

RULES AND REGULATIONS

OF THE

**CIVIL SERVICE
COMMISSION**

OF THE

**BOROUGH OF
DORMONT**

**Adopted
May 24, 2000**



INDEX

Page No.

ARTICLE I. DEFINITION OF TERMS	1
101. <u>Definitions</u>	1
102. <u>Gender</u>	3
ARTICLE II. THE COMMISSION	3
201. <u>Civil Service Commission</u>	3
202. <u>Offices Incompatible with a Civil Service Commissioner</u>	4
203. <u>Officers</u>	4
204. <u>Duties of Chair Person</u>	4
205. <u>Duties of Secretary</u>	5
206. <u>Meetings</u>	5
207. <u>Quorum</u>	5
208. <u>Order of Business</u>	5
209. <u>Minutes and Records</u>	6
210. <u>Rules and Regulations</u>	6
211. <u>Clerks and Supplies</u>	7
212. <u>Investigations</u>	7
213. <u>Subpoenas</u>	7
214. <u>Annual Report</u>	8
ARTICLE III. APPLICATIONS.....	8
301. <u>Appointments of Police Officers and Fire Apparatus Operators</u>	8
302. <u>General Provisions Relating to Examinations</u>	8
303. <u>Application Form</u>	9
304. <u>Discrimination</u>	10
305. <u>Availability</u>	10
306. <u>Age Qualifications</u>	10

INDEX

	<u>Page No.</u>
307. <u>General Qualifications – All Applicants</u>	10
308. <u>General Qualifications – Application for Sergeant</u>	10
309. <u>Chief of Police</u>	11
310. <u>Filing Applications</u>	11
311. <u>Recording Applications</u>	12
312. <u>The Sequence of the Selection Process</u>	12
313. <u>Disqualification/Rejection of Applicant; Hearing</u>	13
314. <u>Penalty for False Statement</u>	13
ARTICLE IV. ANNOUNCEMENT OF EXAMINATIONS	14
401. <u>Public Notice</u>	14
402. <u>Notice of Examination</u>	15
ARTICLE V. PHYSICAL ABILITY EXAMINATION	15
501. <u>The Physical Ability Examination</u>	15
502. <u>Admission to Examination</u>	16
ARTICLE VI. THE WRITTEN EXAMINATION	16
601. <u>Type of Examination</u>	16
602. <u>Administration of Examination</u>	16
603. <u>Admission to the Examination</u>	16
604. <u>Examination Scores</u>	17
ARTICLE VII. THE ORAL EXAMINATION	17
701. <u>Oral Examination Board</u>	17
702. <u>Administration of the Examination</u>	18
703. <u>Admission to the Examination</u>	18
704. <u>Improper Conduct</u>	18
ARTICLE VIII. ELIGIBLE LIST	19

INDEX

Page No.

801. <u>Examination Scores</u>	19
802. <u>Veterans' Preference</u>	19
803. <u>Eligible List</u>	20
804. <u>Duration of the Eligible List</u>	20
805. <u>Furlough List</u>	20
ARTICLE IX. BACKGROUND INVESTIGATION.....	21
901. <u>Background Investigation</u>	21
902. <u>Fingerprinting</u>	21
903. <u>Conduct of Background Investigation</u>	22
904. <u>Result of Background Investigation</u>	23
ARTICLE X. ADDITIONAL EXAMINATIONS.....	24
1001. <u>Other Examinations</u>	24
ARTICLE XI. PROMOTIONS (IN THE POLICE DEPARTMENT).....	25
1101. <u>Promotional Positions</u>	25
1102. <u>Promotional Process</u>	25
1103. <u>Application</u>	25
1104. <u>Administration of the Examinations</u>	25
1105. <u>Written Examination</u>	25
1106. <u>Oral Examination Board</u>	26
1107. <u>Oral Examination</u>	26
1108. <u>Appraisal of Promotional Potential</u>	26
1109. <u>Promotional Examination Scores</u>	26
1110. <u>Promotional List</u>	27
1111. <u>Duration of the Promotional List</u>	27
ARTICLE XII. CERTIFICATION AND APPOINTMENT.....	27

INDEX

	<u>Page No.</u>
1201. <u>Filling Vacancies</u>	27
1202. <u>Furlough List to Fill Appointments</u>	27
1203. <u>Certification from Eligible List (and Appointment)</u>	28
1204. <u>Removal of Names From Furlough or Eligible Lists</u>	28
1205. <u>Appointment Procedures</u>	29
ARTICLE XIII. MEDICAL EXAMINATION.....	30
1301. <u>Medical Requirements</u>	30
1302. <u>Report of the Medical Examiner</u>	31
1303. <u>Notice of Withdrawal of Employment Offer for Medical/Psychological Reasons</u>	31
ARTICLE XIV. PROBATIONARY PERIOD.....	31
1401. <u>Probationary Period</u>	31
A. <u>Entry Level Police Officer</u>	31
B. <u>Promoted Police Officer</u>	33
C. <u>Entry Level Fire Apparatus Operator</u>	33
1402. <u>Provisional Appointments</u>	34
ARTICLE XV. FIRE APPARATUS OPERATOR.....	35
1501. <u>Fire Apparatus Operator Position</u>	35
ARTICLE XVI. REMOVAL, SUSPENSION AND REDUCTION IN RANK.....	35
1601. <u>Cause for Removal, Suspension and Reduction in Rank</u>	35
1602. <u>Procedure</u>	36
1603. <u>Pre-Hearing Procedure</u>	38
1604. <u>Conduct of the Hearing</u>	38
1605. <u>Decision of the Commission</u>	41
ARTICLE XVII. INSPECTION OF RECORDS.....	43
1701. <u>Inspection in General</u>	43

INDEX

	<u>Page No.</u>
1702. <u>Inspection of Personnel Files</u>	43
1703. <u>Inspection of Examination Material</u>	44
ARTICLE XVIII. MISCELLANEOUS PROVISIONS.....	44
1801. <u>When Examinations Given</u>	44



RULES AND REGULATIONS
OF THE
CIVIL SERVICE COMMISSION
OF THE
BOROUGH OF DORMONT

ARTICLE I. DEFINITION OF TERMS

101. Definitions

Unless otherwise expressly stated, the following words and phrases, wherever used in these rules and regulations, 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 or for the position of Fire apparatus operator.

"Appointing Authority" – The Borough Council of the Borough of Dormont, Allegheny County, Pennsylvania.

"Borough Secretary/Manager" – The Secretary of the Borough of Dormont.

"Certification" – The submission to the appointing authority of names taken from the eligible list.

"Chair Person" – The chairperson of the Civil Service Commission of the Borough of Dormont.

"Commission" – The Civil Service Commission of the Borough of Dormont.

"Council" – The Council of the Borough of Dormont.

"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 non-medical examinations for a position in the Police Department or as a fire apparatus operator . These examinations, in the case of entry-

level hiring, may include physical performance testing, drug and alcohol testing, and written and oral examinations.

"Examination" -- The series of tests given to candidates to determine their qualifications for a position in the police department or as a fire apparatus operator. (See explanation in definition of "eligible list".)

"Fire Apparatus Operator" -- A fire apparatus operator is any person hired pursuant to civil service criteria who operates fire apparatus and devotes some part of his normal working hours to operating any piece of fire apparatus and who may also perform the desk duties relating to the police department and who is compensated by the Borough of Dormont.

"Furlough List" -- The list of persons laid off from positions in the police department or as a fire apparatus operator because of a reduction in the number of officers in the police department or in the ranks of the fire apparatus operator .

"Loudermill Hearing" -- A pre-deprivation hearing during which a police officer or fire apparatus operator has an opportunity to answer charges against him/her that may result in disciplinary action in deprivation of a property interest in employment.

"M.P.O.E.T.C." -- Municipal Police Officers' Education and Training Commission.

"Police Officer" -- For purposes of these rules and regulations, a full-time Dormont Borough employee of its police department who meets the requirements established by the Borough and Commonwealth of Pennsylvania (including the Municipal Police Officers' Education and Training Commission).

"Probationer" -- A person in the police department or employed as a fire apparatus operator who has been appointed from an eligible list, but who has not yet completed his work test period (which may be established in a Collective Bargaining Agreement). A probationary police officer or fire apparatus operator may only be dismissed (during the probationary period) if he is dismissed pursuant to a post-offer medical exam or a refusal to participate in such an exam, or where he/she is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he/she has applied, or who becomes physically disabled and unfit for the performance of the duties of the position to which he/she seeks employment or who is shown to be addicted to the habitual use of intoxicating liquors or narcotic drugs, or who is shown to be guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who proves to have been dismissed from public service for delinquency or misconduct of office. If, at the close of a probationary

period, the conduct or fitness of the probationer has not been satisfactory to Borough Council, the probationer shall be notified in writing, by Council or its designee, that he will not receive a permanent appointment. This notice, to be effective, must be issued not later than five (5) calendar days after the regular meeting of Council preceding the end of the applicable probationary period. The affected person may appeal that decision to the Commission pursuant to the Local Agency Law. To be timely, this appeal must be delivered, in writing, to the Borough Manager within seven (7) calendar days receipt of the written notice that a permanent appointment will not be received.

"Reduction in Rank" – A change to a different position or rank which results in a decrease in salary; provided, however, that a decrease in salary without a change to a different position or rank shall not constitute a reduction in rank.

"Removal" – The permanent separation of a police officer or fire apparatus operator from his/her position in the police department or his/her position as fire apparatus operator .

"Secretary" – The Secretary of the Civil Service Commission of the Borough of Dormont.

"Suspension" – The temporary separation of a member of the police department or fire apparatus operator from his/her position in the police department or his position as fire apparatus operator. Suspensions may be paid or unpaid.

102. Gender

The words "he", "his", "him", and "men" when used in these Rules and Regulations represent both the masculine and feminine genders.

ARTICLE II. THE COMMISSION

201. Civil Service Commission

The Civil Service Commission shall consist of three (3) Commissioners who shall be qualified electors of the Borough 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 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 thirty (30) days after such a vacancy occurs.

Each member of the Commission, before entering upon the discharge of the duties of their office, shall take an oath or affirmation to support the Constitutions of the United States and of the Commonwealth of Pennsylvania and to perform their official duties with fidelity. This oath shall be given by the Mayor or other appropriate official. No Civil Service Commissioner shall receive compensation.

202. Offices Incompatible with a Civil Service Commissioner

No Commissioner shall at the same time hold an elective or appointed office under the United States government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the Commission may be a member of the teaching profession.

203. Officers

The Civil Service Commission of the Borough of Dormont, on the first Monday of February of each even numbered year, shall meet and elect one of its members as the Chair Person, one as Vice-Chair Person and one as Secretary. The Secretary of the Commission shall give each Commissioner a minimum twenty-four hours' notice in writing of each and every meeting of the Commission.

204. Duties of Chair Person

The Chair Person, or in his/her absence, the Vice-Chair Person, 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. He may be aided in these duties by a solicitor to the Commission. Any such solicitor or legal counsel must have an active license to practice law in Pennsylvania and cannot also function as the Borough Solicitor or be affiliated with the law firm of the Borough Solicitor.

205. 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 and Regulations , keep a record of each examination or other official action of the Commission, and perform all other duties required by law, by these rules and by the Commission.

206. Meetings

Except for the biennial organizational meeting, all non-judicial meetings of the Commission shall be held either at the call of the Chairperson or at the call of two members of the Commission. Unless all members shall waive the requirement, a minimum of twenty-four (24) hours written notice of each meeting shall be given to each member of the Commission by the Secretary. These non-judicial meetings of the Commission are meetings open to the public and subject to the Sunshine Law requirements. Accordingly, public notice of these meetings should be given and the meetings should be conducted pursuant to Sunshine Law requirements. In a judicial (or quasi-judicial) proceeding, the employee involved has a choice as to whether the meeting itself will be open or closed to the public. The Secretary shall give each Commissioner twenty-four hours written notice of each and every such meeting of the Commission.

207. Quorum

Two members of the Commission shall constitute a quorum and no action of the Commission shall be valid unless it shall have the concurrence of at least two members. Unless prevented by a conflict of interest a Commission member must vote "yea" or "nay" on every motion, decision or adjudication which comes before the Commission.

208. Order of Business

The order of business of all non-judicial meetings of the Commission shall be as follows:

- a. Roll Call;

- b. Approval/disapproval of the minutes of the previous meeting;
- c. Unfinished business;
- d. New business;
- e. Communications and reports.

209. Minutes and Records

The Secretary shall keep minutes of the Commission's proceedings showing the vote of each member upon each question, or, if a member is absent or cannot vote due to a conflict of interest, indicating such fact. All records of the Commission shall be preserved and disposed of according to the Retention and Disposition Schedule for Records of Pennsylvania Municipalities under the authority of the Municipal Records Act, 1998 P.L.R. 175, No. 27, 53 Pa. C.S.A. § 1381, *et seq.*

All recommendations of applicants for appointment received by the Commission shall be kept and preserved for a period of five (5) years, and all such records and all written causes of removal filed with the Commission, except as otherwise provided in Article XVI of these Rules and Regulations pertaining to hearings on suspensions, dismissals, and reductions in rank or where otherwise prohibited by law, shall be opened to public inspection where they constitute public records. Documents and information qualifying as public records will be available to the public upon request.

210. Rules and Regulations

The Commission shall have the power to prescribe, enforce and amend the rules and regulations governing the conduct of its activities. Before any changes to these rules and regulations become effective, they must be approved by the Council of the Borough of Dormont at a public meeting. When such rules and regulations have been so approved, they shall not be annulled, amended, or added to, without the approval of Council. These rules and regulations, and any modifications or amendments thereto, shall be made available to the public for distribution or inspection.

211. 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. The Borough shall provide a suitable and convenient room for the use of the Commission. In addition, the Commission may retain counsel, and any other consultants or experts, including testing experts, physicians and psychologists/psychiatrists, as are necessary. The elected and appointed officials of the Borough shall assist the Commission with all reasonable and appropriate efforts including compensation for any counsel or experts retained by the Commission.

212. Investigations

The Commission shall have power to make investigations concerning all matters relating to the administration and enforcement of these Rules and Regulations to the extent authorized by the Borough Code (See 53 P.S. § 46178 and § 46183, for example.). The Chairperson of the Commission is authorized to administer oaths and affirmations in connection with such investigations.

213. 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 the production of records and papers pertaining to any investigation or inquiry. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid by the party seeking the attendance of the witness or by the Commission itself (from appropriations for incidental expenses) where the Commission is the entity moving for the subpoena(s) (in the case of a Section 212 investigation).

All officers in public service and employees of the Borough shall attend and testify when required to do so by the Commission (subject to the right of anyone who has not been provided with "use immunity," or some other form of immunity, to properly exercise their

Fifth Amendment right to remain silent and not testify in a manner which might tend to incriminate him/her.

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

If any person shall refuse or neglect to obey any subpoena, the Commission or the requesting party may apply by petition to the Court of Common Pleas of Allegheny County for enforcement of that subpoena, requiring the attendance of such persons before the Commission to testify and to produce any records and papers necessary, and shall seek and order that in default thereof such individuals shall be held in contempt of court.

214. Annual Report

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

ARTICLE III. APPLICATIONS

301. Appointments of Police Officers and Fire apparatus operators

Each and every appointment to the police force or as a fire apparatus operator shall be made only according to qualifications and fitness to be ascertained by examinations, which procedure is set forth in these Rules and Regulations.

302. General Provisions Relating to Examinations

All examinations for positions of 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. All examinations shall be open to all applicants who have the minimum qualifications required by these Rules and

Regulations. Public notice of the time and place of every examination, together with the information as to the kind of position or place to be filled, shall be given by publication a minimum of once in a newspaper of general circulation in the Borough, at least two weeks prior to each examination, and a copy of the notice shall be prominently posted in the Office of the Commission.

The Commission shall post in its office the eligible list, containing the names and grades of those who have passed the relevant examinations.

303. Application Form

No person shall be admitted to take an examination for a position in the Police Department or as a fire apparatus operator of the Borough of Dormont until after he/she shall have filed, on the official form prescribed by the Civil Service Commission, a sworn application giving such information as the Commission may require. 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. Cons. Stat. 54903 relating to unsworn falsification to authorities. The official application form and all notations, references, and statements appearing in it, or attached thereto, are incorporated by reference into these Rules and Regulations and shall be as much a part of these Rules as if they were fully described herein. The following information shall be attached to the application form:

- a. A copy of the job description and essential functions of the position;
- b. A list of basic qualifications necessary for permanent appointment to the position of police officer or as fire apparatus operator;
- c. A description of the selection process;
- d. A general statement of any physical performance and drug examinations required of applicants for the relevant position.

304. Discrimination

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

305. Availability

Blank application forms shall be available to all interested persons in the office of the Borough Manager, and from such other offices and officers as the Commission, from time to time, may choose to designate.

306. Age Qualifications

At the time of application, no applicant for any position in the police department, or as fire apparatus operator, shall be less than 21 years of age.

307. General Qualifications – All Applicants

Each applicant for a position in the police department or as a fire apparatus operator shall be a citizen of the United States, and shall possess at a minimum an Associate's Degree or 60 credit hours at an accredited college and/or university. Each applicant for a police officer position must have successfully completed Act 120 training and be able to be certified by the M.P.O.E.T.C. Every applicant must be physically and mentally fit to perform all of the essential functions of a police officer or fire apparatus operator as the case may be. Each applicant shall be of good moral character, and currently licensed to operate a motor vehicle in the State of Pennsylvania. In the case of a foreign born applicant, evidence satisfactory to the Commission shall be produced showing the person to be a naturalized citizen.

308 General Qualifications – Application for Sergeant

In addition to meeting the general qualifications fixed for each applicant for a position in the police department, applicants for the position of Sergeant shall:

- a. Have been continuously employed by the Dormont Police Department for at least four (4) years prior to the date of application;
- b. Have demonstrated an ability to carry out orders from superiors;
- c. Demonstrate a working knowledge of police science and administration as ascertained by an appropriate promotional examination;
- d. Demonstrate an ability to supervise the work of subordinates; and
- e. Have achieved at least a rating of above average on an evaluation by the Police Chief of the applicant's experience, training, general background, and other such records of performance.
- f. Be able to perform the essential functions listed in the job description for the position of sergeant.

309. Chief of Police

The Council of the Borough of Dormont may nominate to fill a vacancy a candidate to the Civil Service Commission for a non-competitive examination for the position of Chief of Police. He/She may be appointed by Council if certified by the Commission as qualified. Thereafter, he/she is subject to all of the provisions of the Civil Service Law. He/She must be able to be certified by M.P.O.E.T.C.

310. Filing Applications

Applications for any position in the Police Department, with the exception of the position of sergeant or as fire apparatus operator shall be received at the Borough Building only after an examination has been properly advertised and before the deadline for receiving applications which must be set forth in the public advertisement. Applications will be received by the municipal officer designated in the public advertisement or that officer's designee. That person shall record the receipt of those applications, numbering them in sequence, and provide each applicant with notice of the time and place for the first portion of the testing procedure, which is the Physical Ability Examination. An application to take an examination shall become invalid one year after the date upon which it was received or after completion of the advertised

written examination, or after the applicant is no longer a member of the applicant pool, which ever occurs first.

311. Recording Applications

The office of the Borough Secretary, or his/her designate, shall review each application, upon receipt, for the purpose of determining that such application contains no errors or omissions. Any application received more than ten (10) days prior to the filing deadline, containing errors or omissions shall be returned to the applicant for correction or addition. An application received within less than ten (10) days prior to the filing deadline, and containing material errors or omissions shall not be considered, and will not be returned. The Borough Secretary's office shall date, number and record, in the order of receipt, all applications free of errors and omissions. The individual recording the applications shall note whether the individual has veteran's status and whether the individual has given notice of a need for reasonable accommodation in the application or examination process. An application, once recorded, shall not be returned to the applicant.

312. The Sequence of the Selection Process

To insure the proper order of the selection process, the following sequence of events shall be followed in the selection of police officers and fire apparatus operators.

- a. Application
- b. Physical Ability (and possibly a drug use) Examination (neither of which is a medical/psychological exam)
- c. Written Examination
- d. Oral Examination
- e. Background Investigation
- f. Conditional Offer of Employment
- g. Medical/Psychological(and possibly a drug use) Examination
- h. Probation

i. Permanent Appointment

313. Disqualification/Rejection of Applicant; Hearing

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 and Regulations 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 an applicant who is physically or mentally unfit to perform the full duties of the position applied for, or who is a habitual substance abuser, who is guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office.

Any applicants 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. This request must be in writing. The applicant or aggrieved party must make this request within ten (10) calendar days of the date when the party knew or should have known of the Commission's action which is being challenged. Within ten (10) days after such request, the Commission shall designate a time and place for the hearing where the applicant may appear personally and by counsel. The hearing shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. Cons. Stat. § 101 *et seq.* Whereupon the Commission shall then review its refusal to make such examination or certification and take relevant testimony on the issues. The decision of the Commission shall be final.

314. Penalty for False Statement

The statements made by the applicant in the official application shall contain no falsification, omission or concealment of material fact. Should investigation disclose any willful misstatement, falsification or concealment with respect to an application:

- a. The application shall be invalid and the applicant shall be disqualified from examination, or

- b. If the applicant shall have been examined, the name of such applicant shall be removed from the eligible list, or
- c. If the applicant shall have been appointed, such deliberate falsification, omission or concealment shall constitute grounds for dismissal from the police department or as fire apparatus operator.

No person who shall make any application containing a deliberate falsification, omission or concealment shall be permitted to make any future application for any position in the police department or as fire apparatus operator of the Borough of Dormont.

Any applicant or other person who believes that they are aggrieved as a result of the actions of the Commission referenced in this section may request a hearing before the Commission. The applicant or aggrieved party must make the request for a hearing in writing to the Borough Manager within seven (7) calendar days of the date when the party knew or should have known of the Commission's action which is being challenged. Within ten (10) calendar 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. Cons. Stat. § 101, *et seq.*

ARTICLE IV. ANNOUNCEMENT OF EXAMINATIONS

401. Public Notice

Public notice soliciting applications for the position of police officer or fire apparatus operator shall be published in a newspaper of general circulation within the Borough of Dormont at least two (2) weeks prior to each examination. A copy of the notice shall also be posted in a conspicuous place in the Borough Municipal Building. At the discretion of the Commission, additional public notice may be given, by such means as the Commission may decide. Such notice shall specify the time and place of every examination, together with information as to the type of position to be filled, where applications may be obtained for the examination, and the deadline for the submission of applications.

402. Notice of Physical Ability Examination

Applicants will be given notice of the date, time and place of the physical ability examination upon returning the application. No further notice of the physical ability examination will be given. An applicant who has failed to properly complete an application form will be denied the opportunity to take the physical performance exam. Failure to report for an examination in accordance with the instructions contained in the written notice shall disqualify the applicant. Applicants who wish to discuss the possibility of a reasonable accommodation applicable to the physical performance testing must request that discussion prior to the date of the testing. Such a request should be written and securely delivered to the Commission's Secretary or the Commission's office. Failure to follow this procedure may disqualify the applicant who believes he/she cannot take the physical performance test without a reasonable accommodation.

ARTICLE V. PHYSICAL ABILITY EXAMINATION

501. The Physical Ability Examination

In order that the Borough of Dormont is assured that all applicants have the basic physical abilities and conditioning required to perform the functions of positions in the police department and as fire apparatus operators, a physical ability examination shall be given by the Commission, or its designated representative. This examination is different than the Medical/Psychological Examination conducted after a conditional offer of employment is given. It is not a medical examination. The examination shall consist of job related physical activities. Each part of the physical ability examination shall be graded on a pass-fail basis. Applicants must pass each segment of this examination in order to progress to the next. Failure to pass any segment shall disqualify the applicant. Those candidates who successfully complete the physical ability examination shall be invited to take, on a date specified, the written examination, which is the next step in the selection process. Candidates who fail to successfully complete

the physical performance examination shall be ineligible to continue in the selection process, but may repeat the physical ability examination at the next scheduled testing period.

502. Admission to Examination

All applicants who meet the basic qualifications will be admitted to the examination after providing proof of identification. The notification document shall serve as the admission card to the examination, at which the right thumb print of the applicant shall be placed on the admissions card and the applicant shall sign the card. This procedure shall be followed at each segment of the examination process.

ARTICLE VI. THE WRITTEN EXAMINATION

601. Type of Examination

The written examination shall be constructed to test the non-physical capability of the applicants to perform and to be trained to perform the essential functions of the position. The exact design of the examination shall be altered from time to time but will 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 a police officer or a fire apparatus operator position and will be validated.

602. Administration of Examination

The Commission may designate any qualified testing or examining body or agency to act as an examiner for the written examination. The Commission shall reserve the right to accept or reject, in whole or in part, the recommendations of its appointed testing or examining body or agency.

603. Admission to the Examination

Applicants who have successfully completed the physical ability examination will be allowed to participate in the written examination portion of the selection process. For admission to the written examination, applicants will be required to present the following:

- a. Notification or appointment card issued to the applicant after the physical ability examination;
- b. A current Pennsylvania motor vehicle operator's license.

The examiner, or his designated agent, shall record the operator's number on the notification or appointment card together with the applicant's name and address. The applicant's right thumbprint shall be placed upon the card and the applicant shall sign the card.

604. Examination Scores

The written examination will be worth fifty points. The minimum passing score for the written examination shall be the seventy (70) percentile (35 points) for the group of applicants taking the examination for the position of police officer or as fire apparatus operator. As soon as possible after the completion of the examination the Secretary, or his designate, shall prepare an availability list upon which shall appear the name of each applicant who received a passing score in the examination. The names shall be arranged, from the highest score to the lowest passing score. In the event that two (2) or more applicants receive the same score, the order of listing such persons shall be determined by the order in which the applications, upon submission, were numbered for recording purposes. Achieving a place on this availability list makes the applicant eligible for the oral examination. This list shall be posted in the office of the Borough Secretary and in a conspicuous place in the Borough Municipal Building. Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their test results. Passing applicants shall be scheduled for an oral examination appointment in accordance with Section 703.

ARTICLE VII. THE ORAL EXAMINATION

701. Oral Examination Board

The Oral Examination Board for applicants for the position of police officer or as fire apparatus operator shall be composed of members of the Civil Service Commission, at least one representative of the community and the Chief or Chief's designee.

702. Administration of the Examination

The oral examination is worth fifty (50) points. Applicants shall be rated by each member of the Oral Examination Board on a rating form provided for that purpose. Upon completion of the rating form by each board member, the forms shall be collected, tallied and recorded by the Secretary, or his/her designate. Members of the Oral Examination Board should keep notes on the rating form and the rating forms should be kept for two (2) years after the examination. Upon completion of all oral examinations, the Secretary, or his designate, shall list, in order of rating, the applicant's name and score on the oral examination. A minimum passing score on the oral examination shall be seventy (70) percent (35 points). During the oral examination, all applicants should be asked the same questions and/or presented with the same hypotheticals which should be determined in advance of the examinations. Applicants should be scored for their demeanor and for the content and relevance of their answers/responses.

703. Admission to the Examination

Invitations to participate in the oral examination will be based upon the expected position openings to be filled, and will be sent to applicants on the basis of their position on the availability list created from the written examination. The top thirteen (13) applicants on that availability list shall be interviewed on each occasion that the Borough seeks to hire one or two (1 or 2) entry level police or fire apparatus operators. A greater number may be interviewed if more than one or two (1 or 2) positions are to be filled. If less than 13 applicants remain on the list, all the remaining applicants shall be interviewed.

704. Improper Conduct

Should any applicant conduct himself in any manner during the course of the selection process so as to defeat the proper intent, conduct or course of the examination process, his name shall be removed from any list of availability or eligibility in the examination process and the applicant shall not be permitted to make any future application for any position in the police department or as fire apparatus operator.

Any applicant or other person who believes that they are aggrieved by the actions of the Commission in so disqualifying him or her may request a hearing before a Hearing Officer designated by the Commission. The applicant or aggrieved party must make their request for a hearing in writing within ten (10) calendar days of the date when the party knew or should have known of the Commission's action which is being challenged. Within ten (10) days after such request, the Commission shall designate a time and place for the hearing which shall be conducted by a designated Hearing Officer and pursuant to the procedures set forth in the Local Agency Law, 2 Pa. Cons. Stat. § 101 *et seq.*

ARTICLE VIII. ELIGIBLE LIST

801. Examination Scores

As soon as possible after the oral examination for initial appointment as police officer or as fire apparatus operator, the Secretary, or his/her designate, shall prepare a list of the applicants, indicating each applicant's name and his/her total written and oral score.

802. Veterans' Preference

Every applicant for an entry level position in the police department or as a fire apparatus operator who has achieved passing scores on both the oral and written examinations and who qualifies as a "soldier" under the Veterans' Preference Act shall receive an additional ten (10) points on top of their total score. Soldier is defined as any individual who has served in the regular military, the National Guard or the Reserves since July 1953 and who has completed his military service commitment and has received (or will receive) an honorable discharge from such service at the time they take the Civil Service appointment examination. An "honorable discharge" may include a general discharge under honorable circumstances however, one who has failed to complete "basic training" or whose service has been limited to the National Guard or Reserves without completing the training and service components of such service is not a "soldier" qualified to receive veteran's preference points. Applicants claiming Veterans'

Preference must submit satisfactory proof of service and honorable discharge with the application, specifically Form DD-214.

In selecting candidates from the certified list of three, where one of the three candidates is a veteran under the Veterans' Preference Act, Borough Council must select that individual for appointment.

803. Eligible List

Upon completion of the written and oral examinations, the Secretary, or his/her designate, shall prepare an eligible list upon which shall appear the name of each applicant who received a passing grade in the written and oral examinations and whether that applicant has veteran status. The names on the eligible list shall be arranged, from the highest to the lowest, in order of the final total score (written exam score, plus oral exam score, plus veteran's preference points) received by each applicant. The eligible list shall be filed in the office of the Borough Secretary, and a copy shall be posted in a conspicuous place in the Borough Municipal Building.

804. Duration of the Eligible List

The Council or the Commission, at their discretion, may void an eligible list at any time for good and lawful cause, but in no case shall any eligible list remain in effect for a period of more than one (1) year from the date of its certification by the Civil Service Commission, except that the Commission may, at its sole discretion, by a vote of the majority of the Commission at a duly authorized Commission meeting, extend the list for up to an additional year.

805. Furlough List

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 or fire apparatus operators, then the Borough shall apply the following procedure: (1) Determine if any employee vested in the appropriate pension plan is interested in voluntarily retiring (if eligible) or resigning from Borough

employment; (2) if the number of full-time police officers or fire apparatus operators who voluntarily retire or resign is insufficient to affect the necessary reductions in numbers, then the reductions shall be affected by furloughing the person or persons, including probationers, last appointed to the respective force.

Such removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until such reduction shall have been accomplished. In the event that the appointing authority subsequently decides to increase the police department or fire apparatus operators, 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 recall. These reductions in force provisions are not applicable to the Chief of Police.

ARTICLE IX. BACKGROUND INVESTIGATION

901. Background Investigation

Those applicants selected from the eligible list shall be required to submit to a complete background investigation. The application will provide the basis for the background investigation. The "Authority to Release" portion on the application form must have been completed by the applicant if the applicant is to continue in the selection process. [Note: The Borough no longer uses personal history statements.]

902. Fingerprinting

Those applicants selected from the eligible list shall be fingerprinted. The fingerprint cards shall be distributed to the Federal Bureau of Investigation, the Pennsylvania State Police and the Borough of Dormont Police Department.

903. Conduct of Background Investigation

The background investigation of applicants selected from the eligible list shall be conducted by a member of the Dormont Police Department assigned by the Chief of Police and may cover, but not be limited to, the following areas:

- a. Biographic – Verify name and birth information through birth, educational, military, and employment records. Interview the wife or parents.
- b. Education – Verify the amount and kind of education through actual examination of school records if the school is nearby. Check school disciplinary records. Verify college credits by having applicant submit a notarized transcript.
- c. Military – Require applicant to submit a copy of his service record and discharge certificate.
- d. Employment – Verify previous employment, listing reference information on a confidential basis. When possible, conduct a personal interview with the present employer, supervisor, and associates. Use waiver of liability form signed by applicant.
- e. Prior Employment – Ascertain the applicant's reason for leaving prior employers. Use waiver of liability form signed by applicant.
- f. Residence – Conduct a neighborhood investigation by conversing with neighbors concerning candidate's habits, conduct, and reputation. Use waiver of liability form signed by applicant.
- g. Police – Check criminal records of federal, state, and local police agencies. Check with the state drivers' licensing agency for traffic violations and accidents. If such offense is serious or excessive, should disqualify the applicant if determination of fault was affixed to candidate.
- h. References – Interview local references provided by the applicant, and obtain an interview with at least three references developed from them. Write letters to the out-of-state references. Use waiver of liability form signed by applicant.
- i. Tax Returns – Obtain tax returns for prior five (5) years with social security numbers deleted.
- j. Taxes and Utilities – Check with appropriate municipality to ensure applicant has paid local taxes and utilities.
- k. Judgments – Check state and federal court dockets to determine whether there are judgments against the applicant.

- I. The background check shall also comply with the standards for such checks established through regulation by the MPOETC, a copy of which is attached to these Rules and Regulations (except that the Commission shall not require a credit reference check).

904. Result of Background Investigation

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 or fire apparatus operator, as the case may be. The "fitness" of the applicant shall be based on the criteria set forth in these Rules and Regulations and, in the case of police officer candidates, the regulations of the MPOETC. This recommendation shall be in writing and if the recommendation is to disqualify, then a detailed 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 his designee, each applicant will be informed of whether he/she remains a candidate for employment based on the background investigation.

905. Rejection of Applicant

The Commission may refuse to examine, or, if examined, may refuse to certify after examination as eligible, any applicant who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he/she has applied. In addition, the Commission may refuse to examine, or if examined, may refuse to certify any applicant who is physically or mentally unfit to perform the full duties of the position applied for, or who is a habitual substance abuser, who is guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office.

Further, additional basis for rejection of an applicant may include, but shall not be limited to, the following:

- a. Arrest and conviction for any felony, misdemeanor or summary offense as defined in Title 18 of the Pennsylvania Crimes Code and/or Military Code of Conduct.
- b. Release from any military or civilian police department for infractions that would amount to a crime but were not prosecuted or for actions, inactions or conduct which, though not committed while employed as a Dormont police officer, could result in discipline if engaged in by a member of the Dormont Police Department.
- c. Release from any civilian police department during probation.
- d. History of heavy gambling loss, or failure to remain current in the payment of taxes..
- e. Failure to provide support for minor children
- f. Evidence of present improper use of controlled substances as defined in schedules I through V of section 202 of The Controlled Substances Act (21 U.S.C.A. § 812).
- g. History of association, unless duties through criminal justice system required such association, with known criminals or "organized crime figures."

ARTICLE X. ADDITIONAL EXAMINATIONS

1001. Other Examinations

In addition to the examinations enumerated herein, the Commission may, from time to time, include such other examinations in the selection process, as it shall deem necessary or desirable. These examinations will be job related and may include, but shall not be limited to, driving tests, dexterity tests, exams which test one's ability to effectively communicate orally or to accurately receive and record information, or other types of examinations. See also 1104.

ARTICLE XI. PROMOTIONS (IN THE POLICE DEPARTMENT)

1101. Promotional Positions

There shall be one (1) promotional position open to competitive examination within the police department. This position is sergeant.

1102. Promotional Process

As in the entry level selection process, a sequence of events will be followed in the promotional process. The process shall be as follows:

- a. Application
- b. Written Examination
- c. Oral Examination
- d. Appraisal of Candidate for Promotion
- e. Conditional Appointment
- f. Probation
- g. Permanent Appointment

1103. Application

An application for promotion, on a form provided by the Commission for such purpose, shall be filed with the Secretary by each applicant for the position during the time specified in the position announcement..

1104. Administration of the Examinations

The Commission may designate any qualified testing or examining body or agency to develop and/or administer testing instruments, both written and non-written, including physical performance examinations. This is applicable to both promotional and entry level testing.

1105. Written Examination

All examinations for 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, and may include a test of police knowledge and performance and a test to measure knowledge of supervisory and command responsibility.

1106. Oral Examination Board

The Oral Examination Board for applicants for the position of sergeant in the Dormont Police Department shall be composed of the members of the Civil Service Commission, at least one representative of the community, and the Chief or the Chief's designee.

1107. Oral Examination

Applicants shall be rated by each member of the Oral Examination Board on a rating form provided for that purpose. Upon completion of the rating form by each board member, the forms shall be collected, tallied and recorded by the Secretary, or his/her designate. Members of the Oral Examination Board shall keep notes on their rating form and their rating forms shall be kept for two years after the examination. Upon completion of all oral examinations, the Secretary, or his/her designate, shall list, in order of rating, the applicants' name and score on the oral examination. In the oral examination, all applicants should be asked the same questions which should be determined in advance of the examinations.

1108. Appraisal of Promotional Potential

The Commission shall make an evaluation of the attendance record and performance records of the applicant.

1109. Promotional Examination Scores

The examination shall be graded on a scale of one hundred (100) percent and shall be weighted as follows:

- a. For the written examination, a total of forty (40) points;
- b. For the oral examination, a total of forty (40) points; and
- c. For the appraisal of promotional potential, a total of twenty (20) points.

An applicant must have scored at least a score of seventy (70) percent in each of the above examinations to be eligible for promotions.

1110. Promotional List

Upon completion of the examination process, the Secretary, or his/her designate, shall prepare a promotional list for each position for which a vacancy exists. The names of each applicant who received a passing grade in the examination shall be arranged on the promotional list from the highest to the lowest, in order of the final weighted score received by each applicant. The promotional list shall be filed in the office of the Borough Secretary and a copy shall be posted in a conspicuous place in the Borough Municipal Building.

1111. Duration of the Promotional List

The eligibility for promotion list shall remain active for twelve (12) months from the date of its certification by the Civil Service Commission. The Commission may, at its sole discretion, by a vote of the majority of the Commission at a duly authorized Commission meeting, extend the list for up to an additional year.

ARTICLE XII. CERTIFICATION AND APPOINTMENT

1201. Filling Vacancies

When a vacancy is to be filled for any position in the police department or as fire apparatus operator, Council, or its designate, shall submit a written request to the Commission for certification of eligible applicants. In making the request, the Council shall state the title of the position to be filled and the compensation to be paid and the fringe benefits allotted

1202. Furlough List to Fill Appointments

Upon receipt of a written request from Council, the Commission shall first certify the names of those eligible who were furloughed because of a reduction in force. Those individuals eligible to be reinstated as a result of being furloughed should be reinstated in order of their seniority in the service, and as such, should be placed on the furlough list in order of seniority. In filling a vacancy from the furlough list, the Commission shall certify the top name

only. If more than one vacancy is to be filled, the Commission shall certify from the top of the list that number of names equal to the number of vacancies to be filled.

1203. Certification from Eligible List (and Appointment)

If no furlough list exists or if the total number of vacancies cannot be filled from the available names on the furlough list, the Commission shall certify names from the eligible list. The Commission shall certify for each existing vacancy from the eligible list the names of three persons thereon, or a lesser number where three are not available, who have received the highest total score. Council shall make an appointment from one of the three names certified with reference to the merits and fitness of the candidates. However, when one of the three applicants on the certified list is a veteran, that applicant shall be selected. If more than one veteran is certified, Council may select from the certified veterans.

Council may object to one or more of the persons certified for the reasons set forth in these rules and regulations. If the candidate to whom the Council objects fails to timely exercise the rights of appeal or if the Commission declines to uphold the appeal, the Commission shall strike the name of that candidate from the eligible list and certify the next highest name for inclusion on the list of three candidates for each name stricken off.

1204. Removal of Names From Furlough or Eligible Lists

In addition to the other reasons stated as grounds for removal in these rules, the name of any person appearing on a furlough list or an eligible list shall be removed from the relevant list by the Commission if such person:

- a. Is appointed to a position as a police officer or as a fire apparatus operator in the Borough, or
- b. Declines an appointment to a permanent position as a police officer or as a fire apparatus operator of the Borough, or
- c. Fails to make written reply to the Commission within seven calendar days from the date of mailing of a notice of certification, or

- d. Indicates availability for appointment and is appointed to fill a vacancy but fails to report for duty at the time prescribed by the Council, unless, in the opinion of Council, such person can show good and sufficient reasons for failing to report. In the case of a new hire from an eligibility list reporting for duty means reporting for a medical and/or psychological examination.

The name of any person on any eligible list also shall be removed by the Commission if he is three times certified for consideration for appointment as the top name and is not appointed unless the individual is a non-veteran who was "passed over," as a matter of law, in favor of a veteran. In such case, the action of "passing over" the individual shall not count as one of the three appointment opportunities.

1205. Entry Level Appointment Procedures

As referenced in Section 1303 of these rules and regulations, when there is a vacancy, the Commission shall upon request certify three names from the list of eligibles. If three names are not available, then the Commission shall certify the names remaining on the list. Borough Council shall make an appointment from one of the three names certified with reference to the merits and fitness of the candidates. However, when one of the three applicants on the certified list is a veteran, that applicant shall be selected. When a candidate is appointed by Borough Council, the applicant shall be immediately notified of his appointment by either certified or registered mail. The notice shall include the title of the position, the compensation to be paid and the fringe benefits allotted and shall also state that the person appointed, to secure the employment, shall make a written reply, indicating acceptance of the appointment to the specified position, within seven (7) days from the receipt of such notice. This offer of employment to a probationary position will be conditional upon the applicant passing a medical and/or psychological examination and upon the applicant being available to begin Borough employment within a reasonable time frame as determined by Borough Council, which time frame cannot be arbitrary or capricious.

ARTICLE XIII. MEDICAL EXAMINATION

1301. Medical Requirements

Once an offer of employment to a probationary position has been made, and accepted, to a candidate for the position of police officer or fire apparatus operator, that individual shall, as a condition of continued employment, submit to a medical examination. This may include drug and psychological testing as well as a basic medical examination. In the event that the medical examination should show that the individual is not qualified to be a police officer or fire apparatus operator, as the case may be, the offer of employment shall be withdrawn. In such circumstance, the individual may request a hearing before the Commission to challenge his medical disqualification from employment, and will be given the opportunity to demonstrate to the Commission that he can perform all of the essential functions of the job, with or without reasonable accommodation. In the case of a police officer, the Commission adopts the medical examination requirements imposed upon municipalities by the Municipal Police Officers Education and Training Commission (Pa. Administrative Code, Title 37, Part IV, Subpart A, Chapter 203, Subchapter B (Police Officer Certification Requirements), § 203.11, a copy of which is attached to the Civil Service Commission's Rules and Regulations.) As the Municipal Police Officers Education and Training Commission modifies and updates its § 203.11 qualifications, these shall automatically become the qualifications required by the Civil Service Commission for police officers of Dormont Borough. Similarly, persons who have received a tentative offer of employment as a fire apparatus operator shall be required to pass a post-employment offer medical exam designed to help determine whether the individual is able to perform all of the essential functions of a fire apparatus operator, with or without reasonable accommodation. A police officer or fire apparatus operator whose tentative offer of employment has been withdrawn, as a result of the finding of the post-offer medical examination, may challenge that determination utilizing the same process, with the same applicable time limitations, as apply to the suspension, removal, or reduction in rank of a police officer or fire

apparatus operator. The cost of the medical examination, drug, and psychological evaluations which are referenced directly or inherently in § 901 shall be borne by the Borough of Dormont.

1302. Report of the Medical Examiner

The Commission shall furnish to any Medical Examiners utilized to engage in post-offer medical/psychological testing with M.P.O.E.T.C. forms upon which the examiner shall state the medical condition of the applicant. These medical/psychological examiners shall be furnished with a relevant job description listing essential functions and, in the case of a police officer, with the requirements of the Municipal Police Officer's Education and Training Commission, which have been adopted by the Dormont Borough Civil Service Commission. The report issued from each examination shall be submitted to the Borough Manager.

1303. Notice of Withdrawal of Employment Offer for Medical/Psychological

Reasons

When a post-offer/psychological examination has demonstrated that there are medical/psychological reasons for withdrawing the offer of employment this shall be communicated, in writing, to the individual whose conditional offer of employment is to be withdrawn. This notice shall inform the relevant individual as to the basis for the decision to withdraw the conditional offer of employment.

ARTICLE XIV PROBATIONARY PERIOD

1401. Probationary Period

A. Entry Level Police Officer

Upon passing the medical/psychological examination, all appointments to the position of entry level police officer shall be for a probationary period of twelve (12) months. The Chief of Police shall investigate the adjustment, performance, and general acceptability of each probationer under his supervision to determine whether such probationer is fully qualified for permanent appointment. The Chief of Police shall make a report on the performance and

conduct of each probationer at the end of the sixth and ninth month of the probationary period, and finally not less than fifteen (15) calendar days before the next regular meeting of the Council immediately preceding the end of the probationary period. Each final probationary report shall include the recommendation of the Chief of Police either to retain or to reject the probationer. Each report shall be submitted to Council.

In the event that the person named to the position of Chief of Police is the probationary appointment, the Council shall designate one person to evaluate the performance and conduct of the Chief in the same manner, and subject to the same procedures, as that established for all other positions in the police department of the Borough.

During the probationary period a newly hired officer may be dismissed for cause for the reasons set forth in 53 P.S. § 46183. [See the definition of probationary officer contained in the definition Article of these Rules and Regulations.] However, at any time during the twelve month probationary period, if the conduct of the probationer has not been satisfactory to the Borough Council, the probationer shall be notified in writing that the appointment will not be permanent. At that time, the entry level probationary officer's employment shall end. Any officer who is not informed in writing that his/her performance has been unsatisfactory and that he/she will not receive a permanent appointment, shall be deemed to have received a permanent appointment to the new position. Any entry level probationer who is notified in writing that his/her appointment will not be made permanent has an opportunity to a hearing under the Local Agency Law. The probationer must make his/her request for a hearing in writing within ten (10) calendar days of the date when the party knew or should have known of the Council's action which is being challenged. Within ten (10) 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. Cons. Stat. § 101 *et seq.*

B. Promoted Police Officer

A promoted police officer may, at any time during the one year probation, voluntarily return to his previous rank. A promoted officer may, during his promotion probation period of one year, be involuntarily returned to his previous rank when it is determined by Council that the promoted officer has demonstrated, through on-the-job performance, that he is not qualified for the position of Sergeant or Chief. This determination shall be communicated to the Police Officer in writing. Upon receipt of that written notice the Officer may appeal the decision in writing within ten (10) days to the Borough Manager to return him/her to his/her prior rank by requesting, to the Borough Manager, that Council provide him with a Local Agency Law Hearing. Within ten (10) 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.

C. Entry Level Fire Apparatus Operator

Upon passing the medical/psychological examination, all appointments to the position of fire apparatus operator of the Borough shall be for a probationary period of six (6) months. The Borough Manager shall investigate the adjustment, performance, and general acceptability of each probationer under his supervision to determine whether such probationer is fully qualified for permanent appointment. The Borough Manager shall make a report on the performance and conduct of each probationer at the end of the second and fourth month of the probationary period, and finally not less than fifteen (15) calendar days before the next regular meeting of the council immediately preceding the end of the probationary period. Each final probationary report shall include the recommendation of the Borough Manager either to retain or reject the probationer. Each report shall be submitted to Council.

During the probationary period a newly hired fire apparatus operator may only be dismissed for cause for the reasons set forth in the Borough Code, §1183 (53 P.S. §46183) [See the definition of probationary officer contained in the definition Article of these Rules and

Regulations.] However, at any time during the probationary period, if the conduct of the probationer has not been satisfactory to the Borough Council, the probationer shall be notified in writing that the appointment will not be permanent. At that time, the entry level probationary officer's employment shall end. Any officer who is not informed in writing that his/her performance has been unsatisfactory and that he/she will not receive a permanent appointment, shall be deemed to have received a permanent appointment to the new position. Any entry level probationer who is notified in writing that his/her appointment will not be made permanent has an opportunity to a hearing under the Local Agency Law. The probationer must make his/her request for a hearing in writing within ten (10) calendar days of the date when the party knew or should have known of the Council's action which is being challenged. Within ten (10) 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. Cons. Stat. § 101 *et seq.*

1402. Provisional Appointments

Whenever there are urgent reasons for the filling of a vacancy in any position in the police department or as a fire apparatus operator and there are no names on the eligible list for such appointment, the Council may nominate a person to the Commission for non-competitive examination, and if such nominee shall be certified by the Commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the Commissioner within three weeks to hold a competitive examination and certify a list of eligibles and a regular appointment shall then be made from the name or names submitted by the Commission: provided, that nothing herein contained shall prevent the appointment by the Mayor, without examination, of persons, temporarily as police officers in cases of riot or other emergency or as fire apparatus operators in emergency cases.

ARTICLE XV. FIRE APPARATUS OPERATOR

1501. Fire Apparatus Operator Position

Inasmuch as the fire apparatus operator is a unique position in and to the Borough and, as such, some of the examinations and/or qualifications set forth herein may not be applicable to applicants for that position, the Commission may, from time to time, make such modifications to the examination and/or qualification standards for this position so as to better insure that the applicants shall meet unique demands of this position. Such modifications may be set forth in the application, or attached thereto.

ARTICLE XVI. REMOVAL, SUSPENSION AND REDUCTION IN RANK

1601. Cause for Removal, Suspension and Reduction in Rank

- a. No police officer or fire apparatus operator shall be suspended, removed or reduced in rank until they have first been provided with a hearing of the type required in Cleveland Bd. of Pub. Ed. v. Loudermill, 470 U.S. 532, 105 S. Ct. 1487, 84 L.Ed.2d 494 (1985). The Loudermill requirement of a hearing occurring before the imposition of discipline may be avoided where it is imperative that the Borough Manager take immediate action, usually in the form of a suspension with or without pay, to protect the best interests of the Borough, its citizens, taxpayers, and/or the Department. In determining whether there are grounds for disciplining a police officer or a fire apparatus operator, the Borough Manager, the Mayor and Council and, if appropriate, the Commission are required to note relevant Pennsylvania law. This law requires that uniformed employees, subject to the Borough Code, be held to a "higher standard of conduct", and this law notes that Borough uniformed employees are required to conduct themselves appropriately both on duty and off duty. (See Faust v. Police CSC of Borough of State College, 347 A.2d 765 (Cmwlth. Ct. 1975).
- b. As required by Borough Code §1190 (53 P.S. § 46190), no police officer or fire apparatus operator, who has been accorded a Loudermill hearing, except in circumstances where the Loudermill requirement that a hearing occur before the imposition of discipline is not applicable, shall be suspended, removed or reduced in rank except for the following reasons:
 - (1) Physical or mental disability affecting his ability to continue in service, in which cases, the person shall receive an honorable discharge from service.

- (2) Neglect or violation of any official duty.
- (3) Violation of any law which provided that such violation constitutes a misdemeanor or felony.
- (4) Inefficiency, neglect, intemperance, immorality, disobedience of orders, or conduct unbecoming an officer. In Zeber Appeal, 156 A.2d 821 (1959), the Supreme Court defined "(u)nbecoming conduct on the part of a municipal employee, especially a policeman or fireman, is any conduct which adversely affects the morale or efficiency of the bureau to which he is assigned. ...Unbecoming conduct is also any conduct which has a tendency to destroy public respect for municipal employees and confidence in the operation of municipal services. ...It is sufficient that the complained of conduct and its attending circumstances be such as to offend publicly accepted standards of decency."
- (5) Intoxication while on duty.
- (6) Engaging or participating in conducting any political or election campaign other than to exercise his own right of suffrage. (See Naccarati v. Wilkins Township, 846 F. Supp. 405 (W.D. Pa. 1993).

1602. Procedure

a. The standard first step in removing, suspending or reducing in rank a Borough police officer or fire apparatus operator, unless there are exceptional circumstances, shall be the utilization of a Loudermill hearing.

b. Borough Council may, subject to the civil service provisions of the Borough Code, and these Rules and Regulations remove, suspend, or reduce in rank Borough police officers and fire apparatus operators. See Borough Code §1121 (53 P.S. § 46121).

c. In addition to the powers of Borough Council to suspend police officers or fire apparatus operators, the Mayor may, for cause and without pay, suspend any police officer or fire apparatus operator until the succeeding regular meeting of the Council, at which time or thereafter, the Council may, subject to the civil service provisions of the Borough Code, or to these Rules and Regulations, suspend, discharge, reduce in rank or reinstate with pay, such police officers or fire apparatus operators. A police officer or fire apparatus operator suspended

by the Mayor may not be reinstated by Council at a date earlier than ten (10) working days from the date fixed by the Mayor for the suspension to commence. In any case where the Council has reinstated a police officer or fire apparatus operator, after he/she has been suspended by the Mayor, the Mayor shall not thereafter suspend such individual for reasons arising from the same act for which the first suspension was made, or for reasons that the Council, in reinstating such police officer or fire apparatus operator, shall have determined not to be grounds for suspension. See Borough Code §1124 (53 P.S. § 46124).

d. Whenever any police officer or fire apparatus operator is suspended by the Mayor, the Mayor shall provide to the officer and to Council the specific charges which the Mayor believes justifies the suspension. This specification of charges shall be in writing.

e. Whenever any police officer or fire apparatus operator is removed, suspended or reduced in rank by Council, or whenever Council upholds, in whole or in part, a suspension on such an individual imposed by the Mayor, such actions shall be taken by vote of Council. If Council, through such vote, removes, suspends, or reduces in rank a police officer or fire apparatus operator, Council shall cause the specific charges against the officer to be reduced to writing and provided to the affected employee. The charges shall be sufficiently detailed to enable the person affected to understand the charges made against him/her and, should he/she choose to do so, to answer them. Council may cause the notice of charges to be drafted, and provided to the person affected, within a reasonable period of time after its decision, but in no case more than ten (10) calendar days following Council's decision. The notice of charges shall contain the following statement: "You have the right to appeal this decision to the Borough Civil Service Commission. If you desire a hearing before the Commission, you must make a written demand for that hearing within seven (7) days of receipt of this notice. Your demand for a hearing must be addressed to the Chairperson, Dormont Civil Service Commission, 1444 Hillside Avenue, Pittsburgh, Pennsylvania 15216, and must be sent Certified or Registered Mail or delivered by personal service. Simultaneously, a copy of your

demand for a hearing before the Civil Service Commission must be sent (Certified or Registered Mail or delivered by personal service) to the Manager of Dormont Borough). The Dormont Borough Manager, upon receipt of a copy of the demand for a hearing will provide to the Civil Service Commission a copy of the charges which were served on the accused/affected officer."

1603. Pre-Hearing Procedure

The person removed, suspended or reduced in rank and who has demanded a hearing before the Commission, may, but is not required to, provide the Commission with an answer to those charges. Such person may make written answers to any charges filed against him/her not later than the date fixed for the hearing.

1604. Conduct of the Hearing

The Commission shall grant a hearing to any police officer or fire apparatus operator who has requested such a hearing and who has been suspended, removed or reduced in rank. This hearing shall be held within a period of ten (10) days from the serving of charges in writing, unless continued by the Commission for cause at the request of the Borough or the accused. At any such hearing, the person against whom the charges are made may be present in person and by Counsel. The burden of proof shall be upon the Administration of the Borough. A stenographic record of all testimony taken at such hearing shall be filed with and preserved by the Commission. The hearing shall be closed to the public, or open to the public, as desired by the accused/affected employee. In the event that the accused/affected employee requests a closed hearing the stenographic record shall be sealed and not available for public inspection in the event the charges are dismissed.

a. Notice of hearing: Notice of the date, time and place for each hearing shall be given by either personal service or by Certified or Registered Mail to each party to the hearing, or to that party's legal counsel.

b. Subpoenas: Upon the written request of any party (or legal counsel for any party), the Chairperson, or in his absence the Vice-Chairperson, shall order (subpoena) the

attendance of any witnesses or the production of any pertinent documents; provided, however, that any such request for a subpoena shall be made in writing and shall be filed with the Secretary of the Commission within five (5) calendar days after service of the notice of hearing. [In the sound discretion of the Commission, at the request of a party, the Chairperson or in his absence, the Vice-Chairperson, may issue subpoenas at any time during the course of the proceeding.]

c. All testimony shall be taken under oath. The Chairperson, or in his absence, the Vice-Chairperson, or other designated person, shall administer all oaths.

d. The parties to the hearing before the Commission shall be the Administration of the Borough (representing, as is appropriate, the Mayor, Council, the Borough Manager, the Borough Police Chief, or some combination of Borough management) and the employee affected by the removal, suspension, or reduction in rank.

e. The Civil Service Commission, and the parties, shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted. (See 2 Pa. C.S. § 554).

f. During Civil Service hearings on matters relating to removal, suspension, or reduction in rank of a police officer or fire apparatus operator, the Commission shall be represented by legal counsel who may not be the Borough Solicitor or any attorney working in the office of the Borough Solicitor. This legal counsel shall function as the hearing officer for the Commission and shall control, while advising and consulting with the Commission, the course of the hearing. This legal counsel shall, again consulting with the Commission, make rulings on objections and questions of evidence. These rulings shall be part of the stenographic record of the proceeding.

g. After the parties, either directly or through legal counsel, have concluded their examination of a witness Commission members may, after consulting with other

Commission members and Commission legal counsel in Executive Session, and through the Commission's legal counsel, make additional inquiries to a witness. Following those additional inquiries, the parties may, or their legal counsel may, re-engage in examination/cross-examination of the relevant witness.

h. In addition to the right to be represented by legal counsel, the parties shall have the right to request that the Commission issue subpoenas to compel the attendance of witnesses and the production of evidence. The affected/accused employee shall have the right to remain silent. All parties shall have the right to present testimony, to examine witnesses and cross-examine witnesses of the other party, and to offer documentary or other non-oral evidence which meets the appropriate standards of relevancy. (The parties should note that important concepts applicable in a criminal law setting are not applicable before the Commission. For example, the burden of proof which the Administration is required to meet is "preponderance of the evidence", and not "proof beyond a reasonable doubt".

i. The hearing shall be conducted as follows:

- (1) The Chairperson, or in his absence, the Vice-Chairperson, shall call the hearing to order, state the general purpose of the hearing, note the presence of the parties, and cause the record to reflect whether the affected/accused employee desires the hearing to be open or closed. He/she shall then introduce the Commission's legal counsel as the individual who will rule on questions of evidence and on objections, and who shall direct the course of the proceeding.
- (2) The notice of charges, and any answer thereto, shall be made part of the official record.
- (3) Any preliminary matters, whether substantive or procedural, shall be raised by motion and resolved. This would include the question of whether witnesses are to be sequestered. Witnesses may collectively, or individually, be put under oath as is determined to be the most appropriate procedure by the Commission's legal counsel.
- (4) The Administration of the Borough shall be given the right to make an opening statement.

- (5) The affected/accused employee may respond, immediately following the opening statement of the Administration, or may defer his/her opening statement until the conclusion of the Administration's case and the beginning of his/her own case.
- (6) The Administration shall present its case in chief.
- (7) The affected/accused employee may move for dismissal of the charges and the discipline at the conclusion of the Administration's case. The Commission, upon consulting with its legal counsel, shall rule on such motion.
- (8) In the event that no motion to dismiss is made by the affected/accused employee, or such motion is not granted, either in whole or in part, the affected/accused employee will be given an opportunity to make an opening statement if he/she has not already done so.
- (9) The affected/accused employee will then be given the opportunity to present his/her witnesses and evidence, if any.
- (10) The Commission may choose to receive, or choose not to receive, closing statements. If the Commission chooses to receive closing statements, then the affected/accused employee shall argue first, followed by the party which has the burden of proof, the Administration of the Borough.
- (11) During the course of the hearing, all parties shall have the right of cross-examination at the conclusion of the testimony of direct examination. Redirect examination and recross-examination shall be permitted.
- (12) At the conclusion of testimony and the receipt of non-documentary evidence, and after the conclusion of closing statements if they are permitted by the Commission, the Commission shall require the parties to provide it with a proposed adjudication. The proposed adjudication shall be due thirty (30) days after the completed transcripts of the hearing(s) become available to the parties. The form of these proposed adjudications shall be: proposed findings of fact; proposed conclusions of law; discussion; proposed order. Utilization of these proposed adjudications may be dispensed with if this is agreed to by both parties and the Commission.

1605. Decision of the Commission

Within thirty (30) days after receipt of the proposed adjudications (or within thirty (30) days after receipt of the completed transcript(s) if no proposed adjudications are used) the Commission shall issue its decision in the form of a written adjudication. That written

adjudication, to become official, must be adopted by majority vote of the Commission in a public meeting, appropriately advertised pursuant to the Sunshine Law. The adjudication shall be in writing and shall be in the form: findings of fact; conclusions of law; discussion; order. The only aspect of the adjudication which shall be publicly read, and provided to the public, unless the affected/accused employee has requested an open hearing, shall be the "order" section. If resolving the charges involves the making of credibility determinations, then the adjudication shall specify the resolution of those credibility determinations. Necessary findings of fact should be supported by substantial evidence of record. Absent evidence of arbitrary or discriminatory conduct, or an abuse of discretion, the Commission has no authority to modify the penalties imposed by Borough officials where the charges brought against the affected/accused officer are found by the Commission to be supported by the evidence and where the penalties imposed are not otherwise prohibited. (See Jenkintown v. Civil Service Commission of Jenkintown, 478 A.2d 941 (Pa. Cmwlth. 1984). A copy of the written adjudication shall be supplied by Registered or Certified Mail, or by personal delivery, to the parties.

If the charges against the affected/accused employee are upheld, either in whole or in part, so that the individual remains subject to some level of suspension, or removal or reduction in rank, the letter covering the adjudication shall note to that individual his/her right of appeal to the Court of Common Pleas of Allegheny County pursuant to 53 P.S. § 46191. That individual shall also be informed that the time for appeal begins running with receipt of the Commission's adjudication, and that to be timely, any such appeal must be perfected within sixty (60) days from the date of entry by the Commission of its final order. In the event that the Commission shall sustain or order a suspension of an employee, that order of suspension shall not be for any period longer than one (1) year.

ARTICLE XVII. INSPECTION OF RECORDS

1701. Inspection in General

Except as otherwise provided in these Rules and Regulations and by law, those records of the Commission qualifying as public records shall be open to the public and available for inspection during normal business hours. A member of the Commission, or any person who may, from time to time, be designated by the Commission, shall be present at all times during any inspection of any records of the Commission.

1702. Inspection of Personnel Files

The Borough Manager shall, at reasonable times, upon request of an employee, permit that employee or an agent designated by the employee to inspect his or her own personnel files used to determine or store information regarding his or her own qualifications for employment, promotion, additional compensation, termination or disciplinary action. The Borough Manager shall make these records available during the regular business hours of the office where these records are usually and ordinarily maintained, when sufficient time is available during the course of a regular business day, to inspect the personnel files in question. The Borough Manager may require the requesting employee or the agent designated by the employee to inspect such records on the free time of the employee or agent. At the Borough Manager's discretion, the employee may be required to file a written form to request access to the personnel file or files or to indicate a designation of agency for the purpose of file access and inspection. This form is solely for the purpose of identifying the requesting individual or the designated agent of the requesting individual to avoid disclosure to ineligible individuals. To assist the Borough Manager in providing the correct records to meet the employee's need, the employee shall indicate in his/her written request, either the purpose for which the inspection is requested, or the particular parts of his/her personnel record which he/she wishes to inspect or have inspected by the employee's agent.

1703. Inspection of Examination Material

All Commission examination materials shall be confidential and shall not be open to general public inspection. Any examined applicant may inspect his examination papers, provided that:

- a. He makes a written request to the Commission within seven (7) calendar days from the date the written examination scores were posted, and
- b. He receives the written consent of the Commission to inspect his examination file. and
- c. He makes his inspection within five (5) calendar days from the date of the mailing of the consent of the Commission.

Before any member of the Commission, or any person designated by the Commission, permits any inspection of examination files, he shall require consent of the Commission and he shall limit the inspection by the examined applicant to only those examination files indicated in the letter of consent. No examined applicant shall be permitted to inspect any examination file other than his own.

ARTICLE XVIII. MISCELLANEOUS PROVISIONS

1801. When Examinations Given

The Civil Service Commission shall conduct an examination for police officer or fire apparatus operator upon the list being exhausted or upon request from Council. The Commission must honor such a request unless the life of the current eligible list has been extended, for up to an additional twelve (12) months at the sole discretion of the Commission by a vote of the majority of the Commission at a duly authorized Commission meeting.

The foregoing Rules and Regulations, promulgated under the provisions of the Civil Service laws of the Commonwealth of Pennsylvania, 53 Purdon's Statutes §46176, are hereby adopted by the Civil Service Commission of the Borough of Dormont, subject to the approval of

the Council of the Borough of Dormont, this 24th day of MAY, 2000.

Ronald R. Mitzel, Sr.
CHAIRMAN

Stone M. Veir
VICE-CHAIRMAN

Mary M. Cochran
SECRETARY

Approved by Council of the
Borough of Dormont on the
25th day of MAY, 2000.

Richard D. Smith
President, Council

ATTEST:

Deborah J. Ghas
Borough Secretary





