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CHAPTER 1

ADMINISTRATION AND GOVERNMENT

Part 1

Official English Ordinance

§101. Title. This chapter shall be known and may be cited as the "White Haven Borough Official English Ordinance."

§102. Findings and Declaration of Purpose. The People of the Borough of White Haven find and declare:

(a) That the English language is the common language of the Borough of White Haven, of the Commonwealth of Pennsylvania and of the United States.

(b) That the use of a common language removes barriers of misunderstanding and helps to unify the people of White Haven Borough, the Commonwealth of Pennsylvania, and the United States, and helps to enable the full economic and civic participation of all its citizens, regardless of national origin, creed, race or other characteristics, and thus a compelling governmental interest exists in promoting, preserving, and strengthening the use of the English language.

(c) That proficiency in the English language, as well as in languages other than the English language, benefits the Borough of White Haven both economically and culturally and should be encouraged.

(d) That, in addition to any other ways to promote proficiency in the English language, the government of the Borough of White Haven can promote proficiency in English by using the English language in its official actions and activities.

(e) That in today's modern society, the Borough of White Haven may also need to protect and preserve the rights of those who speak only the English language to use or obtain governmental programs and benefits.

(f) That the government of the Borough of White Haven can reduce costs and promote efficiency in its roles as employer and as a government of the people, by using the English language in its official actions and activities.

§103. Official English Declaration.

(a) The English language is the official language of the Borough of White Haven.

(b) The Borough Council, Mayor, and officials of the Borough of White Haven shall take all steps necessary to insure that the role of English as the common language of the Borough of White Haven is preserved and enhanced.

(c) The government of the Borough of White Haven shall make no policy that diminishes or ignores the role of English as the common language of the Borough of White Haven.

(d) Official actions of the Borough of White Haven that bind or commit the Borough of White Haven or that give the appearance of presenting the official views or position of the Borough of White Haven shall be taken in the English language, and in no other language. Unofficial or non-binding translations or explanations of official actions may be provided separately in languages other than English, if they are appropriately labeled as such and reference is made to a method to obtain the official action; unless otherwise required by federal law or the law of the Commonwealth of Pennsylvania, no person has a right to such an unofficial or non-binding translation or explanation, and no liability or commitment of the Borough of White Haven shall be based on such a translation or explanation.

(e) No ordinance, decree, program, or policy of the Borough of White Haven or any of its subdivisions shall require the use of any language other than English for any documents, regulations, orders, transactions, proceedings, meetings, programs, or publications, except as provided in Section 104 below.

(f) A person who speaks only the English language shall be eligible to participate in all programs, benefits and opportunities, including employment, provided by the Borough of White Haven and its subdivisions, except when required to speak another language as provided in Section 104 below.

(g) No law, ordinance, decree, program, or policy of the Borough of White Haven or any of its subdivisions shall penalize or impair the rights, obligations or opportunities available to any person solely because a person speaks only the English language.

§104. Exceptions. The Borough of White Haven and its subdivisions may use a language other than English for any of the following purposes, whether or not the use would be considered part of an official action:

- (a) To teach or encourage the learning of languages other than English.
- (b) To protect the public health or safety.
- (c) To teach English to those who are not fluent in the language.
- (d) To comply with the Native American Languages Act, the Individuals with Disabilities Education Act, the Voting Rights Act, or any other federal law or law of the Commonwealth of Pennsylvania.
- (e) To protect the rights of criminal defendants and victims of crime.
- (f) To promote trade, commerce, and tourism.
- (g) To create or promote mottos or designations, inscribe public monuments, and perform other acts involving the customary use of a language other than English.

(h) To utilize terms of art or terms or phrases from other languages which are commonly used in communications otherwise in English.

§105. Private Use Protected. The declaration and use of English as the official language of the Borough of White Haven should not be construed as infringing upon the rights of any person to use a language other than English in private communications or actions, including the right of government officials (including elected officials) to communicate with others while not performing official actions of the Borough of White Haven.

§106. Interpretation. Nothing in this Ordinance shall be interpreted as conflicting with the statutes of the United States, or the laws of the Commonwealth of Pennsylvania.

§107. Severability. If any part or provision of this Chapter, or the applicability of any provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby and shall be given effect to the fullest extent practicable.

Part 2
Meetings and Work Sessions

§201. Scheduling of Regular Meetings. The regular meetings of Borough Council shall be held on the fourth Monday of each month at 7:00 P.M. at the White Haven Borough Municipal Building, 312 Main Street, White Haven, Pennsylvania 18661, or at such other times and places as Council may designate pursuant to public notice and in accordance with law.

§202. Work Sessions and Special Meetings. Work sessions and special meetings shall be governed by the following rules:

(a) Work sessions and special meetings may be scheduled by Borough Council as needed. Work sessions may be convened on the same date as a regular or special meeting provided that the time periods do not conflict with one another.

(b) Work sessions and special meetings may be called by the President of Council or upon written request of at-least one-third of the Members of Council. All Members of Council shall receive at least twenty-four (24) hours advance notice of any scheduled work session or special meeting. The notice shall state whether the meeting or session is for general or special purposes, and if it is for a special purpose, the notice shall contain a general statement of the nature of the business to be transacted. This notice shall be in addition to the public notice required under §204 of this Part. Presence at a meeting constitutes waiver of notice.

§203. Organizational Meetings. Borough Council shall conduct organizational meetings as follows:

(a) Organizational meetings shall be scheduled on the first Monday of January of each even numbered year commencing at a time to be announced by Council. If the first Monday is a legal holiday, the organizational meeting shall take place the following day.

(b) At the organizational meeting, Borough Council shall elect from its members a President and Vice-president. Borough Council may also elect such other officers as may be provided for by law or ordinance, or as may be necessary to conduct the affairs of the Borough. In addition to these elections, Borough Council may also transact such other business as may be properly before it.

§204. Advertising Meetings. All regular meetings, special meetings and work sessions shall be advertised as required by Law.

§205. Conduct of Meetings, Quorum. Council shall conduct meetings as follows:

(a) The President, or in the absence of the President, the Vice-president, shall preside over all meetings of Council, and shall perform such other duties as may be prescribed by Law or Ordinance.

(b) A majority of the Members of Council shall constitute a quorum for purposes of conducting a meeting.

(c) Council may by resolution establish such rules of parliamentary procedure for the conduct of its meetings as it deems appropriate. In the event that no such resolution is adopted, then Roberts' Rules of Order, the latest edition, shall be utilized to conduct all meetings.

(d) A council member may participate by telephone with the consent of a majority of the members present at the meeting.

Part 3
Compensation of Elected Officials

§301. Compensation of Mayor. The salary of the Mayor shall be established by ordinance at any time or from time to time pursuant to the Borough Code. Any salary paid to the Mayor shall be in lieu of all costs and fees allowed a Mayor. If a salary for the Mayor is established it shall be an annual salary payable in equal monthly installments. At the time of adoption of this Part, there was no salary set for the Mayor.

§302. Compensation of Council Members. Members of Council may receive compensation established by ordinance at any time or from time to time pursuant to the Borough Code. If compensation is fixed for Council Members it shall be paid on a monthly basis. At the time of adoption of this Part, there was no salary set for Council Members.

§303. Compensation of Tax Collector. The compensation of the Tax Collector for the collection of taxes shall be set by resolution. At the time of adoption of this Part, the compensation for the tax collector was set at \$1,800.00, which amount is not greater than ten percent (10%) of the amount of taxes collected. This increase became effective January 1, 2006 pursuant to Resolution No. 3 of 2005.

Part 4
Committees

§401. Purpose. A need for certain Committees is hereby recognized by Borough Council. The use of Committees has been a historical tradition within the Borough since certain Committees (such as the Police and Fire Committee, the Street Committee, the Executive Committee, the Buildings and Grounds Committee, and the Recreation Committee) have long been established, and the need for a new Committee (the Water Committee) has arose through the development of the Borough's water source for extraction and sale of bulk water for bottling and sale in the private sector by a third party professional service company. These needs have existed prior to the enactment of this Part, and Borough Council by the enactment of this Part of the Ordinance wishes to continue that tradition and use the Committees identified in this Part of the Ordinance to exercise routine administrative or supervisory powers on behalf of Council.

§402. Standing Committees of Council.

- (a) The Standing Committees of the Borough shall be:
 - (1) The Police Committee;
 - (2) The Street Committee;
 - (3) The Finance Committee;
 - (4) The Buildings and Grounds Committee;
 - (5) The Recreation Committee; and
 - (6) The Water Committee.
- (b) Borough Council may establish by ordinance additional Standing Committees, or eliminate one or more of the Standing Committees, from time to time as it deems necessary.
- (c) Appointments, Tenure and Removal of Standing Committee Members. Within fourteen (14) days after the biennial organization of Council, the President shall announce his or her appointments of members of the Standing Committees of Council. Such members shall, so long as they remain Members of Council, retain such Committee appointments until successors are appointed following the succeeding biennial organization meeting of Council, except that in any case the President of Council, at any time, may remove any member from any committee or make changes in committee appointments.
- (d) Members of Standing Committees; Chairperson. Every Standing Committee shall consist of three (3) members, one of which shall be the President of Council. The President of Council shall name the Chairperson of each Committee which shall also be subject to ratification of Council.
- (e) General Duties of Standing Committees. The general duties of all Standing Committees of Council shall be to:
 - (1) Investigate and report to Council upon all matters referred to the

respective committees by Council.

(2) Execute and do all matters and things as council may direct to be done by them, respectively.

(3) Make recommendations on certain matters within the scope of such Committee to Council, which the Committee may deem necessary and in the best interest of the Borough.

(4) Make annual estimates to the Finance Committee of the appropriations necessary to the respective departments represented by the respective Committees to carry on the work of such departments for the ensuing calendar year.

(f) Frequency of Meetings. Committee members shall meet when necessary to carryout the purposes for which their committee was created, or as directed by the President of Council, or a majority of Council Members.

(g) Specific Duties and Responsibilities of the Police Committee. The specific duties and responsibilities of the Police Committee are to:

(1) Advertise, on an as needed basis, for full or part-time police positions within the Borough, and review all applications received and present those applications to Council for interviewing of qualified applicants. Council may also direct the Police Committee to conduct interviews of all qualified applicants and present recommendations to Council for further interviewing, if necessary, and hiring.

(2) Insure that weekly hours of employment which apply to police officers, as fixed and determined by Council, are not exceeded. To this end, and upon the Mayor's request, the committee may meet in joint session with the Mayor to coordinate the balance between approved hours and police scheduling by the Mayor.

(3) Accept complaints and hear concerns of the public in police related matters, and to report those concerns to the Mayor, Council and the Police Department, as applicable and necessary.

(4) Report to Council on Police Department equipment needs and concerns and recommend actions the committee feels are necessary to resolve such needs and concerns.

(5) Review the Police Policies, Procedures and Directives on an as needed basis and make recommendations to Council on revisions, amendments or updates.

(6) Coordinate meetings with the Police Department or certain officers within the Police Department, as appropriate, when requested by Council.

(h) Specific Duties and Responsibilities of the Street Committee. The specific duties and responsibilities of the Street Committee are to:

(1) Supervise the White Haven Borough Street Department as directed by Council.

(2) Meet with the Street Commissioner, or Street Department Supervisor, on a regular basis to insure that maintenance of the Borough streets and equipment are scheduled and performed as necessary, or as directed by Council, and report those findings to Council.

(3) Assist the Street Commissioner, or Street Department Supervisor, in the presentation of Street Department needs and concerns before Council.

(4) Coordinate meetings with the Street Department or certain employees within the Street Department, as appropriate, when requested by Council.

(j) Specific Duties and Responsibilities of the Finance Committee. The specific duties and responsibilities of the Finance Committee are to:

(1) Oversee Borough activities concerning finance.

(2) Review all bills presented to Council for payment.

(3) Monitor the budget on a regular basis, and report to Council on budget items as may be necessary.

(4) Insure that the spending policies of the Borough are being adhered to, and report to Council on areas of noncompliance, or areas in need of change.

(5) Conduct, on behalf of council, information gathering or investigative functions as may be related to the finances of the Borough.

(6) Make recommendations to Council on issues of finance.

(7) Supervise the Borough Secretary and Treasurer as directed by Council.

(k) Specific Duties and Responsibilities of Buildings and Grounds Committee. The specific duties and responsibilities of the Buildings and Grounds Committee are to:

(1) Inspect all Borough-owned buildings and properties as needed and report their findings to Council.

(2) Recommend any and all improvements or repairs needed to Borough owned-buildings and properties.

(l) Specific Duties and Responsibilities of Recreation Committee. The specific duties and responsibilities of the Recreation Committee are to:

(1) Attend all Recreation Board meetings and file reports of said meetings with Council.

(2) Inspect all Borough-owned parks and make recommendations to Council and to the Recreation Board of any needed repairs.

(3) With the assistance of the Borough Engineer, complete all applications for grants to improve Borough-owned parks, and establish and keep updated a comprehensive plan for the future recreational development of the Borough.

(m) Specific Duties and Responsibilities of the Water Committee. The specific duties and responsibilities of the Water Committee are to oversee operations of Borough-owned water facilities and report to Council on a regular basis, and continually monitor water meters to ensure proper payment to the Borough for actual water purchased and/or extracted from Borough-owned water facilities.

(n) Committees Not to Encroach upon the Legislative Power of Council. The exercise of the duties and responsibilities of each Committee as outlined in this Part shall in no way, and, at no time, encroach upon the legislative power of Council, or infringe upon the authority of Council to perform its duties.

(o) Authority to Change Duties, Responsibilities and Powers of Committees. Council may, by ordinance, change the duties, responsibilities and powers, or enlarge, decrease or annul the duties, responsibilities and powers of any Committee created in this Part.

§403. Special Committees of Council. In addition to the Standing Committees, a majority of Council or the President of Council may establish Special Committees from time to time as may be needed to assist in the administration of Borough business.

Part 5
Appointed Officers

§501. Secretary and Treasurer. The offices of Secretary and of Treasurer may be held by the same person, or different persons.

§502. Independent Auditor.

(a) Appointment of Independent Auditor Authorized; Compensation. Council shall appoint an Independent Auditor. The resolution appointing an Independent Auditor shall state the compensation, if any, to be paid from Borough funds for said services.

(b) Qualifications. The Independent Auditor 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.

(c) Annual Appointment; Powers and Duties. The independent auditor shall be appointed, annually, by resolution, before the close of the fiscal year, to make an independent examination of the accounting records of the Borough for the fiscal year, and the Independent Auditor shall further perform the other duties and exercise the powers set forth in the Borough Code.

(d) Abolition of Office of Elected Auditor. When the Independent Auditor is appointed, the office of Elected Borough Auditor is abolished, although the auditors then in office shall continue to hold their office during the term for which elected; but the elected Auditors shall not audit, settle, or adjust the accounts audited by the Independent Auditor but shall perform the other duties of their office.

(e) Rights to Repeal, and Reestablish Office of Elected Auditor. The Borough shall have the right at any time to repeal the Ordinance establishing the office of Independent Auditor, and thereupon the office of appointed Auditor shall be abolished, as of the date set in the repealing Ordinance, and the Borough shall have the further right at the next municipal election following the repeal of the Ordinance establishing the office of Independent Auditor to elect three (3) Auditors, which Auditors so elected shall succeed the appointed Auditor and shall have and possess all the powers and shall perform all the duties provided for elected Auditors.

§503. Code Enforcement Officer.

(a) Appointment of Code Enforcement Officer Authorized; Compensation. Council shall appoint a Code Enforcement Officer. The resolution appointing the Code Enforcement Officer shall state the compensation, if any, to be paid from Borough funds.

(b) Qualifications. The Code Enforcement officer shall meet the qualifications established by the Borough, which shall at a minimum include a working knowledge of Municipal Codes.

(c) Specific Duties and Responsibilities of Code Enforcement Officer. The Code Enforcement Officer shall have the following duties and responsibilities:

- (1) Enforcing the applicable provisions of the Code of Ordinances.
- (2) Providing information to the general public, governmental agencies, and Borough Officials, both elected and appointed, on the Code of Ordinance and the applicable permit process under applicable Code provisions which are the responsibility of the Code Enforcement Officer.
- (3) Performing property inspections for compliance with the Code of Ordinances.
- (4) Keeping the Code of Ordinances current and updated, including keeping official records of all business and activities of the Code Enforcement Office.
- (5) Preparing and presenting monthly reports to Council on all activities, including attending Work Sessions and Regular and Special Meetings, when requested to attend.
- (6) Attending meetings and presenting evidence and testimony at hearings, if required or necessary.
- (7) Assisting the Secretary of Council in scheduling Appeal Hearings.
- (8) Acting on complaints, and detecting and investigating Code violations, and seeking compliance with the provisions of the Code of Ordinances.
- (9) Assisting the Solicitor in prosecuting Code violations, which may include attending hearings before Appeal Boards, the appropriate District Justice, and a Judge of the Court of Common Pleas.
- (10) Issuing or denying permits or certificates that may be required under one or more provisions of the Code of Ordinances.
- (11) Engaging in all other lawful and proper activities necessary to carry out the duties of Code Enforcement Officer.

§504. Building Code Official.

(a) Appointment of Building Code Official Authorized; Compensation. Council shall appoint a Building Code Official. The resolution appointing the Building Code Official shall state the compensation, if any, to be paid from Borough funds.

(b) Qualifications. The Building Code Official shall meet the minimum qualifications mandated by the Commonwealth of Pennsylvania, which shall include certification to issue permits and conduct inspections under the Uniform Construction Code and its sub-codes.

(c) Specific Duties and Responsibilities of Building Code Official. The Building Code Official shall have the following duties and responsibilities:

(1) Providing information to the general public, governmental agencies and Borough Officials, both appointed and elected, on any and all aspects of building, construction and property maintenance.

(2) Reviewing permit applications for compliance with applicable local laws, ordinances and regulations, and overseeing, supervising and/or issuing or denying permits, depending on whether a Code Administrator is appointed by the Borough.

(3) Performing property inspections for all new construction; remodeling or renovations of existing structures, and existing business and residential properties for compliance with the applicable edition of the International Property Maintenance Code, the Existing Structure Code and all other applicable local laws, ordinances, and regulations, including but not limited to the applicable edition of the Uniform Construction Code and its sub-codes.

(4) Maintaining ordinances and records of all official action, including permit applications accepted, permits issued, occupancy permits issued, complaints received, enforcement notices issued, and all general property information.

(5) Preparing and presenting a monthly report to Borough Council on all activities and fees collected for the preceding month, including attending work sessions and meetings when requested.

(6) Attending and presenting evidence and testimony at Planning Commission meetings, Appeal Board hearings, Council meetings and hearings, when requested or necessary to do so.

(7) Acting on complaints and detecting and investigating violations of the applicable provisions of the Property Maintenance Code, existing Structures Code, Uniform Construction Code and all its sub-codes and seeking compliance therewith.

(8) Prosecuting violations, which may include attendance at court proceedings.

(9) Engaging in all other lawful and proper activities necessary to carry out the duties of the Building Code Official.

§505. Zoning Officer.

(a) Appointment of Zoning Officer Authorized; Compensation. Council shall appoint a Zoning Officer. The resolution appointing the Zoning Officer shall state the compensation, if any, to be paid from Borough funds.

(b) Qualifications. The Zoning Officer shall meet the qualifications established by the Borough, which shall at a minimum include a working knowledge of municipal zoning.

(c) Specific Duties and Responsibilities of Zoning Officer. The Zoning Officer shall have the following duties and responsibilities:

(1) Enforcing the provisions of the Zoning Ordinance in accordance with its literal terms.

(2) Reviewing zoning permit applications for compliance with the Zoning Ordinance and issuing zoning permits, or denying zoning permit applications when warranted.

(3) Providing information to the general public, governmental agencies, and Borough Officials, both elected and appointed, on any and all aspects of the Zoning Ordinance and zoning permit process.

(4) Performing property inspections for compliance with the Zoning Ordinance.

(5) Keeping the Zoning Ordinance, Zoning Map and all records of official action filed and readily available for public inspection, including zoning permit applications, zoning permits, fees collected, complaints received, enforcement notices issued, and all general property information and other correspondence.

(6) Preparing and presenting monthly reports to Council on all activities and fees collected, including attending work sessions, when requested to attend, and at least one regular monthly meeting each month.

(7) Attending and presenting evidence and testimony at Planning Commission and Zoning Hearing Board meetings.

(8) Assisting the Secretary of the Zoning Hearing Board to schedule hearings and process zoning appeal applications, including making arrangements for the stenographer's presence at every hearing and taking the steps necessary to insure that the

property subject to the hearing is properly posted in the time periods mandated by the Pennsylvania Municipalities Planning Code.

(9) Acting on zoning complaints, and detecting and investigating zoning violations, and seeking compliance with the provisions of the Zoning Ordinance.

(10) Assisting the Borough Solicitor in prosecuting Zoning Violations, which may include attending hearings before the Zoning Hearing Board, the appropriate District Justice, and a Judge of the Court of Common Pleas to prove that one or more violations of the Zoning Ordinance have occurred, or non-compliance with a decision of the Zoning Hearing Board.

(11) Issuing or denying all other permits or certificates that may be required under the Zoning Ordinance, including, but not limited to Certificates of Non-conformity and Certificates of Zoning Compliance, or Use and Occupancy Permits.

(12) Engaging in all other lawful and proper activities necessary to carry out the duties of the Zoning Officer.

§506. Manager.

- (a) The office of Borough Manager is hereby created by the Borough Council.
- (b) The Manager shall be appointed for an indefinite term by a majority of all members of the Borough Council. The Manager shall serve at the pleasure of the Borough Council, and the Manager may be removed at any time by a majority vote of all its members.
- (c) The Manager shall be chosen solely on the basis of his or her executive and administrative abilities, with special reference to the duties of the office as herein outlined. The Manager need not be a resident of the Borough or of the Commonwealth of Pennsylvania at the time of appointment, but during the tenure of office he or she may reside outside the Borough only with the approval of the Borough Council.
- (d) Before entering upon his or her duties, the Manager shall give a bond, in the sum established annually pursuant to a resolution of Borough Council, with a bonding company as surety, to be approved by Borough Council, conditioned upon the faithful performance of his or her duties, the premium for said bond to be paid by the Borough.
- (e) The salary of the Borough Manager shall be fixed from time to time by the Borough Council.
- (f) The Manager shall be the Chief Administrative Officer of the Borough and shall be responsible to Borough Council as a whole for the proper and efficient administration of the affairs of the Borough placed in his or her charge. The powers and duties for administration of all Borough business shall be vested in the Manager, unless expressly imposed or conferred by statute or ordinance upon other Borough officers.

(g) Subject to recall by ordinance, the powers and duties of the Borough Manager shall include the following:

- (1) Supervise and be responsible for the activities of all municipal departments, except the police department;
- (2) Hire and, when necessary for the good of the Borough, suspend or discharge any employee under his or her supervision, provided that persons covered by the civil service provisions of the Borough Code shall be hired, suspended or discharged in accordance with such provisions, and provided further that the Manager shall not take any such action without the support and consent of Borough Council;
- (3) Fix wages and salaries of all personnel under his or her supervision, within a range previously determined by the Borough Council;
- (4) Prepare and submit to the Borough Council, a budget for the next fiscal year and an explanatory budget message, in such a timely fashion as will enable the Borough Council to consider and adopt the budget and related tax ordinances according to the requirements of law. In preparing the budget, the Manager, or an officer or person designated by the Manager, shall obtain from the head of each department, agency or board, or any qualified officer thereof, estimates of revenues and expenditures and such other supporting data as is required. The Manager shall review such estimates and may revise them before submitting the budget to the Borough Council;
- (5) Be responsible for the administration of the budget after its adoption by the Borough Council;
- (6) Develop, in conjunction with the preparation of the budget, long-range fiscal plans for the Borough, such plans to be presented annually to the Borough Council for its review and adoption;
- (7) Hold such other Borough offices and head such Borough departments as the Borough Council may from time to time direct;
- (8) Attend all meetings of the Borough Council and its committees, boards and commissions with the right to take part in the discussions. The Manager shall receive notice of all special meetings of the Borough Council and its committees, boards and commission, and may be responsible for providing such notices of such meetings;
- (9) Prepare or assist in the preparation of an agenda for each meeting of the Borough Council and supply facts pertinent thereto;

- (10) Keep the Borough Council informed as to the conduct of Borough affairs; submit periodic reports on the condition of the Borough finances and such other reports as the Borough Council requests; and make such recommendations to the Borough Council as deemed advisable;
- (11) Submit to the Borough Council, as soon as possible after the close of the fiscal year, a complete report on the finances and administrative activities of the Borough for the preceding year;
- (12) See that the provisions of all franchises, leases, permits and privileges granted by the Borough Council are observed;
- (13) Employ, by and with the approval of the Borough Council, experts and consultants to perform work and to advise;
- (14) Attend to the letting of contracts in due form of law. The Manager shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed by statute upon some other Borough officer;
- (15) Be responsible for all accounts payable and receivable;
- (16) Serve as Purchasing Officer of the Borough and purchase, in accordance with the provisions of the Borough Code, all supplies and equipment for the agencies, boards, departments, and other officers of the Borough. The Manager shall keep an account of all purchases and shall, from time to time or when directed by the Borough Council, make a full written report thereof. The Manager shall also issue rules and regulations, subject to the approval of the Borough Council, governing the procurement of all municipal supplies and equipment;
- (17) Investigate and dispose of, or designate an officer to investigate and dispose of, all complaints regarding Borough services and personnel, and to report to the Borough Council thereon. All complaints regarding Borough services shall be referred to the Office of Manager;
- (18) Enforce the ordinances and regulations of the Borough, or oversee the enforcement of the ordinance and regulations by an employee or other officer of the Borough depending upon the desires of Borough Council;
- (19) Find, prepare and apply for grants and to do all things necessary to secure such grants for the Borough with Borough Council approval as to the purpose and conditions of such grants; and
- (20) Disseminate relevant information concerning Borough affairs and business to the appropriate media outlets and conduct himself or herself as the chief public relations director for the Borough.

Part 6
Boards and Commissions

§601. Planning Commission.

(a) Creation, Appointment, Term and Vacancy. Borough Council acknowledges that a Borough Planning Commission, composed of three (3) members, has been created prior to the adoption of this Part, and a Planning Commission is hereby created by this Part. Council may increase or decrease the size of the Commission to not less than three (3) members and no more than nine (9) members provided that it does so by Ordinance and in accordance with Law. Council shall appoint members of the Commission in the manner provided by Law. The term of each member shall be for four (4) years or until his or her successor is appointed and qualified. The Chairperson of the Commission shall promptly notify Council of any vacancies in the Commission. Council shall fill any such vacancies by appointment for their unexpired term.

(b) Membership. All of the members of the Planning Commission shall be residents of the Borough. There shall be at least two (2) citizen members of the Commission who are not officers or employees of the Borough.

(c) Removal of Members. Any Commission Member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of Council taken after the member has received a minimum of fifteen (15) days advanced notice of the intent of Council to take such a vote. A hearing shall be held before taking the vote if the member requests it in writing.

(d) Conduct of Business. The Commission shall elect its own Chairperson and Vice-chairperson and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to Council. Interim reports may be made as often as may be necessary, or upon request of Council.

(e) Powers and Duties of the Commission. The Planning Commission shall at the request of Council have the power and be required to:

(1) Prepare a comprehensive plan for the development of the Borough as set forth in the Pennsylvania Municipalities Planning Code, and present the same to Council for consideration.

(2) Maintain and keep on file records of its action. All records and files of the Planning Commission shall be in the possession of Council.

(f) Other Powers and Duties of the Commission. The Planning Commission may at the request of Council:

- (1) Make recommendations to Council concerning the adoption or amendment of the Official Zoning Map.
- (2) Prepare and present to Council a zoning ordinance, and make recommendations to Council of proposed amendments thereto.
- (3) Prepare and recommend to Council subdivision and land development and planned residential development regulations.
- (4) Prepare and present to Council a building code and housing code and make recommendations concerning proposed amendments thereto.
- (5) Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Pennsylvania Municipalities Planning Code.
- (6) Prepare and present to Council an environmental study, recommend a capital improvement program, a water survey and/or a study regarding the feasibility and practicality of using renewable energy sources in specific areas of the Borough.
- (7) Promote public interest in, and understanding of, the comprehensive plan and planning in general.
- (8) Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
- (9) Hold public hearings and meetings.
- (10) Present testimony before any board.
- (11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission.
- (12) In performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.
- (13) Review the Zoning Ordinance, Subdivision and Land Development Ordinance (SALDO), official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.
- (14) Perform all of other duties and exercise any and all other powers vested by law in planning agencies in boroughs.

ORDINANCE NO. 1 of 2013

AN ORDINANCE OF WHITE HAVEN BOROUGH COUNCIL AMENDING CHAPTER 1, ENTITLED ADMINISTRATION AND GOVERNMENT, PART 6, ENTITLED BOARDS AND COMMISSIONS, SECTION 601, PLANNING COMMISSION, SUBSECTION (a) AND (b), REDUCING THE MEMBERS OF THE PLANNING COMMISSION FROM 5 MEMBERS TO THREE MEMBERS AND REQUIRING THAT AT LEAST TWO OF THOSE MEMBERS TO BE CITIZENS OF THE BOROUGH

WHEREAS, White Haven Borough Council finds it reasonable and prudent to decrease the number of members on its Planning Commission from five to three;

WHEREAS, such a change shall not impact the current members of the Planning Commission since the Borough has been unable to interest more than three members to become members of the Planning Commission;

WHEREAS, Borough Council is permitted to decrease the membership pursuant to Section 205 of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10205; and

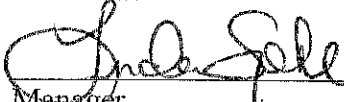
NOW, THEREFORE, it is hereby enacted and ordained by White Haven Borough Council that the Part 6, Boards and Commission, Section 601, Planning Commission, Subsection (a) and (b) are amended as follows:

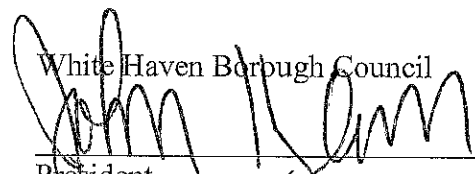
- (a) Creation, Appointment, Term and Vacancy. **A Planning Commission, composed of three (3) members, is hereby created.** Council may increase or decrease the size of the Commission to not less than three (3) members and no more than nine (9) members provided that it does so by Ordinance and in accordance with law. Council shall appoint members of the Commission in the manner provided by law. The term of each member shall be for four (4) years or until his or her successor is appointed and qualified. The Chairperson of the Commission shall promptly notify Council of any vacancies in the Commission. Council shall fill any such vacancies by appointment for their unexpired term.
- (b) Membership. All of the members of the Planning Commission shall be residents of the Borough. **There shall be at least two (2) citizen members of the Commission who are not officers or employees of the Borough.**

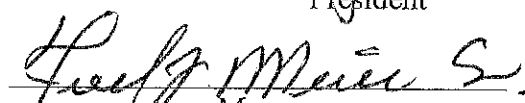
NOTE: The amendments or changes to Chapter 1, Part 6, Section 601(a) and (b) are in bold type above.

Enacted and Ordained by White Haven Borough Council this 22 day of April, 2013.

ATTEST:


Manager


White Haven Borough Council
President


Mayor

Borough of White Haven, Luzerne County, Pennsylvania

ORDINANCE NO. 2 of 2013

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE BOROUGH OF WHITE HAVEN, LUZERNE COUNTY, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$300,000.00 FOR SUNDRY PURPOSES; FIXING THE FORM, NUMBER, DATE, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENT; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, it is necessary that the indebtedness of the Borough of White Haven, Luzerne County, Pennsylvania be increased for the following purpose: ROAD PAVING PROJECT; and

WHEREAS, the local government unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$300,000.00 will be needed to complete the project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the local government unit debt incurring power, pursuant to constitutional and statutory authority to be exceeded;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of White Haven, Luzerne County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. That the aggregate principal amount of the Note of the Borough of White Haven, Luzerne County, Pennsylvania, proposed to be issued is \$300,000.00, same to be issued for the foregoing purposes and same to be incurred as nonelectoral debt.

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of 15 years.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note, in fully registered form, in the sum of \$300,000.00 dated and bearing interest from the earliest date of possible issue of said Note under the statutory time requirements as set forth in the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of 1978 Session and known as the Local Government Unit Debt Act, at the rate of interest fixed at 2.80% per annum for ten (10) years and then readjusted for the final five (5) years at 1.50% per annum above the Treasury Index payable within fifteen (15) years from the date of the Note on the unpaid

balance of said Note during the term of said Note which Note shall mature in installments on the annual anniversary date of said Note as follows:

Attached as Exhibit "A" is the General Obligation Note, which outlines the terms.

The local government unit reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payments dates thereof, without notice or penalty.

The principal and interest of said Note shall be payable at the office of the sinking fund depository selected for the Note as hereinafter provided.

SECTION 4. The said Note is hereby declared to be a general obligation of the Borough of White Haven, Luzerne County, Pennsylvania. The local government unit hereby covenants that it shall include the amount of debt service on the Note for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Borough of White Haven is hereby irrevocably pledged.

The amounts which the local government unit hereby covenants to pay in each of the following fiscal years on the basis of an interest rate of 2.80% are as follows:

Attached as Exhibit "A" is the General Obligation Note, which outlines the terms.

SECTION 5. The form of said Note shall be substantially as set forth in the attached Exhibit N.

SECTION 6. The said Note shall be executed in the name and under the corporate seal of the local government unit by the President and Vice President and attested to by the Secretary. The Treasurer is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefor on behalf of the local government unit. The President and Secretary of the local government unit are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. PNC Bank is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Sinking Fund 2013 General Obligation Note" for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The Treasurer shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository

shall, as and when said payments are due, without further action by the local government unit, withdraw available monies in the Sinking Fund and apply said monies to payment of principal and interest on the obligation.

SECTION 8. The President and Secretary of the local government unit are hereby authorized to contract with PNC Bank for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with Section 8161 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best financial interest of the local government unit. Therefore, the general obligation Note in the amount of \$300,000.00, herein authorized to be issued and sold is hereby awarded and sold to First Keystone Community Bank in accordance with its proposal to purchase the said Note at par; provided the said Note is dated the delivery thereof to First Keystone Community Bank and is in the form set forth in this Ordinance as Exhibit N; and further provided that the proceedings have been approved by the Department of Community and Economic Development if such approval is required under the provisions of the Act.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the Standard Speaker, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 11. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED THIS 19th **day of June, 2013.**



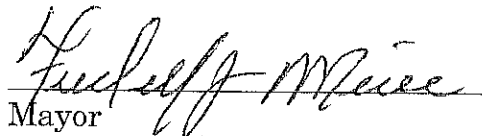
President of
White Haven Borough Council

ATTEST:



Secretary

APPROVED this 19th day of June, 2013.

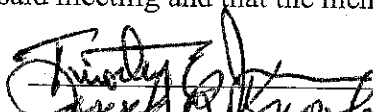
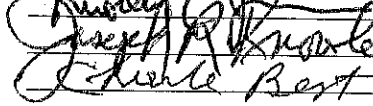
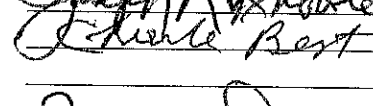
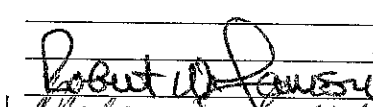
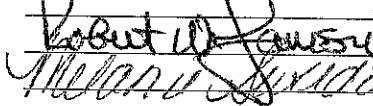
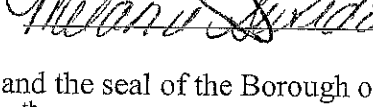


Mayor

CERTIFICATE

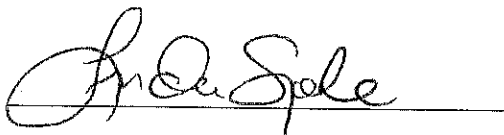
I, Linda Szoke, the undersigned Secretary of the Borough of White Haven, Luzerne County, Pennsylvania, do hereby certify that the foregoing and attached is a true and correct copy of an Ordinance of said local government unit, which was duly enacted by the affirmative vote of the members of the governing body at a meeting thereof duly called and held on the day of June 18, 2013, after due notice to the members and to the public and which was at all times open to the public, that the same was examined and approved by the members of the governing body and was duly recorded in the Ordinance Book of said local government unit and was published as required by law in the Standard Speaker, a newspaper of general circulation in said local government unit.

I further certify that the total number of members of the governing body of the local government unit is seven (7); that the vote upon said Ordinance was called and duly recorded on the minutes of said meeting and that the members voted in the manner following:

	Aye
	Aye
	Aye
	Aye
	Aye
	Aye

WITNESS my hand and the seal of the Borough of White Haven, Luzerne County, Pennsylvania, this 19th day of June, 2013.

Secretary of the Borough of White Haven



§602. Recreation Board.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Recreational Board has been created at the time of adoption of this Part, and a Recreation Board is hereby created by this Part. The Recreation Board shall consist of nine (9) members who are all appointed by Council for terms that permit no more than two (2) terms to expire in any one calendar year. The Members of the Board have all been and will continue to be appointed by Council for terms of five (5) years. The terms of the members shall be staggered, so that the terms of two (2) of the members shall expire in each of four successive years and the term of the ninth member shall expire in the fifth year. A Board member may stay in office until a successor qualifies or is appointed, or Council may remove any member of the Board, as set forth in §602(b) below.

(b) Removal of Members. If any member appointed by Council to the Board shall neglect or refuse to attend two (2) successive regular meetings unless detained by sickness, or prevented by necessary absence from the Borough, or if in attendance at any meetings neglects or refuses to vote or by his or her withdrawal from the Board or otherwise refuses to act in his or her capacity as a member of the Board, Council may remove the Board member and fill such vacancy for the remainder of that member's unexpired term.

(c) Service without Pay. The members of the Board shall serve without pay.

(d) Officers of the Board. The Board shall elect their own Chairperson and Secretary and any other officers deemed necessary, to serve for a period of one (1) year.

(e) Monthly Reports; Annual Budget. The Board shall prepare and make available to Council a monthly report of all of its activities. The Board, at such times as directed by Council, shall annually submit for approval to the Council a proposed budget for the ensuing year, setting forth all the proposed expenditures, salaries and programs. The Board shall not in any manner obligate Council for the payment of any municipal funds until the same is appropriated by Council.

(f) Powers and Duties of the Board. The Board shall perform all duties and may exercise all powers granted herein, or vested by law in borough recreation boards.

§603. Shade Tree Commission.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Shade Tree Commission has been created at the time of adoption of this Part, and a Shade Tree Commission is hereby created by this Part. The commission shall be composed of three (3) residents of the Borough, who shall be appointed by Council. The first appointments to the shade tree commission shall be as follows: one (1) member for three (3) years; one (1) member for four (4) years; and one (1) member for five (5) years. On the expiration of the term of any shade tree commissioner, a successor shall be appointed by council for a term of five (5) years.

(b) Service without Pay. Members of the commission shall serve without pay.

(c) Conduct of Business. The Commission shall: (i) choose its own officers; (ii) make its own rules and regulations; and (iii) keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(d) Powers and Duties of the Commission. The Commission shall have the power, duties and responsibilities to:

(1) Study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to Council and, upon its acceptance and approval, shall constitute the official Comprehensive Borough Tree Plan for the Borough.

(2) Consider, investigate, make findings on, report upon and recommend any special matter, or question coming within the scope of its work.

(3) Prescribe rules and regulations and impose such penalties for the violation of the same as it may deem necessary and proper, provided that the rules and regulations are approved by Council.

(4) Collect assessments, file liens, levy taxes and collect penalties, as may be permitted by law.

(5) Recommend the proper authority, type and kind of trees to be planted upon Borough streets, parks or public places.

(e) Annual Report. The Commission shall make an annual report to Council of the transactions and expenses of the Commission for the preceding fiscal year. Request for appropriation for the ensuing fiscal year shall accompany the report.

§604. Zoning Hearing Board.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Zoning Hearing Board has been created at the time of adoption of this Part, and a Zoning Hearing Board is hereby created by this Part. The membership of the Zoning Hearing Board currently consists of five (5) members. However, in the future the membership may, upon determination of Council, consist of either three or five residents of the Borough appointed by resolution of Council. The terms of office of a three member Zoning Hearing Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member Zoning Hearing Board shall be so fixed that the term of office of one member of a five member board shall expire each year. The Zoning Hearing Board shall promptly notify Council of any vacancies that may occur on the Board. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of

the Zoning Hearing Board shall not hold any other elected or appointed office in the Borough nor shall any member be an employee of the Borough.

(b) Alternate Members. Borough Council may appoint by resolution at least one but not more than three residents of the Borough to serve as alternate members on the Zoning Hearing Board. The term of office of an alternate member shall be three years. Alternate members shall not hold any other elected or appointed office in the Borough, including service on the Planning Commission or as a Zoning Officer, nor shall any alternate member be an employee of the Borough. Alternates may participate in all proceedings and discussions before the Zoning Hearing Board as provided by the applicable provisions of the Pennsylvania Municipalities Planning Code, specifically §903(b) and §906(b). The Chairperson of the Zoning Hearing Board may designate alternate members of the Board to replace any absent or disqualified member, and the Chairperson may designate as many alternate members as may be needed to reach a quorum.

(c) Organization of the Zoning Hearing Board. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its own behalf and the parties may waive further action by the Board provided in §908 of the Pennsylvania Municipalities Planning Code.

(d) Expenditures of the Zoning Hearing Board. Within the limits of funds appropriated by Borough Council, the Zoning Hearing Board may employ and contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board and alternate members of the Board (when designated to perform their duties) may receive compensation for the performance of their duties, as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.

(e) Conduct of Business. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with the Borough Zoning Ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit reports of its activities to the Borough as requested by the Borough.

(f) Jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 and §916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

(2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said

ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

(3) Appeal from the determination of the zoning officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(4) Appeal from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

(5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2 of the Pennsylvania Municipalities Planning Code.

(6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1 of the Pennsylvania Municipalities Planning Code.

(7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.

(8) Appeals from the zoning officer's determination under section 916.2 of the Pennsylvania Municipalities Planning Code.

(9) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.

(g) Hearings and Decisions. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code; which requirements include the following:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

(A) The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(B) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief provided the persons opposed to the application may, upon the written consent on the record by the applicant and the municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal. (Acts 2 and 43 of 2002)

(2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant of the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. (Act 2 of 2002)

(3) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all person who wish to be considered parties enter appearances in writing on forms provided by the board for the purpose.

(4) The chairman or acting chairman of the board or the bearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and appears, including witnesses and documents requested by the parties.

(5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(7) The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in wither even the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(8) The board or the hearing officer shall not communicate, directly or indirectly, with any part or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearing with any party or his representative unless all parties are given an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reason therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decisions or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice

the right of any part opposing the application to appeal the decisions to a court of competent jurisdiction. (Act 2 and 43 of 2002)

(10) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other person who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statements of the place at which the full decision or findings may be examined.

Part 7
Police Department

§701. Establishment.

(a) Council does hereby acknowledge that a Police Department has been created at the time of adoption of this Part, and a Police Department is hereby established by this Part. A Police Department may consist of a Chief of Police who shall be in charge of the police force and shall have supervision over its members, in the exercise of their powers, duties and authority subject to the direction of Council and the Mayor.

(b) The Police Chief and the police officers currently employed by various motions of Council and presently serving the Borough are hereby declared, recognized, and ordained to be members of the Police Department.

(c) The Police Department shall assume all the duties set forth with particularity in the Borough Code, the Police Policies and Procedures (Police Directives and Reports Manual; Resolution No. 5 of July 9, 2007), as amended, and as imposed or provided by Law.

(d) The classifications in the Police Department are those identified and set forth in the Police Directives and Reports Manual Policies, as amended, and may include the positions of Chief of Police and Patrol Officer and Council reserves the right herein to appoint members of the Department to those classifications as it may determine necessary, or as otherwise provided in the Police Collective Bargaining Agreement and the Police Directives and Reports Manual, as amended. However, Council shall not be obligated to do so.

(e) Council shall establish the compensation of each member of the Police Department by Resolution or contract as the case may be.

§702. Purchasing of Police Protection.

(a) Borough Council is hereby authorized to negotiate and enter into Intergovernmental Cooperation Agreements with other municipalities from time to time, and other agencies, entities or organizations to provide police protection for a fee to be established prior to providing such services. Borough Council recognizes that when providing police protection to other governmental agencies or municipalities that the Commonwealth of Pennsylvania has authorized them to do such pursuant to Act No. 180 of 1972; 53 P.S. §481 et seq.

(b) At the time of the adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with the Dennison Township Board of Supervisors to provide police protection within Dennison Township for a fee pursuant to Ordinance of 2007. Pursuant to the Agreement, which is incorporated herein by reference thereto, the Borough provides police protection a minimum of ten hours per week at a cost of Two Thousand (\$2,000.00) per month payable on the first Wednesday of each month beginning January, 2007. If any officers are required to attend court procedures in the prosecution of crimes, there will be

an additional charge of \$37.50 per hour per officer required to attend. The time spent by officers attending court procedures will not be deducted from the 10 hours per week patrol time. This Agreement has been in effect since 3/2/2007 and continues through the adoption of this Part.

(c) At the time of the adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with the Penn Lake Park Council to provide police protection within Penn Lake Park Borough for a fee pursuant to Ordinance No. 1 of 2010. Pursuant to the Agreement, which is incorporated herein by reference thereto, the Borough provides police protection a minimum of seven (7) hours per week at a cost of One Thousand Two Hundred and Fifty (\$1,250.00) Dollars per month payable on the second Wednesday of each month beginning June of 2010. If any officers are required to attend court procedures in the prosecution of crimes, there will be an additional charge of \$46.15 per hour per officer required to attend. The time spent by officers attending court procedures will not be deducted from the seven (7) hours per week patrol time. This Agreement has been in effect since May 21, 2010 and continues through the adoption of this Part.

§703. Providing for Police Protection on Borough Owned Properties Outside Borough Limits.

(a) Borough Council is hereby authorized to negotiate and enter into Intergovernmental Cooperation Agreements to provide police protection with other municipalities where Borough owned property is located for a fee or without a fee for the protection of Borough owned property.

(b) At the time of adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with Foster Township (an adjoining municipality) to provide police protection and have jurisdiction on the property of White Haven Borough, which is located in Foster Township, known as Parcel No. 2 (which contains 337 acres, more or less), and Parcel No. 3 (which contains 50 acres and 40 perches, more or less) all of which is located in Luzerne County, Pennsylvania, and is more fully described in Luzerne County Deed Book 3004 at Page 55089-55092 as Parcels 2 and 3 without a fee and providing indemnification to Foster Township for police protection services rendered. This arrangement was created pursuant to Ordinance 2008 dated 2/11/2008 and having an effective date of 2/11/08.

(c) The Intergovernmental Cooperation Agreement between White Haven Borough Council and the Foster Township Board of Supervisors provides in pertinent part as follows:

"This Agreement made this 11th day of February, 2008, by and between the BOARD OF SUPERVISORS OF FOSTER TOWNSHIP, hereinafter Foster, and the COUNCIL OF WHITE HAVEN BOROUGH, hereinafter White Haven.

WHEREAS, Foster Township does not have a police department while White Haven Borough does; and

WHEREAS, a portion of the property owned by White Haven Borough is located in Foster Township; and

WHEREAS, White Haven desires that White Haven be authorized to provide police protection for two (2) specific parcels of ground owned by White Haven but located in Foster.

NOW, THEREFORE, in consideration of the mutual promises contained herein it is agreed as follows:

1. White Haven will provide police protection for that portion of the White Haven Borough property which is located in Foster Township, Luzerne County, PA, being more specifically described as Parcel No. 2 (which contains 337 acres, more or less), and Parcel No. 3 (which contains 50 acres and 40 perches, more or less), in Luzerne County Deed Book 3004 at Page 55089-55092, at no cost or other expenses of any nature or kind to Foster Township. A copy of the deed describing Parcel No. 2 and Parcel No. 3 is attached hereto as Exhibit "A" and incorporated herein.

2. White Haven will assume all responsibility and liability for all the acts of its police officers who are providing police services to that portion of the White Haven Borough property located in Foster Township and described in Paragraph 1 above. In addition, the White Haven Police shall be treated as independent contractors and Foster Township shall have no liability for payroll, payroll taxes, or workmen's compensation.

3. All fines and penalties collected by the White Haven Borough Police Department directly or through the District Justice for arrests made or citations issued as a result of activity occurring on the property described in paragraph 2 above will be distributed to White Haven Borough.

4. White Haven Borough hereby agrees to pay any and all charges incurred by Foster Township to advertise and adopt this Ordinance authorizing the execution of this Intergovernmental Cooperation Agreement.

5. It is to be clearly understood by White Haven that this Agreement authorizes the White Haven Police Department to patrol and provide police protection for only Parcel No. 2 and Parcel No. 3 as described in Luzerne County Deed Book 3004, at Page 55089-55092 and does not include any other property situate in Foster Township, Luzerne County, Pennsylvania.

6. At no time shall Foster be responsible in any way for any costs, expenses or the wages whether they be an hourly wage or a salary for White Haven to provide police protection to the subject property; all costs, expenses, wages, salaries and any other expenditures made regarding this Agreement and the police protection provided by White Haven shall be the sole, complete and absolute expense of White Haven.

7. White Haven, for good and valuable consideration, receipt and legal sufficiency of which is hereby acknowledged, for itself, its past, present and future council persons, agents, attorneys, successors and assigns and all other persons or entities, both known and unknown does hereby remise, release and forever discharge Foster and each of its respect past, present, and future Supervisors, agents, representatives, attorneys, predecessors, successors and assigns and all other persons or entities, both known and unknown of and from all, and all manner of, actions and causes of action, suits, lawsuits, damages, controversies, costs, interest, delayed damages, attorneys' fees, penalties, rights, liabilities, debts due, bills, accounts, covenants, duties, contracts, agreements, promises, obligations, judgments, claims rights of contribution or indemnification, demands, compensation and all consequential and/or general and/or punitive and/or equitable and/or other damages whatsoever, in law or equity, in tort or contract, whether or not heretofore known, suspected or asserted, which against Foster, or any of them, White Haven ever had, now has, hereinafter can, shall or may have, by reason of any cause, matter, event or thing whatsoever, from the beginning of the world to the date of this Intergovernmental Cooperation Agreement, related to any matters that could have been or have arisen as the result of White Haven providing police protection to the property described above located in Paragraph

1 in Foster Township, Luzerne County, Pennsylvania and or which may have been or could have been alleged or been related to or arise from the execution of this Intergovernmental Cooperation Agreement.

8. White Haven hereby agrees to indemnify, defend and save and hold harmless Foster, its officers, supervisors, employees, agents, partners, attorney, successors and assigns (collectively, the "Indemnified Party") from and against and to reimburse the Indemnified Party with respect to, any and all claims, demands, causes of actions, lawsuits, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses, court costs and costs of appeals) asserted against or incurred by the Indemnified Party by reason of arising out of this Intergovernmental Cooperation Agreement and the police protection provided by White Haven on the property owned by White Haven and described as Parcel No. 2 and Parcel No. 3 in Luzerne County Record Book 3003, at Page 55089-55092.

9. Either party has the unilateral right to terminate this Agreement upon thirty (30) days written notice to the other party."

Editorial Note: The Intergovernmental Cooperation Agreement between White Haven Borough and Foster Township has also been adopted by Foster Township.

Part 8
Pensions, Retirement, and Social Security

§801. Firemen's Relief. The Borough recognizes the White Haven Firemen's Relief Association. All funds received by the Borough on account of foreign fire insurance premiums have always been and will always continue to be turned over to the Association as received and will be so appropriated in the future.

§802. Pennsylvania Municipal Retirement System.

(a) Change of Member Benefits in Pennsylvania Municipal Retirement Law. The Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change its member benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, as amended, and does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Amendment, as the case may be. All references hereafter shall be based on benefits negotiated between the Board and the Borough under the provisions of Article IV; (Ordinance No. 2- 1996, 3/14/1996, §1).

(b) Membership Mandatory for Certain Employees; Prohibited for Elected Officials and Certain Other Employees. Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all permanent, municipal employees of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis (Ord. No. 2-1006, 3/14/1996, §2).

(c) Prior Service Credits; Accrual of Benefits. Credit for prior service for original members is granted for each year or partial year thereof that the member was employed by the Borough from original date of hire or the expiration of the member's probationary period if one so existed. Benefits provided to members in the Agreement dated March 14, 1996, shall accrue based on all credited service granted and earned in accordance with this Part (Ord. No. 2- 1996, 3/14/1996, §3).

(d) Required Payments by Borough. Payment for any obligation established by the adoption of this Part of the Code of Ordinances and the Agreement between the System and White Haven Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act (Ord. No. 2- 1996, 3/14/1996, §4).

(e) Borough Responsible for Certain Benefits. As part of Ordinance No. 2 of 1996, the Borough agrees that the System shall provide the benefits set forth in the Agreement between the Board and the Borough, dated March 14, 1996. The passage and adoption of the Ordinance by the Borough is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. The Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above- referenced agreement (Ord. No. 2- 1996, 3/14/1996, §6).

(f) Ordinance is Complete Authorization of Plan; Repeal of Prior Ordinance. The Borough intends that Ordinance No. 2- 1996 to be the complete authorization of the Borough plan and it shall become effective and specifically repeal Ordinance No. 1971-6 (Ord. No. 2- 1996, 3.14.1996, §6).

(g) Filing of Certain Copies; Effective Dates. A duly certified copy of Ordinance No. 2- 1996 and the referenced Agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of White Haven Borough in the Pennsylvania Municipal Retirement System shall be effective the first day of January, 1972, with the revised plan structure reflected in the agreement dated March 14, 1996, effective the first day of January, 1996 (Ord. No. 2- 1996, 3/14/1996, §7).

§803. Municipal Police Retirement System.

(a) Election to Join Municipal Police Retirement System. The Borough elected to join the Municipal Police Retirement System pursuant to an Ordinance enacted on November 22, 1971, established by the Act of July 31, 1968, No. 291, and agrees to be bound by all the requirements and provisions of that placed upon member municipalities by that Act (Ord. No. 1971- 5, 11/22/71, §1).

Editorial Note: The Municipal Police Retirement Law of 1968 was repealed and superseded by the Pennsylvania Municipal Retirement Law (1974 P.L. 34 No. 15). Article III of the new Act related to retirement for municipal firemen and municipal police and provided for transferring the assets and liabilities of the Municipal Police Retirement Fund to the Pennsylvania Municipal Retirement Fund and that the rights and benefits of the members and of the municipalities that had joined the Municipal Police Retirement Fund were not to be impaired in any way by the transfer.

(c) Incorporation of Certain Provisions of Municipal Police Retirement Law by Reference. The Borough hereby incorporates the Municipal Police Retirement Law as a part of Ordinance No. 1971- 5 insofar as that act, as amend, applies to a member municipality (Ord. No. 1971 – 5, 11/22/71, §2).

(d) Termination of Existing Police Pension Fund. The Borough terminated the existing police pension fund, adopted by Ordinance No. 4, dated September 10, 1962, with respect to the membership of those, numbering at least 75% of all members, who have elected to join the Municipal Police Retirement System, and of police officers employed by the Borough on and after the effective membership entry date contained in subsection (e) of this Part below; provided, any person who was a member of the existing police pension fund, on September 30, 1968, which was created under the provisions of the Act of May 29, 1956 (P.L. 1804), as amended, who elects to join the Municipal Police Retirement System shall have the same entitlement to benefits as he had as a member of the existing police pension fund (Ord. No. 1971-5, 11/22/71, §3).

Editorial Note: The earlier police pension fund ordinance (Ord. No. 4, 9/10/ 62), authorized purchase of police annuity contracts and established rights and benefits of members of the fund. It is not being repealed in connection with this Ordinance codification, or any prior Ordinance Codification, because some provisions may still be in effect. It is not reproduced in full in the Code of Ordinances, however, it may be examined in the Office of the Secretary.

(e) Effective Date. Membership of the Borough in the Municipal Police Retirement System shall be effective the first day of January, 1972 (Ord. No. 1971-5, 11/22/71, §4).

(f) Election to Upgrade Member Benefits.

(1) The Borough, being a member municipality of the Pennsylvania Municipal Retirement System elects to upgrade its member benefits in that system as authorized by the Pennsylvania Municipal Retirement Law as amended, from Article III to Article IV and agrees to be bound by all the requirements and provisions of those articles and the law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by those articles, law and amendment as the case may be. All references otherwise herein shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV (Ord. No. 1980-6 12/15/80, §1).

(2) The Borough, being a member municipality of the Pennsylvania Municipal Retirement System hereby elects to upgrade its police benefits in that System as authorized by the Pennsylvania Municipal Retirement Law as emended, and does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Article, Law and Amendment, as the case may be. All references otherwise shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV (Ord. No. 2-1985, 5/9/ 85, §1).

Editorial Note: The Pennsylvania Municipal Retirement Law is in the Act of 1974 P.L. No. 15; Article III contains provisions relating to municipal fire persons and police officers; Article IV relates to optional retirement plans.

(g) Membership for Full-time Police Officers Mandatory. Membership for full-time police officers is mandatory (Ord. No. 1980-6, 12/15/ 80, §2).

(h) Credit for Prior Service.

(1) Credit for prior service toward the municipal annuity of each original member shall be for all years of service to the Borough. The Borough assumes the liability for payment of all 100% of the original member's contributions for all years of service toward the original member's annuity for the prior service of each original member (Ord. No. 1980-6, 12/15/80, §3).

(2) Credit for prior service toward the annuity of each police officer shall be for all years of service to the municipality. The Borough assumes the liability for payment of 100% of the prior service cost (Ord. No. 2-1985, 5/9/85, §2).

(i) Borough Payments for Prior Service.

(1) Payment for the prior service as set forth in this Part shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and may be spread over a period of thirty (30) years if the Borough so elects and with the approval of the Pennsylvania Municipal Retirement Board (Ord. No. 1980-6, 12/15/80, §4).

(2) Payment for the obligation as set forth in this Part and the agreement between the Board and the Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law (Ord. No. 2-1985, 5/9/85, §3).

(j) Options Accepted.

(1) The Borough elects to extend the provisions of Section 310 of the Pennsylvania Municipal Retirement Law, (Act 15 of 1974) so that contributors to the retirement system shall have the options and enjoy the protections set forth in subsections (a) and (b) of Section 310 of the Pennsylvania Municipal Retirement Law, and Section 310 is incorporated into and made a part of Ordinance No. 1980-6 by reference (Ord. No. 1980-6, 12/15/80, §5).

Editorial Note: Section 310 of the Pennsylvania Municipal Retirement Law provides for death benefits for persons entitled to superannuation retirement allowance or to withdrawal allowance by reason of having completed 24 years of total service.

(k) Acceptance of Upgraded Benefits.

(1) As part of Ordinance No. 1980-6, the Borough agrees to the outline of benefits set forth in letter of the actuary addressed to the Pennsylvania Municipal Retirement Board dated November 14, 1980 upgrading the benefits, which includes basic benefits and service increments, in the Pennsylvania Municipal Retirement System from Article III to Article IV. The passage and adoption of Ordinance No. 1980-6 by council is an official acceptance of those benefits (Ord. No. 1980-6, 12/15/80, §6).

(2) As part of Ordinance No. 2-1985, the Borough agrees to the outline of benefits set forth in the agreement between the Board and the Borough, dated May 9, 1985. The passage and adoption of Ordinance No. 2- 1985 is an official acceptance of that benefit structure and the accompanying financial obligations contained in the administration of that benefit package (Ord. No. 2- 1985, 5/9/85, §4).

(l) Effective Dates for Upgraded Benefits.

(1) Membership for Article IV for the Borough Police in the Pennsylvania Municipal Retirement System shall be effective the first day of January, 1981 (Ord. No. 1980-6, 12/15/80, §7).

(2) Membership for Article IV for the borough police in the Pennsylvania Municipal Retirement System shall be effective the first day of January, 1972, with the upgraded plan structure reflected in the revised agreement of May 9, 1985, effective June 1, 1985 (Ord. No. 2-1985, 5/9/85, §5).

Editorial Note: Section 7 of Ord. No. 1980-6 and Section 5 of Ord. No. 2-1985 each also required that a certified copy of the ordinance be filed with the Pennsylvania Municipal Retirement Board. Section 5 of Ord. No. 2-1985 also required the filing of a certified copy of the agreement.

(m) Agreement of May 5, 1995, pertaining to Upgraded Benefits. The Pennsylvania Municipal Retirement Board and the Borough hereby agree to amend the contract between them to read as below and to provide the following retirement pension plan for the municipal policemen:

(1) Coverage: This plan shall cover all full-time members of the Police Department of the Borough of White Haven, hereinafter referred to as "member".

(2) Superannuation Retirement Age: Superannuation retirement age shall be 60 years of age.

(3) Eligibility for Superannuation Retirement Allowance: A member who terminates service at or after attaining superannuation retirement age, or a vestee who has obtained superannuation retirement age is eligible for a superannuation retirement allowance.

(4) Eligibility for Early Retirement Allowance: A member with eight (8) or more years who is involuntarily terminated, or a member with twenty (20) or more years of service who voluntarily terminates service is eligible for an early retirement allowance upon the filing an application within 90 days after termination.

(5) Superannuation Retirement Allowance and Early Retirement Allowance Formula: The basic superannuation retirement allowance shall be a single life annuity equal to 3% of the member's final salary multiplied by the number of years of credited service, but in no case shall the basic superannuation retirement allowance exceed 60% of the member's final salary. In the case of a member receiving an early retirement allowance, the single life annuity shall be multiplied by a reduction factor as to provide benefits actuarially equal to an annuity starting at superannuation retirement age.

(6) Final Salary: Final salary is the average monthly compensation paid to the member during the final 36 months of employment, or if the member is not so long

employed, then the average monthly compensation paid during the whole period of employment.

(7) Permanent Disability Benefits:

(A) After a member has had ten (10) or more years of total service, he may, upon application or on application of one acting in his behalf, or upon application of the head of the department by the Borough in which he is employed, be retired by the Board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the Board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the Board that the contributor is unable to engage in any gainful employment and that said member ought to be retired. When the disability of a member is determined by the Board to be service-connected, as defined in the Pennsylvania Municipal Retirement Law, no minimum period of service shall be required for eligibility.

(B) The disability retirement allowance shall be equal to 30% of the member's final salary. Where the disability of the member is determined to be service-connected, as defined in the Pennsylvania Municipal Retirement Law, the disability retirement allowance shall equal 50% of the member's final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the Act of June 2, 1915 (P.L. 736, No. 338), known as the Pennsylvania Workmen's Compensation Act or the Act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupation Disease Act".

(C) Any member entitled to retire for disability may, in lieu of such retirement, if he has eight (8) or more years of total service credit, elect to retire as if he involuntarily terminated service.

(D) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions plus the balance in the member's excess investment account at the time of disability retirement, then the Board shall pay to the named beneficiary, if living, or if the named beneficiary was named, then to the annuitant's estate, an amount equal to the difference between such total retirement allowance received and the annuitant's accumulated deductions, and if such difference is less than one hundred dollars (\$100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

(8) Vesting: A member with twelve (12) or more years of service credit who terminates service as a municipal policeman may become a vestee by filing an election with the Board within 90 days after termination.

(9) Death Benefits: An active member who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to an early retirement allowance by reason of having completed twenty (20) years of total service, may file with the Board a written application for retirement, in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing on of the options provided in Section 14 and nominating a beneficiary. The application shall be held by the Board until the member shall file a later application in the usual manner for a superannuation retirement allowance or until the death of the member occurring while in municipal service, at which time his retirement shall become effective with the same benefits to the person designated as if the member had retired on the day immediately preceding his death. A member who is entitled to a retirement allowance as defined above who has died in municipal service before filing with the Board a written application for a superannuation retirement allowance shall be considered as having elected Option 1 as provided under IN Section 14 as of the date of his death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form on file with the Board. A member who dies and is not entitled to any other benefit shall have is accumulated deductions and amount credited to the member's excess investment account paid to the beneficiary designated in the nomination of beneficiary form on file with the Board.

(10) Military Service:

(A) Any member employed by the Borough of White Haven who has been a regularly appointed employee for at least six (6) months and is inducted into the military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within 6 (six) months after his separation from the service.

(B) An active member may also purchase credit for other than intervening military service performed for the United States in time of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five (5) years; provided, that the member has completed five (5) years of service to the municipality subsequent to such military service. An active member may file an application with the Board for permission to purchase credit for non-intervening military service upon completion of five (5) years of subsequent service to the Borough. The type of service credit for such service shall be determined by the date of entry of the Borough into the States. If the date of the member's separation from military service is prior to the date on which the Borough joined the System, then the credit purchase shall be considered as prior service credit.

(C) The amount due from the member shall be certified by the Board in accordance with methods approved by the actuary, and may be paid in a lump

sum within 30 days or it may be amortized with additional interest through salary deductions in amounts agreed upon by the member and the Board.

(D) The rate of interest to be charged to members on their purchase of credit for intervening or non-intervening military service shall be the rate being credited by the System to members' contribution accounts in effect on the date of the members' application, compounded annually.

(E) A member may purchase credit for intervening or non-intervening military service only if his discharge or separation from the service was granted under than dishonorable conditions.

(F) A member may not purchase credit for any military service for which he is entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency or private employer.

(11) Contribution by Members. Members shall contribute five percent (5%) of their total compensation; however, if agreed by the Borough, these contributions may be waived or reduced on an annual basis (calendar) by adoption of a resolution and filing the same with the Pennsylvania Municipal Retirement Board. If a member terminated prior to becoming eligible for any benefit, or should a member elect not to receive a benefit upon separation, all accumulated contributions personally contributed, interest and credited excess interest shall be returned to the member. Upon termination of the membership with an election not to receive a benefit, any municipal contributions made in lieu of the member's contributions, accumulated interest on said municipal contributions, and any excess interest credited on the proportion contributed by the municipality shall be transferred to the municipal account.

(12) Withdrawal of Member: Any member who terminates service with the Borough of White Haven and who is not eligible or elects not to receive any of the benefits provided for in this Agreement, shall receive in full a refund of his accumulated deductions plus the balance in his excess investment account does so in lieu of any other benefit to which he may be entitled.

(13) Portability: When a contributor leaves the employ of the Borough and enters into the employ of another municipality which has also enrolled its municipal policemen in the System, his service credits shall remain unimpaired, but in such cases any unpaid municipal liability for prior service shall be prorated by the System between the municipalities on an equitable basis.

(14) Options on Superannuation or Early Retirement: At the time of his superannuation or early retirement, a member may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity, or instead, he may elect to receive the equivalent actuarial value at that time of

his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(A) Option 1. If he shall die before reaching in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars (\$5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars (\$5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the Board to receive payment of such balance according to any one of the following provisions:

(i) a lump-sum payment,

(ii) an annuity having a present value equal to the balance payable, or

(iii) a lump-sum payment on an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump-sum payment specified by one beneficiary.

(B) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(C) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(15) Social Security Offset: There shall be no reduction in the retirement allowance paid under this agreement on account of Social Security retirement benefits received by a member.

(16) Determination of Municipal Liability. The Board shall, as soon as may be, determine the present value of the liability for the prior service credits of the original members, and shall establish an amount payable annually in accordance with the ordinance and laws of the Commonwealth.

The municipal liability to be determined by the Board shall be based upon credit for all years of prior service toward the municipal annuity of each original member.

The Board shall also determine, from time to time, the amount which shall be contributed annually by the municipality, for service credits of original and new members subsequent to the time the municipality joined the System, and the additional amount which shall be contributed annually by the municipality toward a reserve account for disability allowances payable to original and new members, in order that all future service liability may be fully funded on an actuarially basis.

(17) Procedure: Matters of substance or procedure not covered in this agreement shall be as set forth in Act 15 of 1974, as it shall from time to time be amended.

(18) Unfunded Liability: Any unfunded liability incurred by the creation of benefits or assumption of liability under this agreement shall be borne by the Borough of White Haven (Agreement, 5/9/1985, as amended by Ord. No. 5-1989, 9/14/1989, §1). "

Editorial Note: The preamble to this agreement quoted Section 401 of Article IV of the Act of 1974 P.L. 34 No. 15, which stated that Article IV was to provide for the enrollment of those municipalities in the Pennsylvania Municipal Retirement System which want to offer retirement benefits to their employees; and also quoted Section 413 which authorized municipalities which had joined the System desiring to increase any of the benefits enumerated in Article IV to their members, to amend their contract with the approval of the Board. It stated that the Borough of White Haven had enrolled its municipal policemen in the System under Article IV and desired to amend the optional retirement contract with the Pennsylvania Municipal Retirement Board.

Ordinance No. 5- 1989 amended Paragraph 11 only of the agreement, to allow for the annual waiving or reduction of the required employee contributions. Section 2 of the ordinance provided that a duly certified copy of the ordinance be filed with the Pennsylvania Municipal Retirement Board; Section 3 contained severability provisions, similar to those in Section 1-1005 of this Code of Ordinances, and Section 4 provided that the ordinance become effective immediately. The actual text of the amended Section 11 was set out in Paragraph 1 of an accompanying Addendum. Paragraph 2 of the Addendum provided that the Addendum was to become effective January 1, 1989, and that, for the calendar year 1989 members of the Plan were not to be required to contribute to the Plan. Paragraph 3 stated that it was the clear and unequivocal intent of the borough and the Pennsylvania Municipal Retirement Board that the addendum was in no manner to alter or affect the rights or obligations of the borough and the Board as set forth in the agreement of 5/9/ 1985, other than to modify Paragraph 11 in the manner set out in Paragraph 1 of the Addendum.

§804. Social Security for Employees and Officers.

(a) Benefits of Extension of Social Security. It is the considered opinion of council that the extension of the social security system to employees and officers of the borough will be of great benefit, not only to the employees of the borough by providing that employees and officers may participate in the provisions of the Old Age and Survivors Insurance System, but will also be of great benefits to the borough by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government (Ord. of 9/8/52, Paragraph 1).

(b) Extension of Coverage Authorized. The 1951 Session of the General Assembly of the Commonwealth, in regular session, enacted a statute, known as Act. No. 491, which is the enabling act provided for in Section 218 of Public Law 734, 81st. Congress, which designated the Secretary of Labor and Industry of the Commonwealth to act as the "state agency" to implement the coverage of employees and officers under the Old Age and Survivors Insurance System. The borough is authorized to execute and deliver to the State Agency a plan, or plans,

and agreement, required under Section 6 of that enabling act and the Social Security Act, to extend coverage to employees and officers of the Borough of White Haven and do all other necessary things to effectuate coverage of employees and officers under, the Old Age and Survivors Insurance System (Ord. of 9/ 8/52, Paragraph 2).

(c) Payroll Deduction System, Matching Borough Payments Authorized. The secretary is authorized to establish a system of payroll diction to be matched by payments by the borough to be made into contribution fund of the Social Security Act through the office of the sate agency to make charges of this tax to the fund of funds, from which wage or salary payments are issued to employees of the borough. Those payments are to be made in accordance with the provisions of the law and regulations promulgated by the state agency and the Federal Security Administrator. Payments which are delinquent shall bear interest at the rate of $\frac{1}{2}$ of 1% per month until such time as payments are made (Ord. of 9/8/52, Paragraph 3).

(d) Appropriation into Contribution Fund; Date Participation Commences. Appropriation is made from the proper fund, or funds, of the borough in the necessary amount to pay into contribution fund as provided in Section 4 of the enabling act and in accordance with the plan, or plans, and agreement. Authority is given to the Mayor and the Secretary of the Borough to enter into an agreement with the state agency, which agreement shall be in accordance with Act No. 491 and with paragraph 218 of the Social Security Act. That plan and agreement shall provide that the participation of this Borough shall commence as of January 1, 1951 (Ord. of 9/8/52, Paragraph 4).

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

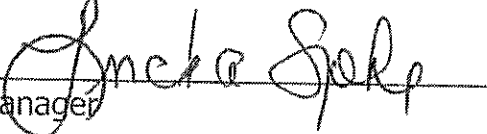
§944. Severability. If any section, clause, provisions or portion of this Part shall be held invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Part so long as it remains legally enforceable less the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

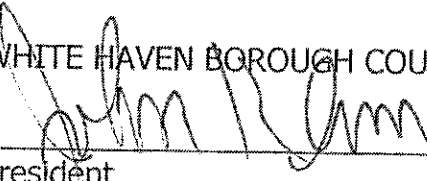
§946. Effective Date. This Part shall become effective January 4, 2016.

ENACTED this 26th day of October, 2015.

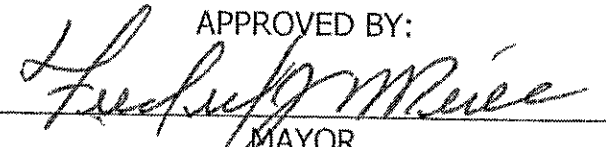
ATTEST:


Manager

WHITE HAVEN BOROUGH COUNCIL:


President

APPROVED BY:


MAYOR