

ORDINANCE NO. 10 of 2015
WHITE HAVEN BOROUGH, LUZERNE COUNTY, PENNSYLVANIA

White Haven Borough Council does hereby amend Chapter 1 of the White Haven Borough Code of Ordinances, entitled Administration and Government, to add a Part 9, entitled Civil Service Commission, to read as follows:

CHAPTER 1
ADMINISTRATION AND GOVERNMENT

Part 9
Civil Service Commission

General Provisions

§901. General Provisions.

(a) Title. This ordinance shall be known and may be cited as the "White Haven Borough Civil Service Commission Ordinance."

(b) Purposes. This Part is being adopted under the Pennsylvania Borough Code, SUBCHAPTER J, entitled CIVIL SERVICE FOR POLICE AND FIRE APPARATUS OPERATORS, Section 1170 et seq. and since White Haven Borough Council has recently hired its third full-time police officer.

(c) Definitions. Unless otherwise expressly stated, the following words and phrases, whenever used in this Part, shall be construed to have the meaning indicated herein:

(1) APPLICANT- means any individual who applies in writing to the Civil Service Commission in response to a legally advertised notice of vacancy or examination for any position in the White Haven Police Department.

(2) BOROUGH- means White Haven Borough, Luzerne County, Pennsylvania.

(3) BOROUGH COUNCIL or COUNCIL- means the elected officials of White Haven Borough consisting of the council members.

(4) CERTIFICATION- means the submission to Borough Council pursuant to its request of three names taken from the eligible list developed by the Civil Service Commission.

(5) CHAIRPERSON- means the Chairperson of the Civil Service

Commission.

(6) COMMISSION- means the Civil Service Commission of White Haven Borough, Luzerne County, Pennsylvania.

(7) COMMISSIONER- means an individual appointed by White Haven Borough Council to serve as a member of the Civil Service Commission.

(8) ELIGIBLE- means a person whose name is recorded on a current eligible list or furlough list.

(9) ELIGIBLE LIST- means the list of names of persons who have passed all examinations for a particular position in the White Haven Borough Police Department.

(10) EXAMINATION- means the series of tests given to applicants to determine their qualifications for a position in the White Haven Borough Police Department.

(11) FULL-TIME POLICE OFFICER- means a person employed by the Borough as a police officer who devotes their normal 40 hour work week to police duties in the Borough and who are paid a stated salary or compensation for their work by the Borough.

(12) FURLOUGH LIST- means the list containing the names of persons temporarily laid off from positions in the White Haven Borough Police Department because of a reduction in the number of full-time officers.

(13) MEDICAL EXAMINATION- means an examination, procedure, inquiry or test designed to obtain information about medical history or a physical or mental condition which might disqualify an applicant for a position if it would prevent the applicant from performing, with or without a reasonable accommodation, all of the essential functions of the position.

(14) PART-TIME POLICE OFFICER- means a person employed by the Borough as a police officer who works less than 40 hours per week. A part-time police officer shall not be subject to the terms and conditions and rights afforded to full-time police officers under this Part.

(15) PATROL OFFICER- means an entry-level sworn full-time police officer position in the Police Department. Borough Council shall retain full discretion in determining which full-time police officer receives an offer of full-time employment.

(16) POLICE DEPARTMENT- means the White Haven Borough Police Department.

(17) PHYSICIAN- means an individual licensed under the laws of the Commonwealth of Pennsylvania to engage in the practice of medicine and surgery in all of its branches within the scope of the act of June 3, 1911 (P.L.639, No.246) relating to medicine and surgery and its amendments, or in the practice of osteopathy or osteopathic surgery within the scope of the act of March 19, 1909 (P.L.46, No.29) and its amendments.

(18) PROBATIONER- means an officer in the Police Department who has been appointed from an eligible list but who has not yet completed the work test period.

(19) QUALIFIED MEDICAL PROFESSIONAL-means an individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed as a physician assistant under the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act; or (2) as a certified registered nurse practitioner under the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law.

(20) REDUCTION IN RANK- means a change to a different position or rank where the employee fulfilled all the requirements of this Part for both the prior and current position or rank. However, a decrease in salary without a change to a different position or rank shall not necessarily constitute a reduction in rank.

(21) REMOVAL- means the permanent separation of a police officer from the White Haven Borough Police Department.

(22) SECRETARY- means the Secretary of the Civil Service Commission.

(23) SUSPENSION- means the temporary separation without pay of a police officer from the White Haven Borough Police Department.

Establishment and Organization

§902. Establishment and Applicability of Civil Service Commission; Membership; Terms; Vacancy; Oath; and Compensation.

(a) Borough Council does hereby establish a Civil Service Commission as a result of its recent hiring of a third full-time member of the Police Department. This Part shall apply to full-time police officers within the White Haven Borough Police

Department. This Part shall not apply to part-time police officers within the White Haven Police Department.

(b) The Commission shall consist of three commissioners who shall be qualified electors of the Borough and shall be appointed by Borough Council initially to serve for the terms of two, four and six years and, as terms thereafter expire, shall be appointed for terms of six years.

(c) Any vacancy occurring on the Commission for any reason whatsoever shall be filled by Borough Council for the unexpired term within the period of 30 days after such vacancy occurs.

(d) Each member of the Commission, before entering upon the discharge of the duties of his or her office, shall take an oath or affirmation to support the Constitutions of the United States and of the Commonwealth of Pennsylvania and to perform his or her duties with fidelity.

(e) Council may appoint no more than three qualified electors of the Borough to serve as alternate members of the commission. The term of office of the alternate members shall be six years.

(f) No Commissioner shall receive compensation.

§903. Offices incompatible with Civil Service Commissioner. No commissioner shall at the same time hold an elective or appointed office under the United States Government, the Commonwealth of Pennsylvania, the Borough, or any other political subdivision of the Commonwealth, except that one member of the commission may be a member of the Council of the Borough and one commissioner may be a member of the teaching profession.

§904. Organization of Commission; Quorum. The Commission first appointed shall organize within 10 days of its appointment and shall elect one of its members as its Chairperson, one as a Vice-Chairperson, and one as its Secretary. No member may hold two positions on the Commission. The Commission shall thereafter meet and organize on the first Monday of February of each even-numbered year. Two members of the Commission shall constitute a quorum and no action of the Commission shall be valid unless it shall have the concurrence of at least two members.

§905. Duties of Chairperson. The Chairperson, or in his or her absence, the Vice Chairperson shall preside at all meetings and hearings of the Commission, decide all points of order or procedure and perform any duties required by law or this chapter.

§906. Duties of Secretary. The Secretary shall carry on at the direction of the Commission all official correspondence of the Commission, send out all notices required

by this Part, keep a record of each examination or other official action of the Commission, and perform all other duties required by law or this Part.

§907. Meetings. Except for the biennial organization meeting, all meetings shall be scheduled by the Chairperson or by two of the three members of the Commission. The Commission shall have discretion to determine whether meetings shall be open to the public when not specifically regulated by law or this Part. The Secretary of the Commission shall give each Commissioner 24 hours' notice in writing of each and every meeting of the Commission.

§908. Clerks and Supplies. Borough Council shall furnish the Commission with such supplies and clerical assistance as may be necessary for the Commission to fulfill its duties. In addition, the Commission may retain counsel and any other consultants or experts, including physicians and psychiatrists, as are necessary for the performance of its duties. The elected and appointed officials of the Borough shall assist the Commission with all reasonable and appropriate requests. Borough Council shall budget and fund the costs of the Commission, including compensation of counsel, experts, and supplies.

§909. Amendment of Rules. The Commission may amend, revise, void or replace any of its rules and regulations for any reason by action of a majority of the Commission at any properly convened meeting of the Commission. Before any changes to the Commissioners' rules become effective, those changes must be approved by the Borough Council.

§910. Minutes and Records.

(a) The Commission shall keep minutes of its proceedings and records of examinations and other official action. All records of the Commission shall be preserved and disposed of according to the Retention and Disposition Schedule for Records of Pennsylvania Municipalities issued by the Local Government Records Committee under the authority of the Municipal Records Act, 53 Pa. C.S.A. §1381 et seq.

(b) Any and all records related to any disciplinary action filed with the Commission shall be open to public inspection subject to reasonable regulation. The Secretary shall keep minutes of its proceedings showing the vote of each member upon each question. If the member is absent or fails to vote, the Secretary shall indicate that fact in the minutes.

§911. Investigations. The Commission shall have the power to make investigations concerning all matters relating to the administration and enforcement of this Part and its rules and regulations. The Chairperson of the Commission is authorized to administer oaths and affirmations in connection with such investigations.

§912. Subpoenas.

(a) The Commission shall have the power to issue subpoenas over the signature of the Chairperson, or designee, to acquire the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry, including any background investigation conducted pursuant to § 13-33 of this chapter. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expense of the Commission. All officers in public service and employees of the Borough shall attend and testify when required to do so by the Commission.

(b) If any person shall refuse or neglect to obey any subpoena issued by the Commission, upon conviction of such refusal or neglect in a summary proceeding, that person shall be sentenced to pay a fine not to exceed \$100, and, in default of the payment of such fine and cost, shall be imprisoned not to exceed 30 days.

(c) If any person shall refuse or neglect to obey any subpoena, the Commission may apply by petition to the Court of Common Pleas of Luzerne County for its subpoena requiring the attendance of such persons before the Commission or the court to testify and to produce any records and papers necessary and, in default thereof, shall be held in contempt of court.

§913. Annual Report. When the Commission has conducted business in any given year, it shall make an annual report to Borough Council for the year in which it had activity. The annual report shall be given by December 15th and contain a brief summary of its work during the year, including a full accounting for any expenditures of public funds. The annual report shall be available for public inspection.

Hiring and Promotions

§914. Eligibility for Examination. In order to be eligible for participation in any examination for the patrol officer position with the Police Department, every applicant must submit a completed application form to the Commission before the deadline stated by the Commission for that specific examination. The applicant must make an oath or affirmation that the application is completed truthfully. The applicant is subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

§915. Discrimination. The Borough is an equal opportunity employer. It is the Borough's and the Commission's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, age, marital status or non-job-related physical or mental handicap or disability. The Borough and the Commission will provide equal opportunities in employment and promotion.

§916. Applications; Availability of Forms.

(a) A person who desires to apply for examination must file with the Commission a formal application in which the applicant shall provide, under oath or affirmation, the following information:

- (1) Full name and residence or post office address.
- (2) Citizenship and place and date of birth.
- (3) Condition of health and physical capacity for public service.
- (4) Business or employment and the applicant's residence for the past five years.
- (5) Other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which the applicant is being examined.

(b) Application forms shall be available to all interested persons in the office of the Police Department and from such other offices and officers that the Commission, from time to time, may choose to designate. Application forms may be mailed upon written or telephone request. However, the Commission assumes no responsibility for missed filing deadlines due to a delay in the mail.

§917. Age Requirements. All applicants must have reached their 21st birthday before the deadline for submitting completed applications.

§918. General Qualifications for All Applicants. Every applicant for the position of patrol officer in the Police Department shall meet the following minimum qualifications:

- (a) Possess a diploma from an accredited high school or a graduate equivalency diploma.
- (b) Be a United States citizen.
- (c) Be physically and mentally fit to perform the full duties of a police officer.
- (d) Possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania.
- (e) Successfully completed the training and education prescribed by the Municipal Police Education and Training Act ("Act 120"), 53 Pa. C.S.A. § 2161 et seq.

§919. General Qualifications for Applicants for Promotion.

(a) In addition to meeting the qualifications in §918 above, all applicants for a promotional position, except Chief, shall not have been suspended without pay at any

time in the three years prior to the deadline for submitting applications. Any suspension to which the applicant has timely appealed pursuant to a grievance procedure of this Part shall be disregarded unless the appeal is resolved prior to the creation of the eligibility list.

(b) All applicants for promotion shall have continuous prior service with the Police Department.

§920. Rejection of Applicant. The Commission may refuse to examine or, if examined, may refuse to certify as eligible after examination any applicant who is found to lack any of the minimum qualifications for examination prescribed in this Part for the particular position for which the applicant has applied. In addition, the Commission may refuse to examine or, if examined, may refuse to certify any applicant who is physically or mentally unfit to perform the full duties of the position applied for, or who is a habitual substance abuser, who is guilty of any crime involving moral turpitude, or infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose policies or activities are subversive to the forms of government set forth in the constitutions and laws of the United States and the Commonwealth of Pennsylvania.

§921. Recording and Filing Applications. Applications for positions in the Police Department shall be received at the Borough Building only after a hiring or promotional test has been properly advertised and before the deadline for receiving applications which must be set forth in the public advertisement. Applications will be received by the municipal official designated in the public advertisement. Applications by mail shall be considered timely when the postmark date precedes the deadline date for filing as prescribed by the public advertisement. The designated municipal official shall record the receipt of all applications and provide each applicant with notice of the time and place for the first portion of the testing procedure, the written examination. Any application containing material errors or omissions may, at the discretion of the Commission, be returned to the applicant for correction prior to the deadline for filing applications, after which no new applications or amended applications will be accepted.

§922. Hearing for Disqualified Applicants. Any applicants or other persons who believe that they are aggrieved by the actions of the Commission in refusing to examine or to certify them as eligible after examination may request a hearing before the Commission. Within 10 days after such request, the Commission shall designate a time and place for the hearing which shall be conducted under the procedures set forth in the Local Agency Law, 2 Pa. C.S.A. § 101 et seq. The applicant or aggrieved party must make their request for a hearing in writing within 10 calendar days of the date when the party knew or should have known of the Commission's action which is being challenged.

§923. Public Notice. The Commission shall conspicuously post in the Borough Building an announcement of the hiring or promotional testing and set forth the time and place of every examination, together with the information as to the type of position to be filled, the requirements for that position, where applications may be obtained and the deadline for filing those applications. In addition, at least two weeks prior to the close of the application period, publication of the notice shall occur in at least one newspaper of general circulation in the Borough.

§924. General Examination Requirements for the Position of Patrol Officer.

The examination for patrol officer will consist of a written and oral examination which will be graded on a one-hundred-point scale with the written examination representing 60% of the final score and the oral examination representing 40% of the final score. In addition, an applicant will undergo a physical agility test and a background investigation. These tests will be graded on a pass/fail basis for every applicant. After an applicant has been extended an offer of employment, final appointment shall be contingent upon the applicant passing a physical and psychological examination.

§925. General Examination Requirements for Promotion. The examination for a promotional position shall include a written and oral examination which will be graded on a one-hundred-point scale with the written examination representing 60% of the final score and the oral examination representing 40% of the final score. In addition, each applicant will undergo a physical agility test which will be graded on a pass/fail basis for every applicant. After an applicant has been extended an offer of promotion, the final appointment to the promotional position shall be contingent upon the applicant passing a medical and psychological examination.

§926. Appointment of Examiners. The Commission shall appoint a written examination administrator, an oral examination administrator, a medical examiner, a physical agility examiner, a polygraph examiner, and a psychological examiner to conduct the appropriate examinations required by these rules.

§927. Written Examination. The written examination shall be graded on a one-hundred-point scale, and an applicant must score 70% or higher and receive one of the six highest scores, including ties, in order to continue in the application process. Applicants scoring less than 70% or not receiving one of the six highest scores shall be rejected. Within 30 days after the administration of the written examination, all applicants shall be given written notice of their test results and each passing applicant shall be informed of the next step in the examination process.

§928. Oral Examination. Every applicant who scored 70% or higher and receives one of the top six highest scores, including ties, in the written examination, shall be given an oral examination that will be graded on a one-hundred-point scale, with a score of 70% or higher necessary for passing. The oral examination shall involve questioning applicants on how they would handle situations relevant to police work.

Within 30 days after the applicants' oral examination, they shall be informed of their oral examination and total overall scores, and each passing applicant shall be informed of the next step in the examination process.

§929. Veterans' Preference Points. Pursuant to the Veterans' Preference Act, any applicant for the position of patrol officer who qualifies as a "soldier" under this Act shall receive an additional 10 points on top of his or her total score if the applicant has received passing scores under §924, §927 and §928. Any applicant claiming veterans' preference is responsible for providing any and all relevant documents to the Commission.

§930. Polygraph Examination.

(a) Any applicant that has received passing scores under §924, §927 and §928 and whose total score ranks in the top six, including ties, shall fill out a personal data questionnaire and undergo a polygraph examination. The Commission shall furnish each polygraph examiner with forms upon which the examiner shall state whether any of the applicant's responses to questions from the applicant's personal data questionnaire are deceptive. The report on each examination shall be submitted to the Commission within five days after the date of the examination.

(b) The examiner shall ask questions based on the information contained in the personal data questionnaire. Before administering the test, the examiner shall ask each applicant whether there is any more information related to the personal data questionnaire which the applicant would like to provide. There shall also be a post-test review, during which the examiner shall again ask the participant, if deception is indicated, whether there is any information which the applicant is withholding.

(c) If the examiner shall deem any of the applicant's responses to be deceptive, the examiner must tell the applicant immediately and give the applicant an opportunity to explain, deny or admit the deception. If the applicant denies being deceptive or if the explanation is found unsatisfactory by the examiner, the applicant will be given the opportunity to retake the test with a second examiner. Notice of the opportunity to retest shall be given in writing to the applicant. If the second examiner finds no deception, the applicant will be considered as having passed the polygraph. If the second examiner also finds the applicant deceptive, the applicant will be considered as having failed the examination.

(d) An applicant who has failed both tests may appeal to the Commission for a third examination, and the decision to give the applicant an opportunity to take a third test resides solely within the discretion of the Commission. If the applicant is awarded an opportunity to take a third test and passes, then the applicant will be considered as having passed the polygraph test. If the applicant is found deceptive on a third test, the applicant will be rejected.

§931. Physical Agility Testing. An applicant for the position of patrol officer must meet the following requirements:

(a) Stretcher carry. Applicants will be paired off and required to carry a stretcher with a simulated patient weighing 200 pounds over a distance of 100 feet. Those applicants failing on the first attempt will be allowed to retake the exercise with a person who has successfully completed the exercise.

(b) Body drag. An applicant is required to remove a simulated motor vehicle operator weighing approximately 200 pounds from behind the steering wheel of a motor vehicle and drag the simulated operator to a point 50 feet from the motor vehicle.

(c) Quarter-mile run. An applicant is required to run a distance of 1/4 mile on a premeasured course in less than 110 seconds.

(d) Window climb. An applicant is required to climb through a six-foot-high level window without assistance onto a three-foot level platform on the other side of the window, and then to the ground. Applicants must then circle around a marker 20 feet beyond the window and return up the three-foot-high platform and out the window onto the ground below.

(e) Thirty-second trigger pull. Within a thirty-second time limit per hand, an applicant is required to repeatedly pull 15 times for each hand the trigger of a double action nonfunctional revolver with arms horizontally extended.

§932. Background Investigation.

(a) The Commission shall request the Chief of Police or the Chief's designee to conduct a background investigation on each applicant. The background investigation shall also include interviews with the applicant's family, acquaintances, current and former employers, current and former neighbors, references and current and former teachers and school officials. At a minimum, personal interviews shall be conducted with at least three people who have personal knowledge of the applicant but who are not related to the applicant and with the applicant's employer(s) for the past five years.

(b) The background investigation shall also include a criminal history check, including the submission of fingerprints to the Central Repository for the Commonwealth of Pennsylvania and the Federal Bureau of Investigation. The applicant's credit history and record of criminal convictions shall also be investigated, as well as the applicant's driving record for verification that he or she possesses a valid driver's license. The applicant may be interviewed directly when the information collected during the background investigation requires clarification or explanation.

(c) If necessary to complete a thorough background investigation on any applicant, the Commission may, upon the request of the Chief of Police or the Chief's designee, subpoena the personnel records maintained by any other police department(s) by which the applicant was previously employed.

(d) After the background investigation is completed, the Chief or the Chief's designee shall make a written recommendation to the Commission on whether the applicant is appropriate for consideration for appointment as a patrol officer. Appropriateness of the applicant shall be based on the criteria set forth in §918 of this Part. This recommendation shall be in writing and, if the recommendation is to disqualify, then a written explanation of the reasons for disqualification must be included. The Commission shall make the final determination on whether the information collected during the background investigation warrants rejection of the candidate. Within 30 days after the Commission considers the recommendation of the Chief of Police or the Chief's designee, each applicant will be informed of whether he or she has passed the background investigation.

§933. Creation of Eligibility List.

(a) At the completion of the examination requirements set forth in this Part, written examination, oral examination, background investigation, physical agility test, and polygraph examination, the Commission shall rank all passing applicants on a list, with the applicant receiving the highest score at the top of the list and the applicant receiving the lowest passing score at the bottom of the list. Applicants for patrol officer who qualify for Veterans' preference points shall have those points added to their passing score prior to being ranked on the eligibility list.

(b) For promotional positions, fulfilling the performance requirement set forth in §919 is also required. In the case of tied scores, the tie will be broken by giving preference to the applicant who submitted a final completed application first. If both tied applicants submitted their complete applications on the same day, then the applicants shall be ranked in alphabetical order by surname.

(c) The eligibility list will be valid for one year from the date the Commission ranks all passing applicants, assigns Veterans' preference points and formally adopts the eligibility list. The Commission may, at its sole discretion, before the original expiration date, by a vote of the majority of the Commission at a duly authorized Commission meeting, extend the list for up to an additional 12 months. The Commission may, at its sole discretion, void an eligibility list at any time for any reason.

§934. Appointment.

(a) Borough Council may fill any vacancy in an existing position in the Police Department that occurs as a result of expansion of the police force, retirement, resignation, disability or death by the reappointment or reinstatement of a former employee of the Police Department who has been furloughed. Except for medical and psychological examinations, no other testing shall be required for a furloughed employee or a rehired or reappointed employee, subject to any recertification requirements prescribed by the Municipal Police Officers' Education and Training Commission.

(b) If no furlough list exists or if positions remain to be filled after all of the officers on the furlough list were offered reemployment, every position, except that of Chief of Police, shall be filled only in the following manner:

(1) Borough Council shall notify the Commission of any vacancy which is to be filled and shall request the certification of three names from the list of eligibles.

(2) If three names are not available, then the Commission shall certify the names remaining on the list.

(3) The Borough Council may make an appointment only from one of the three names certified with reference to the merits and fitness of the candidates. However, for initial appointment to patrol officer, when one of the three applicants on the certified list is a Veteran, that applicant shall be selected.

(c) The Borough Council may object to one or more of the persons certified for the reasons set forth in §920 of this Part. If the candidate to whom the Borough Council objects fails to timely exercise the rights of appeal under §922, or if the Commission declines to uphold the appeal, the Commission shall strike the name of that candidate from the eligibility list and certify the next highest name for inclusion on the list of three candidates for each name stricken off. The Borough Council may, at its sole discretion, appoint any applicant who has passed the required examinations for appointment or promotion although the applicant's name does not appear on the certified list of three, when the applicant qualifies for Veterans' preference.

§935. Appointment of Chief of Police. In the case of a vacancy in the office of Chief of Police, Borough Council has full discretion in selecting the individual to fill the position of Chief of Police. If Borough Council requests the Commission to subject that person to a noncompetitive examination, and if that person successfully passes the noncompetitive examination, then the Commission shall notify Borough Council of the results of the examination. If, after receiving notice from the Commission that the candidate for Chief is qualified, Borough Council votes to bestow civil service status on

that person, the person may only be removed from the position of Chief of Police for the reasons set forth in §939 of this Part.

§936. Medical and Psychological Examinations.

(a) After Borough Council selects a candidate from the certified list of three for appointment to the vacant position, that candidate shall receive a conditional offer of employment. The conditional offer of employment shall be conditioned upon the applicant undergoing a physical medical examination conducted by a physician or other medical professional; and a psychological medical examination conducted under the direction of a psychiatrist or psychologist. If the candidate successfully passes the medical and psychological examinations evidencing his or her capability to perform all of the essential functions of the position, then that individual shall be appointed to the vacant position in the Police Department for which the application was submitted.

(b) The physician, other qualified medical professional, psychiatrist or psychologist must be appointed by Borough Council and shall render an opinion as to whether the conditional applicant has a physical or mental condition which calls into question the person's ability to perform all of the essential functions of the position for which the person was conditionally appointed.

(c) If the opinion rendered by the physician, other qualified medical professional, psychiatrist or psychologist calls into question the conditional applicant's ability to perform all essential functions of a position, the person designated by Borough Council shall meet with the conditional applicant for the purpose of having one or more interactive discussions on whether the conditional applicant can, with or without reasonable accommodation, perform all the essential functions of the position. If, at the conclusion of the interactive discussion, Borough Council determines that the conditional applicant is not qualified, Borough Council shall give written notice to the conditional applicant and the Commission.

(d) If the conditional applicant fails to pass either examination, then that should result in the candidate being rejected from consideration. The rejected candidate may appeal this decision under §922. The Commission shall then certify another name to be included with the two previously certified names for consideration by Borough Council under §934.

§937. Probationary Period. Every successful applicant to the position of patrol officer or to a promotional position with the Police Department shall serve a six-month probationary period. During the probationary period, a newly hired officer may only be dismissed for the reasons set forth in §920. A promoted officer, during probation, may be returned to a prior rank only for the reasons set forth in §920. However, at the end of the six-month probationary period, if the conduct of the probationer has not been

satisfactory to Borough Council, the probationer shall be notified in writing that the appointment will not be permanent. At that time, a newly hired officer's employment shall end and a promoted officer shall return to a previous rank. Any officer who is not informed in writing that his or her performance has been unsatisfactory shall receive a permanent appointment to the new position. Any probationer who is notified in writing that his appointment will not be made permanent has no right of appeal under this Part.

§938. Provisional Appointments. Whenever there are urgent reasons for the filling of a vacancy in any position in the Police Department and there are no names on the eligibility list for such appointment, Borough Council may nominate a person to the Commission for noncompetitive examination. Such nominee may be certified by the Commission as qualified after such noncompetitive examination and may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the Commission within three weeks to hold a competitive examination and certify a list of eligibles, and a regular appointment shall then be made from the name or names submitted by the Commission, provided that nothing within this section shall prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergency.

Suspensions, Removals and Reductions in Rank

§939. Grounds for Disciplinary Action.

(a) No person appointed to a position in the Police Department pursuant to this chapter may be suspended without pay or removed, and no person promoted in rank pursuant to this chapter may be reduced in rank except for the following reasons:

(1) Physical or mental disability affecting the officer's ability to continue in service, in which case the officer shall receive an honorable discharge from the service;

(2) Neglect or violation of official duty;

(3) Violation of any law of the commonwealth which provides that such violation constitutes a misdemeanor or felony;

(4) Inefficiency, neglect, intemperance, disobedience of orders or conduct unbecoming an officer;

(5) Intoxication while on duty: or

(6) Engaging or participating in or conducting of any political or election campaign other than the officer's exercise of the right of suffrage.

(b) No officer shall be removed for religious, racial or political reasons. A statement of any charges made against any officer so employed shall be furnished to the officer within five days after those charges have been adopted by the Borough Council.

§940. Furloughs.

(a) If for reasons of economy or other reasons it shall be deemed necessary by the Borough to reduce the number of full-time police officers in the department, then the Borough shall apply the following procedure:

(1) If there are any employees eligible for retirement under the terms of any retirement or pension law, then such reductions in numbers shall be made by retirement of such employees starting with the oldest employee and following in order of age respectfully;

(2) If the number of full-time police officers eligible for retirement is insufficient to effect the necessary reductions in numbers, or if there are no persons eligible for retirement, or if no retirement or pension fund exists, then the reductions shall be effected by furloughing the person or persons, including probationers, last appointed to the force.

(b) Such removal shall be accomplished by furloughing in numerical order, commencing with the person last appointed, until such reduction has been accomplished. In the event that Borough Council decides to increase the size of the Police Department, the furloughed officers shall be reinstated in order of their seniority in the Department if the furloughed officer accepts reinstatement in writing within 30 days of receiving notice of the opening. These reductions in force provisions are not applicable to the Chief of Police.

§941. Notice of Suspensions, Removals or Reductions in Rank

(a) Whenever a police officer is suspended without pay, removed or reduced in rank, the specific charges warranting such actions shall be stated in writing by the Borough Council. The charges shall be stated clearly and in sufficient detail to enable the officer to understand the charges and to allow the officer an opportunity to respond to those charges. The charges shall specify the subsection of §939 which provides the basis for the disciplinary action as well as an explanation of the factual circumstances upon which Borough Council relied in finding a violation of §939.

(b) Within five (5) days after the Borough Council has voted to impose the disciplinary action, a written statement of the charges shall be delivered to the officer either by personal service or by certified and registered mail. In addition, the charges shall notify the officer of the right to appeal under §942 of this Part. A copy of the

(b) If the Commission sustains the charges, the officer who was suspended, removed or reduced in rank may file an appeal with the Court of Common Pleas of Luzerne County within 30 days of the date of entry by the Commission of its final order. No order of suspension without pay shall be made by the Commission for a period longer than one year. In the event that the Commission fails to uphold the charges, then the person sought to be suspended, removed or demoted shall be reinstated with full pay for the period of the suspension without pay, removal or demotion, and no charges related to the suspension, removal or reduction in rank shall be officially recorded in the officer's record.

Miscellaneous Provisions

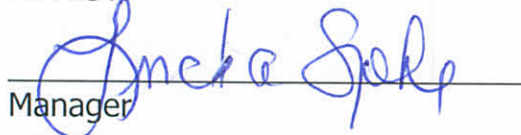
§944. Severability. If any section, clause, provisions or portion of this Part shall be held invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Part so long as it remains legally enforceable less the invalid portion.

§945. Repealer. All ordinances or parts thereof which are inconsistent with this Part or any section of this Part are hereby repealed to the extent of their inconsistencies.

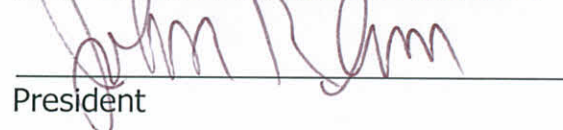
§946. Effective Date. This Part shall become effective January 4, 2016.

ENACTED this 26th day of October, 2015.

ATTEST:


Manager

WHITE HAVEN BOROUGH COUNCIL:


President

APPROVED BY:


MAYOR