

DUNMORE BOROUGH

LACKAWANNA COUNTY
PENNSYLVANIA

FIRE CIVIL SERVICE RULES AND REGULATIONS

ADOPTED BY:
THE CIVIL SERVICE COMMISSION
[9/20/17 DATE]
AND
THE BOROUGH COUNCIL OF DUNMORE
[DATE]

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CHAPTER 1. DEFINITION OF TERMS.

1.1 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 fire department.

Assistant Fire Chief: A qualified Full-Time Firefighter appointed to a promotional ranking position of Fire Lieutenant, in the fire department, as specifically noted in these rules and regulations.

Borough Council: The appointing authority of the Borough of Dunmore, Lackawanna County, Pennsylvania.

Borough Manager: The Borough Manager of the Borough of Dunmore, Pennsylvania.

Certified List of Three: The submission to the appointing authority pursuant to their request for three names taken from the respective eligibility lists developed by the civil service commission.

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

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

Commissioner-(Alternate): An individual appointed by the borough council to serve as an "Alternate Member of the Civil Service Commission." Properly appointed alternate commissioners shall have all the same powers and duties as a properly appointed commissioners set forth in the Pennsylvania Borough Code and as outlined in these rules and regulations.

Commissioner-(Primary): (Optional Provision) An individual appointed by the Borough of Dunmore, Pennsylvania to serve as a "Primary Member of the Civil Service Commission."

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

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

Examinations: The series of tests given to applicants to determine their qualifications for a position in the fire department.

Fire Captain: A qualified Full-Time Firefighter appointed to a promotional ranking position of Fire Lieutenant, in the fire department, as specifically noted in these rules and regulations.

Fire Chief: The head of the fire department who may be appointed under the provisions of these civil service rules and regulations.

Firefighter: Any qualified firefighter serving in the fire department, except as specifically noted, that shall take on the same connotation as "Fire Apparatus Operator," as defined in the Pennsylvania Borough Code.

Fire Inspector: A qualified Full-Time Firefighter appointed to a promotional ranking position of Fire Inspector, in the fire department, as specifically noted in these rules and regulations.

Fire Lieutenant: A qualified Full-Time Firefighter appointed to a promotional ranking position of Fire Lieutenant, in the fire department, as specifically noted in these rules and regulations.

Furlough List: The list containing the names of persons temporarily laid off from positions in the fire department because of a reduction in the number of Full-Time Firefighters.

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

Physician: Shall have the meaning given to it in 1 Pa.C.S. § 1991 that relates to definitions.

Probationer: A Full-Time Firefighter in the fire department who has been appointed from an eligibility list, but who has not yet completed the probationary period.

Qualified Medical Professional: An individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed: as a physician assistant pursuant to the act of December 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act of 1985," or the act of October 5, 1978 (P.L.1109, No.261), known as the "Osteopathic Medical Practice Act"; or as a certified registered nurse practitioner pursuant to the act of May 22, 1951 (P.L.317, No.69), known as "The Professional Nursing Law."

Removal: The permanent separation of a Full-Time Firefighter hired under the provisions in the fire department.

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

Suspension: The temporary separation without pay of a Full-Time Firefighter from the fire department.

Vice Chairperson: The Vice Chairperson of the Civil Service Commission of the Borough of Dunmore, Pennsylvania.

1.2 Gender

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

CHAPTER 2. THE COMMISSION.

2.1 Civil Service Commission.

A civil service commission, when required by law, shall be established for a borough where a police department and/ or fire department are maintained. Where a borough maintains both, one civil service commission shall be appointed to represent both, in compliance with these civil service rules and regulation. Thus, the Borough of Dunmore will maintain separate civil service rules and regulations for the police department and the fire department, governed by one civil service commission. The following represents the civil service rules for hiring and promotion of a Full-Time Firefighter.

- a) **Commissioners (Primary).** 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.

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.

Each member of the commission created by this subdivision, before entering upon the discharge of the duties of his office, shall take an oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office). The civil service commissioners shall receive no compensation.

- b) **Commissioners (Alternate).** Borough council may appoint no more than three qualified electors of the borough to serve as alternate members of the commission. The term of office shall be six years. 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, but shall not be entitled to vote as a member of the commission unless designated as a voting alternate member, pursuant to Section 1174, of the Borough Code and outlined in *Section 2.3 b), c)*, of these civil service rules and regulations. Alternate members shall hold no other office in the borough.

2.2 Office Incompatible with Position of Commissioner.

No commissioner shall, at the same time, hold an elective or appointed office under the United States Government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the borough council and one member may be a member of the teaching profession.

2.3 Organization of Commission – Quorum.

- a) The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as its chairperson and one as its secretary. The commission shall thereafter meet and organize on the first Monday of January of each even-numbered year. Three 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.
- b) If by reason of absence or disqualification of a member, a quorum is not reached, the chairman shall designate as many alternate members of the commission to sit on the commission as may be needed to provide a quorum. Any alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially designated until the commission has made a final determination of the matter or case. Designation of an alternate shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. No action of the commission shall be valid unless it shall have the concurrence of at least two members.
- c) For purposes of hiring and promoting firefighters under these rules, each step of the hiring or promotional process requiring official action by the commission shall be considered a separate “matter or case” under Subsection (b), above, and each step of the hiring or promotional process need not be voted upon or approved by the same composition of commissioners or alternate commissioners, as the case may be, provided that the quorum requirement has been satisfied.

2.4 Duties of Chairperson.

The chairperson, or in his or her absence, the vice chairperson, shall preside at all meetings and hearings of the commission, decide all points of order or procedure and perform all duties required by law including these rules and regulations.

2.5 Duties of the Vice Chairperson.

The vice chairperson shall act in the absence of the chairperson in carrying out the duties of the chairperson and perform all duties required by law including these rules and regulations.

2.6 Duties of the Secretary.

The secretary, under the direction of the commission, shall handle all official correspondence of the commission, including the recording of votes cast by the commissioners, send out all notices required by law including these rules and regulations, keeping a record of each examination or other official action of the commission, and perform all other duties required by

law including these rules and regulations. The borough manager shall be available to assist the secretary when reasonably requested by the commission.

2.7 Meetings.

Except for the biennial organizational 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 and regulations. Each commissioner shall be notified in writing of each and every meeting. In all cases regarding meetings, including scheduling, the board shall follow the provisions provided for pursuant to 65 Pa.C.S. Ch. 7, as amended and commonly known as the "Sunshine Law. The order of business for all meetings shall be as follows:

- a) Roll Call
- b) Public Comments (Agenda Items)
- c) Approval of Previous Meeting's Minutes
- d) Communications and Reports
- e) Unfinished Business
- f) Hearing of Cases
- g) New Business
- h) Public Comments (General)
- i) Adjourn

2.8 Clerical Assistance, Supplies, Solicitor, etc.

The borough shall furnish to the commission, on its requisition, clerical assistance that may be necessary for the work of the commission. The borough shall 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. The borough shall also provide the services of a solicitor for the commission to be appointed by the commission and paid by the borough. The borough shall have the authority to place a reasonable limit on the amount allowed each year for the services of the commission solicitor. The elected and appointed officials of the borough shall aid the commission in all proper ways in carrying out the provisions of this subdivision relating to civil service.

2.9 Appointment of Examiners.

The commission shall appoint experienced written examination, oral examination administrators and physical agility examination administrators to conduct appropriate examinations required by these rules and regulations. The borough council shall have the responsibility to appoint the physical and psychological examiner, as outlined in *Section 3.20*, of these rules and regulations.

2.10 Amendment of Rules & Regulations.

The commission may amend, revise, void or replace these rules and regulations for any reason by action of a majority of the commission. Before any changes to these rules and regulations become effective, those changes must be approved by the borough council. These rules and regulations, and any amendments thereto, once approved, by the borough council, shall be made available to the public for distribution or inspection, as amended.

2.11 Minutes and Records.

The commission shall keep minutes of its proceedings and records of examinations and other official action. All records of the commission shall be preserved and disposed of according to the Retention and Disposition Schedule for Records of Pennsylvania Municipalities issued by the Local Government Records Committee under the authority of the Municipal Records Act of 1968, P.L. 961, No. 428, 53 P.S. 9001, as amended.

Any and all records related to any disciplinary action filed with the commission shall be open to public inspection subject to reasonable regulations. The secretary shall keep minutes of the proceedings showing the vote of each member upon each question. If the member is absent or fails to vote, the secretary shall indicate that fact in the minutes.

2.12 Investigations.

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

2.13 Subpoenas.

The commission shall have the power to issue subpoenas over the signature of the chairperson, or his designee, to acquire 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 from appropriations for the incidental expense of the commission.

All personnel in public service and employees of Dunmore Borough shall attend and testify when required to do so by the commission. If any person shall refuse or neglect to obey any subpoena issued by the commission, upon conviction of such refusal or neglect in a summary proceeding, that person shall be sentenced to pay a fine not to exceed one hundred dollars (\$100.00), and in default of the payment of such fine and costs shall be imprisoned not to exceed thirty (30) days.

If any person shall refuse or neglect to obey any subpoena, the commission may apply by petition to the Court of Common Pleas of Lackawanna County, Pennsylvania, for its subpoena, requiring the attendance of such persons before the commission or the court to testify and to produce any records and papers as necessary, and in default, shall be held in "Contempt of Court."

2.14 Annual Report.

The commission shall make an annual report to the borough council containing a brief summary of its work during the year, and shall make a full accounting for any expenditure of public monies. The annual report shall be then available for public inspection.

Such report shall be provided to the borough council on or before the 31st day of January of each year. Such report shall further comply with Section 1191, of the Pennsylvania Borough Code, which provides that the report should not reference the record of any hearing on a dismissal or reduction where such charges have been dismissed as the borough code requires that such records shall be sealed.

CHAPTER 3. FULL-TIME FIREFIGHTER

A. APPLICATIONS AND QUALIFICATIONS

3.1 Eligibility for Examinations.

In order to be eligible for participation in the examination for Full-Time Firefighter with the Dunmore Borough Fire Department, every applicant must submit a completed application form to the Commission, or to other offices or agencies designated by the commission, before the deadline stated for that specific examination. The applicant must make an oath or affirmation that the application has been completed truthfully, and that the applicant is subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

3.2 Discrimination.

The Borough of Dunmore is an equal opportunity employer. It is the borough council and the commission's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, lesbian, gay, bisexual, transgender, age, veteran's status, marital status, or non job related physical or mental handicap or disability. The borough council and the commission will provide equal opportunities in employment and promotions.

3.3 Applications.

Application forms shall be available to all interested persons in the office of the borough manager or his/her designee 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.

3.4 Age Requirements

All applicants must have reached their twenty first (21) birthday before the deadline for submitting a completed application.

3.5 General Qualifications.

At the time of application every applicant for a position in the fire department shall possess the following qualifications:

- a) Possess a diploma from an accredited high school or a graduate equivalency diploma (GED).

- b) Be a United States Citizen.
- c) Be physically and mentally fit to perform the full duties of a Full-Time Firefighter for the Dunmore Borough Fire Department as determined by the physical and psychological testing.
- d) Possess a valid motor vehicle operator's license and be eligible to legally operate a motor vehicle in the Commonwealth of Pennsylvania.
- e) Be at least twenty one (21) years old.
- f) Complete Hazardous Materials Training -Operations Level or higher.
- g) Complete minimum 16 hour vehicle rescue training (PADOH or Fire Academy).
- h) Complete Essentials or Interior Firefighting: Live Fire Exercises (ELIF) or Interior Firefighting: No Live Fire Exercises (ELIF) or Bucks Basic Fire Academy or FF-1 from an accredited fire school.
- i) Possess Structural Burn Session Certificate from an accredited fire school.

3.6 Public Notice – Notification.

The commission shall conspicuously post in the Dunmore Borough Building, or other conspicuous locations, an announcement of the Full-Time Firefighter testing and set forth the time and place of every examination, together with the information as to the type of position to be filled, the requirements for that position, where applications may be obtained for the examination, and the deadline for filing those applications. For the position of Full-Time Firefighter, at least two (2) weeks prior to each examination, publication of the notice shall be placed in at least one newspaper of general circulation in the Borough of Dunmore.

The borough manager, or other designated person, shall give, in writing, to each applicant qualified for the next step in the examination process, a notice which shall include the date, time and place the applicant shall report for the next examination in the process. In the case of physical and psychological examinations, the borough manager shall notify the Full-Time Firefighter candidate who has been conditionally offered a position in the fire department by a written notice of the date, time and place of the examination as well as the name of the physical and psychological examiners.

Every such notice shall be mailed or otherwise delivered at least seven (7) days prior to the date fixed for examination. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his or her notice to the examiner before he or she shall be examined. Failure to report for an examination in accordance with the instructions contained in the written notice shall disqualify the applicant, except that in the case of a physical or psychological examinations, the physician and psychologist

designated in the notice may fix another date or time for such examination, provided, however, that any such date or time shall be written with the period of at least seven (7) days of the date and time established in the written notice.

3.7 Recording and Filing Applications.

Applications for positions of Full-Time Firefighter and required documentation shall be received at the borough office only after a Full-Time Firefighter position 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 official designated in the public advertisement or that official'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. 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.

However, if after the application period has ended, any applicant who has provided incomplete information on the application form and/or has not supplied the required documentation, will be disqualified.

Penalty for False Statement: The statements made by the applicant in the official application shall contain no falsification, omissions or concealment of material fact. Should any investigation disclose any material misstatement, falsification or concealment with respect to an application occur:

- (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 eligibility list, or
- (c) If the applicant shall have been appointed, such material misstatement, falsification or concealment shall constitute grounds for dismissal from the Dunmore Fire Department.
- (d) No person who has made a material false application shall be permitted in the future to be an applicant for any position in the Dunmore Fire Department.

3.8 Rejection of Applicant

The commission may refuse to examine, or if examined, may refuse to certify as eligible after examination any applicant who is found to lack any of the minimum qualifications for examination prescribed in these rules and regulations. In addition, the Commission may refuse to examine, or if examined, may refuse to certify any applicant who is:

- (a) Found to lack any of the minimum qualifications for examination prescribed in the rules and regulations or have furnished incomplete, inaccurate, misleading or false information on the official application or in response to any portion of the hiring process.
- (b) Physically or mentally unfit to perform the full duties of the position of which the candidate seeks employment.
- (c) Illegally using a controlled substance, as defined in section 102 of the Controlled Substance Act (Public Law 91-513, 12 U.S.C. § 802).
- (d) Guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct of office.
- (e) Affiliated with any group whose policies or activities are subversive to the forms of government set forth in the constitution and laws of the United States and the Commonwealth of Pennsylvania.

3.9 Hearing for Disqualified Applicants.

Any applicant aggrieved by refusal of the commission to examine or certify the applicant as eligible after examination, the Commission shall, at the request of the applicant, within ten (10) working days, appoint a time and place for a public hearing, which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. Section 101 et. seq., with or without counsel, at which time the commission shall take testimony and review its refusal to provide examination or certification.

The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The commission's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings). The decision of the commission shall be final.

B. EXAMINATION AND GRADING PROCEDURE

3.10 General Examination Requirements.

The examination for Full-Time Firefighter shall consist of a physical agility test, written examination, oral examination, and background investigation. The written examination and the oral examination will be graded individually on a one hundred percent (100%) scale. The written examination will represent seventy percent (70%) of the final score. The oral examination will represent thirty percent (30%) of the final score. The physical agility test and the background investigation will be graded pass/fail.

The testing process will be as follows:

- a) Physical Agility Test: Those candidates passing the physical agility test, as outlined in *Section 3.11*, will qualify to take the written examination.
Note: At the discretion of the civil service commission, the written examination may precede the physical agility testing.
- b) Written Examination: Those candidates passing the written test as outlined in *Section 3.12*, will qualify for the oral examination.
- c) Oral Examination: Those candidates passing the oral examination, as outlined in *Section 3.13*, will then be placed on the eligibility list, after those qualifying for veteran's preference points, as outlined in *Section 3.14*, have been awarded those preference points.
- d) Background Investigation: Prior to being considered for appointment on the "Certified List of Three" the applicant will undergo a complete background investigation as outlined in *Section 3.17*. Although a requirement, only a sufficient number of top scoring candidates necessary for consideration, as determined by the civil service commission, will need to have a background investigation performed.

Thus, any individual appearing on the initial eligibility list is subject to background investigation and no one will be certified as eligible on the "Certified List of Three" until they have successfully completed a background investigation and received a written recommendation that the applicant is appropriate for consideration in accordance with *Section 3.18*, of these rules and regulations.

3.11 Physical Agility Testing.

An applicant for the entry level position of firefighter shall meet the physical agility requirements, in accordance with the criteria established by the commission or other agencies designated by the commission. In all cases, the physical agility examination shall be job related and consistent with business necessity and the candidates shall be provided with the physical agility requirements prior to the time of physical agility testing. The physical agility test shall be pass/fail.

Applicants who successfully pass or fail the physical agility test will be so notified at the completion of the physical agility test or within thirty (30) days, by the commission. If the candidate passes the physical agility test, the candidate will be notified of the time and place for the next step of the hiring process, the written examination.

3.12 Written Examination.

The written examination shall be graded on a 100 point scale, and an applicant must score seventy percent 70% or higher and receives one of the top fifteen (15) highest scores or a lesser number who may have passed the written test, including ties in order to continue in the application process. Applicants scoring less than seventy percent (70%) shall be rejected. Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their test results and passing applicants shall be scheduled for an oral examination appointment.

3.13 Oral Examination.

Every applicant who scored seventy percent (70%) or higher on the written examination and received one of the top fifteen (15) highest scores or a lesser number who may have passed the written test, including ties in order to continue in the application process shall be given an oral examination. The oral examination 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 Full-Time Firefighter work. Within thirty (30) days after the applicants' oral examination, they shall be informed of the score in their oral examination and total overall score.

3.14 Veterans' Preference Points.

Pursuant to the Veterans' Preference Act, any applicant for the position of Full-Time Firefighter who qualifies as a military veteran under this Act, shall receive an additional ten (10) points on top of their final score, prior to being placed on the eligibility list, if that applicant qualifies under *Sections 3.10, 3.11, 3.12 and 3.13* of these rules and regulations. Applicants claiming veteran's preference shall have submitted satisfactory proof of service and honorable discharge therefrom, with their application.

C. ELIGIBILITY LIST AND BACKGROUND INVESTIGATION

3.15 Creation of Eligibility List.

At the completion of the examination requirements set forth in *Section 3.11, 3.12, and 3.13*, the written examination, the oral examination, and the physical agility testing, the commission shall rank all passing candidates on an eligibility list. The applicant having received the highest score shall be at the top of the list, with all other candidates being listed in descending order of their scores. Those who qualify for veteran's preference points, as outlined in *Section 3.14*, shall have those ten (10) points added to their final score prior to being ranked on the eligibility list.

In the case of tied scores, the tie will be broken by giving preference to the applicant who received the highest score on the written test. In the event the qualifying applicant received identical scores, the order of listing shall be determined by the order in which they were numbered for recording purposes as set forth in *Section 3.7*.

Any individual appearing on the eligibility list, as described above, is subject to a background investigation and no one will be certified in accordance with *Section 3.17*, of these rules and regulations until they have successfully completed these investigations and received a written recommendation that the applicant is appropriate for consideration in accordance with *Section 3.18*, of these rules and regulations.

3.16 Duration of Eligibility List.

The eligibility list for Full-Time Firefighter will be valid for a period of one (1) year from the date the commission formally adopts the eligibility list. Prior to expiration of the one year period, the commission may extend the validity of the eligibility list for up to an additional twelve months by a majority vote of the commission, at a duly authorized commission meeting. In the absence of a lawful extension by the commission, the list shall expire.

3.17 Background Investigation.

The commission shall request the Chief of Police to conduct a background investigation on the top scoring eligible applicants, as determined by the civil service commission, prior to inclusion on the certified list of those eligible as set forth in *Section 3.18*, of these rules and regulations.

The background investigation must be consistent for each applicant. The applicant may be interviewed directly when the information collected requires clarification or further explanation.

After the background investigation is completed, the Chief of Police or the chief's designee, shall make a written recommendation to the commission on whether the applicant is appropriate for consideration for appointment as a Full-Time Firefighter for Dunmore Borough.

The recommendation by the Chief of Police or the chief's designee shall be based on the criteria set forth in *Section 3.8*, of these rules and regulations and on any other relevant information developed during the background investigation. This report to the commission shall be in writing and in compliance with the Americans with Disabilities Act and must not include any physical history information on a candidate. If the recommendation is to disqualify, then a detailed, written explanation of the reasons for disqualification must be included. The commission shall then make a final determination on whether additional information is required or if the information collected and reported warrants acceptance or rejection of the candidate.

Within thirty (30) days after the commission considers the recommendation based on the background investigation, each applicant shall be notified as to whether they have passed or failed this portion of the examination process.

D. APPOINTMENT PROCEDURE

3.18 Appointing Authority.

Furloughed Full-Time Firefighter shall be given first consideration for re-employment, prior to any other hiring procedure and shall be reinstated in order of their seniority as outlined in *Section 5.5*, of these rules and regulations.

- 1) Except as provided above, every initial position of Full-Time Firefighter, for employment in the fire department shall be filled only in the following manner: The appointing authority shall notify the commission of any vacancy which is to be filled and shall request certification of three names from the eligibility list.
 - 2) If three (3) names are not available, then the commission shall certify the name(s) remaining on the list.
 - 3) The appointing authority shall make an appointment from one of the three names certified, or a lesser number certified, with reference to the merits and fitness of the candidates. However, for the initial appointment to the position Full-Time Firefighter, when one of the three applicants on the certified list is a veteran, that applicant shall be selected. If there are two or more of the names on the each of the certified lists of three are veterans, the appointing authority shall have the discretion to appoint the veteran they deem most qualified.
- a) The appointing authority may object to one or more of the persons certified for the reasons set forth in *Section 3.8*, of these rules and regulations. If the candidate to whom the appointing authority objects or fails to timely exercise the rights of appeal under *Section 3.9*, or if the commission declines to uphold the appeal, the commission shall strike that name from the eligibility list and certify the next highest name for inclusion on the certified list of three candidates for each name stricken off the "Certified List of Three."

3.20 Physical and Psychological Examinations.

After the borough council selects a candidate from the certified list of three for appointment to the vacant position, that candidate shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the conditional appointee undergoing a physical and psychological medical examination and a determination that the conditional appointee is capable of performing all the essential functions of the position. Physical medical examinations shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations shall be under the direction of a psychiatrist or psychologist.

The physician or other qualified medical professional and the psychiatrist or psychologist shall be appointed by council and shall render an opinion as to whether the conditional appointee has physical or mental condition which calls into question the person's ability to perform all of the essential functions of the position for which the person was conditionally appointed. Drug testing shall be included as one component of the requirements.

The respective examiners will be given a copy of the job description and the "Essential Functions of the Job" for performing the duties of Full-Time Firefighter. The results will be certified by the examining physician(s) indicating that the candidate is physically or psychologically fit, as the case may be, to perform the duties of a Full-Time Firefighter. The examination forms shall be confidential and submitted to the appropriate borough official for disposition.

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

If, at the conclusion of the interactive discussion the borough determines that the conditional appointee is not qualified, the borough council shall give written notice to the conditional appointee and the commission.

The rejected candidate may appeal this decision under *Section 3.9*, of these rules and regulations. If the candidate fails to timely exercise the rights of appeal, or if the commission declines to uphold the appeal, the commission shall strike the name from the eligibility list and certify the next highest name for inclusion on the "Certified List of Three."

3.21 Probationary Period.

Every successful applicant for the position of Full-Time Firefighter shall serve a twelve (12) month probationary period. For newly hired Full-Time Firefighter, the probationary period will begin on the first day the new Full-Time Firefighter reports for work. During this probationary period, a newly hired Full-Time Firefighter may only be dismissed for cause for the reasons set forth in *Section*

3.8, of these rules and regulations, or because of incapacity for duty due to the use of alcohol or drugs. In addition, a probationary Full-Time Firefighter may be dismissed, if the probationary Full-Time Firefighter does not meet the requirements expectations of the position and documentation is accurately noted.

The Fire Chief shall submit a final probationary report, not less than ten (10) days nor more than fifteen (15) calendar days before the next regular meeting of the borough council, immediately preceding the end of the probationary period. Each report shall be submitted in writing to the borough council. Within five (5) calendar days after receiving a probationary report from the Fire Chief, if the conduct of the probationer has not been satisfactory to the borough council, the probationer shall be notified in writing by the borough council that the appointment will not be permanent. Following receipt of this notification by the probationer, a newly hired Full-Time Firefighter's employment shall end. Any probationer who is notified in writing by the borough council, prior to completion of the twelve month probationary period, that his appointment will not be made permanent, has no rights of appeal under these rules and regulations.

The borough manager shall notify the commission, in writing, of its decision to retain or remove the probationer of such decision within five (5) calendar days and in no event beyond the last day of the probationary period.

At the end of the twelve (12) month probationary period, if the probationer is not notified or dismissed in accordance with this section, a newly hired shall receive permanent status within the fire department.

3.21 Optional Provision.

The appointing authority of the borough may fill a vacancy in an existing position in the fire department which occurs as a result of retirement, resignation, disability or death by the reappointment or reinstatement of a former employee of the fire department who had previously complied with the civil service rules and regulations. The appointment is subject to any required Full-Time Firefighter updates and shall successfully pass a physical agility test prior to reappointment or reinstatement.

CHAPTER 4. PROMOTIONS (RANKING POSITIONS)

A. APPLICATION AND QUALIFICATION (DISCUSSION)

4.1 Eligibility for Examinations.

All applicants for a promotional ranking position, except the Fire Chief, shall not have received a formal reprimand for at least one (1) year prior to submission of the application and have not been suspended without pay at any time for the last five (5) years prior to submission of the application. Any formal written reprimand or suspension to which the applicant has timely appealed pursuant to a grievance procedure or these rules and regulations shall be disregarded unless the appeal is resolved against the applicant prior to the creation of the eligibility list.

All applicants for promotional ranking positions, except the Fire Chief, shall have had continuous prior service as Full-Time Firefighter with the Dunmore Borough Fire Department, as follows:

- a) Fire Lieutenant: An applicant for the position of Fire Lieutenant shall have at least (5) years of continuous prior service as a Full-Time Firefighter with the Dunmore Borough Fire Department.
- b) Fire Inspector: An applicant for the position of Fire Inspector shall have at least (5) years of continuous prior service as a Firefighter with the Dunmore Borough Fire Department. Any applicant for the position of fire inspector must also possess National Fire Academy or Pennsylvania State Fire Academy certification relative to fire inspection and investigation.
- c) Fire Captain: An applicant for the position of Fire Captain shall have at least (2) years of continuous prior service as a Fire Lieutenant with the Dunmore Borough Fire Department.
- d) Assistant Fire Chief: An applicant for the position of Assistant Fire Chief shall have at least (8) years of continuous prior service in a supervisory role with the Dunmore

Borough Fire Department. For the purposes of same, a "supervisory role" shall be defined as the position of Fire Lieutenant and/or Fire Captain.

4.2 Discrimination.

The Borough of Dunmore is an equal opportunity employer. It is the borough council's and the commission's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, lesbian, gay, bisexual, transgender, age, veteran's status, marital status, or non-job related physical or mental handicap or disability. The borough council and the commission will provide equal opportunities in promotions to ranking positions.

4.3 Notification.

For promotions, as listed above, at least two weeks prior to the close of the application period, publication of a notice outlining the qualifications for the position, and requesting application forms, to apply for the position, shall be conspicuously posted in the fire department and the borough office. At the discretion of the civil service commission, the commission may receive documentation from the borough of those eligible for a promotional exam and may notify them, in writing, of the notice and the deadline for filing applications. It is important that all applicants that meet the qualifications for promotion be notified, by the borough manager or other individuals designated by the commission.

The borough manager, or other designated person, shall give, in writing, to each applicant qualified for the next step in the examination process, a notice which shall include the date, time and place the applicant shall report for the next examination in the process.

Every such notice shall be mailed or otherwise delivered at least seven (7) days prior to the date fixed for examination. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his or her notice to the examiner before he or she shall be examined. Failure to report for an examination in accordance with the instructions contained in the written notice shall disqualify the applicant.

4.4 Rejection of Applicant.

The commission may refuse to examine, or, if examined, may refuse to certify as eligible after examination, any applicant who is found to lack any of the minimum qualifications for examination prescribed in these rules 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 any applicant who is:

- a) Found to have furnished incomplete, inaccurate, misleading or false information on the official application or in response to any portion of the hiring process,
- b) Physically unfit for the performance of the duties of the position of which the candidate seeks employment,
- e) Illegally using a controlled substance, as defined in section 102 of the Controlled Substance Act (Public Law 91-513, 12 U.S.C. § 802),
- d) Guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct of office,
- e) Affiliated with any group whose policies or activities are subversive to the forms of government set forth in the constitution and laws of the United States and the Commonwealth of Pennsylvania.

4.5 Hearing for Disqualified Applicants.

Any applicants for a promotional ranking positions, except the Fire Chief, who believe that they are aggrieved by the actions of the commission, in refusing to examine or to certify them as eligible after examination, may request a hearing before the commission, within ten (10) days of receiving written notice of what is perceived as the alleged error. Within ten days after such request, the commission shall designate a time and place for the hearing which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. §101, et seq., with or without counsel, at which time the commission shall take testimony and review its refusal to provide examination or certification. The deliberations of the commission, including interim rulings on evidentiary or procedural issues, may be held in the nature of a closed executive session. The commission's disposition of the matter shall constitute official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings). The decision of the commission shall be final.

B. EXAMINATION AND GRADING PROCEDURE.

4.6 General Examination Requirements.

The examinations for all promotional ranking positions in the fire department, except the Fire Chief, shall include a written examination and an oral examination, which will be graded on a one hundred (100) point scale with the written examination representing sixty percent (60%) of the final score, the oral examination representing forty percent (40%) of the final score.

4.7 Written Examination.

The written examination shall be graded on a one hundred (100) point scale. An applicant must score at least seventy percent (70%) to be eligible for the oral exam and continue in the

promotional process. Applicants who score less than seventy percent (70%) shall be disqualified. Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their examination results.

4.8 Oral Examination.

Every applicant who has satisfied all of the written examination requirements provided in *Section 4.7*, above, shall be given an oral examination. An applicant must score at least seventy percent (70%) to qualify and continue in the application process. Any applicant who scores less than seventy percent (70%) will be disqualified.

The oral examination shall involve questioning applicants on firefighting oriented issues, including how they would handle situations relevant to fire department work. Within thirty (30) days after the administration of the oral they shall be informed of the score in their oral examination and total overall score.

C. CERTIFICATION OF THE LIST OF ELIGIBLES AND APPOINTMENT

4.9 Creation of Eligibility List.

At the completion of the examination requirements set forth in *Sections 4.7, and 4.8*, 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.

In the case of tied scores, the tie will be broken by giving preference to the applicant who received the highest score on the written test. In the event the qualifying applicant received identical scores, the order of listing shall be determined by the order in which they were numbered for recording purposes.

4.10 Duration of Eligibility List.

The eligibility lists for promotional ranking positions, except the Fire Chief, will be valid for a period of one (1) year from the date the commission formally adopts the eligibility list. Prior to expiration of the one year period, the commission may extend the validity of the eligibility list for up to an additional twelve months by a majority vote of the commission, at a duly authorized commission meeting. In the absence of a lawful extension by the commission, the list shall expire.

4.11 Appointment Procedure.

- a) All promotional ranking positions in the fire department, except the Fire Chief, shall be filled only in the following manner:
 - 1) The appointing authority of the borough shall notify the commission of any vacancy which is to be filled and shall request the certification of three (3) names from the eligibility list;
 - 2) If three (3) names are not available, then the commission shall certify the name(s) remaining on the list;
 - 3) The borough council shall make an appointment from one of the three names certified with sole reference to the merits and fitness of the candidates.
- b) The borough council may object to one or more the persons certified for the reasons set forth in *Section 4.4* of these rules and regulations. If the candidate to whom the borough council objects fails to timely exercise the rights of appeal under *Section 4.5*, or if the commission declines to uphold the appeal, the commission shall strike the name of that candidate from the eligibility list and certify the next highest name for inclusion on the list of three candidates for each name stricken off.

4.12 Probationary Period.

Every successful applicant for a promotional ranking position, except the Fire Chief, shall serve a twelve (12) month probationary period. The probationary period will begin on the first day of the promotion to the respective ranking position.

A Full-Time Firefighter promoted to a promotional position, during probation, may be returned to the position from which they were promoted, for cause for the reasons set forth in *Section 5.1* of these rules and regulations, or because of incapacity for duty due to alcohol or drugs.

In addition, a probationary ranking firefighter, may be returned to his/her previous position, if the probationary promoted firefighter does not meet the requirement expectations of the position and documentation is accurately noted.

The Fire Chief shall submit a final probationary report, not less than ten (10) days nor more than fifteen (15) calendar days before the next regular meeting of the borough council, immediately preceding the end of the probationary period. Each report shall be submitted in writing to borough council. Within five (5) calendar days after receiving a probationary report from the Fire Chief, if the conduct of the probationer has not been satisfactory to the borough council, the probationer shall be notified in writing by the borough council that the appointment will not be permanent and the promoted firefighter will be returned to the previous position held, for the borough.

Any probationary Ranking Firefighter who is notified in writing by the borough council, prior to completion of the twelve month probationary period, that their appointment will not be made permanent, has no rights of appeal under these rules and regulations.

The borough manager shall notify the commission, in writing, of its decision to retain or remove the probationer of such decision within five (5) calendar days and in no event beyond the last day of the probationary period.

At the end of the twelve (12) month probationary period, if the probationer is not notified in accordance with this section, a promoted ranking firefighter shall receive permanent status in their respective promotional position.

D. FIRE CHIEF

4.1 Appointment of Fire Chief – Civil Service Appointment

In the case of a vacancy in the Office of Fire Chief, the borough council has full discretion in selecting the individual to fill the position of Fire Chief. If the borough council requests the commission to subject that person to a noncompetitive examination, and if that person shall be certified by the commission as qualified, as a result of that non-competitive examination, that person may then be appointed to the position of Fire Chief and thereafter shall only be removed from the position of Fire Chief for the reasons set forth in *Section 5.1*.

**CHAPTER 5. SUSPENSIONS, REMOVALS AND REDUCTION IN RANK –
FURLOUGHS**

5.1 Grounds for Disciplinary Action.

- a) No person appointed to a position in the fire department pursuant to these rules and regulations may be suspended without pay or removed and no person promoted in rank pursuant to these rules and regulations may be reduced in rank except for the following reasons:
 - 1) Physical or mental disability affecting the firefighter's ability to continue in service, in which case the firefighter shall receive an honorable discharge from service;
 - 2) Neglect or violation of any official duty;
 - 3) Violation of any law of this Commonwealth which provides that such violation constitutes a misdemeanor or felony;
 - 4) Inefficiency, neglect, intemperance, disobedience of orders or conduct unbecoming a firefighter;
 - 5) Intoxication while on duty; or
 - 6) Engaging or participating in conducting of any 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.
 - 7) Engaging or participating in the conduct of a political or election campaign for an incompatible office as provided in *Section 1104 (f), of the Pennsylvania Borough Code.*

- b) No firefighter shall be removed for religious, racial or political reasons. A statement of any charges made against any firefighter so employed shall be furnished to the firefighter within five (5) days after the same are filed with the commission.

5.2 Notice of Suspension, Removal or Reduction in Rank.

Whenever a firefighter is suspended, removed or reduced in rank, the specific charges warranting such actions shall be stated in writing by the borough council. The charges shall be stated clearly and in sufficient detail to enable the firefighter to understand the charges and to allow the firefighter an opportunity to respond to those charges. The charges shall specify the subsection of *Section 5.1*, which provides the basis for the disciplinary action as well as an explanation of the factual circumstances upon which the appointing authority relied in finding a violation of *Section 5.1*.

Within five days after the borough council have voted to impose the disciplinary action, a written statement of the charges shall be delivered to the firefighter either by personal service or by certified registered mail. In addition, the charges shall notify the firefighter of the right to appeal under *Section 5.3*, of these rules and regulations. A copy of the statement of charges shall also be served upon the members of the civil service commission within the same allotted time.

5.2 Hearings on Suspension, Removals or Reductions in Rank.

Any firefighter who has been suspended, removed or reduced in rank, may appeal the decision of the borough council by requesting a hearing with the Civil Service Commission. In the event a firefighter aggrieved by such a decision is entitled by a collective bargaining agreement to pursue a grievance on the matter, the firefighter must elect to pursue the matter either under the processes in place under the collective bargaining agreement or under these rules and regulations. Once an election of remedies is made, the alternate procedure is waived. When chosen, the civil service hearing process is as follows:

- a) The hearing request must be received in writing by the Secretary of the Commission at 400 South Blakely Street, Dunmore, PA 18512, requesting a hearing, within ten (10) days after the firefighter received notice of the discipline requesting a hearing. The firefighter may make written answers to any charges filed not later than the date fixed for the hearing. Failure of the firefighter to provide written answers to any of the charges shall not be deemed an admission by the firefighter. The commission shall schedule a hearing within ten days from the firefighter's written request for a hearing unless continued by the commission for cause at the request of the commission, the borough council or the firefighter. Notwithstanding this provision, the failure of the commission to hold a hearing within ten days from the filing of the charges in writing shall not result in the dismissal of the charges filed.

- b) At any hearing, the firefighter against whom the charges have been made may be present and represented by counsel, may call witnesses and present testimony and documentation in defense. The borough may also be represented by counsel, call witnesses and present evidence as is necessary to support the charges. A stenographic record of all testimony shall be taken at every hearing and preserved by the commission. In the event the charges are dismissed, the record shall be sealed and not be available for public inspection.
- c) In conducting the hearing, the commission's standard of review shall be to determine whether sufficient evidence has been presented to support the statutory reason for the disciplinary action. If the commission finds that sufficient evidence has been introduced to support the charge, the commission shall not modify the penalty imposed by the borough council unless it finds that the penalty imposed was arbitrary, discriminatory or an abuse of the board's discretion. In considering the appropriateness of the discipline, the commission shall not substitute its judgment for that of the borough council. The commission may request post hearing briefs, and shall issue a written decision containing specific findings of fact and conclusions of law within sixty (60) days of receipt of the hearing transcript.
- d) In the event that the commission fails to uphold the charges, then the firefighter shall be reinstated with full pay for the period of the suspension, removal or reduction in rank. No charges related to the suspension, removal or reduction in rank shall be officially recorded in the firefighter's official personnel records, nor may any of these charges be held against the firefighter for future merit pay raises or promotional opportunities.

5.4 Hearing Procedure.

- a) All testimony shall be given under oath administered by the chairperson, or in the absence of the chairperson, the vice chairperson. The commission shall have the power to issue subpoenas as set forth in *Section 2.13*, of these rules and regulations.
- b) Unless the council or the person sought to be suspended, removed or reduced in rank requests that the proceedings before the commission be open to the public, the proceedings before the commission pursuant to this section shall be held in the nature of a closed executive session that shall not be open to the public. Any such request shall be presented to the commission before the civil service hearing commences. The deliberations of the commission, including interim rulings on evidentiary 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 to 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).

- c) All parties concerned shall have an immediate right of appeal to the Court of Common Pleas, of Lackawanna County, and the case shall be determined as the court deems proper. No order of suspension made by the commission shall be for a longer period than one (1) year. The appeal with the Court of Common Pleas shall be taken within thirty (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 fix a day for the hearing and shall proceed to hear the appeal on the original record and additional proof of testimony as the parties concerned may desire to offer evidence. The decision of the court affirming or revising the decision of the commission shall be final, and the firefighter shall be suspended, discharged, reduced in rank or reinstated in accordance of the order of the court.

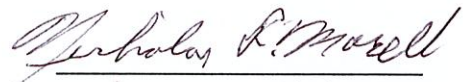
5.5 Furloughs.

If for reasons of economy or other reasons it shall be deemed necessary by any borough to reduce the number of paid firefighters, the following procedure shall be followed:

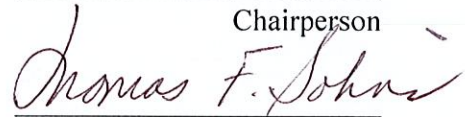
- 1) The borough shall first furlough the person or persons, including probationers, last appointed to the fire department. Such removal shall be accomplished by furloughing in numerical order, commencing with the person last appointed until such reduction shall have been accomplished.
- 2) In the event that the borough council decides to increase the size of the fire department personnel, the furloughed firefighter shall be reinstated in order of their seniority in the fire department. Employees so notified of reinstatement must accept reinstatement within thirty (30) days of receipt of such notice, otherwise such employee shall be deemed to have waived any right to reinstatement.
- 3) These reduction provisions in the fire department are not applicable to the Fire Chief.

CHAPTER 6. RESOLUTION FOR ADOPTION

The foregoing rules and regulations, which are in accordance with powers granted by the Pennsylvania Borough Code, Subchapter J, Sections 1170-1194, Act 37 of 2014 and incorporated as Title 8 of the Pennsylvania Consolidated Statutes, enacted by the General Assembly of the Commonwealth of Pennsylvania and in accordance with the authority granted by the municipal governing body of the Borough of Dunmore, Lackawanna County, Pennsylvania, are hereby adopted by the Civil Service Commission of the Borough of Dunmore.



Chairperson



Vice Chairperson

Secretary

Approved by the Borough Council of the Borough of Dunmore, Pennsylvania,

this _____ day of _____, 2016.

Attest:

Signed:

Borough Manager

President of Council