrative abilities, with special reference to his or her actual experience in, or his or

her knowledge of accepted practices in respect to the duties of the office as outlined herein. The CEO need not be a resident of the Borough or the Commonwealth of Pennsylvania.

(Ord. 383, 5/3/1999, §3; as amended by Ord. 406, 1/5/2004, §1)

§224. Bonding of Officer.

Before entering upon his or her duties, the CEO shall give a bond to the Borough with a bonding company as surety in the sum of \$50,000 consolidated for the faithful performance of his or her duties. The premium for said bond is to be paid for by the Borough of New Oxford.

(Ord. 383, 5/3/1999, §4)

§225. Compensation.

The CEO shall receive such compensation as shall be fixed from time to time by resolution of the Borough Council of the Borough of New Oxford.

(Ord. 383, 5/3/1999, §5)

§226. Responsibilities of Officer.

The CEO shall be in charge of the Office of Code Enforcement and shall be responsible to the Borough Council, as a whole, for the proper and efficient administration of the affairs of said office.

(Ord. 383, 5/3/1999, §6)

§227. Powers and Duties of Officer.

Subject to revision by further ordinance, the powers and duties of the CEO shall include the following:

- A. The CEO shall enforce and administer all of the provisions of this Part and of those other applicable codes and ordinances which establish the Office of Code Enforcement as their official administration and enforcement agency.
- B. The CEO shall enforce and administer all of the provisions of the Zoning Ordinance of the Borough and shall undertake all of the duties of the Zoning Officer as those duties are delineated and defined in the Pennsylvania Municipalities Planning Code.

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- C. The CEO shall enforce and administer all of the provisions of all other applicable codes and ordinances including, but not limited to, those codes and ordinances which have previously established the Borough's Police Department, police offices, law enforcement officers or Chief of Police to enforce and administer the same.
- D. The duties of the CEO shall include the receipt of applications, the issuance of permits, notices, certificates and orders, the making of inspections to determine conformance with all applicable codes and ordinances, the undertaking of systematic inspection programs, the undertaking of research and investigations, the recommendation of appropriate administrative rules for review and adoption by the Borough, the keeping of records, the issuance of written annual reports and such other activities as may be required.
- E. The CEO shall attend all meetings of the Borough Council and may appropriate Borough committee meetings upon request with the right to take part in the discussion, and he or she shall receive notice of all special meetings of the Borough Council and of its committees.
- F. An official record shall be kept of all business and activities of the Office of Code Enforcement and all such records shall be open to the public for inspection at all appropriate times, except that no individual, owner, operator, occupant, or other person shall be subject to unwarranted invasion of privacy and except that all evidence or information obtained in any course of any inspection shall be considered privileged information and shall be kept confidential. Such evidence or information shall not be disclosed except as may be necessary in the judgment of the CEO for proper and effective administration and enforcement of the provisions of all applicable codes and ordinances and shall not otherwise be made public without the consent of the owner, occupant, operator or other person in charge of the unit, structure or premises inspected unless disclosure is required pursuant to the Pennsylvania Right to Know Law.
- G. The CEO shall keep the Borough informed as to the conduct of the Office of Code Enforcement; submit periodic reports on the affairs of said office and such other reports as the Borough shall request; and shall make such recommendations to the Borough as he or she deems necessary.
- H. The CEO shall submit to Council, as soon as possible after the close of the fiscal year, a complete report on the affairs and activities of the Office of Code Enforcement for the preceding year.
- I. In the discharge of his or her duties, the CEO and his or her authorized representative, if any, upon showing proper identification where requested, is hereby authorized to enter and inspect, during normal working hours, any structure, premises or property in the Borough to enforce the provisions of this Part and of those other applicable codes and

ordinances. The assistance and cooperation of all other Borough officials shall be available to the CEO to assist in the performance of his or her duties and in securing right-of-way.

- (1) The CEO and the owner, operator or occupant or other person in charge of any structure, premises or property subject to the provisions of this Part may agree to an inspection by appointment at a mutually convenient time.
 - (2) The owner, operator or occupant or other person in charge of any structure, premises or property shall give the CEO entry and free access thereto and to every part of the structure or to the premises surrounding the structure if necessary for the CEO to complete his or her inspection.
 - (3) If any owner, operator or occupant or other person in charge fails or refuses to permit entry and free access to the structure, premises or property under his or her control, or to any part thereof, with respect to any authorized inspection, the CEO may, upon a showing that probable cause exists for the inspection may file a complaint and may petition for and obtain an order directing compliance with the inspection requirements of this Part from a court of competent jurisdiction. Any person who refuses to comply with such an order issued pursuant to this Section shall be subject to such penalties as may be authorized by law for violation of a court order.
- J. The CEO shall serve a notice of violation or order on the person responsible for any situation in violation of these codes or ordinances which are under his or her direction pursuant to this Part. If the notice of violation is not complied with within the time specified on the notice, the CEO is hereby authorized to file a complaint or institute summary criminal proceedings, in accordance with the Rules of Criminal Procedure.
- K. The CEO shall cooperate with the Borough Council and all other Borough officials at all times and in all matters in order that the best interest of the Borough and the general public may be maintained.

(Ord. 383, 5/3/1999, §7)

§228. Exemption of Code Enforcement Officer from being Used.

The CEO shall not, while acting for the Borough within the scope of his or her employment, render himself or herself liable personally because of any act or omission as required or permitted in the discharge of his or her official duties. Any suit instituted against such CEO, because of any act performed by him or her in the lawful discharge of his or her duties, shall be defended by the Solicitor of the Borough or

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the Borough's liability insurance carrier and in no case will said CEO be liable for costs in any action, suit or proceeding.

(Ord. 383, 5/3/1999, §8)

PART 3

BOARDS AND COMMISSIONS

A. Borough Planning Commission

§301. Borough Planning Commission Created.

A Borough Planning Commission is hereby created for the Borough of New Oxford, to be composed of five members, appointed as provided in the law and serving for the term prescribed by law. The said Borough Planning Commission shall perform all the duties and may exercise all the powers conferred by law upon Borough planning agencies. Provided, the Planning Commission in existence at the time of enactment of this amendment shall constitute the Planning Commission hereby created and nothing herein shall affect the tenure of any member of the said Planning Commission, but all vacancies in the said Commission, regardless of the manner of occurrence thereof, shall be filled in the manner and for the term of office prescribed in the law applicable thereto at the time of the happening of such vacancy.

(Ord. 213, 2/7/1966; as amended by Ord. 243, 11/6/1969, §2)

B. Recreation Board

§311. Recreation Board Established.

A Recreation Board is hereby established in the Borough of New Oxford to equip, operate and maintain recreation places as defined in the Borough Code.

(Ord. 231, 6/2/1969, §1)

§312. Membership of Recreation Board; Tenure; Vacancies.

Such Board shall consist of five persons. The members of the Board shall serve for terms of 5 years or until their successors are appointed. The term of one member shall expire annually. Vacancies in such Board occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

(Ord. 231, 6/2/1969, §2)

§313. Officers and Employees of Recreation Board; Rules and Regulations.

Said Board shall elect its own Chairman and Secretary and select all other necessary officers to serve for a period of 1 year and may employ such persons as may

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be needed, as authorized by the Borough Code. Said Board shall also have power to adopt rules and regulations for the conduct of all business within its jurisdiction.

(Ord. 231, 6/2/1969, §3)

§314. Expenses of Recreation Board.

All expenses incurred in the operation of such recreation places established as provided by the Borough Code shall be payable from the treasury of the Borough from funds appropriated for that purpose or donated to the Borough for that purpose.

(Ord. 231, 6/2/1969, §4)

§315. Powers and Responsibilities of Recreation board.

Such Board shall possess all the powers and be subject to all responsibilities of the respective authorities under the Borough Code.

(Ord. 231, 6/2/1969, §5)

PART 4

AUTHORITIES

A. New Oxford Municipal Authority

§401. Intention to Organize New Oxford Municipal Authority.

1. The Borough of New Oxford, as a municipal authority, intends to organize an authority under the Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, to be known as New Oxford Municipal Authority; that said New Oxford Municipal Authority shall be organized and created and incorporated under the aforesaid Act of 1945, as a body corporate and politic, and shall be for the purpose of acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either in capacity of lessor or lessee, projects of the following kind and character: buildings to be devoted wholly or partially for public use and for revenue producing purposes, sewers, sewer systems or parts thereof, sewage treatment works including works for treating and disposing of industrial waste, waterworks, water supply works and water distribution systems.
2. Said Authority shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes including, but without limiting the generality of the foregoing, the following rights and powers:
 - A. To acquire, purchase, hold, lease as lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it.
 - B. To acquire by purchase, lease or otherwise and to construct, improve, maintain, repair and operate projects.
 - C. To fix, alter, charge and collect rates and other charges in the area served by its facilities, both water and sewer, at reasonable and uniform rates to be determined exclusively by it, for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal and of interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations, or with the municipality incorporating or municipalities which are members of said Authority, or with any municipality served or to be served by said Authority, and to determine by itself exclusively the services and improvements in the areas served.

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- D. To charge the cost of construction of any sewer constructed by the Authority against the properties benefited, improved or accommodated thereby to the extent of such benefits. Such benefits shall be assessed in the manner provided by Section 11 of this Act for the exercise of the right of eminent domain.
- E. To charge a tapping fee whenever the owner of any property connects such property with a sewer system constructed by the Authority, which fee shall be in addition to any charges assessed and collected against such property in the construction of such sewer by the Authority or any rental charges assessed by the Authority.

(Ord. 186, 5/5/1958)

PART 5
PENSION PLANS

A. Nonuniformed Employees' Pension Plan and Trust

§501. Adoption of Plan.

Effective January 1, 2008, the plan is amended and restated by adopting the attached Borough of New Oxford Nonuniformed Employees' Defined Contribution Pension Plan and Trust.¹

(Res. 12, 6/5/1995; as amended by Res. 05-2008, 9/8/2008)

B. Police Pension Fund

§511. Title.

This Part 5B shall be known as and may be cited as either the "Police Pension Ordinance of the Eastern Adams Regional Police Department" or the "Police Pension Ordinance of the EARP."

(Ord. 420, 6/4/2007)

§512. Definitions.

The following words or phrases, when used in this Part, unless the context indicates otherwise, shall have the following meanings:

ACTUARIAL EQUIVALENCE — shall be based on the following assumptions with regard to interest and life expectancy:

- A. Interest: 7% per annum compounded annually.
- B. Life expectancy: for males, in accordance with the mortality rates set forth in the 1983 Group Annuity Mortality Table (male rates); for females, in accordance with the mortality rates set forth in the 1983 Group Annuity Mortality Table (female rates).

BOARD — the Police Commission for the EARP as established and appointed pursuant to the agreement for joint law enforcement services between Oxford Township, Berwick Township and New Oxford Borough dated December 31, 2001 (Ord. No. 391, enacted and ordained on July 2, 2001).

¹ Editor's Note: A copy of the plan is on file in the Borough offices.

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DISABILITY — the inability to do any substantial gainful activity by reason of any medical determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

EARP — the Eastern Adams Regional Police Department.

FULL-TIME POLICE OFFICER — a police officer employed by the EARP, on a regular salary or hourly basis, and employed for 40 hours or more per week and for at least 51 weeks per year or more, subject to such vacation and sick leave as may be established in any written employment policy of the EARP.

PARTICIPANT — a full-time police officer who has met the eligibility requirements herein set forth and is participating in the plan created hereby.

SALARY — all regular periodic compensation plus overtime compensation received by the participant.

TIER I PARTICIPANT — a participant who began employment as a full-time police officer of either Oxford Township or Berwick Township before January 1, 1992, and who is, as of the date of the enactment of this Part, still a full-time police officer as defined above.

TIER II PARTICIPANT — a participant who began employment as a full-time police officer of either Oxford Township, Berwick Township or EARP on or after January 1, 1992.

(Ord. 420, 6/4/2007)

§513. Establishment of Police Pension Fund.

There is hereby established, effective January 1, 1993, and thereafter, as long as this Part shall continue in effect, a Police Pension Plan for the benefit of eligible participant police officers employed by the EARP.

(Ord. 420, 6/4/2007)

§514. Trustees.

The Police Pension Plan hereby created shall be administered by the Police Commission as established by the agreement for joint police services between Oxford Township, Berwick Township and New Oxford Borough dated December 31, 2001, as trustees. Said trustees shall have the ability to elect or appoint a chief executive officer to act on behalf of the trustees, subject to the approval and review of the actions of the chief executive officer by the trustees. Said chief executive officer may be either a natural person or a

corporation. Any chief executive officer elected or appointed by the trustees shall serve for a term of three years. Said chief executive officer shall not be a participant of the Police Pension Plan. Upon the death, resignation or disqualification of the chief executive officer, the trustees shall appoint a successor to fill the unexpired term.

(Ord. 420, 6/4/2007)

§515. Duties of Trustees.

The duties of the trustees, or of the chief executive officer, if one is designated by the trustees, shall be as follows:

- A. To receive funds from the Treasurers of any township or borough which may be a participant under the EARP, any allocations received by the participant townships or Boroughs from the Commonwealth of Pennsylvania, from participants, from the townships or boroughs themselves which may be participants of the EARP and from any other source and to invest and reinvest such sums in such manner and form as may be required to provide the benefits to participants established herein, including but not limited to investments in life and disability annuity contracts, or such other appropriate contracts as may be determined by said trustees from time to time to be desirable or necessary to provide benefits established herein or otherwise required by law.
- B. To maintain accurate and appropriate records.
- C. To employ or retain the services of any actuary to conduct and file any actuary study which may be required or advisable pursuant to Act. No. 293 of 1972 or any subsequent or otherwise applicable law.
- D. The trustees shall hold and be the owners of, in their fiduciary capacity, all contracts entered into pursuant to this Part and Pension Plan, provided that nothing contained herein shall affect, in any way, vested rights of any participant as hereinafter set forth.
- E. To do all other acts necessary or advisable for the implementation and administration of this Part and pension created hereby.

(Ord. 420, 6/4/2007)

§516. Police Officers; Eligibility and Benefits.

- 1. Any full-time police officer, as defined above, shall be eligible to participate in the Pension Plan created hereby.

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2. A Tier I participant shall be eligible to retire and thereupon to receive retirement benefits under this plan upon his or her having completed 20 years of continuous service as a police officer of the EARP and having reached the age of 55 or older. Credit shall be given to the service requirement herein for prior continuous service as a police officer with either Berwick Township or Oxford Township if service as a police officer thereafter continued uninterrupted as a police officer of the EARP.
3. A Tier II participant shall be eligible to retire and thereupon to receive retirement benefits under this plan upon his or her having completed 25 years of continuous service as a police officer of the EARP and having reached the age of 55 or older.
4. Each borough or township which may be a participant of the EARP shall be required to pay a proportional share for the expenses of funding the pension established hereby, which proportionate share shall be the same share which is paid by the participant borough or township as to costs which are calculated periodically based on the proportionate per capita for the particular borough or township participating in the EARP, unless an annual actuarial study determines that such funding shall not be necessary to maintain the ability for the Pension Fund to pay benefits as established herein.
5. A Tier I participant's rights in the Pension Plan herein will vest upon said Tier I participant having completed at least 10 years of continuous service as a police officer for the EARP. Credit shall be given to the service requirements herein for prior continuous service as a police officer with either Berwick Township or Oxford Township if service as a police officer thereafter continued uninterrupted as a police officer of the EARP. A terminated vested participant shall be entitled to a deferred pension commencing at the time he or she would have satisfied the age and service requirements for retirement as set forth in Subsection 2 of this section. The deferred pension shall be determined as a percentage of the participant's average monthly salary for the thirty-six-month period preceding termination of employment where such percentage is equal to the lesser of (a) 2.5% multiplied by each full year of continuous service or (b) 50%.
6. A Tier II participant's rights in the Pension Plan herein will vest upon said Tier II participant having completed at least 12 years per Act 600 of continuous service as a police officer for the EARP. A terminated vested participant shall be entitled to a deferred pension commencing at the time he or she would have satisfied the age and service requirements for retirement as set forth in Subsection 3 of this section. The deferred pension shall be determined as a percentage of the participant's average monthly salary for the thirty-six-month period preceding termination of employment where such percentage is equal to the lesser of (a) 2% multiplied by each full year of continuous service or (b) 50%.
7. The monthly retirement benefits to which each eligible participant shall be entitled under this plan shall be an amount equal to 50% of the average monthly salary which he or she shall have earned during the thirty-six-month period last served by the participant immediately prior to retirement.

8. The monthly retirement benefits to which each eligible participant shall be entitled under this plan may be increased above that amount set forth in Subsection 7 of this section if said participant, upon having accrued enough years of full-time service as a police officer for the EARP as required under Subsections 2 and 3 above, continues as a full-time police officer of the EARP beyond 20 years in the case of Tier I participants and 25 years in the case of Tier II participants. The increase in the percentage of the average monthly salary defined benefits shall be equal to 1% per year following 20 years of full-time employment as a police officer for the EARP for Tier I participants and 25 years of full-time employment as a police officer of the EARP for Tier II participants. In no event, however, shall the percentage of the average monthly salary which he or she shall have earned during the thirty-six-month period last served by the participant immediately prior to retirement and upon which benefits are therefore defined exceed 60%, nor shall the maximum increase exceed \$500 per month.
9. In the event a plan participant, while employed as a full-time police officer of the EARP, sustains a service-related disability, then in such event the participant shall be eligible to receive the monthly plan benefits, which shall be defined as an amount equal to 50% of the participant's monthly salary at the time of disablement less 100% of any social security benefits received by the participant. The ability of a service-related disabled plan participant herein to begin receiving said monthly benefits shall accrue regardless of whether said participant has met the years of service and age requirements as set forth in Subsections 2 and 3 of this section.
10. In the event of a death of a member who was receiving a pension benefit or who had qualified for a retirement pension benefit but had not yet retired, his or her surviving spouse shall be entitled during his or her lifetime to receive a pension equal to 50% of the pension the member was receiving or would have been receiving had he or she been retired at the time of death. If no surviving spouse survives, or if the surviving spouse subsequently dies, then the child or children under the age of 18 years of the deceased eligible participant shall be entitled to receive a pension calculated at 50% of the pension to which the member was entitled. The pension payable to the child or children of the deceased surviving spouse in this section can continue longer, conditioned upon the child or children attending college defined as at least seven credit hours per semester, until such child or children reach the age of 23 and continue in that college program.
11. In the event a participant is killed in service, his or her surviving spouse shall be entitled during his or her lifetime to receive a pension equal to 100% of the participant's regular monthly salary at the time of death of the participant, and this benefit shall be paid for the same duration as benefits would have been paid to that surviving spouse as defined under Subsection 10. If no spouse survives or if he or she survives and subsequently dies, then the child or children of the deceased participant under the age of 18 years shall be entitled to receive a pension calculated at 100% of the deceased participant's regular monthly salary at the time of death until such time as said child or children has reached the age of 18.

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The benefit payable to the child or children of the deceased surviving spouse in this section can continue longer, conditioned upon the child or children attending college, defined as at least seven credit hours per semester, until such child or children reach the age of 23 and continue in that college program.

12. If, before a participant shall have vested as defined above, the employment of said participant with the EARP shall be terminated, either voluntarily or involuntarily, except by death or disability, he or she shall forfeit all rights in this plan and shall forfeit all rights to receive any benefits provided herein; provided, however, that such participant shall be entitled, notwithstanding said forfeiture, to receive or withdraw the amount of all contributions made to this plan by him or her, together with any interest or earnings attributable to said participant's contributions.
13. With the consent of the trustees, any participant may defer his or her right to commence receipt of the retirement benefits established herein. Then, upon his or her commencing receipt of said benefits, he or she shall then be entitled to only those benefits which would have otherwise have been payable to said participant had the participant commenced receipt of the benefits at the time the participant would have been eligible to at the earlier date.
14. Participants of this Pension Plan, who were not employed by the Eastern Adams Regional Police prior to military service, shall be entitled to credits for each year of such military service or fraction thereof, not to exceed five years. The amount due for the purchase of this credit for military service other than intervening military service shall be computed by applying the average normal cost rate for the Eastern Adams Regional Police Plan as certified by the Public Employee Retirement Commission, as calculated by the Eastern Adams Regional Police actuary, but not to exceed 10%, to the participant's average annual rate of compensation over the first three years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased, together with interest at the rate of 4 3/4% compounded annually from the date of initial entry into the Eastern Adams Regional Police service to the date of payment.

(Ord. 420, 6/4/2007)

§517. Miscellaneous.

1. The Police Pension Plan hereby established may be discontinued or modified at any time by the trustees. In the event of discontinuance of the plan, the trustees shall, upon the anniversary date of the plan next following such discontinuance, calculate, based on the value of the funds and contracts then held by the trustees, the monthly benefits available for the participants based on their relative years of service and, upon said calculation, shall provide monthly benefits to the participants commencing upon the normal retirement age of the participants in accor-

dance with the schedule and calculation applicable as of the time of the discontinuance of the plan.

2. Any dividends, earnings or other income as a result of the fund or contracts held or owned by the trustees under this plan shall be utilized by the trustees and applied by the trustees to reduce the cost of this plan to the EARP.
3. The establishment of this Police Pension Plan shall not operate to restrict any other benefits which may inure to the benefit of any police officer or officers under applicable laws or regulations now in existence or which may hereafter be enacted by the Commonwealth of Pennsylvania or by joint ordinance of the townships or borough or other governmental entities which may now or in the future participate as members of the EARP.
4. The plan herein described and established shall be established and maintained in accordance with whatever laws or regulations may apply to said pension under the laws of the Commonwealth of Pennsylvania and the applicable regulations of the Internal Revenue Service, if applicable.
5. Administrative expenses of the plan, to include but not necessarily be limited to actuarial, accounting, legal and investment expenses, may be paid from plan assets to the extent permitted by applicable law.
6. The provisions of this Police Pension Plan and Part shall be construed so as to comply with the provisions of Act of 1955 (P.L. 1804, No. 600) and Act 30 of 2002, and any amendments thereto, notwithstanding anything to the contrary contained herein.

(Ord. 420, 6/4/2007)

PART 6

REQUESTS FOR PUBLIC RECORDS

§601. Designated Open Records Officer; Access Guidelines.

It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Borough. The Borough designates the Borough Secretary as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

- A. The Borough Secretary may designate certain employee(s) to process public records requests.
- B. The Borough Secretary is responsible for minimizing, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
- C. All requests for public records of the Borough under this policy shall be specific in identifying and describing each public record requested. In no case shall the Borough be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Borough does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and include the date of the request; requester's name, address, and telephone number; certificate of United States residency; signature of requester; and if duplication is requested, appropriate payment.
- D. The Borough Secretary shall make a good-faith effort to determine whether each record requested is a public record.
- E. The Borough shall facilitate a reasonable response to a request for the Borough's public records. In no case is the Borough expected to provide extraordinary staff to respond to the request, but it will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
- F. The Borough Secretary shall respond to the requester within five business days from the date of receipt of the written request. If the Borough does not respond within five business days of receipt thereof, the request is deemed denied.
- G. The response provided by the Borough shall consist of:
 - (1) Approval for access to the public record;

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- (2) Review of the request by the Borough Secretary; or
 - (3) Denial of access to the record requested.
- H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Borough. The Borough Secretary shall cooperate fully with the requester, while also taking reasonable measures to protect Borough public records from the possibility of theft and/or modifications. The presence of a designated employee is required when public records are examined and inspected.
- I. Fees for duplication of public records shall be as established by the Office of Open Records of the Commonwealth of Pennsylvania (hereinafter referred to as the "Commonwealth's Office of Open Records"). The Borough may, at its discretion, waive fees.
- J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100, the Borough Secretary, or employee designated by the Borough Secretary, shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.
- K. If the request is being reviewed, the notice provided by the Borough shall be in writing and include the reason for the review and the expected response date, which shall be within 30 days of the notice of review. If the Borough does not respond within 30 days thereof, the request is deemed denied.
- (1) Review of the request is limited to situations where:
 - (a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
 - (b) The record requires retrieval from a remote location;
 - (c) A timely response cannot be accomplished due to staffing limitations;
 - (d) A legal review is necessary to determine whether the record requested is a public record;
 - (e) The requester has failed to comply with the Borough's policy and procedure requirements;
 - (f) The requester refuses to pay the applicable fees; or

- (g) The extent or nature of the request precludes a response within the required time period.
- (2) Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requester within five business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, and a reasonable date that a response is available. If the date that a response is expected to be provided is in excess of 30 days following the five business days allowed for, the request for access shall be deemed denied, unless the requester has agreed, in writing, to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.
- L. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on a form to be approved by the Borough.
 - M. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within 15 business days of the mailing date of the Borough's notice of denial or within 15 days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.
 - N. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or the Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Adams County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.
 - O. This policy shall be available for review at the Borough office.

(Ord. 433, 1/5/2009)

§602. Amendments; Posting.

1. Amendments. The Borough may adopt amendments to this policy which are necessary to implement the provisions and purposes of the act, as amended, or court decisions pertaining thereto.
2. Posting. A copy of this policy shall be conspicuously posted at the Borough's office.

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(Ord. 433, 1/5/2009)

§603. Repealer.

Ordinance No. 401 is hereby repealed effective January 1, 2009, it being the express intention of the Borough to substitute in its place and stead the policy provided for in this Part 6. All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

(Ord. 433, 1/5/2009)

§604. Effective Date.

This Part 6 shall become effective in accordance with applicable law, with the repeal of Ordinance No. 401, effective January 1, 2009.

(Ord. 433, 1/5/2009)