



# Civil Service Rules of Forty Fort Borough

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REV: 2015.04.30

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## Section 1. Definition of Terms

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

**1.1 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.

**1.2 Appointing Authority:** The Borough Council of the Borough of Forty Fort, Luzerne County, Pennsylvania

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

**1.4 Chairperson:** The Chairperson of the Civil Service Commission of the Borough of Forty Fort, Pennsylvania.

**1.5 Commission:** The Civil Service Commission of the Borough of Forty Fort, Pennsylvania.

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

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

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

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

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

### **1.11 Gender**

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

### **1.12 M.P.O.E.T.C.**

The Municipal Police Officer Education and Training Commission of Pennsylvania.

**1.13 Patrol Officer:** For purposes of these Rules, an entry level sworn full-time position in the police department.

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

**1.15 Reduction in Rank:** A change to a different position or rank where the employee fulfilled all of the requirements of these Rules for both the prior and current position or rank. However, a decrease in salary without a change to a different position or rank shall not necessarily constitute a reduction in rank.

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

**1.17 Secretary:** The Secretary of the Civil Service Commission of the Borough of Forty Fort, Pennsylvania.

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

## Section 2. The Commission

### 2.1 Civil Service Commission

- 1) **Membership and terms** - The commission shall consist of three commissioners who shall be qualified electors of the Borough and shall be appointed by the Borough Council initially to serve for the terms of two, four and six years, and as terms thereafter expire shall be appointed for terms of six years
- 2) **Vacancies** - Any vacancy occurring in the commission for any reason whatsoever shall be filled by the Borough Council for the unexpired term within the period of thirty (30) days after such vacancy occurs.
- 3) **Alternate members** - Council may appoint no more than three (3) qualified electors to serve as alternates on the Commission. The term of office of the alternate members shall be six years.
  - a) If seated under section 2.3 (relating to organization of commission), an alternate shall be entitled to participate in all proceedings and discussions of the commission to the same and full extent as provided by law for commission members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties specified in this part and as otherwise provided by law.

- b) An alternate member may not hold another office in the borough. An alternate may participate in any proceeding or discussion of the commission but may not vote as a member of the commission unless designated as a voting alternate member under section 2.3.
  - c) Each member of the commission, before entering upon the discharge of the duties of their office, shall take an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform their official duties with fidelity.
- 4) **Oath or Affirmation of Office** - Each member of the commission, before entering upon the discharge of the duties of office, shall take an oath or affirmation of office under 53 Pa.C.S. § 1141 (relating to form of oaths of office).
  - 5) **Compensation Prohibited** - The civil service commissioners shall receive no compensation.

## 2.2 Offices Incompatible with Civil Service Commissioner

- 1) No commissioner shall at the same time hold an elective or appointed office under the Federal Government, this Commonwealth or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the Borough Council. One commissioner may be a member of the teaching profession.

## 2.3 Organization of Commission; Quorum

- 1) **General Rule** - The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as its chairperson and one as its secretary, and one as its vice-chairman. The commission shall thereafter meet and organize on the first Monday of each even-numbered year or in the event of a resignation of a commission member or members.
- 2) **Quorum** – Three (3) members of the commission shall constitute a quorum. If, by reason of absence or disqualification of a member, a quorum is not reached, the chair shall designate as many alternate members of the commission to sit on the commission as may be needed to provide a quorum.
- 3) **Alternate Members** -
  - a) An alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially designated until the commission has made a final determination of the matter or case.
  - b) Designation of an alternate member under this section shall be made on a case-by-case basis in rotation according to declining seniority among the

alternates.

- 4) **Validity of Commission Action** - No action of the commission may be valid unless it shall have the concurrence of at least two members.

## **2.4 Duties of Chairperson**

- 1) The chairperson, or in his absence, the vice-chairperson, shall preside at all meetings and hearings of the commission, decide all points of order or procedure and perform any duties required by law or these Rules.

## **2.5 Duties of Secretary**

- 1) The secretary shall carry on at the direction of the commission all official correspondence of the commission, send out all notices required by law and these Rules, keep a record of each examination or other official action of the commission, and perform all other duties required by law or these Rules.

## **2.6 Meetings**

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

## **2.7 Clerks and Supplies and Solicitor - The borough shall:**

- 1) Furnish to the commission, on its requisition, clerical assistance that may be necessary for the work of the commission.
- 2) Provide a suitable and convenient room for the use of the commission. The commission shall order from the borough the necessary stationery, postage, printing and supplies.
- 3) Provide the services of a solicitor for the commission to be appointed by the commission and paid by the borough. The borough may place a reasonable limit on the amount allowed each year for the services of the commission solicitor.
- 4) Through its elected and appointed officials, aid the commission in all proper ways in carrying out the provisions of this subchapter relating to civil service.

## **2.8 Amendment of Rules**

- 1) **General Rule** – At a duly convened meeting, the commission may prescribe, amend and enforce rules and regulations for carrying into effect this subchapter

and shall be governed by the rules and regulations. Before the effective date of the rules and regulations or amendments to them, they shall be first approved by council. If the rules and regulations or amendments have been approved, they shall not be annulled, amended or added to without the approval of council.

- 2) **Public Distribution and Inspection** - All rules and regulations and modifications shall be made available by the borough for public distribution or inspection.

## 2.9 Minutes and Records

- 1) The commission shall maintain minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five years, and all records and all written causes of removal filed with the commission, except as otherwise provided in section 6.3 (relating to hearings on dismissals and reductions), shall be open to public inspection and subject to reasonable regulation.

## 2.10 Investigations

- 1) The commission may conduct investigations concerning all matters touching the administration and enforcement of this subchapter and rules and regulations adopted under this subchapter. The chair of the commission may administer oaths and affirmations in connection with the investigations.

## 2.11 Subpoenas

- 1) **General Rule** - The commission may issue subpoenas over the signature of the chair to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the commission.
- 2) **Persons Required to Attend** - All officers in public service and employees shall attend and testify if required to do so by the commission.
- 3) **Penalty for Violation** - If any person refuses or neglects to obey a subpoena issued by the commission, the person shall, upon conviction, be sentenced to pay a fine not to exceed \$100 and, in default of the payment of the fine and costs, shall be imprisoned for a term not to exceed 30 days.
- 4) **Petition to Court** - If a person refuses or neglects to obey a subpoena issued by the commission, the commission may apply by petition to the court of common pleas of the county for its subpoena requiring the attendance of the person before the commission or the court to testify and to produce any records and papers necessary, and, if the person defaults, the person shall be held in contempt of court.



## **2.12 Annual Report**

- 1) The commission shall make an annual report to the council containing a brief summary of its work during the year which shall be available for public inspection.

# Section 3. Applications and Qualifications

## **3.1 Eligibility for Examination**

- 1) In order to be eligible for participation in any examination for any position with the police department, every applicant must submit a completed application form to the commission before the deadline stated by the commission for that specific examination. The applicant must make an oath or affirmation that the application is completed truthfully, and the applicant is subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

## **3.2 Discrimination**

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

## **3.3 Availability**

- 1) Application forms shall be available to all interested persons in the office of the Borough Manager or downloaded from the Borough Website ([www.fortyfort.org](http://www.fortyfort.org)), and from such other offices and officers that the commission, from time to time, may choose to designate. Application forms may be mailed upon written or telephone request. However, the commission assumes no responsibility for missed filing deadlines due to a delay in the mail.
- 2) Application for examination:
  - a) A person who desires to apply for examination must file with the commission a formal application in which the applicant shall provide, under oath or affirmation, the following information:
    - i) Full name and residence or post office address.
    - ii) Citizenship and place and date of birth.
    - iii) Condition of health and physical capacity for public service.
    - iv) Business or employment and the applicant's residence for the past five years.
    - v) Other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which the applicant is being examined.

### **3.4 Age and Residency Requirements**

- 1) All applicants must have reached their twenty first (21<sup>st</sup>) birthday before the deadline for submitting completed applications. Applicants must move within ten (10) air miles of any boundary of Forty Fort Borough within six (6) months of completing their probationary period.

### **3.5 General Qualifications — All Applicants**

- 1) Every applicant for any position in the police department shall possess a diploma from an accredited high school or a graduate equivalency diploma. In addition, every applicant must:
  - a) Be a United States Citizen. Be physically and mentally fit to perform the full duties of a police officer.
  - b) Prior to appointment, possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania.
  - c) Have completed Act 120 training and be current with training updates to within twelve (12) months of the application deadline.

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

- 1) In addition to meeting the qualifications in Section 3.5 above, all applicants for a promotional position, except chief, shall have not been suspended without pay for more than five (5) days in the three (3) years prior to the deadline for submitting applications. Any suspension to which the applicant has timely appealed pursuant to a contractual grievance procedure or these Rules shall be disregarded unless the appeal is resolved prior to the creation of the eligibility list.
- 2) All applicants shall have continuous prior service with the police department of Forty Fort as follows:
  - a) an applicant for the position of Corporal shall have at least two (2) years of service with the Forty Fort Police Department;
  - b) an applicant for the position of Sergeant shall have at least three (3) years of service with the Forty Fort Police Department;
  - c) an applicant for the position of Lieutenant shall have at least five (5) years of service with the department; and
  - d) an applicant for the position of Captain and Assistant Chief shall have at least ten (10) years of service with the Forty Fort Police Department.

### **3.7 Rejection of Applicant**

1) General rule.--The commission may refuse to examine or, if examined, may refuse to certify after examination as eligible any applicant who:

- a) 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 the applicant has applied;
- b) is physically unfit for the performance of the duties of the position to which the applicant seeks employment;
- c) is illegally using a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802);
- d) has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct;
- e) has been dismissed from public service for delinquency or misconduct of office; or
- f) is affiliated with any group whose policies or activities are subversive to the form of government enumerated in the Constitutions and laws of the United States and this Commonwealth.

2) Hearing requirements.

- a) If an applicant is aggrieved by the refusal of the commission to certify the applicant as eligible after examination or a person is aggrieved by refusal of the commission to examine the person, the commission shall, at the request of the applicant or person aggrieved, within ten days, appoint a time and place for a public hearing.
- b) At the hearing, the applicant or person aggrieved may appear with or without counsel, and the commission shall take testimony and review its refusal to provide examination or certification.
- c) The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session.
- d) The commission's disposition of the matter shall constitute official action which shall occur at a public meeting held under 65 Pa.C.S. Ch. 7 (relating to open meetings).
- e) The decision of the commission shall be final.

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

- 1) Applications for positions in the police department shall be received at the Borough building only after a hiring or promotional test has been properly advertised and before the deadline for receiving applications which must be set forth in the public advertisement. Applications will be received by the municipal officer designated in the public advertisement or that officer's designee. That person shall record the receipt of all applications and provide each applicant with notice of the time and place for the first portion of the testing procedure, the written examination. Any application containing material errors or omissions may, at the discretion of the commission, be returned to the applicant for correction prior to the deadline for filing applications, after which no new applications or amended applications will be accepted.

### **3.9 Public Notice**

- 1) Public notice of the time and place of every examination, together with the information as to the kind of position to be filled, shall be given by publication once in a newspaper of general circulation, at least two weeks prior to each examination, and a copy of the notice shall be prominently posted in the office of the commission or other public place.
- 2) Posting of Eligibility List:
  - a. The commission shall post in its office the eligibility list containing the names and grades of those who have passed the examination.

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

### **4.1 General Examination Requirements for the Position of Patrol Officer**

- 1) The examination for patrol officer will consist of a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing seventy percent (70%) of the final score and the oral examination representing thirty percent (30%) of the final score. In addition, each applicant will undergo a physical agility test, and a background investigation. These tests and investigation will be graded on a pass/fail basis for every applicant. After an applicant has been extended a conditional offer of employment, final appointment shall be contingent upon the applicant passing a medical and psychological examination.

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

- 1) The examination for the positions of [CORPORAL, SERGEANT, LIEUTENANT AND CAPTAIN] shall include a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing seventy percent (70%) of the final score and the oral examination representing thirty percent (30%) of the final score.

## **4.3 Appointment of Examiners**

- 1) The commission shall appoint a written examination administrator, an oral examination administrator, a physical agility examiner.

## **4.4 Oral Examination**

- 1) Every applicant who scored seventy percent (70%) or higher in the written examination, shall be given an oral examination that will be graded on a 100 point scale with a score of seventy percent (70%) or higher necessary for passing. The oral examination shall involve questioning applicants on how they would handle situations relevant to police work. Within thirty (30) days after the applicants' oral examination, they shall be informed of their oral examination and total overall scores, and each passing applicant shall be informed of the next step in the examination process.

## **4.5 Veterans' Preference Points**

- 1) Pursuant to the Veterans' Preference Act, any applicant for the position of patrol officer who qualifies as a "soldier" under this Act shall receive an additional ten (10) points on top of their total score if that applicant had received passing scores under Sections 4.1 and 4.4. Any applicant claiming veterans' preference is responsible for providing any and all relevant documents to the commission.

## **4.6 Physical Agility Testing**

- 1) An applicant for the position of police officer must meet the following requirements:
  - a) Quarter Mile Run. An applicant is required to run a distance of one-quarter mile on a premeasured course then immediately read aloud a complete description of a wanted person in an intelligible manner. Time limit on the run is 110 seconds and the intelligible simulated radio broadcast immediately after the run. Failure to complete the run within 110 seconds with an intelligible radio broadcast will prohibit the applicant from proceeding to the next phase of the Agility Test and the applicant will be ineligible to proceed beyond this point in the selection process.

## 2) Obstacle Course.

- a) Run 40 yards and step through the center of each of nine (9) tires
- b) Run 20 yards and traverse a standard 2"x12"x15' plank, 3' above the ground
- c) Run 8 yards and surmount a wooden obstacle
- d) Run 6 yards and step over 3 railroad ties
- e) Run 5 yards and crawl under a fence
- f) Run 5 yards and enter a building, exit by a side window
- g) Run 8 yards, surmount a 4' high wooden obstacle
- h) Run 8 yards and climb through a window
- i) Run 15 yards and surmount a 5 foot high barrier in any possible manner without the aid of any equipment or personnel
- j) Run 10 yards and drag a 180 LB mannequin 40 feet

### **JOB DUTIES SIMULATED BY PHYSICAL AGILITY TEST OBSTACLE COURSE**

- 1) Fence surmount and short wall – simulates the average back yard fence, loading dock, stairway rail and other similar obstacles
- 2) High wall surmount (5') – simulates the back yard fence, a low roof and a high window.
- 3) Window climb & window exit – simulates entry or exit through a window
- 4) Crawl – simulates moving under porches or other confined space
- 5) Balance beam – simulates crossing over a catwalk, pipe or tree
- 6) Weight drag – simulates having to drag or move an unconscious person from danger
- 7) Tire run and railroad ties – simulates agility necessary to dodge obstacles and obstructions

### **4.7 Background Investigation**

- 1) The commission shall request the chief of police or the chief's designee to conduct a background investigation on each applicant whose name appears on the certified list of names proposed to be submitted to Council. The background investigation, at a minimum, shall consist of: Interviews with the applicant's acquaintances, current and former employers and references.
  - a) A criminal history check, including the submission of fingerprints to the Central Repository for the Commonwealth of Pennsylvania and the Federal Bureau of Investigation.

- b) The applicant's driving record for verification that he possesses a valid driver's license.
  - c) The applicant may be interviewed directly when the information collected during the background investigation requires clarification or explanation.
  - d) If necessary to complete a thorough background investigation on any applicant, the commission may, upon the request of the chief of police or his designee, subpoena the personnel records maintained by any other police department(s) by which the applicant was previously employed.
- 2) 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. Appropriateness of the applicant shall be based on the criteria set forth in Section 3.5 of these Rules. This recommendation shall be in writing and, if the recommendation is to disqualify, then a written explanation of the reasons for disqualification must be included. The commission shall make the final determination on whether the information collected during the background investigation warrants rejection of the candidate. Within thirty (30) days after the commission considers the recommendation of the chief of police or designee, each applicant will be informed of whether they have passed the background investigation.

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

### 5.1 Creation of Eligibility List

- 1) At the completion of the examination requirements set forth in Section 4, written examination, oral examination, background investigation and physical agility test, the commission shall rank all passing applicants on a list with the applicant receiving the highest score at the top of the list and the applicant receiving the lowest passing score at the bottom of the list.
- 2) Applicants for patrol officer who qualify for veterans' preference points shall have those points added to their passing score prior to being ranked on the eligibility list.
- 3) For promotional positions, fulfilling the performance requirement set forth in Section 3.6 is also required.

- 4) In the case of tied scores, the tie will be broken by giving preference to the applicant who submitted a final completed application first. If both tied applicants submitted their complete applications on the same day, then the applicants shall be ranked in alphabetical order by surname.
- 5) The eligibility list will be valid for one year from the date the commission ranks all passing applicants, assigns veterans' preference points and formally adopts the eligibility list. The commission may, at its sole discretion, before the original expiration date, by a vote of the majority of the commission at a duly authorized commission meeting, extend the list for up to an additional twelve (12) months. The commission may, at its sole discretion, void an eligibility list at any time for any reason.

## **5.2 Appointment**

- 1) The Forty Fort Borough Council may fill any vacancy in an existing position in the police department that occurs as a result of expansion of the police force, retirement, resignation, disability or death by the reappointment or reinstatement of a former employee of the police department who had been furloughed and previously complied with the provisions of the civil service requirements. Except for medical and psychological examinations, no other testing shall be required for a furloughed employee or a rehired or reappointed employee, subject to any recertification requirements prescribed by the Municipal Police Officers' Education and Training Commission.
- 2) If no furlough list exists or if positions remain to be filled after all of the officers on the furlough list were offered reemployment, every position, except that of chief of police, shall be filled only in the following manner:
  - a) The council shall notify the commission of any vacancy which is to be filled and shall request the certification of an eligibility list.
  - b) The commission shall certify for each existing vacancy from the eligibility list the names of the three persons or a lesser number, if three are not available, who have received the highest average.
  - c) The council shall make a conditional appointment from the three names certified, based solely on the merits and fitness of the candidates, unless council makes objections to the commission regarding one or more of the certified persons for any of the reasons stated in section 5.2 (relating to rejection of applicant and hearing).
  - d) If the objections are sustained by the commission as provided in section 1183 or the conditional appointee is determined to be unqualified in accordance with the procedures specified in section 1189, the commission shall strike the name of the person from the eligibility list and certify the next highest name for each name stricken from the eligibility list.

- e) As each subsequent vacancy occurs in the same or another position, the same procedure shall be followed.

### 3) Vacancies in Existing Positions.

- a) Any vacancy in an existing position in the police force which occurs as a result of retirement, resignation, disability or death may be filled by council by the reappointment or reinstatement of a former employee of the police force who had previously complied with this section.
- b) No examination, other than a physical examination as directed by the civil service commission, shall be required in any case of reappointment or reinstatement.

## 5.3 Appointment of Chief of Police

- 1) In the case of a vacancy in the office of chief of police, the appointing authority has full discretion in selecting the individual to fill the position of chief of police. If the Borough Council requests the commission to subject that person to a noncompetitive examination, and if that person successfully passes the noncompetitive examination, then the commission shall notify the Borough Council of the results of the examination. If, after receiving notice from the commission that the candidate for chief is qualified, the Borough Council votes to bestow civil service status on that person, he may only be removed from the position of chief of police for the reasons set forth in Section 6.1.

## 5.4 Medical and Psychological Examinations

- 1) After the Borough Council selects a candidate from the certified list of three for appointment to the vacant position, that candidate shall submit to a medical examination and a psychological examination by the appropriate medical experts. If the candidate successfully passes the medical and psychological examinations, then that individual shall be appointed to the vacant position in the police department for which the application was submitted. The appointment shall be contingent upon successfully passing both the medical and psychological examinations. The failure to pass either examination shall result in the candidate being rejected from consideration. The rejected candidate may appeal this decision under Section 3.9. The commission shall then certify another name to be included with the two previously certified names for consideration by the appointing authority pursuant to Section 5.2.

## 5.5 Probationary Period

- 1) Every successful applicant to the position of patrol officer or to a promotional position with the police department shall serve a twelve (12) month probationary period. For newly hired patrol officers, the one (1) year probationary period shall not commence until after the officer has received a certification number valid from Forty Fort Borough from the M.P.O.E.T.C..

- 2) During the probationary period, a newly hired officer may only be dismissed for the reasons set forth in Section 6.1. A promoted officer, during probation, may be returned to a prior rank only for the reasons set forth in Section 6.1. However, at the end of the twelve (12) month probationary period, if the conduct of the probationer has not been satisfactory to the Borough, the probationer shall be notified in writing that the appointment will not be permanent. At that time, a newly hired officer's employment shall end, and a promoted officer shall return to a previous rank. Any officer who is not informed in writing that his performance has been unsatisfactory shall receive a permanent appointment to the new position. Any probationer who is notified in writing that his appointment will not be made permanent has no right of appeal under these Rules.

## **5.6 Provisional Appointments**

- 1) **General Rule** - If there are urgent reasons for the filling of a vacancy in a position in the police force and there are no names on the eligibility list for the appointment, the council may nominate a person to the commission for noncompetitive examination, and, if the nominee shall be certified by the commission as qualified after noncompetitive examination, the nominee may be appointed provisionally to fill the vacancy.
- 2) **Competitive Examination Required**
  - a) Within three weeks of the provisional appointment, the commission shall hold a competitive examination and certify an eligibility list. A regular appointment shall then be made from the name or names submitted by the commission.
  - b) Nothing in this section shall be construed to prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergencies.

# Section 6. Suspensions, Removals and Reduction in Rank

## **6.1 Grounds for Disciplinary Action**

- 1) No person appointed to a position in the police department pursuant to these Rules may be suspended without pay or removed and no person promoted in rank pursuant to these Rules may be reduced in rank except for the following reasons:
  - a) physical or mental disability affecting the officer's ability to continue in service, in which case the officer shall receive an honorable discharge from service;
  - b) neglect or violation of any official duty;

- c) Violation of any law if the violation constitutes a misdemeanor or felony;
  - d) Inefficiency, neglect, intemperance, immorality, disobedience of orders or conduct unbecoming of an officer;
  - e) intoxication while on duty; or
  - f) Engaging or participating in the conduct of a political or election campaign while on duty or in uniform or while using borough property otherwise than to exercise the person's own right of suffrage.
  - g) Engaging or participating in the conduct of a political or election campaign for an incompatible office as provided in section 1104(f) of the Borough Code (relating to appointments and incompatible offices).
- 2) No officer shall be removed for religious, racial or political reasons.
  - 3) A written statement of charges made against a person shall be furnished to the person within five days after the statement of charges is filed. The person shall have ten days from the date of receiving the notice to submit a written request for a hearing to the civil service commission under section 6.3 (relating to hearings on dismissals and reductions).

## **6.2 Furloughs**

- 1) If, for reasons of economy or other reasons, it shall be deemed necessary by any borough to reduce the number of full-time employees of the police force, the borough shall furlough the person, including a probationer, last appointed to the respective force. The removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until the reduction shall have been accomplished. In the event the police force shall again be increased, the employees furloughed shall be reinstated in the order of their seniority in the service. This subsection as to reductions in force is not applicable to a chief of police.

## **6.3 Hearings on Suspensions, Removals and Reductions in Rank**

- 1) Time of answer and hearing.--A person suspended, removed or reduced in rank may make written answers to any charges filed against the person not later than the day scheduled for the hearing. The commission shall grant the person a hearing that shall be held within a period of ten days from the filing of written charges, unless continued by the commission for cause at the request of the council or the accused. The failure of the commission to hold a hearing within ten days from the filing of the written charges shall not result in the dismissal of the charges filed.

- 2) Conduct of hearing.--At any hearing, the person against whom the charges are made may be present in person and by counsel. The council may suspend the person, without pay, pending the determination of the charges against the person, but, in the event the commission fails to uphold the charges, the person sought to be suspended, removed or reduced in rank shall be reinstated with full pay for the period during which the person was suspended, removed or reduced in rank, and no charges shall be officially recorded against the person's record. A stenographic record of all testimony taken at the hearings shall be filed with and preserved by the commission, which record shall be sealed and not be available for public inspection in the event the charges are dismissed.
- 3) Appeal.--All parties shall have an immediate right of appeal to the court of common pleas of the county, and the case shall there be determined as the court deems proper. No order of suspension made by the commission may be for a longer period than one year. The appeal shall be taken within 30 days from the date of entry by the commission of its final order and shall be by petition. Upon the appeal being taken and docketed, the court of common pleas shall schedule a day for a hearing and shall proceed to hear the appeal on the original record and additional proof or testimony as the parties concerned may desire to offer in evidence. The decision of the court affirming or revising the decision of the commission shall be final, and the employee shall be suspended, discharged, reduced in rank or reinstated in accordance with the order of court.
- 4) Proceedings.--The council and the person sought to be suspended, removed or reduced in rank shall at all times have the right to employ counsel before the commission and upon appeal to the court of common pleas. Unless the council or the person sought to be suspended, removed or reduced in rank requests that the proceedings before the commission be open to the public, the proceedings before the commission under this section shall be held in the nature of a closed executive session that shall not be open to the public. The request shall be presented to the commission before the civil service hearing commences. The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in private and shall not be subject to a request for being open to the public, the council or the person sought to be suspended, removed or reduced in rank. The commission's disposition of the disciplinary action shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).

Section 7. Resolution for Adoption of Rules

The foregoing Civil Service Rules, which are in accordance with powers granted by the civil service provisions of the Borough Code, enacted by the General Assembly of the Commonwealth of Pennsylvania and in accordance with the authority granted by the municipal governing body of Forty Fort Borough, Pennsylvania, are hereby adopted by the Civil Service Commission of the Borough, Pennsylvania on this 6<sup>th</sup>, day of July, 2015.

Robert A. Swalsh 7/09/15

Chairperson

Mark A. Mey 7/09/15

Vice-Chairperson

[Signature] 7/9/15

Secretary

Approved by the Borough of Forty Fort, Luzerne County, Pennsylvania on this 6<sup>th</sup> day of July, 2015.

ATTEST:

SIGNED:

Bonnie Arnore  
Municipal Secretary

[Signature]  
President, Forty Fort Borough Council