

CIVIL SERVICE COMMISSION
OF
THE BOROUGH OF HONESDALE

RULES AND REGULATIONS

Wayne County, Pennsylvania

Adopted: March 2, 2020

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RULES AND REGULATIONS PRESCRIBED BY THE CIVIL SERVICE COMMISSION
Of the Borough of Honesdale, Wayne County, Pennsylvania

ARTICLE I — SCOPE AND DEFINITIONS

Section 101 — Honesdale Borough Civil Service Commission

These Civil Service Rules and Regulations are adopted pursuant to the authority of Sections 1170 through 1193, of the Borough Code of the Commonwealth of Pennsylvania (Borough Code), 8 Pa.C.S. § 1170, and are to be interpreted therewith.

The Commission

The Commission shall consist of three commissioners who shall be qualified electors of the Borough of Honesdale and shall be appointed by the Borough Council initially to serve for the terms of two, four, and six years, and as terms thereafter expire, members shall be appointed for terms of six years. 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 30 days after the vacancy occurs. Commissioners shall serve without compensation. Commissioners will be entitled to appropriate expense reimbursements for travel or training in the ordinary course of performing their duties. No travel reimbursement will be permitted for commuting to or from Commission or Borough Council meetings.

Borough 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. When seated pursuant to section 1174 of the Borough Code, 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 set forth in the Borough Code and these Rules and Regulations and as otherwise provided by law. Alternates shall hold no other office in the borough. An 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.

Each member of the Commission, before entering upon the discharge of the duties of office, shall take an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office).

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 commissioner may be a member of the teaching profession.

The Commission first appointed shall organize within ten days of its appointment and shall elect one of its members as its chairperson and one as its secretary. The Commission shall thereafter meet and

organize on the first Monday of February of each even-numbered year. Each member of the Commission shall be notified in writing of each and every meeting.

Three members of the Commission shall constitute a quorum and action of the Commission shall be valid when the Commission has the concurrence of at least two members.

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. 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. No action of the commission may be valid unless it shall have the concurrence of at least two members.

Conflicts of Interest

Should any member of the Commission believe that he/she is unable to carry out his/her duties faithfully and free of prejudice, such member may (i) elect to refrain from participation in official business of the Commission or (ii) participate in the official business, provided that such member makes full disclosure of such conflict and the other members of the Commission consent to such participation

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 of these Rules.

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.

Meetings

Except for the biennial organization meeting, all meetings shall be held either at the call of the Chairperson or the call of two members of the Commission. The Commission shall have discretion to determine whether meetings shall be open to the public when not specifically regulated by law or 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.

Clerks and Supplies

The Borough 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. The elected and appointed officials of the Borough of Honesdale 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.

Amendment of Rules

The Commission may prescribe, amend and enforce rules and regulations and shall be governed thereby. Before the effective date of the rules and regulations or amendments thereto, the same shall be first approved by Borough Council. When the rules and regulations, or amendments, have been approved, they shall not be annulled, amended, or added to, without the approval of Council. All rules and regulations and modifications shall be made available by the borough for public distribution or inspection.

Minutes and Records

The Commission shall keep minutes of its proceedings and records for examinations and other official action. 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. 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. Code Section 1381, et. seq. The Secretary shall keep minutes of 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.

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.

Subpoenas

The Commission shall have the power to issue subpoenas over the signature of the chairperson or designee, to require the attendance of witnesses and acquire records and papers pertaining to any investigation or inquiry including any background investigating conducted pursuant to Section

302 of Article III of these Rules. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the Court of Common Pleas of Wayne County and shall be paid from appropriations for the incidental expenses of the Commission. Expenses relating to the procurement of records will also be paid from appropriations for the incidental expenses of the Commission.

All officers in public service and employees of the Borough of Honesdale shall attend and testify when required to so do by the Commission. If any person shall refuse or neglect to obey any subpoena issued by the Commission, upon conviction, 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 Wayne County for a subpoena, requiring the attendance of such persons to testify and to produce any records and papers necessary, and if the person defaults, the person shall be held in contempt of court.

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 expenditure of public monies for expense reimbursements, solicitor fees, and all other incidental expenditures paid on behalf of the Commission. If time sheets are available for personnel of the Borough, including the Chief of Police, the hours devoted, by the respective personnel, to Commission activity will be reported to the Secretary of the Civil Service Commission. Upon approval of the time allocation presented to the Commission, standard hourly costs for the identified individuals, including benefits, will be agreed upon and identified as expenditures for municipal administration and will not be charged to the Police Department budget. The annual report shall be available for public inspection.

Section 102 — Scope

These Rules shall govern and regulate all appointments, promotions, reductions in rank, suspensions and removals of full-time paid members of the police force of the Borough of Honesdale.

Section 103 — Definitions

The following words, when used in these rules and regulations, shall have the meanings ascribed to them in this section:

- (1) **Applicant:** an individual who has applied in writing ~~to the Commission~~ in response to a legally advertised notice of vacancy, promotion and/or examination for any full time position on the police force.
- (2) **Appointing Authority:** The Borough Council of the Borough of Honesdale, Wayne County, Pennsylvania.

- (3) **Candidate for Conditional Employment or Promotion:** means an applicant has completed the appropriate testing and other requirements to qualify as an eligible individual to be listed on the certified eligibility list to be presented to Borough Council for possible probationary appointment to the position being sought by the applicant.
- (4) **Certification:** The submission to the Appointing Authority pursuant to its request for three names taken from the eligible list developed by the Civil Service Commission.
- (5) **Chairperson:** The Chairperson of the Civil Service Commission of the Borough of Honesdale, Pennsylvania.
- (6) **Commission:** the collective group of individual citizens of the Borough of Honesdale who has been administered, and accepted the oath of office to serve as members of the Civil Service Commission of the Borough of Honesdale.
- (7) **Council:** the Borough Council of the Borough of Honesdale, Wayne County, Pennsylvania.
- (8) **Eligible Individual:** the applicant who has become a candidate of conditional employment, promotion, or an individual who is on a furlough list.
- (9) **Eligible List:** The list of names of persons who have passed all examinations for a particular position in the police department.
- (10) **Examination:** The series of tests given to applicants to determine their qualifications for a position in the police department.
- (11) **Furlough List:** the list containing names of persons temporarily laid off from positions in the police department, due to a reduction in the number of full time officers. Individuals on the list may be eligible for recall to full time employment, subject to: review of the conduct, employment, and other circumstances of the furloughed officer as well as the Borough's business needs.
- (12) **Police Force:** A police force organized and operating as prescribed by law, the members of which devote their normal working hours to police duty or duty in connection with the bureau, agencies and services connected with police protection work and who are paid a stated salary or compensation for the work by the Borough. As used in this subchapter, the term shall not include any of the following:
 - (1) Special police appointed by the mayor to act in emergencies.
 - (2) A person appointed solely for parking meter enforcement duties.
 - (3) Special school police.
 - (4) Extra police serving from time to time or on an hourly or daily basis.
 - (5) An auxiliary policeman appointed under the act of January 14, 1952 (1951 P.L.2016, No.561), entitled "An act providing for supplementing the

police forces of cities, boroughs, towns and townships, for the appointment, powers and control of auxiliary police therein, and for the transfer during disasters and emergencies of such auxiliary police, members of the regular police forces, and police equipment thereof."

- (13) **Probationer:** An officer in the police department who has been appointed from an eligible list, but who has not yet completed the required period of probation.
- (14) **Reduction in Rank:** A change to a lower position or rank where the employee at one time 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.
- (15) **Removal:** The permanent separation of a police officer from the police department.
- (16) **Rules:** The Rules and Regulations of the Civil Service Commission of the Borough of Honesdale as amended from time to time.
- (17) **Secretary:** The Secretary of the Civil Service Commission of the Borough of Honesdale, Pennsylvania.
- (18) **Successful Applicant:** An individual who has completed the necessary requirements to be on the certified eligibility list.
- (19) **Suspension:** The temporary separation without pay of a police officer from the police department.

ARTICLE II — APPLICATIONS AND EXAMINATIONS

Section 201—Required Qualifications of Applicant

Each applicant for an original position as a full time officer shall:

Be subject to the rules and regulations adopted by the Commission and the applicant shall submit to the Borough a completed Application for Employment under oath or affirmation stating:

1. His / Her full name and residence or post office address.
2. Citizenship and place of birth, and at least over the age of 20.
3. Business, employment, and residence for the last five years.
4. The applicant may provide any other information to clarify their experience and qualifications for the position requested.
5. Completion of high school diploma or equivalent.
6. 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.

Applicants for positions on the Honesdale Borough police force must have, and may be required to substantiate, or provide documentation establishing the fact that they possess the following qualifications:

1. Citizenship. Must be a citizen of the United States of America.
2. Age. No person shall be eligible to apply for examination unless he/she is at least **20 years of age**.
3. High school diploma or equivalent.
4. Character. Must be of good moral character. The applicant must provide separate references from three citizens of the United States. Such references must contain original signatures of individual providing the reference. Electronic signatures will not be accepted. Immediate family member's fathers, mothers, brothers, and sisters, are not eligible references.
5. Applicants must have successfully completed the Municipal Police Officers' Education and Training requirements known as Act 120. The certificate of completion and grade sheet must be provided with the application.
6. The applicant must have a valid motor vehicle operating license issued by the Commonwealth of Pennsylvania.
7. Applicants for employment to the Honesdale Borough police force must complete an agility test that is job-related and consistent with business necessity required to perform the duties and responsibilities outlined in the job description of a Honesdale Borough police officer prior to taking any of the required examinations for employment.
8. Upon compliance with the above requirements, an individual will become a "Candidate for Conditional Employment."

Penalty for False Statement.

The statements made by the applicant in his/her application and all other documents submitted therewith shall contain no falsification, omission, or concealment of material fact. Should investigation disclose any material misstatement, falsification, omission, or concealment, the Commission shall disqualify the applicant from further consideration for the position or any future position with the Police Department. Any material misstatement, falsification, omission, or concealment that is not discovered until after appointment shall constitute grounds for dismissal from the Police Department.

Equal Opportunity Employer

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 or non-job-related physical or

mental handicap or disability. The Borough and the commission will provide equal opportunities in employment and promotion.

Section 202 — Application Procedures

1. Applications for positions in the police department shall be received at the Borough of Honesdale office only after a request for such application 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 a designated municipal official approved by the Civil Service Commission or an approved designee of the municipal official stated in the public advertisement. The designated official shall record the receipt of all applications and provide each applicant with notice of the time and place agility testing will be conducted for the applicants who have submitted a timely and acceptable application. Any application containing material errors or omission may, at the discretion of the Commission, be returned to the applicant for correction prior to the deadline for filing the applications, after which no new applications or amended applications will be accepted. In any event, no more than five calendar days will be allowed for the return of the corrected application. An agility test will be advertised and scheduled no less than ten (10) days after the close of acceptance of written applications unless continued to another date by the Commission with notice to, all then-qualified applicants.
2. As part of the initial application, the applicant will be provided a document which outlines the essential job functions of a police officer of the Borough of Honesdale. The applicant must return the signed document indicating whether they can perform those duties with or without accommodations as stated on the form. Failure to provide this signed document may be cause for rejection of the application as incomplete. Agility tests may be administered by the Chief of Police and must be conducted in the presence of one or more members of the Commission at properly noticed time and place to allow as many applicants to participate as possible in the scheduled testing. No individual will be eligible to perform an agility test without presenting an acceptance letter received from the Borough acknowledging their respective written application has been accepted and is on file in the Commissioners' office. Individuals who participate in agility testing do so at their own risk.
3. Individuals who complete the application process satisfactorily become Candidates for Conditional Employment or Promotion.

Section 203 — Examinations for Civil Service Positions

All examinations for positions or promotions shall be practical in character and shall 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 the employment sought by them. All examinations shall be open to all applicants who have the minimum qualifications required by these Rules.

The Commission shall adopt a separate resolution to appoint the exam administrators and graders as the Commission deems appropriate for:

1. A written examination administrator or administrators;
2. An oral exam administrator or administrators;
3. A physical agility examiner;
4. A medical professional as examiner for a physical examination;
5. A psychological examiner to conduct the appropriate exam for the applicant or applicants who become candidates for conditional employment.

The Commission may confer with Borough Council regarding the selection of the desired examiners and the Commission will make the final determination of the selected examiner or examiners. All examiners will issue their respective reports directly to the Commission through the Chief of Police and/or his designee. The Commission will then notify the applicant of his or her scores and/or whether the applicant passed or failed the particular test and the results of the background investigation for those applicants who were presented to Council on the certified list by the Commission.

"Candidates for Conditional Employment" shall be individuals who are qualified to be examined for employment as a full time police officer subject to the following requirements to secure a position on the certified employment eligibility list or the certified promotion eligibility list to be compiled by the Commission:

1. Written and oral examination described in Sections 205 and 206 of this article; and
2. Comply with requirements to secure a background investigation. Only applicants who are on the eligibility list may be required to provide data or fingerprinting for the background investigation. Any individual who refuses to provide such information will be removed from the eligibility list.

Upon due consideration and evaluation of the results received by the Commission from the respective examiners, the Commission shall post in its office the list, containing the names and grades of those who have met the requirements for the eligibility list which will allow the Commission to identify the top three individuals able to be Certified for conditional employment

as full time police officers in the Borough of Honesdale or to identify those individuals eligible to be on the Certified promotion list.

Section 204 — Rejection or Disqualification of an Applicant, Conditional Employee, or a Full Time Officer Will be Entitled to a Hearing

1. The Commission may refuse to examine, or, if examined, may refuse to certify after examinations as eligible, any applicant who is found to lack any of the minimum qualifications as prescribed in the Rules for the position or employment for which the applicant has applied, or who is physically unfit for the performance of the duties of the position to which he or she 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. Code Section 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 of office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the constitutions and laws of the United States and Pennsylvania.
2. If any applicant is aggrieved by the refusal of the Commission to certify the applicant as eligible after examination, or a person is aggrieved by refusal of the Commission to examine the person, the Commission shall, at the request of the applicant or person aggrieved, appoint a time and place for a public hearing; provided that such request is received from the applicant or person aggrieved within 10 days of the date of the Commission's decision. At the hearing, the applicant or person aggrieved may appear with or without counsel, and the commission shall take testimony and review its refusal to provide examination or certification. 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. Chapter 7 (relating to open meetings). The decision of the Commission shall be final.

Section 205 — Written Examination

Candidates for conditional employment as full time police officer must pass with a grade of seventy percent (70%), or better, a general adaptability test for policemen, which examination shall be practical in character and shall 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 the employment sought by them. The weighting of the written examination is 70%. Candidates seeking promotion may be required to complete a written examination at the discretion of the Commission and in compliance with Commonwealth rules and regulations for Civil Service Commissions. If the Commission elects to give such exams, such exams will be given to all eligible officers seeking promotion. In any event, all written examinations for promotion will be weighted at 70%.

Section 206 — Oral Examination

Candidates for conditional employment as full time police officer must pass, to the satisfaction of the Commission, an oral examination. The weighting of the oral examination is 30%. Candidates seeking promotion may be required to complete an oral examination at the discretion of the Commission and in compliance with the Rules.

Section 207 — Public Notice

Public notice of the time and place of every examination, together with information as to the type of position to be filled, shall be given by publication in a newspaper of general circulation in the Borough or County at least two weeks prior to the close of each examination, and a copy of the notice shall be prominently posted in the office of the Commission or other public place.

Section 208 — Agility Test for Promotions

Applicants seeking promotion for all positions except the Chief of Police will be subject to an agility test on a pass/fail basis. Each applicant for promotion may also be required to comply with the same requirements imposed on an applicant for full time police officer as explained in Sections 204, 205 and 206 of this article. Agility test requirements have been developed in cooperation with active duty police officers and their recommendations regarding the job related minimum requirements consistent with business necessity needed to perform the duties and fulfill the responsibilities of a full time police officer. Elements included in the agility test may include: Stretcher Carry, Body Drag, Quarter Mile Run, Window Climb, 30-Second Trigger Pull and other aspects suggested by the officers.

Section 209 — Ranking of Candidates

At the completion of the initial testing process, including a physical agility or other examination, with the exception of any background investigation to be conducted after the establishment of the conditional employment eligibility list and physical and psychological medical examination under Section 1189 of the Borough Code (relating to physical and psychological medical examination), the Commission shall rank the Candidates for Conditional Employment or Promotion who have satisfied the minimum requirements on an eligibility list. The eligibility list shall contain the names of applicants eligible for appointment or promotion listed from highest to lowest based on their scores on the examinations administered by the Commission and any points for which the applicant was entitled by virtue of 51 Pa. C.S. Ch. 71 (relating to veterans' preference). The list shall be adopted as Certified at a public hearing of the Commission and shall be posted as provided in these Rules. The Certified eligibility list will be valid for one year from the date the Commission formally adopts the list.

Prior to expiration of the one-year period, the Commission may extend the validity of the qualified candidate eligibility list for up to an additional twelve months by a majority vote of the Commission at a duly authorized Commission meeting. In the absence of a lawful extension by the Commission, the list shall expire.

Section 210 — Veteran Preferences

Any person who has served in the military or naval service of the United States, who holds an honorable discharge from such service, and who has successfully passed the prescribed examinations shall be given 10 additional points on the total examination score and any and all "preferences" required by law for original/entry level positions with the police force. In order to receive veterans' preference credits, such person must furnish, at the time and place of written examination, official and sufficient proof of service and discharge adequate to qualify for the application of veterans' preference. Photo static copies of discharges and other documents, or copies certified by a notary to be complete and correct are examples of documents that may be accepted.

Section 211 — Present Employees

All persons appointed to the police force, including the Chief of Police, shall continue to hold their positions and shall not be required to take any examination under these rules and regulations. This exemption from examinations shall not apply to persons holding temporary or provisional appointments or individuals seeking promotion.

ARTICLE III — APPOINTMENTS

Section 301 — Manner of Filing Appointment or Vacancy

Every original position of employment in the police force and every vacant position in any position above the rank of patrolman, except that of Chief of Police, shall be filled only in the following manner. The Council shall notify the Commission of any vacancy to be filled or any promotion requested, and shall request the certification of an eligibility list for conditional employment or promotion. The Commission shall certify for each existing vacancy to be filled from the eligibility list of candidates for conditional employment or promotion, the names of the three persons, or a lesser number where three are not available, who have received the highest average scores and indicate if the candidate if required to receive veterans preferences. The Council shall make a conditional appointment from the certified eligibility list, based solely on the merits and fitness of the candidates, unless Borough Council makes objections to the Commission regarding one or more of the certified persons for any reason set forth in these Rules. If the objections are sustained by the Commission as provided by these Rules, the Commission shall strike the name of the person from the list and certify the next highest name for each name stricken from the list.

In the event of no objection, the Commission shall instruct the Police Chief to commence the necessary background check of the individual(s) selected and secure the appropriate physical and psychological testing of the individuals selected by the Council as a conditional employee(s) or an individual certified for promotion. If the conditional appointee is determined to be unqualified in accordance with the procedures, the Commission shall strike the name of the person from the certified eligibility list and certify the next highest name for each name stricken from the certified eligibility list. As each subsequent vacancy occurs, in the same, or another position, precisely the same procedure shall be followed.

Reappointment or Reinstatement

(1) Any vacancy in an existing position in the police force which occurs as a result of retirement, resignation, disability or death may be filled by Council by the reappointment or reinstatement of a former employee of the police force who had previously complied with these Rules.

(2) No examination, other than a physical examination as directed by the Commission, shall be required in any case of reappointment or reinstatement. Except for medical and psychological examinations, no other testing shall be required for a furloughed employee or a rehired or reappointed employee, subject to any recertification requirements prescribed by the Municipal Police Officers' Education and Training Commission.

Section 302 — Background Investigation

The Commission shall request the Chief of Police or the Chief's designee to conduct a background investigation on each certified eligible individual presented to the Borough Council for conditional employment. The background investigation shall also include interviews with the conditional employee'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 a personal knowledge of the applicant but who are not related to the individual and who are not the individual's former employers. The background shall also include a criminal history check, including the submission of fingerprints to the Center Repository for the Commonwealth of Pennsylvania and the Federal Bureau of Investigation. The applicant's credit history and record of criminal convictions shall also be investigated, as well as the applicant's driving record for verification that the individual possesses a valid driver's license. The applicant may be interviewed directly when the information collected during the 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 record maintained by any other police department(s) that formerly employed the individual.

After the background investigation is completed, the Chief, or designee, shall make a written recommendation to the Commission on whether the applicant is appropriate for consideration for appointment as a police officer. The report should include any specific reason the Chief or his designee suggest disqualification of the individual for appointment to the police force.

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 his designee, each applicant will be informed of whether they passed the background investigation.

Background checks shall be conducted in accordance with applicable state and federal law.

Section 303 — 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. For newly hired patrol officers, the period of probation required of a new civil service member on the police force with the required Act 120 training shall commence on the date of hire and continue for a six (6) month period. Should a new hire not have Act 120 training upon their hiring, the probation period shall be one (1) year after his/her successful completion of the Act 120 Training School. During the probationary period, a newly hired officer may only be dismissed for the reasons set forth in Section 204.

The probationary period for promotion shall be twelve months. A promoted officer, during probation, may be returned to a prior rank only for the reasons set forth in Section 204.

If at the close of a probationary period the conduct or fitness of the probationer has not been satisfactory to the Council, the probationer shall be notified in writing that the probationer will not receive a permanent appointment, and the appointment shall cease. If the probationer is not notified or dismissed in accordance with this section, the probationer's retention shall be equivalent to a permanent appointment. The decision of a Borough to suspend or discharge a probationer shall be final and shall not be subject to the hearing provisions of section 1191 of the Borough Code.

Section 304 — Provisional Appointment

Whenever there are urgent reasons for the filing of a vacancy in any position in the police force and there are no names in the certified or preliminary eligible list for such appointment, the Council may nominate a person to the Commission for noncompetitive examination, and if such nominee shall be certified by the Commission as qualified after such noncompetitive examination, he may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the Commission within three weeks, to hold a competitive examination and identify individuals that qualify to be eligible for certification as a candidate for full time police officer or promotion and submit the list of certified eligible individuals to Borough Council for conditional employment. Nothing herein contained shall prevent the appointment, without examination, of person, temporarily as police officers in cases of riot or other emergency.

Section 305 — Physical and Psychological Medical Examination

(a) An applicant selected from the certified eligibility list shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the conditional appointee undergoing a physical and psychological medical examination and a determination that the conditional appointee is capable of performing all the essential functions of the position. 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.

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

(c) If the opinion rendered by the physician, other qualified medical professional, psychiatrist or psychologist calls into question the conditional appointee's ability to perform all essential functions of a position, a person designated by the Borough Council and accompanied by the Chief of Police shall meet with the conditional appointee for the purpose of having one or more interactive discussions on whether the conditional appointee can, with or without reasonable accommodation, perform the essential functions of the position.

(d) If, at the conclusion of the interactive discussion under subsection (c), the Borough determines that the conditional appointee is not qualified, the Borough shall give written notice to the conditional appointee and the Commission about such disqualification.

(e) Nothing in this Act shall be construed to authorize physical or psychological medical examinations prior to conditional appointment.

(f) As used in this section, the following definitions shall apply:

1. "Medical examination" shall mean any examination, procedure, inquiry or test designated to obtain information about medical history or a physical or mental 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.

2. "Physician" shall have the meaning given to it at 1 Pa.C.S. § 1991.

3. "Qualified medical professional" shall mean an individual in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed:

a. As a physician assistant pursuant to the Act of December 20, 1985 (PI. 457, No. 112), known as the "Medical Practice Act of 1985," or the Act of October 5, 1978 (P.L.I. 109, No. 261), known as the "Osteopathic Medical Practice Act," or

b. As a certified registered nurse practitioner pursuant to the Act of May 22, 1951 (P.L. 317, No. 69), known as "The Professional Nursing Law."

ARTICLE IV — APPOINTMENT OF THE CHIEF OF POLICE

Section 401 — Chief of Police.

In the case of a vacancy in the office of Chief of Police, the Council may nominate a person to the Commission for a non-competitive examination. It shall thereupon become the duty of the Commission to subject the person to a non-competitive examination, and if certified by the Commission, as qualified, he may then be appointed to the position and thereafter be subject to all provisions of this subdivision.

ARTICLE V — PROMOTIONS

Section 501 General Provisions – Applicants for Promotion.

- (a) In addition to meeting the qualifications of an original applicant, an applicant for promotion, except the position of Chief, may be required to complete written and oral testing as deemed necessary by the Commission. If any applicant has been suspended without pay for more than five (5) days in the three (3) years prior to the deadline for submitting application for promotion, such applicant will be ineligible for promotion. 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 certified promotion eligibility list.
- (b) All applicants for promotion shall have continuous prior service with at least fifteen-hundred (1,500) hours of active duty, on record, in each prior year, for the police department of the Borough of Honesdale as follows:
 - 1. An applicant for the position of Sergeant shall have at least three (3) years of experience as a law enforcement officer.
 - 2. An applicant for the position of Lieutenant shall have at least five (5) years of experience as a law enforcement officer.

Borough Council shall notify the Commission of a vacancy in the police force in the Borough which is to be filled by promotion and shall request the certification of a promotion eligibility list. The Commission shall certify for each vacancy the names of three persons on the promotion eligibility list who have received the highest average in the last preceding promotional eligibility examination held within a period of two years, preceding the date of the request for the certified promotion eligibility list. If three names are not available, the Commission shall certify the names remaining on the eligibility list. The Borough Council shall make an appointment from the names certified, based solely on the merits and fitness of the candidate, unless Council makes objections to the Commission regarding one or more of the persons so certified for any reasons provided under Section 204.

The Council shall have power to determine in each instance whether an increase in salary shall constitute a promotion.

ARTICLE VI — SUSPENSION, REMOVAL, OR REDUCTION IN RANK

601 General Provisions

The Council shall have the power to determine in each instance whether a decrease in salary shall constitute a reduction in rank. All suspensions, removals, and reductions in rank shall be made in accordance with these Rules.

Section 602 Suspensions, Removals, and Reductions in Rank.

A. Grounds for Disciplinary Action. No person employed in the Borough police force pursuant to these rules and regulations may be suspended without pay, removed, or reduced in rank by Borough Council except for the reasons set forth below:

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 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 the conduct of a political or election campaign while on duty or in uniform or while using borough property otherwise than to exercise 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 Article XI, Section 1104(f) of the Borough Code.

A person so employed shall not be removed for religious, racial, or political reasons.

Mayor's Power to Suspend. Nothing herein shall limit the authority of the Mayor to suspend any police officer for cause and without pay until the succeeding regular meeting of Borough Council, at which time Borough Council may, subject to these rules and regulations, suspend, remove, or reduce in rank or reinstate with pay, the police officer.

B. Procedures.

1. Notice. Whenever a member of the police force is suspended without pay, removed, or reduced in rank, a written statement by the Chief of Police or Borough council stating the specific charges warranting such actions shall be furnished to the officer and the Commission within five (5) days. The charges shall be stated clearly and in sufficient detail to enable the officer to understand the charges and the factual basis supporting the charges and to allow the officer to respond to the same.
2. Demand of Hearing. The officer so charged may submit a timely written request for a hearing to the Chairman of the Commission with a copy to the Chief of Police. The request must be received by the Commission within 10 days of the officer's receipt of the notice of charges.

Section 603 Hearings on Suspensions, Removals, and Reductions in Rank.

- A. Grant of Hearing. The Commission shall grant a formal hearing within 10 days of receipt of the request for such hearing by the officer. The hearing may be continued by the Commission in its own discretion or for good and sufficient reason at the request of Borough Council or the officer. Notwithstanding this provision, the failure of the Commission to hold a hearing within ten days from the filing of the charges in writing shall not result in the dismissal of the charges filed. Council may suspend the officer, without pay, pending the determination of the charges against the officer, but in the event the Commission fails to uphold the charges, then the officer shall be reinstated with full pay for the period during which the officer was suspended and no charges shall be officially recorded in the officer's record.
- B. Answer of Officer. 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.
- C. Conduct of Hearing. 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 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.
- D. Nature of Hearing. Unless Borough Council or the officer sought to be suspended, removed, or reduced in rank requests that the proceedings before the Commission be open to the public, the proceedings shall not be open to the public. Any such request shall be presented to the Commission before the hearing commences. The deliberations of the Commission, including interim rulings on evidentiary or procedural issues, may be held in private and shall not be subject to a request for being open to the public, Borough Council, or the officer. The Commission's

disposition of the disciplinary action shall constitute official action which shall occur at a public meeting.

E. Subpoenas. The Commission shall have the power to issue subpoenas to require the attendance of witnesses and the production of records and papers pertaining to the hearing in accordance with the provisions of Article XI, Section 1179 of the Borough Code. The officer charged and the Borough may issue written requests for a subpoena from the Commission, provided such request is filed with the Secretary of the Commission within five days from the date of hearing. Such requests for subpoena will be ruled on by the Commission in its discretion.

F. Hearing Procedure.

(1) Standard of Review. 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.

(2) Sworn Testimony. All testimony presented at the hearing shall be given under oath. The Chairperson shall administer all oaths.

(3) Procedure. Each hearing shall be conducted in the following manner:

(a) The Chairperson shall commence the hearing by stating the general purpose of the hearing;

(b) The Secretary shall read the written charges against the officer, together with the record of action taken against such officer, and any written reply of the accused, unless both parties waive a reading of the same;

(c) The Borough shall be given the opportunity to produce any witnesses, testimony, or documents in support of the charges;

(d) The officer shall be given the opportunity to cross-examine any witnesses produced by the Borough;

(e) The officer shall be given the opportunity to produce any witnesses, testimony, or documents in defense;

(f) The Borough shall be given the opportunity to cross-examine any witnesses produced by the officer;

(g) The parties shall be given an opportunity to make a closing summation.

(h) The hearing shall be concluded by the Chairperson.

(4) Evidence. The Commission shall be the judge of admissible evidence and procedure and shall not be bound by technical rules of evidence. The

Commission, at any time during the hearing, may question or examine the parties or any witnesses presented.

- G. Decision of the Commission. Within 30 days of the later of the conclusion of the hearing or receipt of the hearing transcript, the Commission shall issue its decision in the form of a written order approved by at least two members of the Commission. No order of suspension shall be for a period of more than one year. The written order shall include all findings of fact. A copy of the written order shall be provided to the parties.
- H. Right of Appeal. The officer sought to be suspended, removed, or reduced in rank and Borough Council shall have the immediate right of appeal to the Court of Common Pleas of Wayne County, and the case there shall be determined as the court deems proper. The appeal shall be by petition and shall be taken within 30 days from the date of entry by the Commission of its final order. Upon the appeal being taken and docketed, the court of common pleas shall schedule a day for a hearing and shall proceed to hear the appeal on the original record and additional proof or testimony as the parties concerned may desire to offer in evidence. The decision of the court affirming or revising the decision of the commission shall be final, and the employee shall be suspended, discharged, reduced in rank or reinstated in accordance with the order of court.

Section 604 — Removal for Reason of Economy

If for reasons of economy or other reasons it shall be deemed necessary to reduce the number of paid employees of the police force, then the Borough shall furlough the person, including a probationer, last appointed. The removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until the reduction shall have been accomplished.

In the event the police force shall again be increased, the employees furloughed shall be reinstated in the order of their seniority in the service.

This subsection as to reductions in force is not applicable to a chief of police.

ARTICLE VII — DISCRIMINATION

Section 701— Political or Religious Opinion

No question in any form of application for examination or in examination shall be so framed as to elicit information concerning the political or religious opinions of any applicant nor shall inquiry be made concerning such opinion or affiliations and all disclosures thereof shall be discountenanced.

Section 702 — Discrimination

No discrimination shall be exercised, threatened or promised by any person against or in favor of any applicant or employee because of political or religious opinions or affiliation and no offer or promise of reward, favor, or benefit, directly or indirectly, shall be made to or received by any person for any act done or duty omitted or to be done under this subdivision of this article.

ARTICLE VIII — REVISION

Section 801 Revisions

These rules and regulations shall continue in force and shall not be annulled, amended or added to other than by operation of law, except by action of the Commission and approval thereof by the Council.

The foregoing Civil Service Rules and Regulations, which are in accordance with the powers granted by the Pennsylvania Borough Code enacted by the General Assembly of the Commonwealth of Pennsylvania and in accordance with the authority granted by the Municipal governing body of the Borough of Honesdale, Pennsylvania, hereby amend the Civil Service Rules and Regulations, initially adopted the Civil Service Commission of the Borough of Honesdale on June 28, 2012, effective _____, 2020.

_____, Chairperson

_____, Vice Chairperson

_____, Secretary

ARTICLE IX — EFFECTIVE DATE

Section 901 Effective Date

These Rules shall become effective upon their approval by the Council and shall apply to all matters occurring since the effective date.

Approved by the Borough Council of the Borough of Honesdale, Wayne County,
Pennsylvania, on _____, 2020.

Adopted by the Civil Service Commission of Honesdale Borough _____,
2019.

CIVIL SERVICE COMMISSION OF BOROUGH OF HONESDALE
_____, Chairman

Address all communications to
Civil Service Commission

