

# THE BOROUGH OF AMBLER CIVIL SERVICE COMMISSION RULES AND REGULATIONS

## Section 1. Definition of Terms

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

**Applicant:** Any individual who applies in writing to the commission in response to a legally advertised notice of vacancy and/or examination for any position in the police department.

**Appointing Authority:** The Borough Council of the Borough of Ambler, Montgomery County, Pennsylvania.

**Certification:** The submission to the appointing authority pursuant to its request for the names of the three highest-scoring individuals taken from the eligible list developed by the Civil Service Commission.

**Chairperson:** The Chairperson of the Civil Service Commission of the Borough of Ambler, Pennsylvania.

**Commission:** The Civil Service Commission of the Borough of Ambler, Pennsylvania.

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

**Eligible:** A person whose name is recorded on a current eligible list or furlough list.

**Eligible List:** The list of names of persons who have passed all examinations for a particular position in the police department.

**Examination:** The series of tests given to applicants to determine their qualifications for a position in the police department.

**Furlough List:** The list containing the names of persons temporarily laid off from positions in the police department because of a reduction in the number of officers.

**Montgomery County Consortium of Communities:** The Human Resources Consortium (HRC) of the Montgomery County Consortium of Communities.

**Patrol Officer:** An entry level sworn full-time position in the police department.

**Probationer:** An officer in the police department who has been appointed from an eligible list, but who has not yet completed the work-test period.

**Reduction in Rank:** A change to a different position or rank where the employee fulfilled all of the requirements of these Rules 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.

Removal: The permanent separation of a police officer from the police department.

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

Suspension: The temporary separation without pay of a police officer from the police department.

## **1.2 Gender**

The words "he," "his," "him" and "men" when used in these Rules represent all genders, gender identities, and gender expressions.

## **Section 2. The Commission**

### **2.1 Civil Service Commission**

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

(b) Any vacancy occurring in the commission for any reason whatsoever shall be filled by the Borough Council for the unexpired term within the period of thirty (30) days after such vacancy occurs.

(c) 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.

#### **2.1.1 Alternate Commission Members**

(a) 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. Designation of an alternate member is on a case by case basis in rotation in order of declining seniority.

(b) If seated under section 2.3(b) and (c), below, an alternate 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 specified in these Rule as and as otherwise provided by law.

(c) An alternate may not hold another office in the Borough, except that one alternate may be a Borough councilperson.

(d) An alternate may participate in any proceeding or discussion of the commission but may not vote as a member of the Commission unless designated as a voting member under section 2.3(b) and (c), below.

## **2.2 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 public school teacher, and one alternate may be a member of Borough Council.

## **2.3 Organization of Commission; Quorum**

(a) The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as its chairperson, one as its vice-chairperson, and one as its secretary. The commission shall thereafter meet and organize on the first Monday of each even-numbered year. Each commissioner shall be notified in writing of each and every meeting.

(b) Quorum. – Three members of the commission shall constitute a quorum. 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.

(c) Alternate members. –

(1) 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.

(2) Designation of an alternate member under this section shall be made on a case-by-case basis in rotation according to declining seniority among the alternates.

(d) Validity of commission action. – No action of the commission may be valid unless it shall have the concurrence of at least two members.

## **2.4 Duties of Chairperson**

The chairperson, or in his 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 these Rules.

## **2.5 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.

## **2.6 Meetings**

Except for the biennial organization meeting, all meetings shall be held either at the call of the chairperson 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.

## **2.7 Clerks, Supplies and Solicitor**

The Borough shall:

(a) Furnish the Commission, on its requisition, clerical assistance that may be necessary for the work of the Commission.

(b) Provide a suitable and convenient room for the use of the Commission. The Commission shall order from the Borough the necessary stationery, postage, printing and supplies.

(c) Provide the services of a solicitor for the Commission to be appointed by the Commission and paid by the Borough. The Borough may place a reasonable limit on the amount allowed each year for the services of the Commission solicitor. The commission will utilize the services of the Borough solicitor unless it requires legal advice in connection with a contested hearing at which the Borough solicitor's presentation of the case creates a conflict of interest (or if a conflict arises in other ways) in which case the commission shall avail itself of the right set forth herein to select legal representation of its own choosing.

(d) Through its elected and appointed officials, aid the Commission in all proper ways in fulfilling its duties.

## **2.8 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.

## **2.9 Minutes and Records**

The Commission shall maintain minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the Commission shall be kept and preserved for a period of five years, and all records and all written causes of removal filed with the Commission, except as otherwise provided in section 1191 (relating to hearings on dismissals and reductions), shall be open to public inspection and subject to reasonable regulation.

## **2.10 Investigations**

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

## **2.11 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 Section 4.9 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.

(b) All officers in public service and employees of the Borough shall attend and testify when required to do so by the commission.

(c) 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.

(d) If any person shall refuse or neglect to obey any subpoena, the commission may apply by petition to the Court of Common Pleas of Montgomery 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.

## **2.12 Annual Report**

The commission shall make an annual report to the 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.

## **Section 3. Applications and Qualifications**

### **3.1 Application for Examination**

(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 (referencing the penalties set forth in 18 Pa.C.S.A. 4904), 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 qualifications 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 Ambler Borough Hall offices, 131 Rosemary Ave., Ambler, PA 19002. All applications forms must be obtained in person. Prior to obtaining an application, applicants must pay a non-refundable fee in order to help defray the administrative costs associated with processing the application. As of the adoption date of these rules, the fee is \$30.00. The fee may be modified from time to time by resolution without amendment of these rules to reflect actual administrative processing costs.

(c) All applicants must have reached their twenty-first (21st) birthday before the deadline for submitting completed applications. All applicants must have obtained certification that they have successfully completed Act 120 training (training for municipal police officers) prior to submission of the application. Candidates may not hold elective office in the Borough.

### **3.2 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, veteran status, marital status, gender identity, gender expression, sexual orientation or non-job-related physical or mental handicap or disability. The Borough and the commission will provide equal opportunities in employment and promotion in conformity with law including the Pennsylvania Human Relations Act.

### **3.4 Reserved**

### **3.5 Reserved**

### **3.6 General Qualifications Applicants for Promotion**

(a) In addition to meeting the qualifications in Section 3.1(c) above, all applicants for a promotional position, except chief, shall have not been suspended without pay by Ambler or any other police department for more than five (5) days in the three (3) 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 for promotion must meet the requirements set forth in the Collective Bargaining Agreement and any other memo or document, duly adopted, which sets forth requirements for promotion.

(c) Candidates for promotion must have three years of police experience, including time with other police departments. Such candidates must be graduates from a recognized police academy, have knowledge of police administration, and demonstrate an ability to supervise others.

### **3.7 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 these Rules 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 illegally using a controlled substance as defined in the Controlled Substances Act or who has been found guilty of a crime of 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 a group whose policies or activities are subversive to the forms of government established under the constitutions of the United States and Pennsylvania.

If the Commission receives a recommendation to reject a candidate from testing for the reasons set forth in this section 3.7, then upon the Applicant's request, a hearing shall be held within ten days.

Where the Borough utilizes consortium testing, the time for a challenge to the test score runs from the date on which the score is posted by the consortium or the applicant receives the score, whichever is sooner. If a challenge is made to the score in another municipality and such challenge is ruled upon by that municipality's civil service commission, that determination may be considered by this Commission, but is not binding.

### **3.8 Recording and Filing Applications**

Applications for positions in the police department shall be received at the Ambler Borough Hall at any time 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.

### **3.9 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 ten days after such request, the commission shall designate a time and place for the hearing which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. 101 et seq. The applicant or aggrieved party must make his request for a hearing in writing within ten calendar days of the date when the party knew or should have known of the commission's action which is being challenged.

### **3.10 Public Notice**

The Commission shall conspicuously post in the Ambler Borough Hall 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. The Borough will also make the testing known on whatever popular media platform is then in general use by the Borough.

## **Section 4. Examination and Grading Procedure**

### **4.1 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 must undergo a physical agility test. The entities or persons administering the aforementioned tests will be designated by the Commission. The physical agility test will 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, and a background investigation, which may include a polygraph examination.

This Commission or its designee shall have the sole discretion to select the examinations to be used, provided they satisfy the requirements of the Borough Code that they be practical in nature 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 testing sequence is:

Written examination;

Physical agility test;

Oral examination;

Polygraph examination and background examination for those to be certified;

Medical and psychiatric examination for those receiving a conditional offer of employment.

Prior to the start of a new hiring process, the sequence may be changed with Borough Council's approval by resolution of the Commission and without modification of these rules.

#### **4.2 General Examination Requirements for Promotions**

The examination for promotions may include either a written examination or an oral examination or a combination of both, in the discretion of the Commission, all of which will be graded on a one hundred point scale. When there is both a written and oral examination, the score on the written examination shall be sixty percent of the total final score and the score on the oral examination will be forty percent of the total final score.

#### **Section 4.3. Examiners to be Appointed**

The commission shall appoint a written examination administrator, an oral examination administrator, a polygraph examiner, a physical fitness examiner, a medical examiner and a psychological examiner to conduct the appropriate examination required by these Rules and Regulations. The commission will not make every such appointment each time an examination is scheduled, but rather, will maintain a list of approved examiners from which the Chief of Police or his designated personnel will select examiners for a particular examination. If for any reason an examiner from the list cannot be utilized, the commission will be informed of the vendor being suggested for the examination, which shall be assumed to be acceptable unless the commission chooses to schedule a meeting to discuss alternatives.

#### **4.4 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 twenty highest scores, including ties, in order to continue in the application process. Applicants scoring less than seventy percent (70%) or not receiving one of the top twenty highest scores 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

#### **4.5 Oral Examination**



Every applicant who scored seventy percent (70%) or higher and receives one of the top twenty highest scores, including ties in the written examination, shall be given an oral examination that 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. For those applicants who move on to the oral examination and receive a score on the oral examination of higher than seventy percent, their oral examination score and written examination score shall be combined on a weighted basis as described herein to determine their final score.

#### **4.6 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 points on top of the combined weighted written and oral examination scores, provided however that the Applicant meet the minimum score required for passing. An Applicant claiming such veterans' preference is responsible for providing any and all relevant documents to the Commission including a form DD-214, no later than two business days immediately prior to the date of the written examination.

#### **4.7 Polygraph Examination**

(a) As a part of the Background examination, every applicant who is to be certified to Borough Council may be required to 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 (5) 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. The second examiner will not have access to the results of the first test prior to re-administering the polygraph. 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 civil service 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. An applicant who passes the polygraph examination shall not be required to take another such examination during the life of that eligibility list, but may be required to take a polygraph examination in connection with future examinations.

#### **4.8 Agility Test**

Applicants for the position of police officer will be required to take an agility test. The administrator of the agility test will be determined by the Commission, and the administrator will determine the criteria of the agility test, such criteria to be applicable to performing the essential duties of a Borough police officer.

#### **4.9 Background Investigation**

The commission shall request the chief of police or the chief's designee to conduct a background investigation on each applicant to be certified to Borough Council. 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 (3) people that have personal knowledge of the applicant but who are not related to the applicant and with the applicants' employer(s) for the past five (5) years. 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 applicants driving record for verification that he possesses a valid driver's license. The applicant 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 applicant, 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 applicant was previously employed.

After the background investigation is completed, the chief shall make a written recommendation to the commission on whether the applicant is appropriate for consideration for appointment as a police officer.

Appropriateness of the applicant shall be based on the criteria set forth in Section 3.5 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 candidate. Within thirty (30) days after the commission considers the recommendation of the chief of police or designee, each applicant will be informed of whether they have passed the background investigation.

### **Section 5. Certification of the List of Eligibles and Appointment**

#### **5.1 Creation of Eligibility List**

(a) At the completion of the 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.

(b) For promotional positions, the highest scoring applicant is entitled to the open position, consistent with Pennsylvania case law.

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

## **5.2 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.

## **5.3 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 5.2 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 who have the highest overall scores of those remaining on the 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 3.7 of these Rules. If the candidate to whom the Borough Council objects fails to timely exercise the rights of appeal under Section 3.9, 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.

#### **5.4 Promotional Appointments**

In the case of appointments to promotional positions, Borough Council must appoint the eligible with the highest test score.

#### **5.5 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 6.1 of these Rules.

#### **5.6 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 the 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 3.7.

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 4.8 and 4.9, 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.

## **5.7 Probationary Period**

Every successful applicant to the position of patrol officer or to a promotional position with the police department shall serve a one-year probationary period. 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-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 a borough to suspend or discharge a

probationer shall be final and shall not be subject to the hearing provisions contained in section 6 of these Rules.

## **5.8 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.

## **Section 6. Suspensions, Removals and Reductions in Force**

### **6.1 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 3.6 of these rules.

(b) No officer shall be removed for religious, racial or political reasons, nor on the basis of any form of discrimination as set forth in section 3.2. 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.

## **6.2 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.

## **6.3 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 by 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 Section 6.1 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 6.1.

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 6.4 of these Rules. A copy of the statement of charges shall also be served upon the members of the Civil Service Commission.

## **6.4 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 131 Rosemary Ave., Ambler, PA 19002 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 has 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.

## **6.5 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 2.11. 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.

(INTENTIONALLY BLANK)



## Section 7. 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 Ambler Borough, Pennsylvania, are hereby adopted by the Civil Service Commission of Ambler Borough, Pennsylvania on 28<sup>th</sup> day of February, 2019.

  
Chair

  
Vice-Chair

  
Secretary

Approved by the BOROUGH COUNCIL of the BOROUGH OF AMBLER, MONTGOMERY COUNTY, PENNSYLVANIA on the 19 day of March, 2019.

ATTEST:

  
Mary Aversa, Borough Secretary

BOROUGH OF AMBLER

  
Frank DeRuosi, President  
Borough Council