BOROUGH OF WEST READING,
BERKS COUNTY, PENNSYLVANIA

RESOLUTION NO. 2024-26

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF WEST READING, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CIVIL SERVICE COMMISION RULES AND REGULATIONS TO (1) INSERTING A NEW DEFINITION FOR OFFICIAL START DATE IN SECTION 1.1, (2) AMENDING THE DEFINITION OF "PROBATIONARY PERIOD" IN SECTION 1.1, AND (3) AMENDING SECTION 3.5 TO CHANGE THE AGE OF AN APPLICANT'S AGE TO THEIR TWENTY-FIRST (21ST) BIRTHDAY AND REMOVING THE REQUIREMENT OF THE ACT 120 BASIC POLICE OFFICER TRAINING CERTIFICATION

WHEREAS, the Borough of West Reading ("Borough") is a municipal corporation organized, operating, and governed by the Borough Code, 8 Pa.C.S. § 101, *et seq.*, as amended and supplemented, ("Code"); and

WHEREAS, the Borough Council of the Borough desires to adopt the Amended and Restated Rules and Regulations for the Civil Service Commission of the Borough, which is incorporated by reference herein and attached hereto as Exhibit "A."

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Borough Council of the Borough, that the Amended and Restated Rules and Regulations for the Civil Service Commission of the Borough of West Reading, Berks County, Pennsylvania are hereby adopted.

DULY ADOPTED AND APPROVED this 27th day of August, 2024.

BOROUGH OF WEST READING

By: _____
Ryan Lineaweaver, Council President

Attest: Cynthia Madeira
Cynthia Madeira, Borough Secretary

Examined and approved this 27th day of August, 2024.

Samantha Kaag
Samantha Kaag, Mayor

EXHIBIT "A"

AMENDED & RESTATED RULES AND REGULATIONS FOR THE CIVIL SERVICE COMMISSION

CIVIL SERVICE COMMISSION
RULES AND REGULATIONS

BOROUGH OF WEST READING
BERKS COUNTY, PENNSYLVANIA

PROMULGATION OF AMENDED AND RESTATED RULES AND REGULATIONS FOR THE CIVIL SERVICE COMMISSION OF THE BOROUGH OF WEST READING, BERKS COUNTY, PENNSYLVANIA

Pursuant to the powers granted by Sections 1170 to 1194 of the Borough Code, enacted by the General Assembly of the Commonwealth of Pennsylvania, 8 Pa.C.S. §1170 to §1194, and in accordance with the authority granted by the Borough Council of West Reading, Berks County, Pennsylvania, the Civil Service Commission of the Borough of West Reading, Berks County, Pennsylvania herewith amends and restates in their entirety the Rules and Regulations for the Civil Service Commission as follows:

SECTION 1. DEFINITIONS 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:

Act 57 -- the Act of July 14, 2020, P.L. 613, No. 57, otherwise known as Act 57 of 2020, and codified at 44 Pa.C.S. 7301 through 7312, as amended.

Applicant - Any individual who applies in writing to the Commission in response to a legal advertised notice of vacancy and/or examination for any position in the Police Force.

Appointee – Person selected to fill a position with the West Reading Borough Police Department and receiving conditional offer of employment or promotion.

Appointing Authority - The Borough Council of the Borough of West Reading, Berks County, Pennsylvania.

Borough - The Borough of West Reading, Berks County, Pennsylvania.

Borough Council -The members of the governing body of the Borough.

Candidate – Persons who successfully passed the written, oral and physical fitness and agility examinations and background investigation.

Certification - The submission to the Borough Council pursuant to their request of names taken from the Eligibility List developed by the Commission.

Chairperson - The Chairperson of the Commission of the Borough.

Chief of Police - The Chief of Police of the Borough.

Commission - The Civil Service Commission of the Borough.

Commissioner - A person duly appointed by Borough Council as a member of the Commission.

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

Eligible List - The list of names of persons who have passed all Examinations for a particular position in the Police Force.

Entry Position - The position of an individual entering the Police Force as a Probationer.

Examination - A test or series of tests given to candidates to assist the Commission in determining such candidates' qualifications for a position in the Police Force.

First Year Police Officer — A Police Officer who has not yet completed twelve (12) full months of employment with the Borough of West Reading as measured from his or her official start date.

Furlough List - The list containing the names of persons temporarily laid off from positions in the Police Force because of a reduction in the number of Police Officers.

MPOETC – Municipal Police Officers' Education and Training Commission

Medical Examination - An 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.

Official Start Date - date of hire by the Borough.

Physician - An individual licensed under the laws of the Commonwealth to engage in the practice of medicine as further defined in 1 Pa.C.S. § 1991.

Police Force - Sworn full-time officers of the Police Department of the Borough excluding the Chief of Police.

Police Service - Permanent service in a police force of the Commonwealth of Pennsylvania or of its political subdivision.

Probationary Period - The twelve (12) month period commencing on a Police Officer's Official Start Date, for police officers having Act 120 Certification on the Official Start Date, or the eighteen (18) month period commencing on a Police Officer's Official Start Date if the Borough provides the Act 120 training.

Probationer - A Police Officer in the Police Force who has not completed the probationary period of employment.

Qualified Medical Professional - An individual who is licensed under the laws of the Commonwealth of Pennsylvania as a Physician Assistant or as a Certified Registered Nurse Practitioner.

Reduction in Rank - A change to a different position or rank where the Police Officer fulfilled all of the requirements of these Rules and Regulations for both the prior and current position or rank. A decrease in salary without a change to a different position or rank shall not necessarily constitute a Reduction in Rank.

Removal - The permanent separation of a Police Officer from the Police Force.

Secretary - The Secretary of the Commission.

Suspension - The temporary separation without pay of a Police Officer from the Police Force.

Vice Chairperson - The Vice Chairperson of the Commission.

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

SECTION 2. THE COMMISSION

2.1 Civil Service Commission. The Commission shall consist of three (3) Commissioners who shall be qualified electors of the Borough and shall be appointed by the Borough Council initially to serve for the terms of two (2), four (4) and six (6) years, and as terms thereafter expire shall be appointed for terms of six (6) 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, 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 of

America and of the Commonwealth of Pennsylvania and to perform their official duties with fidelity. No Commissioner shall receive compensation.

2.2 Offices Incompatible with Civil Service Commissioner. No Commissioner shall at the same time hold an elective or appointed office under the United States government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one (1) member of the Commission may be a member of the Borough Council and one (1) Commissioner may be a member of the teaching profession.

2.3 Organization of Commission; Quorum. The Commission first appointed shall organize within ten (10) days of its appointment and shall elect one (1) of its members as its Chairperson, one (1) as Vice Chairperson and one (1) as Secretary. The Commission shall thereafter meet and organize on the first Monday of each even numbered year. Three (3) 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 (2) members.

2.4 Duties of Chairperson and Vice Chairperson. The Chairperson, or in his absence, the Vice Chairperson, shall preside at all meetings and hearings of the Commission, decide all points of order or procedure and perform any duties required by law or these Rules and Regulations.

2.5 Duties of Secretary. The Secretary shall carry on at the direction of the Commission all official correspondence of the Commission, send out all notices required by law and these Rules and Regulations, keep a record of each Examination or other official action of the Commission, and perform all other duties required by law or these Rules and Regulations.

2.6 Meetings. Except for the biennial organization meeting of the Commission, all meetings shall be held either at the call of the Chairperson or at the call of two (2) 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. 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 Clerical Assistance, Supplies and Counsel. The Borough Council shall furnish the Commission with such supplies and clerical assistance as may be necessary for the Commission to fulfill its duties. In addition, the Commission may retain counsel, and any other consultants or experts, including physicians and psychiatrists, as are necessary. The elected and appointed officials of the Borough shall assist the Commission with all reasonable and appropriate efforts including compensation for any counsel or experts retained by the Commission.

2.8 Amendment of Rules and Regulations. The Commission may amend, revise, void or replace these Rules and Regulations for any reason by action of a majority of the Commission at any properly convened meeting of the Commission. Before any changes to these Rules and Regulations become effective, those changes must be approved by the Borough Council. These Rules and Regulations, and any amendments thereto shall be made available to the public for distribution or inspection.

2.9 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, 1968 P.L. 961, No. 428, 53 P.S. 9001.

Any and all records related to any disciplinary action filed with the Commission, when permitted by applicable law, shall be open to public inspection subject to reasonable regulation. The Secretary shall keep minutes of its 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.

2.10 Investigation. 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.

2.11 Subpoenas. The Commission shall have the power to issue subpoenas over the Signature of the Chairperson, or his designee, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the Court of Common Pleas of Berks County, Pennsylvania and shall be paid from appropriations for the incidental expenses of the Commission.

All officers in public service and employees of the 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 cost shall be imprisoned not to exceed thirty (30) days.

If any person shall refuse or neglect to obey any subpoena, the Commission may apply by petition to the Court of Common Pleas of Berks 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 necessary, and in default thereof shall be held in contempt of court.

2.12 Annual Report. The Commission shall make an annual report to the Borough Council containing a brief summary of its work during the year. The annual report shall be available for public inspection.

SECTION 3. APPLICATIONS AND QUALIFICATIONS

3.1 Notice of Request for Applications. Prior to conducting any examination for any position with the Police Force, the Commission or its designee shall conspicuously post in the Borough Hall and the Police Department a notice of request for applications, stating the type of position to be filled, the requirements for that position, where applications may be obtained, and the deadline for filing those applications as well as any other pertinent information the Commission deems appropriate. In addition, such notice shall be published at least two (2) weeks prior to application deadline and examinations in at least one (1) newspaper of general circulation or a newspaper circulating generally in the Borough.

3.2 Eligibility for Examination. In order to be eligible for participation in the overall examination process for any position with the Police Force, every Applicant must submit a completed application form to the Commission before the deadline stated by the Commission for that specific examination. The Applicant shall take an oath or make an affirmation that the application is completed truthfully, and the Applicant shall be subject to the penalties of 18 Pa. Cons. Stat. 54904 relating to unsworn falsification to authorities.

3.3 Availability of Applications. Application forms shall be available at West Reading Borough Hall and at such other locations as the Commission, from time to time, may designate during normal business hours. 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 Discrimination. The Borough is an equal opportunity employer. It is the Borough's and the Commission's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, age, marital status or non-job-related physical or mental handicap or disability. The Borough and the Commission shall provide equal opportunities in employment and promotion.

3.5 General Qualifications of All Applicants. Every entry position Applicant for any position in the Police Force shall meet the following general qualifications: (a) be a United States citizen, (b) have reached their twenty-first (21st) birthday before the stated deadline for submitting completed applications, (c) possess a diploma from an accredited high school of a graduate equivalency diploma (GED), (d) be physically and mentally fit to perform the full duties of a Police Officer, and (e) possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania prior to appointment as Police Officer.

3.6 General Qualifications. - Applicants for Corporal, Sergeant, Lieutenant and Captain. In addition to meeting the qualifications in Section 3.5 above, all Applicants for any promotional position shall not be a Probationer, and/or shall not have been suspended, without pay, at any time within a one (1) year period prior to the deadline for submitting applications. Any 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 prior to the creation of the Eligibility List.

All Applicants, other than an Applicant for the position of Chief of Police, shall have continuous prior service with the Police Force as follows:

(a) An Applicant for the position of corporal shall have at least two (2) years of service with the Police Force;

(b) An Application for the position of sergeant shall have at least five (5) years of service with the Police Force;

(c) An Applicant for the position of lieutenant shall have at least five (5) years of service with the Police Force; and

(d) An Applicant for the position of captain must have at least five (5) years of service with the Police Force.

3.7 Rejection of Applicant. The Commission may refuse to examine, or, if examined, may refuse to certify as eligible after examination, any Applicant 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 physically or mentally unfit to perform the full duties of the position applied for, or who is a habitual substance abuser, who is guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose policies or activities are subversive to the forms of government set forth in the Constitutions and laws of the United States of America and the Commonwealth of Pennsylvania.

3.8 Recording and Filing Applications. Applications for positions in the Police Force shall be received at the Borough Hall or other place designated in the public advertisement or designee thereof during normal business hours only after the Borough's intent to accept applications has been advertised and before the deadline set forth in the public advertisement for receiving applications. The person receiving the application shall record the date and time of the receipt of the applications. Any application containing material errors or omissions may, upon review by and at the discretion of the Commission, be returned to the Applicant for correction. Such application shall be returned to Borough Hall or other place designated to receive the applications within seven (7) calendar days of the deadline for receipt of applications. Each Applicant may be charged a filing fee for the processing of his application and the cost of examinations associated therewith.

3.9 Hearing for Disqualified Applicants. Any Applicants or other persons who believes that they are aggrieved by the actions of the Commission, in refusing to examine or to certify them as eligible after any Examination, may request a hearing before the Commission. The Applicant or aggrieved party must make the request for a hearing in writing within ten (10) calendar days of the date when the party knew or should have known of the Commission's action that is being challenged. Within ten (10) calendar days after such request, the Commission shall designate a time and place for the hearing, which shall be conducted pursuant to the procedures set forth in the Local Agency Law, Pa. Cons. Stat. § 101 et seq.

SECTION 4. EXAMINATION AND GRADING PROCEDURE

4.1 Notification to Applicants. Notification of the date, time and location of each examination shall be given by the Commission or its designee at least once in a newspaper of general circulation within the Borough two (2) weeks prior to each examination. The Commission or its designee shall also conspicuously post in the Borough Hall and the Police Department a notice of the same examination information.

Following each examination, the Commission shall notify each applicant in writing of his/her scores in that examination and if the results permit the applicant to continue in the overall testing process. Following the Written and Oral Examinations, the Commission shall conspicuously post applicants' scores in Borough Hall and the Police Department, identifying each applicant by using the last four (4) digits of his/her Social Security number.

4.2 General Examination Procedures for the Position of Police Officer, Excluding the Positions of Corporal, Sergeant, Lieutenant and Captain. The examination for Police Officer, excluding the positions of corporal, sergeant, lieutenant and captain, 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 forty percent (40%) of the final score and the Oral Examination representing sixty percent (60%) of the final score. The Physical Agility Test shall be graded on a pass/fail basis for every Applicant. Those applicants with passing scores in the Written Examination shall be eligible to take the Physical Agility Test. Thereafter, the persons passing both the Written Examination and the Physical Agility Test shall be eligible to take the Oral Examination. The Applicants with the top five (5) highest passing scores for a single entry level Police Officer vacancy and up to a maximum of Applicants with the top ten (10) highest passing scores where multiple entry level Police Officer positions are vacant after passing the Written Examination, Physical Agility Test and Oral Examination and the addition of Veteran's Preference Points shall be subject to a Background Investigation. Background Investigation will be graded on a pass/fail basis for every Applicant. After an Applicant has been extended an offer of employment, final appointment shall be contingent upon the Applicant passing a Medical Examination, Psychological Examination, drug screen, and issuance of all MPOETC Forms required by Act 57.

4.3 General Examination Requirements for the Positions of Corporal, Sergeant, Lieutenant and Captain. 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 forty (40) percent of the final score, the Oral Examination representing sixty (60) percent of the final score.

Comment: See Section 5.4 relating to appointment of the position of Chief of Police.

4.4 Appointment of Examination Administrators. The Commission shall appoint a Written Examination administrator, Oral Examination administrators, and Physical Agility examiner, to conduct the appropriate examinations required by these Rules and Regulations.

Members of the Commission should not participate in the examination process either as examiners or observers. This position stems from an Applicant's right to appeal to the Commission itself any dispute involving the examination process. For example, if an Applicant

fails an Oral Examination or receives a poor grade and appeals that decision to the Commission, a violation of the Applicant's due process would occur if the Commissioners served as examiners and then sit as hearing officers to adjudicate the claims of the appealing Applicant.

4.5 Written Examinations. The Written Examination shall be graded on a one hundred (100) point scale, and an Applicant must score seventy (70) percent overall total or higher in order to continue in the application process. Any Applicants scoring less than seventy (70) percent shall be rejected. Within thirty (30) calendar days after the administration of the Written Examination, all Applicants shall be given written notice of their Written Examination results.

4.6 Physical Agility Testing. Following the Written Examination each individual applying for a position in the Police Force, other than Applicants for the positions of corporal, sergeant, lieutenant, captain, and Chief of Police, passing the Written Examinations shall be required to perform a Physical Agility Test. The Commission shall designate such individuals, firms and/or corporations to conduct the Physical Agility Test.

4.7 Oral Examination. Applicants passing the Written Examination with a score of seventy (70) percent or higher and passing the Physical Agility Test shall be given the Oral Examination. The Oral Examination shall be graded on a one hundred (100) point scale with a score of seventy (70) percent 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 Oral Examination, Applicants shall be informed of the score in their Oral Examination and total overall score.

4.8 Veterans' Preference Points. Pursuant to the Veterans' Preference Act, any Applicant for an Entry Position in the Police Force, who qualifies as a "soldier" under this Act, shall receive an additional ten (10) points in addition to the total score of his Written and Oral Examinations, provided, however, that the Applicant has received a passing score on his Written and Oral Examinations.

4.9 Background Investigation. The Applicants passing the Written Examination, Physical Agility Test and Oral Examination and after the addition of Veteran's Preference Points with the top five (5) highest passing scores for a single entry level Police Officer vacancy and up to the maximum of Applicants with the top ten (10) highest passing scores where multiple entry level Police Officer vacant positions are advertised shall undergo a Background Investigation. Applicants for the positions of corporal, sergeant, lieutenant, captain and Chief of Police (see Section 5.4 relating to Appointment of Chief of Police) shall not be required to undergo a Background Investigation. Such individuals, firms and/or corporations shall conduct the Background Investigation as the Commission may designate, in writing. The background investigation must be consistent for each applicant and shall meet, at a minimum, all the specific requirements of the Municipal Police Officer's Education and Training Commission (MPOETC), and shall include review of all of the disclosures under Act 57, as required by law. All applicants shall execute an appropriate authorization for release of personal information, and cooperate fully in providing information upon request to ensure a thorough and complete investigation. Such Background Investigation shall include interviews with the Applicant and the Applicant's family, acquaintances, current and former employers, current and former neighbors, references,

and current and former teachers and school officials. In addition, the Applicant's credit history and record of criminal convictions should be investigated. The Applicant may re-interview when the information collected during the Background Investigation requires clarification or explanation. The investigator may use his own discretion in the expansion or contraction of these items and time frames.

After the Background Investigation is completed, the Chief of Police, or such other individual designated by the Commission, shall make a written report of the findings including a 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 3.7 of these Rules and Regulations and on any other information developed during the background investigation. This report to the Commission shall be in writing and in compliance with the Americans with Disabilities Act, must not include any medical 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 make the final determination on whether the information collected during the Background Investigation warrants rejection of the Applicant. Within thirty (30) days after the Commission considers the recommendation of the Chief of Police or such other individual appointed by the Commission, each Applicant shall be informed of whether or not he has passed the Background Investigation.

4.10 Cheating Policy. The contents of all examinations are confidential. An individual may not cheat or tamper in any manner with an official examination either conducted or sponsored by the Commission by obtaining, furnishing, accepting, or attempting to obtain, furnish or accept answers or questions toe examinations, or portions thereof. Individuals may not copy, photograph or otherwise remove examination contents; nor may they use any misrepresentation or dishonest method while preparing, administering or participating in examinations. Unauthorized possession of a test, examination, or questions, answers or answer keys relating to a test, examination or quiz shall constitute cheating. An individual violating this section shall be disqualified from the promotional process

SECTION 5. CERTIFICATION OF THE LIST OF ELIGIBLES AND APPOINTMENT

5.1 Creation of Eligibility List. At the completion of the examination requirements set forth in Section 4, (Written Examination, Physical Agility Test, Oral Examination and, Background Investigation), 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 score at the bottom of the list. Applicants who qualify for Veterans' Preference Points shall have those points added to their passing score after the tabulation of the Written and Oral Examinations. For promotional positions, fulfilling the performance requirement set forth in Section 3.6 is also required.

In the case of tied scores, the tie will be broken by giving preference to the Applicant who submitted their completed application first. If both tied Applicants submitted their completed applications on the same day, then the applicants shall be ranked in alphabetical order by surname.

Any individual appearing on the initial eligibility list is subject to a background investigation and no one will be certified in accordance with Section 5.3, Appointments, of these Rules and Regulations until they have successfully completed that investigation and received a written recommendation that the applicant is appropriate for consideration in accordance with Section 4.9, Background Investigation, of these Rules and Regulations.

5.2 Lifespan of Eligibility List. The Eligibility List shall be valid for one (1) year from the date the Commission formally adopts the Eligibility List. The Commission may, at its sole discretion, by a vote of the majority of the Commission at a duly authorized Commission meeting, to extend the List for one (1) additional year. The Commission may, at its sole discretion, void the Eligibility List at any time for any reason. In the absence of a lawful extension by the Commission, the list shall expire.

5.3 Appointment.

(a) The Borough Council may fill any vacancy in an existing position in the Police Force which occurs as a result of expansion of the Police Force, retirement, resignation, disability or death by the reappointment or reinstatement of a former member of the Police Force who had been furloughed. Except for a Physical Agility Test, Psychological Examination, and Drug Screen, no other examination shall be required for a furloughed Police Officer or a rehired or reappointed Police Officer.

(b) If no Furlough List exists or if positions remain to be filled after all of the Police Officers on the Furlough List were offered re-employment, every position, except that of Chief of Police, shall be filled only in the following manner:

(1) The Borough Council shall notify the Commission of each vacancy which is to be filled and shall request the certification of three (3) names from the Eligibility List for each vacancy which is to be filled. For example, if two (2) vacancies exist, the Commission shall certify six (6) names.

(2) If three (3) names are not available for each vacancy which is to be filled, then the Commission shall certify the name(s) remaining on the Eligibility List;

(c) The Borough Council may object to one or more of the persons certified for the reasons set forth in Section 3.7 of these Rules and Regulations.

5.4 Appointment of Chief of Police.

(a) In the case of a vacancy in the office of the Chief of Police, Borough

Council may nominate a person to the Commission, whose duty it shall be to subject the nominee to a noncompetitive Examination. The noncompetitive Examination shall consist of an oral Examination and a psychological Examination, which Examinations shall be graded on a pass/fail basis, and a background investigation. The oral Examination shall involve questioning the nominee on how he would handle situations relating to the position of Chief of Police. The oral Examination shall be graded on a one hundred (100) point scale, and the nominee being tested must score seventy (70) percent or higher. In addition, the Mayor of the Borough shall provide the Commission with a written recommendation as to the suitability of the nominee to perform the duties of Chief of Police.

(b) After the nominee successfully passes the above-described Examinations, he shall submit to a Medical Examination Psychological Examination, and Drug Screen. If the nominee successfully passes the Medical Examination, Psychological Examination and Drug Screen, he shall be certified by the Commission as qualified and may then be appointed by Borough Council to the position of Chief of Police and thereupon shall only be removed from the position for the reasons set forth in Section 6.1.

5.5 Conditional Offer of Employment

An applicant for entry-level selected from the eligibility list shall receive a conditional offer of employment. The offer of employment shall be conditioned upon the appointee passing a Physical Examination, Psychological Examination, drug screen, as well as a determination that the conditional appointee is capable of performing all the essential functions of the position, and issuance off all MPOETC Forms required by Act 57.

A rejected conditional appointee may appeal this decision under Section 3.9, Hearing for Disqualified Applicants, of these Rules and Regulations. 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 5.3, Appointments.

If the conditional appointee successfully passes the Physical Examination, Psychological Examination, and drug screen and the Borough receives all the required MPOETC forms required by Act 57, then the candidate shall be appointed to the vacant position in the West Reading Borough Police Department for which he or she applied.

The Commission intends that this section be administered in compliance with the American with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

(a) Physical and Psychological Medical Examinations

(1). 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.

(2). The physician or other qualified medical professional and the psychiatrist or

psychologist shall be appointed by Borough Council and shall render an opinion as to whether the conditional appointee has a physical or mental condition which calls into question the person's ability to perform all of the essential functions of the position for which the person was conditionally appointed.

(3). 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 the position, a person designated by Appointing Authority shall meet with the conditional employee for the purpose of having one or more interactive discussions with the conditional appointee on assessing whether the conditional appointee can, with or without reasonable accommodation, perform all of the essential functions of the position.

(4). If at the conclusion of the interactive discussion under subsection (3), Borough Council determines that the conditional appointee is not qualified, Council shall give written notice to the conditional appointee and the Commission.

(b) MPOETC Certification

A conditional appointee shall receive a Certification of No Separation Record or Acceptable Separation Record from MPOETC as required by Act 57. The conditional appointee's failure to receive such a record shall result in the rejection of the conditional appointee.

(c) Drug Test

An applicant for entry-level selected from the eligibility list shall receive an offer of employment conditioned upon the appointee undergoing and passing a drug and alcohol test.

5.6 Probationary Period. Every successful Applicant for the position of Police Officer, including a promotional position with the Police Force, shall serve a twelve (12) month probationary period. For First Year Police Officers, the twelve (12) month probationary period shall commence on the date of employment as a First Year Police Officer. For promoted Police Officers, the twelve (12) month probationary period shall commence on the date of promotion. During the probationary period, a First Year Police Officer may only be dismissed for causes for the reasons set forth in Section 3.7 and/or 6.1 or because of incapacity for duty due to the use of alcohol or drugs. A promoted Police Officer, during probation, may be returned to a prior rank only for cause for the reasons set forth in Section 3.7 and/or 6.1. At the end of the twelve (12) month probationary period, if the conduct of the Probationer or promoted Police Officer has not been satisfactory to the Borough Council, the Probationer and promoted Police Officer shall be notified in writing that his appointment will not be permanent. At that time, a First Year Police Officer's employment shall end and a promoted Police Officer shall return to a previous rank. Any Police Officer, who is not informed in writing that his performance has been unsatisfactory, shall receive a permanent appointment to the new position. Any Probationer and promoted Police Officer who is notified in writing that appointment will not be made permanent has no rights of appeal under these Rules and Regulations.

5.7 Provisional Appointments. Whenever there are urgent reasons for the filling of a vacancy in any position of the Police Force and there are no names on the Eligibility List for appointment, the Borough Council may nominate a person to the Commission for noncompetitive Examination, and such nominee may be certified by the Commission as qualified after such noncompetitive Examination, and may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the Commission within three (3) weeks to hold a competitive Examination and certify an Eligibility List and then a regular appointment shall then be made from the name or names submitted by the Commission; provided, that nothing within this section shall prevent the appointment, without Examination, of persons temporarily as Police Officers in cases of riot or other emergency.

SECTION 6. SUSPENSIONS, REMOVALS AND REDUCTION IN RANK

6.1 Grounds for Disciplinary Action.

(a) No person appointed to a position in the Police Force 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 Police Officer's ability to continue in service, in which case the Police Officer may 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 Police Officer;

(5) Intoxication while on duty;

(6) Engaging or participating in, or conducting of any political or election campaign while in uniform or using Borough property, excluding a Police Officer's exercising the right to vote; or

(7). Engaging or participating in conduct or conducting any political or election campaign for an incompatible office as prohibited by the Pennsylvania Constitution, the Borough Code, 8 Pa.C.S. 101, *et seq.*, or any other state law.

(b) No Police Officer shall be removed for religious, racial or political reasons. A statement of any charges made against any Police Officer so employed shall be furnished to the Police Officer within five (5) days after those charges have been adopted by the Borough Council.

6.2. Furloughs.

(a) Reduction in Force. If for reasons of economy or other reasons, it shall be deemed necessary by the Borough Council to reduce the number of full-time Police Officers in the Police Force, then the Borough Council shall apply the following procedure:

(1) If there are any Police Officers eligible for retirement under the terms of any retirement or pension law, then such reductions in numbers shall be made by retirement of such Police Officers starting with the oldest Police Officer and following in order of age respectively;

(2) If the number of full-time Police Officers eligible for retirement is insufficient to effect the necessary reductions in numbers, or if there are no persons eligible for retirement, or if no retirement or pension fund exists, then the reductions shall be effected by furloughing the person or persons including Probationers, last appointed to the respective force until such reduction shall have been accomplished.

(3) This provision is not applicable to the Police Chief.

(b) List. Whenever the Borough shall determine the need for a reduction in the number of Police Officers, the commission shall prepare and maintain a list of the names of all furloughed officers, together with the position held by each officer at the furlough's time. The names on the furlough list shall be arranged in priority order based on each furloughed officer's service length.

(c) Reinstatement. In the event that the Borough Council decides to increase the number of members of the Police Force, the furloughed Police Officers shall be reinstated in order of their seniority in the Police Force if the furloughed Police Officer accepts reinstatement in writing within thirty (30) days of receiving notice of the opening.

(d) Removal of Names The name of any person appearing on a furlough list shall be removed by the Commission if the person:

(1) Is appointed to a position in the West Reading Borough Police Department; or

(2) Declines an appointment to a position in the West Reading Borough Police Department; or

(3) Fails to make a written reply to the Commission within seven (7) calendar days from the date of mailing a certification notice; or

(4) Indicates availability for appointment and is appointed to fill a vacancy but fails to report for duty at the time prescribed, unless, in the Appointing

Authority's opinion the person shows good and sufficient reasons for failure to report; or

(5) The person selected for appointment but unavailable to fill the vacancy at the prescribed time makes a mutual agreement with the Appointing Authority as to when the individual may be available for appointment.

(e) Nonremoval from Furlough List The Commission shall not remove any police officers' name from a furlough list who refuses or accepts a position of lower rank than that from which furloughed on a Commission List.

6.3 Notice of Suspension, Removal or Reduction in Rank. Whenever a Police Officer 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 Police Officer to understand the charges and to allow the Police Officer an opportunity to respond to those charges. The charges shall specify the subsection of Section 6.1 which provides the basis for the disciplinary action as well as an explanation of the factual circumstances upon which the appointing authority relied in fining a violation of Section 6.1.

Within (5) five days after the Borough Council has voted to impose the disciplinary action, a written statement of the charges shall be delivered to the Police Officer either by personal service or by certified and registered mail. In addition, the charges shall notify the Police Officer of the right to appeal under Section 6.4 of these Rules and Regulations. A copy of the statement of charges shall also be served upon each Commissioner.

6.4 Hearings on Suspension, Removals and Reductions in Rank.

(a) A Police Officer, who has been suspended, removed or reduced in rank, may appeal the decision of Borough Council under the process set forth below in Subsections (1) through (3) and Section 6.5, or the collective bargaining agreement if the same constitutes a grievance under it. Once the Police Officer selects a procedure for adjudication the alternative procedure is waived.

(1) The Police Officer may appeal the decision of the Borough Council by written notice to the Secretary of the Commission at 500 Chestnut Street, West Reading, Pennsylvania, 19611 requesting a hearing. This request shall be received by the Commission within ten (10) days after the Police Officer received notice of the discipline. The Police Officer may make written answers to any charges filed not later than the date fixed for the hearing. Failure of the Police Officer to provide written answers to any of the charges shall not be deemed an admission by the Police Officer.

(2) The Commission shall schedule a hearing within ten days from the Police Officers written request for a hearing unless continued by the Commission for cause at the request of the Commission, the Borough Council or the Police

Officer. At any such hearing, the Police Officer against whom the charges have been made may be present and represented by counsel, may call witnesses and present testimony and documentation in defense. The Borough may also be represented by counsel, call witnesses and present evidence as is necessary to support the charges. A stenographic record of all testimony shall be taken at every hearing and preserved by the Commission. In the event the charges are dismissed, the record shall be sealed and not be available for public inspection.

(3) 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 Borough Council's discretion. In considering the appropriateness of the discipline, the Commission shall not substitute its judgment for that 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.

6.5 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 power to issue subpoenas as set forth in Section 2.11.

(b) Unless the Council or the Police Officer makes a written request that the hearing before the Commission be open to the public, it shall be held confidentially. Any such request for a public hearing by the Police Officer shall be presented to the Commission at least five (5) calendar days before it is scheduled to commence

(c) The deliberations of the Commission, including but not limited to, interim rulings on evidentiary rulings and procedural issues may be held in private and shall not be open to Council, the Police Officer, any other party or the public.

(d) Notwithstanding subsection (b), the Commission's disposition of the matter at the hearing shall constitute official action and be announced at the next public meeting unless, at least five (5) calendar days before the hearing is scheduled to commence, the Borough Council or the Police Officer makes a written request to seal the Commission's disposition of the matter. The Commission has the discretion to grant or deny any such request.

(e) If the Commission sustains the charges, the Police Officer who was suspended, removed or reduced in rank may file an appeal with the Court of Common Pleas of Berks County, Pennsylvania, within thirty (30) days from the date of entry by the Commission of its final order. No other suspension shall be made by the Commission for a period

longer than one (1) year. In the event that the Commission fails to uphold the charges, then the person sought to be suspended, removed or demoted shall be reinstated with full pay for the period of the suspension, removal or demotion, and no charges related to the suspension, removal or Reduction in Rank shall be officially recorded in the Police Officer's record.

SECTION 7 MISCELLANEOUS

7.1 Severability. If any sentence, clause, section or part of these Rules and Regulations are for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of these Rules and Regulations. It is hereby declared to be the intent of the Civil Service Commission and Borough Council that these Rules and Regulations would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

7.2 Headings and Titles. The headings or titles of sections herein are for informational purposes only and have no legal effect.

7.3 Repealed. The "Rules and Regulations of the Borough of West Reading's Civil Service Commission," as they apply to Civil Service Rules and Regulations for police officers or potential police officers, adopted on January 6, 2014, are hereby repealed.

7.4 Effective. These Rules and Regulations shall become effective on the earliest date permitted by law following the date of its enactment.

SECTION 8. AMENDMENT PROCESS

8.1 Amendment Procedure.

(a). Amendment by the Commission. The Commission, with the approval of the Borough Council may, from time to time, amend any of these rules and regulations.

(b). Amendment by the Borough Council. The Borough Council at its own discretion may amend any of these rules and regulations, from time to time, as they deem applicable.

SECTION 9. ADOPTION OF RULES AND REGULATIONS

9.1 Adoption Procedure. These rules and regulations on the date indicated below are adopted in accordance with the powers granted by the Civil Service provisions of "The Borough Code," 8 Pa.C.S. §1170 to §1194, as may be amended from time to time enacted by the General Assembly of the Commonwealth of Pennsylvania and shall be known as the "Rules and Regulations of the Borough of West Reading's Civil Service Commission," as they apply to Civil Service Rules and Regulations for police officers or potential police officers.

DULY ENACTED AND ORDAINED this 21st day of August 2024.

James D. Livingood

Stephen F. DeLucas

Ronald T. Bechtel

Approved by the Borough Council of the Borough of West Reading, Berks County, Pennsylvania this 17th day of September, 2024.

Cynthia Madeira
Borough Secretary

President, Borough Council