

RULES AND REGULATIONS

OF THE

BOROUGH OF BANGOR

CIVIL SERVICE COMMISSION

Resolution 2018-24

APPROVED BY BOROUGH COUNCIL

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ARTICLE I - TITLE AND AUTHORITY

SECTION 101. TITLE

These rules and regulations shall be known and cited as the Rules and Regulations of the Borough of Bangor Civil Service Commission.

SECTION 102. AUTHORITY

These Rules and Regulations are promulgated by the Borough of Bangor Civil Service Commission pursuant to the authority granted to the Commission under Article XI, Subdivision (j), Section 1176 of the Borough Code (1965 P.L. 1656, No. 581) as amended.

ARTICLE II - DEFINITION OF TERMS

As used in both the "Definition" Section, as well as the body of these rules, the use of the pronouns "he," "his," "him" and the term "men" when used in these Rules include both the masculine and feminine genders.

Unless otherwise expressly stated, the following words and phrases, wherever used in these Rules, shall be construed to have the meaning indicated below:

Applicant: Any individual who applies in writing and on a form prescribed the Civil service Commission in response to a legally advertised notice of vacancy and/or examination for any position in the police department.

Alternate Commissioner: An individual appointed by the Borough Council to serve as an "Alternate Civil Service Commissioner." When seated, properly appointed alternate commissioners shall exercise the same powers, and shall fulfill the same duties, as properly appointed Civil Service Commissioners as set forth in the Borough Code.

Appointing Authority: This term is synonymous and interchangeable with the Borough of Bangor/Bangor Borough, Northampton County, Pennsylvania, which is the duly elected governing body of the Borough and possesses the legal authority to exercise executive control over the appointment, suspension, promotion and discipline of an employee covered by these Rules.

Certification: The Civil Service Commission's act of providing to the appointing authority the top three names taken from the eligibility list developed by the Civil Service Commission at the request of the Appointing Authority.

Chair: The Chair of the Civil Service Commission of Borough of Bangor, Pennsylvania.

Civil Service

Rank (or "Rank): Any position of employment within the Bangor Borough Police Department that has been obtained in strict compliance with the procedures set forth in these Rules and with respect to which there exists civil service protection

Commission: The Civil Service Commission of the Borough of Bangor, Pennsylvania.

Commissioner: An individual duly appointed by the Borough Council of the Borough of Bangor, Pennsylvania to serve as a member of the Civil Service Commission.

Eligibility List: The list of names of persons who have satisfied the minimum requirements for a particular position in the police department covered by these Rules and who have passed the written, oral and physical agility examinations.

Examination: Any test or investigation administered by the Commission or its designee as part of the process for assessing the merit and fitness of an applicant for an initial or promotional appointment covered by these Rules.

Furlough List: The list containing the names of persons separated from employment with the police department because of a reduction in the number of officers in the Department.

Medical

Examination: Any examination, procedure, inquiry or test designed to obtain information about medical history or a physical condition which might disqualify an applicant if it would prevent the applicant from performing, with or without a reasonable accommodation, all of the essential functions of the position.

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Administrative

Leave: A period of time where a police officer is directed by the Borough not to perform his regular duties or regularly report for work, with continuing regular base pay and benefits, for any reason.

Patrol Officer: As utilized in these Rules, an entry-level, sworn full-time or part-time position in the police department. The appointing authority shall retain full discretion in determining which part-time patrol officer receives an offer of full-time employment. The number of hours worked on a daily, weekly, monthly or annual basis shall have no impact on an officer's civil service classification as a full or part-time police officer.

Physician: Any individual satisfying the definition contained in 1 Pa. C.S. § 1991 (relating to definitions).

Police Officer: Any uniformed police officer employed by the Bangor Borough Police Department who has been appointed or promoted under these Rules regardless of rank.

Police Department: The Borough of Bangor Police Department.

Probationary Period: The period of time prescribed under these Rules during which the Borough assesses whether a police officer's conduct and fitness in a civil service position has been satisfactory and during which time the appointment or promotion remains temporary and not protected by these Rules.

Psychological Examination: Any examination, procedure, inquiry or test designed to obtain information about medical history or psychological condition which might disqualify an applicant if it would prevent the applicant from performing, with or without a reasonable accommodation, all of the essential functions of the position from a mental or psychological perspective.

Qualified Medical Professional: An individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed: (1) as a physician assistant pursuant to the Act of December 20, 1985, known as the "Medical Practice Act of 1985," or the Act of October 5, 1978, known as the "Osteopathic Medical Practice Act"; or (2) as a certified registered nurse practitioner pursuant to the Act of May 22, 1951, known as "The Professional Nursing Law."

Reduction in Rank: A change from one civil service rank to a lower civil service rank covered by these Rules, where the police officer fulfilled all of the requirements for both service ranks. However, a decrease in salary without a change to a different position or rank shall not necessarily constitute a reduction in rank, nor does this term include discontinuance of a duty assignment or temporary assignment of rank made outside the scope of these Rules.

Removal: The permanent removal of a police officer hired in strict compliance with these Rules from the Police Department pursuant to Section 1190 of the Borough Code, 53 P.S. § 46190.

Secretary: The Secretary of the Civil Service Commission of the Borough of Bangor, Pennsylvania.

Suspension:

The temporary, unpaid removal of a police officer hired in strict compliance with these Rules from the Police Department pursuant to Section 1190 of the Borough Code, 8 Pa. C.S.A. § 1190.

ARTICLE III - COMMISSION MEMBERS & OPERATION

301 The Civil Service Commission

- (a) The Commission shall consist of three (3) commissioners who shall be qualified electors of the Borough and shall be appointed by the appointing authority 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.

Any vacancy occurring in the Commission for any reason whatsoever shall be filled by the Appointing Authority for the unexpired term within the period of thirty (30) days after such vacancy occurs.

Each member of the Commission, before entering upon the discharge of the duties of their office, shall take an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform their official duties with fidelity. No civil service commissioner shall receive compensation.

- b) Alternate Commissioners. The Appointing Authority may appoint no more than three qualified electors of the Borough to serve as alternate members of the commission. The term of office shall be six years. Designation of an alternate member pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among the alternates.

When seated, an alternate commissioner shall be entitled to participate in all proceedings and discussions of the Commission to the same and full extent as provided by law for Commission members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in the Borough Code and as otherwise provided by law. Alternates shall hold no other office in the borough. Any alternate may participate in any proceeding or discussion of the commission, but shall not be entitled to vote as a member of the Commission unless designated as a voting alternate member pursuant to Section 1174 of the Borough Code.

302 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 or any political subdivision of the Commonwealth, except that one member of the Commission may be a member of the borough council and one may be a member of the teaching profession.

303 Organization of Commission; Quorum

- (a) The Commission shall meet and organize on the first Monday of January of each even-numbered year. Each Commissioner shall be notified in writing of each and every Commission meeting. Three members of the Commission shall constitute a quorum and no action of the Commission shall be valid unless it has the concurrence of at least two members.
- (b) If, by reason of absence or disqualification of a member a quorum is not reached, the

chair shall designate as many alternate members of the commission to sit on the commission as may be needed to provide a quorum. An alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially designated until the commission has made a final determination of the matter or case. No action of the commission may be valid unless it has the concurrence of at least two members.

- (c) For purposes of hiring and promoting police officers under these Rules, each step of the hiring or promotional process requiring official action by the Commission shall be considered a separate "matter or case" under Subsection (b), above, and each step of the hiring or promotional process need not be voted upon or approved by the same composition of commissioners or alternate commissioners, as the case may be, provided that the quorum requirement has been satisfied.

304 Duties of the Chair

The chair, or in his absence, the vice chair, 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 these Rules.

305 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 law and these Rules, keep a record of each examination or other official action of the commission, and perform all other duties required by law or these Rules. In addition, the secretary shall have charge of and be responsible for the safekeeping of the books, papers, and other property of the Commission.

306 Meetings

Except for the biennial organization meeting, all meetings shall be held either at the call of the chair or at the call of two members of the commission. The Commission shall have the discretion to determine whether meetings shall be open to the public when not specifically regulated by law or these Rules. The secretary of the Commission shall give each commissioner twenty-four (24) hours' notice in writing of each and every meeting of the commission.

307 Clerks and Supplies

The 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 and upon approval of Borough Council. The elected and appointed officials of the Borough shall assist the Commission with all reasonable and appropriate efforts including compensation for any counsel or experts retained by the commission.

The Borough shall also provide the services of a solicitor for the Commission to be appointed by the Commission and paid by the Borough. The Borough shall have the authority to place a reasonable limit on the amount allowed each year for the services of the Commission Solicitor.

308 Amendment of Rules

The Commission may amend, revise, void or replace these Rules for any reason by action of a majority of the Commission at any properly convened meeting of the commission. Before any changes to these Rules become effective, those changes must be approved by the Borough Council. These Rules, and any amendments thereto, shall be made available to the public for distribution or inspection.

309 Minutes and Records

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.* Notwithstanding the above, all recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five (5) years.

With the exception of documents identified in Section 704(b) of these rules (relating to the sealing of the record where Commission does not uphold disciplinary charges against an officer), 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 the Commission's 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.

310 Investigations

The Commission shall have the power to make investigations concerning all matters relating to the administration and enforcement of these Rules. The chair of the Commission is authorized to administer oaths and affirmations for witnesses testifying in connection with such investigations.

311 Subpoenas

The Commission shall have the power to issue subpoenas over the signature of the chair, 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 Section 509 of these Rules. 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.

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 one hundred dollars (\$100), and in default of the payment of such fine and cost shall be imprisoned not to exceed thirty (30) days.

If any person shall refuse or neglect to obey any subpoena, the Commission may apply by petition to the Court of Common Pleas of Northampton County for of the 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.

312 Annual Report

The Commission shall make an annual report to Borough Council containing a brief summary of its work during the year and a full accounting for any expenditures of public monies. The annual report shall be available for public inspection.

Article IV. Procedures for Appointment and Promotion

401 Application for Examination

In order to be eligible for participation in any examination for any 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, and the applicant is subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities. In addition, the application shall require, at a minimum, the following information: (1) the applicant's full name and residence or post office address, (2) the applicant's citizenship, place and date of birth, and (3) the applicant's business or employment and his residence for the past five years

402 Non-Discrimination in Employment Decisions

The Borough is an equal opportunity employer. It is the policy of both the Borough and the Commission to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, age, veteran status, 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.

403 Availability of Applications

Application forms shall be available to all interested persons in the office of the Borough 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.

404 Minimum Age For Application

All applicants must have reached their twenty-first (21st) birthday before the deadline for submitting completed applications.

405 General Qualifications For All Applicants

Every applicant for any position in the police department shall possess a diploma from an accredited high school or a graduate equivalency diploma. In addition, every applicant must be a United States citizen, be physically and mentally fit to perform the full duties of a police officer, and, prior to appointment, possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania. Applicants must have completed and passed the police officers' training course approved by the Municipal Police Officers' Education and Training Commission (MPOETC) as set forth in 53 Pa. C.S. § 2161 et seq. at the time of examination.

406 Offices Incompatible With Police Officer

A Police Officer may not hold an elected office of the Borough that employs the Police Officer. A Police Officer who is employed by a regional department, council of government or other cooperative venture may not hold an elected office of any municipality that participates in the regional department, council of government or other cooperative venture. Applicants who hold elected office which is incompatible with an office identified in this Section shall be deemed to not possess the minimum requirements for appointment set forth in these rules.

407 General Qualifications For Promotional Appointments

- (a) In addition to satisfying the requirements for entry level appointment contained in 404 and 405, all applicants for a promotional position, except the position of chief of police, shall have not been suspended without pay for more than one (1) day in the two (2) years prior to the deadline for submitting applications. Any suspension to which the applicant has timely appealed pursuant to a contractual grievance procedure or these Rules shall be disregarded unless the appeal is resolved prior to the creation of the eligibility list.
- (b) All applicants shall have continuous prior service with the police department as follows:
 - (1) An applicant for the position of Sergeant shall have a minimum of five (5) years of service with the police department.

408 Rejection and/or Removal of Applicant

The Commission may refuse to examine or, if examined, may refuse to certify after examination as eligible, any applicant who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he has applied, or who is physically unfit for the performance of the duties of the position to which he seeks employment, or who is illegally using a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has been guilty of any crime involving moral turpitude or of 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 constitution and laws of the United States and Pennsylvania.

If, a recommendation is made to the Commission that any applicant is to be rejected for the reasons set forth in subsection (a), then the Commission will, upon the request of the applicant, within ten (10) days hold a hearing pursuant to Section 410 of these Rules. The decision of the Commission to remove from further consideration in the hiring process any applicant shall be final.

In the event that the Borough utilizes the services of a consortium to administer its written examination, the time for filing a challenge to the score which the applicant receives on a written examination begins when the applicant receives the written score test result or notice of the results of the testing are posted by the consortium, regardless of whether or not the person or applicant has an application for employment pending with the Borough. In the event that such an applicant or person requests a hearing regarding his written examination score, any previous decision of

another municipal civil service commission addressing the propriety of the same written examination shall be persuasive, but not binding on the Borough's Civil Service Commission.

409 Recording and Filing Applications

Applications for positions in the police department shall be received by the Borough Manager 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 officer designated in the public advertisement or that officer's designee. That person 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.

410 Hearing for Disqualified Applicants

Any applicants or other persons who believe that they are aggrieved by a refusal to examine or to certify them as eligible after examination, may request a hearing before the commission. Within ten days after such request, the Commission shall designate a time and place for the public hearing which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. § 101 *et seq.* Both the rejected applicant and the Borough may be represented by counsel of their choosing, testimony will come from witnesses under oath or affirmation and the proceedings shall be stenographically transcribed. The deliberations of the Commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The Commission's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 PA. C.S. Ch . 7 (relating to open meetings). The Commission's decision to sustain the rejection of the applicant or to overturn it shall be final.

411 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 or a newspaper circulating generally in the Borough.

Article V. Examination Procedure & Scoring

501 General Examination Requirements for the Position of Patrol Officer

The examination for patrol officer will consist of a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing sixty percent (60%) of the final score and the oral examination representing forty percent (40%) of the final score. In addition, each applicant shall undergo a physical agility examination and a background investigation (which shall be graded on a pass/fail basis for every applicant). After an applicant

has been extended a conditional offer of employment, final appointment shall be contingent upon the applicant passing a medical and psychological examination.

The Commission or its designee shall have the sole discretion to select all examinations to be used, provided that such examinations are practical in character and relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of patrol officer.

The sequence for the above exams/investigation shall be as follows: (1) written examination; (2) physical agility test; (3) oral examination; and (4) background examination, ~~included in which shall be the polygraph examination.~~ Prior to the start of a new hiring process which will culminate in a new eligibility list, the Commission may change the sequence for the exams by resolution with the approval of a majority of Borough Council.

502 General Examination Requirements for Promotions

The examination for the positions of Sergeant shall include a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing sixty (60%) of the final score and the oral examination representing forty percent (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. In addition, following receipt of a conditional offer of promotion, the applicant shall be required to successfully pass a medical and psychological examination to determine whether or not the applicant can perform the essential duties of the promotional position.

503 Appointment of Examiners

The Commission shall appoint a written examination administrator, an oral examination administrator, a physical agility examiner, a medical examiner and a psychological examiner to conduct the appropriate examination required by these Rules.

504 Written Examination

The written examination shall be graded on a 100 point scale, and an applicant must score seventy percent (70%) or higher and receive one of the top 30 scores in order to continue in the application process. Applicants scoring less than seventy percent (70%) or not receiving one of the top 30 scores, including ties, shall be rejected. Within thirty (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.

505 Oral Examination

Every applicant who scored seventy percent (70%) or higher on the written examination and who receives one of the top 30 scores, including ties, shall be given an oral examination which will be graded on a 100 point scale with a score of seventy percent (70%) or higher necessary for passing. The oral examination shall involve questioning applicants on how they would handle situations relevant to police work. Within thirty (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.

506 Veterans' Preference Points

Pursuant to the Veterans' Preference Act, any applicant for the position of patrol officer who qualifies as a "soldier" under that Act, shall receive an additional ten (10) points on top of the combined, weighted written and oral examinations scores provided, however, that the applicant received minimum scores necessary for passing the written and oral examinations as prescribed under these Rules. The ten (10) additional veterans' preference points may not be used under any circumstances to achieve a passing score on the written or oral examination. Any applicant claiming veterans' preference is responsible for providing any and all relevant documents to the Commission, which shall, at a minimum, include a form DD-214, no later than two business days immediately prior to the date of the written examination.

507 Physical Agility Testing

An applicant for the position of patrol officer must successfully complete a physical agility test which is approved by the Commission utilizing, inter alia, any recommendation of the Borough's Chief of Police. Such test shall be job-related, consistent with business necessity and designed to test physical agility components applicable to performing the essential duties of a Borough Police Officer.

508 Background Investigation

Any individual whose name appears on the Eligibility List and who is to be certified as eligible for appointment to Borough Council, upon a request for a list of names from the Commission, shall be required to pass a background examination, included in which shall be a polygraph examination. This background investigation shall be limited only to those individuals who are about to be certified to Borough Council as eligible for appointment. The Commission shall request that the Chief of Police or the Chief's designee to conduct a background investigation. At the Commission's discretion, background investigations may be restricted to those candidates on the Eligibility List or those to be certified to Borough Council for appointment.

The background investigation shall also include interviews with the individual's family, acquaintances, current and former employers, current and former neighbors, references, current and former teachers, and school officials. At a minimum, personal interviews shall be conducted with at least three (3) people that have personal knowledge of the individual but who are not related to the applicant. The background investigation shall also include a review of the applicant's employment history, as well interviews with all of the applicant's employers for the past five (5) years. As part of the background investigation, the investigator shall perform 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 individual's credit history and record of criminal convictions shall also be investigated, as well as the individual's driving record for verification that he possesses a valid driver's license which has been free from suspension for the ten years preceding the date on which the individual applied for employment with the Borough. The individual may be interviewed directly when the information collected during the background investigation requires clarification or explanation.

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

After the background investigation is completed, the Chief of Police, or designee, shall make a written recommendation to the commission on whether the individual is appropriate for consideration for appointment as a police officer.

Appropriateness of the applicant shall be based on the criteria set forth in section 404, 405 and 408 of these Rules. 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 individual. Within thirty (30) days after the Commission considers the recommendation of the Chief of Police or designee, each individual will be informed of whether he has passed the background investigation.

Article VI. Certification of the Eligibility List and Appointment

601 Creation of The Eligibility List

At the completion of the examination requirements set forth in Section 4, written examination, oral examination, and physical agility test, 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.

For promotional positions, fulfilling the performance requirement set forth in Section 406 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.

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 twelve (12) months. The Commission may, at its sole discretion, void an eligibility list at any time for any reason.

602 Appointment of Previously Employed Officers in Certain Cases

In the event that no furlough list exists or a furlough list exists and the individuals on that list decline the opportunity for recall, the appointing authority of the Borough Council, may, in its sole discretion, 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 had been previously appointed in compliance with the existing civil service procedures as a police officer with the Borough and, thereafter, separated in good standing and who previously complied with the provisions of the civil service requirements. Except for medical and psychological examinations, no other testing shall

be required for a furloughed, rehired, or reappointed employee, subject to any recertification requirements prescribed by the Municipal Police Officers' Education and Training Commission.

603 Original Appointments From A Valid Eligibility List

- (a) If no furlough list exists or if positions remain to be filled after all of the officers on the furlough list were offered reemployment and the Borough does not choose to fill any existing eligible vacancy pursuant to Section 602 of these Rules, then the open position, except in the case of the position of chief of police, shall be filled only in the following manner:
 - (1) The appointing authority of the Borough shall notify the Commission of any vacancy which is to be filled and shall request the certification of three (3) names from the eligibility list;
 - (2) If three (3) names are not available, then the Commission shall certify the name(s) 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.
- (b) The Borough Council may object to one or more of the persons certified for the reasons set forth in Section 408 of these Rules. If the candidate to whom the Borough Council objects fails to timely exercise the rights of appeal under Section 410, 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.
- (c) Whenever the name of an eligible is certified to the appointing authority, he shall be notified at the address provided on the application for employment of such certification. The notice shall state that, unless the eligible, within five (5) days after receipt of such notice, notifies the secretary of the Commission that he is available for appointment, he shall be considered as having withdrawn himself from consideration for appointment to the vacant position. In the event that a person shall fail to notify the secretary of the Commission that he is available for appointment within five (5) days after receipt of such notice, and shall fail to give satisfactory reasons for his failure to report, his name shall be removed from the eligibility list.

604 Promotional Appointments

In the case of appointments to promotional positions, Borough Council may make an appointment only from any one of the top three candidates, or less, if less than three names appear on the eligibility list.

605 Appointment of Chief of Police

In the case of a vacancy in the office of chief of police, the appointing authority has full discretion in selecting the individual to fill the position of chief of police. If the appointing authority 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 the

appointing authority of the results of the examination. If, after receiving notice from the Commission that the candidate for chief is qualified, the appointing authority votes to bestow civil service status on that person, he may only be removed from the position of chief of police for the reasons set forth in Section 701 of these Rules.

606 Medical and Psychological Examinations

- (a) After the appointing authority selects a candidate from the certified list for appointment to a vacant position, the candidate shall receive a written conditional offer of employment. The offer of employment shall be conditioned upon the candidate successfully completing both a medical and psychological examination administered by medical experts to determine whether or not the candidate is capable of performing all the essential functions of the position. The physical medical examinations shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations shall be under the direction of a psychiatrist or psychologist. All medical experts who provide services under this Section shall be appointed by Borough Council.

The medical experts so appointed shall render an opinion as to whether or not the candidate has a physical or mental condition which calls into question the candidate's ability to perform all of the essential functions of the position for which the person was conditionally appointed.

- (b) If, in the opinion of the medical experts appointed pursuant to this Section, the candidate has no physical or mental condition which calls into question the candidate's ability to perform all the essential duties of the position, then the candidate shall have successfully passed the medical and psychological examinations, and no other conditions shall exist which shall bar the candidate from accepting the offer of employment.
- (c) If, in the opinion of the medical experts appointed pursuant to this Section, the candidate has a physical or mental condition which calls into question the candidate's ability to perform all the essential duties of the position, then the candidate shall not have satisfied the conditions for appointment. In such case, a representative of the Borough shall contact the candidate in writing at the address on file with the commission to determine if the candidate can identify an accommodation which would enable the applicant to perform the essential duties of a police officer. The applicant shall have fourteen (14) days from date on which the notice requesting the candidate to identify an accommodation is sent to the candidate in which to reply in writing identifying any such accommodations. In the event that the candidate either fails or refuses to identify such an accommodation, the Borough shall consider the candidate as having withdrawn from further consideration in the hiring process. If the candidate responds within the time allotted under this Section and identifies an accommodation, the Borough shall consider whether or not such requested accommodation is reasonable as that term is utilized by the Americans With Disabilities Act.

In making such a determination, the Borough may require the candidate to undergo a further medical and/or psychological examination to determine the existence of a need for accommodation, the appropriateness of the accommodation requested, as well as the existence of any alternative accommodations which would permit the candidate to perform the essential duties of a police officer. If, at the conclusion of the interactive process set forth in the Section, the Borough Council determines that the conditional appointee is not

qualified, council shall give written notice to the conditional appointee and the commission. The written notice from Borough Council shall be treated as a rejection of the conditional appointee pursuant to Section 408.

In the event that the candidate's requested accommodation is determined to not be reasonable, then the municipality shall withdraw the conditional offer of employment, and shall proceed in accordance with subsection (d) of this Section.

- (d) In the event that the conditional offer is withdrawn, if an additional name exists at the top of the eligibility list, the Commission shall, after the additional candidate successfully completes the background ~~and polygraph~~ examination set forth in Sections 508 and 509, include the additional name to the list of top three names for Borough Council to consider. Borough Council shall proceed to offer a conditional offer of employment to an individual on the list certified by the Commission and proceed in accordance with this Section until a candidate who receives a conditional offer of employment is determined to be capable of performing the essential duties of a police officer, with or without a reasonable accommodation.

607 Probationary Period

Every successful applicant to the position of patrol officer or to a promotional position with the police department shall serve a probationary period of one (1) year. During the probationary period, a newly hired officer shall be considered to be an at-will employee and shall not have the protections of civil service status nor a right of appeal under these rules in the event of suspension or termination during the probationary period. A promoted officer, during probation, shall not have the protections of the civil service status of his new rank during the probationary period and may be returned to a prior rank at any time during the probationary period, for any reason or no reason at all. However, at the end of the one (1) year 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 his previous rank. Any officer who is not informed in writing that his performance has been unsatisfactory prior to the end of the probationary period shall receive a permanent appointment to the new position. The decision of the Borough to suspend or discharge a probationer shall be final and shall not be subject to the hearing provisions contained in section 7 of these Rules.

608 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, the Borough Council may nominate a person to the Commission for noncompetitive examination. If such nominee is certified by the Commission as qualified after such noncompetitive examination, the Borough Council may appoint the nominee provisionally to fill such vacancy. Within three weeks of the provisional appointment, the Commission shall hold a competitive examination and certify an eligibility list and a regular appointment shall then be made from the name or names submitted by the Commission. Nothing within this section shall prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergency.

Article VII. Suspensions, Removals and Reductions in Rank

701 Grounds for Disciplinary Action

- (a) No person appointed to a position in the police department pursuant to these Rules may be suspended without pay or removed or demoted from a rank governed by these Rules 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 service;
 - (2) neglect or violation of any official duty;
 - (3) violation of any law of this 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;
 - (6) engaging or participating in or conducting of any political or election campaign while on duty or while in uniform or while using Borough property, other than to exercise of the person's own right of suffrage; or
 - (7) engaging or participating in the conduct of a political or election campaign for an incompatible office as provided in Section 406 of these rules.
- (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 (5) days after those charges have been adopted by Borough Council.

702 Furloughs

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 furlough the person or persons including probationers, last appointed to the force until the appropriate reduction is accomplished. In the event that the appointing authority 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 thirty (30) days of receiving notice of the opening. These reduction in force provisions are not applicable to the chief of police.

703 Notice of Suspensions, Removals or Reductions in Rank

Whenever a police officer is suspended without pay, removed or reduced in rank, the specific charges warranting such actions shall be stated in writing. A statement of charges shall be issued in accordance with the current Collective Bargaining Agreement, any and all Bangor Police directives formally approved by Borough Council and these Civil Service Rules and Regulations. 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 Section 701 which provides the basis for the disciplinary action as well

as an explanation of the factual circumstances upon which the appointing authority relied in finding a violation of Section 701.

Within five days after 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 Section 704 of these Rules. A copy of the statement of charges shall also be served upon the members of the Civil Service Commission.

704 Request for hearing on Suspensions, Removals and Reductions in Rank

- (a) The officer who has been suspended, removed or reduced in rank may appeal the decision of the appointing authority by written notice to the Secretary of the Commission at 197 Pennsylvania Avenue, Bangor, PA 18013 requesting a hearing. Such written notice shall be made by personal service, certified mail or facsimile to the Commission, and such request shall be received by the Commission within ten (10) days after the officer received notice of the discipline. The officer may make written answers to any charges filed not later than the date fixed for the hearing. Failure of the officer to provide written answers to any of the charges shall not be deemed an admission by the officer.
- (b) The Commission will schedule a hearing within ten days of the officer's written request for a hearing, unless continued by the Commission for cause at the request of the commission, the Board of Commissioners or the officer. The failure of the Commission to hold a hearing within ten-days from the date on which the charges are filed against the officer shall not result in the dismissal or modification of the charges and/or penalty filed against or imposed upon the officer. At any such hearing, the officer against whom the charges have been made may be present and represented by counsel, may call witnesses and present testimony and documentation in his defense. The Borough may also be represented by counsel, call witnesses and present evidence as is necessary to support the charges. A stenographic record of all testimony shall be taken at every hearing and preserved by the commission. In the event the charges are dismissed, the record shall be sealed and not be available for public inspection.
- (c) In conducting the hearing, the Commission's standard of review shall be to determine whether sufficient evidence has been presented to support the statutory reason for the disciplinary action. If the Commission finds that sufficient evidence has been introduced to support the charge, the Commission shall not modify the penalty imposed by the Borough Council unless it finds that the penalty imposed was arbitrary, discriminatory or an abuse of the Council's discretion. In considering the appropriateness of the discipline, the Commission shall not substitute its judgment for that of Borough Council. The Commission may request post-hearing briefs, and shall issue a written decision containing specific findings of fact and conclusions of law within sixty (60) days of receipt of the hearing transcript.

705 Hearing Procedure

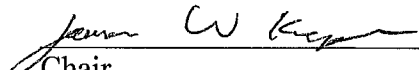
- (a) All testimony shall be given under oath administered by the chairperson, or in absence of the chair, the vice chair. The Commission shall have the power to issue subpoenas as set forth in Section 311. Unless the Council or the person sought to be suspended, removed or reduced in rank requests that the proceedings before the Commission be open to the

public, the proceedings before the Commission pursuant to this Section shall be held in the nature of a closed executive session that shall not be open to the public. Any such request shall be presented to the Commission before the civil service hearing commences. The deliberations of the Commission, including interim rulings on evidentiary rulings or procedural issues may be held in private and shall not be subject to a request to be open to the public by the council, the person sought to be suspended, removed or reduced in rank or any other party. The Commission's disposition of the disciplinary action shall constitute official action which shall be held at a public meeting unless, prior to the commencement of the hearing, a written or oral request to close the hearing is agreed to by the charging officer at his request or at the request of the Borough, and the Commission decides to honor that request.

- (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 within thirty (30) days from 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.

Section VIII. Resolution for Adoption of Rules

The foregoing Civil Service Rules, which are in accordance with powers granted by the civil service provisions of the Borough Code, enacted by the General Assembly of the Commonwealth of Pennsylvania and in accordance with the authority granted by the Borough Council of Bangor Borough, Pennsylvania, are hereby adopted by the Civil Service Commission of Bangor Borough, Pennsylvania on the 28th day of June, 2018.


Chair

Vice-Chair

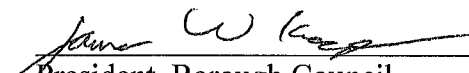
Secretary

Approved by the BOROUGH COUNCIL of the BOROUGH OF BANGOR, NORTHAMPTON COUNTY, PENNSYLVANIA on the 28th day of June, 2018.

ATTEST:


Borough Secretary

SIGNED:


President, Borough Council