

**BEFORE THE BOROUGH COUNCIL OF
THE BOROUGH OF EMMAUS, LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1114

**AN ORDINANCE REPEALING SECTIONS 351 THROUGH 356 OF CHAPTER 1 OF
THE CODIFIED ORDINANCES INVOLVING THE CIVIL SERVICE COMMISSION
RULES AND REGULATIONS AND ADOPTING AMENDED RULES AND
REGULATIONS**

WHEREAS, the Borough Council of the Borough of Emmaus has through its Codified Ordinances, established rules and regulations for the Civil Service Commission pursuant to 53 P.S. Sec. 46171 et seq., and

WHEREAS, the Borough Council deems it appropriate and in the best interests of the public health, safety, and welfare of the community to further define and describe the Commission's responsibilities, regulations, penalties, and violations; and

WHEREAS, Borough Council deems it necessary to repeal Ordinance No. 906, as previously amended by Ordinance No. 933, by Ordinance No. 970, and by Ordinance No. 1016, involving Sections 351 through 356, and Ordinance 1095, and to adopt the amended Civil Service Rules and Regulations as hereinafter described;

NOW THEREFORE, be it hereby **ORDAINED** and **ENACTED** that Sections 351 through 356 of Chapter 1 of the Codified Ordinances for the Borough of Emmaus, are hereby repealed for the Civil Service Commission, and are replaced with the amended Civil Service Rules and Regulations in the following manners:

CHAPTER 1: DEFINITION OF TERMS

Section 1.1: Definitions

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

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

Appointing Authority – The Borough Council of the Borough of Emmaus, Lehigh County, Pennsylvania.

Borough Council – The Borough Council of the Borough of Emmaus, Lehigh County, Pennsylvania.

Certification – The submission to the appointing authority pursuant to their request of three names taken from the eligibility list developed by the Civil Service Commission.

Certification List – The list of names of persons who have passed all civil service examinations, successfully completed the polygraph examination and background investigation, and have been certified by the Commission to be officially referred to Borough Council for consideration of employment.

Chairperson – The Chairperson of the Civil Service Commission of the Borough of Emmaus, Pennsylvania.

Commission – The Civil Service Commission of the Borough of Emmaus, Pennsylvania.

Elector—A duly qualified voter who is a constituent of the Borough of Emmaus.

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 civil service examinations for a particular position in the Police Department, but have not yet been administered a background investigation or polygraph examination.

Examination – The series of tests given to applicants to determine their qualifications for a position in the Police Department.

Furlough List – The list containing the names of persons temporarily laid off from positions in the Police Department because of a reduction in the number of officers. However, if the furloughed employee does not express his intent in writing to remain on the list, his name will be removed after two (2) years.

Municipal Police Department – Any municipal or governmental body Police Department from any state which has a selection process for its police officers equivalent to or similar to the Commonwealth of Pennsylvania’s Civil Service Statute contained in the Borough Code. A Municipal Police Department shall not include school police, private police, part-time police, college or university police or any other Police Department which does not specifically meet the aforesaid definition of a Municipal Police Department (including Police Departments which do not have three or more officers and thus do not have a civil service requirement).

Police Officer – For purposes of the Rules and Regulations, an entry level sworn full-time position in a Police Department.

Position – A particular job or assignment within the Police Department including, but not limited to juvenile, detective, canine officer, etc. These positions are not ranks and the position

is not protected by civil service. Assignment to a position shall be made by the Borough Council or its designee and the term of assignment shall be at will.

Probationer – An officer in the Police Department who has been appointed from an eligibility list, but who has not yet completed the work-test period.

Rank – A position of authority over other police officers. Ranks shall be designated by the Borough Council. Where the Borough Council has not designated a priority of ranks, the priority shall be the same as in the military (or paramilitary organization).

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

Removal – The permanent separation of a police officer from the Police Department.

Secretary – The Secretary of the Civil Service Commission of the Borough of Emmaus, Pennsylvania.

State Police – Any Police Department of any state with general law enforcement powers over the state as a whole.

Suspension – The temporary separation without pay of a police officer from the Police Department.

Vice Chairperson – The person who shall serve in the absence of the Chairperson of the Civil Service Commission of the Borough of Emmaus, Pennsylvania.

Section 1.2: Gender

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

CHAPTER 2: THE COMMISSION

Section 2.1: Civil Service Commission

The Commission shall consist of three Commissioners who shall be qualified electors of the Borough of Emmaus. Pursuant to the Borough Code, the Commissioners were originally appointed by the Borough Council to serve for the terms of two, four and six years, and as terms expire, Commissioners shall be appointed for terms of six years.

Any vacancy occurring on 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.

Members of the Commission (or alternates), before entering upon the discharge of the duties of their office, shall take an oath or affirmation of office pursuant to 53 P.S.C.S. §1141 (relating to form of oaths of office) to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform their official duties with fidelity. No Civil Service Commissioner shall receive compensation.

Section 2.2: Appointment and Duties of Alternate Members of the Civil Service Commission

Borough Council may appoint no more than three (3) qualified electors of the Borough to serve as alternate members of the Commission. The term of the office of the alternate member shall be for six (6) years. An alternate may participate in any proceedings or discussions of the Commission but shall not be entitled to vote as a member of the Commission unless designated as a voting alternate member as hereinafter set forth.

If by reason of absence or disqualification of a member a quorum is not reached, the Chair shall designate as many alternate members of the Commission to sit on the Commission as may be needed to provide a quorum. An alternate member of the Commission shall continue to serve on the Commission in all proceedings involving the matter or case for which the alternate was initially designated until the Commission has made a final determination of the matter or case.

Designation of an alternate member pursuant to this section shall be made on a case by case basis in rotation according to declining seniority among the alternates. No action of the Commission may be valid unless it shall have the concurrence of at least two (2) members.

Section 2.3: 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, including the Borough of Emmaus, except that one member of the Commission may be a member of the teaching profession.

Section 2.4: Organization of Commission; Quorum

The Commission first appointed shall organize within ten days of its appointment and shall elect one of its members as the Chair, one as Vice Chair, and one as the Secretary. The Commission shall thereafter meet and organize on the first Monday of each even-numbered year.

Each Commissioner shall be notified in writing of each and every meeting. 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 (or alternates).

Section 2.5: Duties of 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 the Rules and Regulations.

Section 2.6: 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 the 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 the Rules and Regulations. If the Secretary is unavailable, or if, in the sole discretion of the Chairperson, the Chairperson determines that it is appropriate to expedite the business of the Commission, the Chairperson may assume the ministerial duties of the Secretary.

Section 2.7: Commission Meetings

Except for the biannual organizational meeting, all other meetings shall be held either at the call of the Chairperson or at the call of two members of the Commission. All meetings shall be open to the public except as provided by applicable law. At least forty-eight (48) hours written notice of each public meeting shall be given to each member. Meeting notices to the public shall conform to law and the Rules and Regulations. The order of business of all Commission meetings shall include but not be limited to:

- A. Roll call
- B. Approval of minutes of previous meetings
- C. Public comment
- D. Unfinished business
- E. Hearing of cases
- F. New business
- G. Communications and reports

Section 2.8: Clerks and Supplies

Borough Council shall furnish the Commission with supplies and clerical assistance as may be necessary for the Commission to fulfill its duties. In addition, the Commission shall select and retain counsel to serve as its Solicitor and any other consultants or experts, including physicians and psychiatrists/psychologists, as necessary. The elected and appointed officials of the Borough shall assist the Commission with all reasonable and appropriate expenses including payment of reasonable compensation for any counsel or experts retained by the Commission.

Section 2.9: Amendment of Rules and Regulations

The Commission may propose to amend, revise, void or replace the 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 the Rules and Regulations become effective, those changes must be approved by the Borough Council. The Rules and Regulations, and any amendments thereto, shall be made available to the public for distribution or inspection.

Section 2.10: Solicitor

The Civil Service Commission shall appoint its own Solicitor whose fees shall be 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.

Section 2.11: Minutes and Records

The Commission shall keep minutes of its proceedings and records of examinations and other official action. All recommendations of non-appointed applicants for appointment received by the Commission shall be kept and preserved for a period of five (5) years. All records for all appointed applicants shall be kept for the life of their appointment and five (5) years thereafter. All records and written causes of removal filed with the Commission, except as otherwise provided in Section 1191 of the Borough Civil Service Law, shall be open to public inspection and subject to reasonable regulation as hereinafter stated.

Any and all records related to disciplinary action filed with the Commission shall only be open to public inspection upon completion of the disciplinary proceeding and a finding that at least one of the charges was sustained. Upon request of the police officer during the pendency of a disciplinary action, these records 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.

Section 2.12: Investigations

The Commission shall have the power to initiate and conduct investigations concerning all matters relating to the administration and enforcement of the Rules and Regulations. The Chairperson of the Commission is authorized to administer oaths and affirmations in connection with such investigations.

Section 2.13: 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 courts and shall be paid from appropriations for the incidental expenses of the Commission.

All officers in public service and employees of the Borough of Emmaus 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 minimal fine of \$100.00 or a fine not to exceed the maximum penalty permitted by law 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 Lehigh County 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.

Section 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, which shall be available for public inspection.

CHAPTER 3: APPLICATIONS AND QUALIFICATIONS FOR INITIAL EMPLOYMENT AS A POLICE OFFICER

Section 3.1: Public Notice

Public notice of the time and place of every examination, together with the information as to the rank to be filled, shall be given by publication once in a newspaper of general circulation, at least two (2) weeks prior to each examination, and a copy of the notice shall be prominently

posted in the office of the Commission or other public place. The public notice shall contain, at a minimum, the following information:

- A. Title and general requirements of the rank to be filled.
- B. Deadline for the acceptance of applications.
- C. Date, time and place for the commencement of the examination process.

The public notice may further include a statement of the residence requirements, starting salary and benefits, education requirements, application processing fee, and/or any other pertinent information as deemed appropriate by the Commission.

Section 3.2: Application for Examination

Each person desiring to apply for examination shall file with the Commission a formal application in which the applicant shall provide, under oath or affirmation, the following information:

- A. Full name and residence or post office address;
- B. citizenship, place and date of birth;
- C. condition of health and physical capacity for public service;
- D. business or employment and his residence for the past five years; and
- E. other information as may be required by the Commission's Rules and Regulations, showing the applicant's qualifications for the position for which the applicant is being examined.

The Commission may require in the application any other information that it deems appropriate.

The Commission shall establish the application form to be used. Said application form shall be submitted to Borough Council prior to its use and adoption for comment. The Borough shall establish the amount of a nonrefundable application/processing fee which must be paid at the time of submission of the application.

In order to be eligible for participation in any examination for any position with the Police Department, every applicant must submit a completed application form to the Commission and meet all other applicable eligibility requirements before the deadline stated by the Commission.

Section 3.3: Discrimination

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

Further, no discrimination shall be exercised against any disabled person capable of performing normal customary police functions, except to the extent permitted pursuant to the Americans with Disabilities Act and the Rules and Regulations promulgated thereunder or any other protected class as determined by federal and state law.

Section 3.4: Availability of Application Forms

Application forms shall be available to all interested persons in the office of the Borough Manager, 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 receipt of the application.

Section 3.5: Application Period

The application period shall be no less than fourteen (14) calendar days in length. The exact length of the application period shall be set by the Commission for each application process.

Section 3.6: Filing of Applications

Completed applications for police officer positions may be received at any time during normal business hours in the office of the Borough Manager and by such other offices and officers as the Commission may designate. The receipt of such applications shall be subject to the following conditions:

- A. Applications must be received on or before 4:00 P.M. of the day set by the Commission as the close of the application period.
- B. At the time of filing, all applications must be accompanied by the non-refundable processing fee paid in cash or by personal check. A receipt will be given for any fee paid. No application will be accepted for filing without payment of the appropriate fee.

If payment is made by a personal check which is not honored for any reason, it shall be considered that the applicant failed to pay the appropriate fee.

- C. An application becomes invalid one (1) year after the deadline per 3.6 (A) above or when an eligibility list is certified for that position.

Section 3.7: Recording of Applications

The Borough Manager or his/her designee shall conduct an initial screening of the filed application. The application and initial screening shall then be turned over to the Commission which shall review each application as soon as practical after filing for the purpose of determining that such application is complete and contains no omissions. Any application which is incomplete is invalid and it shall not be considered. The Secretary or other designated officer shall date, number and record in the order of receipt all applications which, once recorded, become Commission records and shall not be returned to the applicants.

Section 3.8: Willful Prior False Application to Any Department

No person who has made any willful false application in the past to any law enforcement agency shall be permitted to make an application or future application for any position in the Police Department.

Section 3.9: Age Requirement

All applicants must have reached their twenty-first (21st) birthday before the deadline for submitting completed applications.

Section 3.10: General Qualifications – All Applicants for Patrol Officer

Except as hereinafter provided, at the time the application is submitted, every applicant must have or provide proof of the following:

- A. Proof of being a United States citizen.
- B. Physically and mentally fit to perform the full duties and essential job functions of a police officer.
- C. Possess a valid motor vehicle operator's license.
- D. Meet the following educational requirement:

- (1) A high school diploma or graduate equivalency degree.
- E. Shall speak, read and write the English language.
- F. Must be of good moral character.
- G. Within one (1) year after being sworn in as a police officer, must reside within twenty (20) air miles of Borough Hall. The definition of residency shall be that place where an officer normally sleeps and carries on the normal activities associated with a home.

Section 3.11: Essential Job Functions and Tasks of a Police Officer

The Rules hereby incorporate by reference the essential functions and tasks of a Police Officer as currently required by the Municipal Police Officers Education and Training Commission, as outlined in Appendix A attached hereto. The essential functions and tasks will be automatically modified in the future to be identical to any future changes made by the Municipal Police Officers Education and Training Commission.

Section 3.12: Rejection of Applicant

- A. The Commission may refuse to examine, or, if examined, may refuse to certify after examination as eligible, any applicant who is found to lack any of the minimum qualifications for examination prescribed in the Rules and Regulations adopted for the position or employment for which he has applied, or who is physically unfit for the performance of the duties of the position to which he seeks employment, or who is illegally using a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has been guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the Constitutions and laws of the United States and Pennsylvania.
- B. The Commission shall refuse to certify as eligible any applicant who fails to accurately and truthfully disclose all facts and information requested of the applicant in the application, psychological testing, physical examination or interviews conducted pursuant to the background examination. If an applicant fails to appear for any scheduled examination or interview, that applicant shall immediately be removed as an eligible applicant. If an applicant's credit history is unsatisfactory so as to possibly affect police work, this may disqualify the applicant.
- C. If, at any time, an applicant desires to be removed from further consideration for inclusion in the eligibility list, the applicant shall submit that request in writing to the

Commission. After receipt of the same, the Commission shall remove that person's name from further consideration as an applicant. The Commission shall notify that person in writing of the same.

- D. If a person on the eligibility list fails to respond to a notice sent to that party's current address on file with the Commission or fails to appear for any scheduled testing or interviews, that party's name shall be removed from the eligibility list upon action of the Commission.

Section 3.13: Hearing for Disqualified Applicants / Refusal to Certify the Applicant as Eligible after Examination

The disqualified applicant or aggrieved party must make a request to the Commission, in writing, for a hearing within ten (10) calendar days of the date when the party knew or should have known of the Commission's action which is being challenged. Upon receipt of the request, the Commission shall, within ten (10) days, if possible, appoint a time and place for a public hearing, with or without counsel, at which time the Commission shall take testimony and review its refusal to provide examination or certification. The decision of the Commission shall be final.

Section 3.14: Continuing Duties of Applicants

All applicants shall have a continuing duty to apprise the Commission/Borough, in writing, of the party's current address and telephone number. All notices will be deemed received by the party, if sent to the current address of that party on file with the Commission by first-class mail.

CHAPTER 4: EXAMINATION AND GRADING PROCEDURE FOR INITIAL POLICE OFFICER APPLICANTS

Section 4.1: Notice of Examination

In addition to the public notice of Section 3.1, the Commission shall give written notice of each examination to each qualified applicant. The notice shall be mailed or otherwise delivered to each applicant at least ten (10) days prior to the date of the examination. The notice shall specify the date, time, duration and place of the examination and explain the following:

- A. Only applicants receiving notices to report for any examination shall be permitted to participate in such examination, and each applicant shall present his/her notice and a photo I.D. motor vehicle operator's license to the examiner before being examined.

- B. Any person who fails to report for the examination in accordance with the instructions contained in the notice shall be disqualified.

Section 4.2: General Examination Requirements for the Position of Police Officer

The examination for police officer will consist of a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing fifty percent (50%) of the final score and the oral examination representing fifty percent (50%) of the final score. In addition, each applicant will undergo a physical fitness test, a background investigation, and a polygraph examination. The physical fitness test may be administered before all other tests. This test and investigation will be graded on a pass/fail basis for every applicant. After an applicant has been extended a conditional offer of employment, final appointment shall be contingent upon the applicant passing a physical examination, psychological examination, and all Pennsylvania Municipal Police Officers Education & Training Commission (MPOETC) Act 120 requirements. .

Section 4.3: Appointment of Examiners

The Commission shall appoint a written examination administrator, an oral examination administrator, and a physical fitness/agility examiner, to conduct the appropriate examination required by the Rules and Regulations. The Chief of Police or his designee shall perform the background investigation.

Section 4.4: Written Examination

The written examination shall be graded on a 100 point scale and it shall be administered before the oral examination. To pass the written examination, a person must score seventy percent (70%) or greater on the examination and have a score which places that person in the top thirty-five (35) applicants taking the test. Applicants scoring less than seventy percent (70%) shall be rejected. In the event that a tie score occurs with people scoring above seventy percent (70%) or higher, then all applicants with that score will be considered as passing as long as it would have put any one of the applicants with a tie score in the top 35 scores of the applicants on the test. Within thirty (30) days of the administration of the written examination, all applicants shall be given notice as to whether they have passed the written examination. Those applicants who have passed the above written examination will be eligible to continue with the testing.

Section 4.5: Oral Examination

The oral examination shall be graded on a 100 point scale with a score of seventy percent (70%) or higher necessary for passing. The oral examination shall involve questioning applicants on how they would handle situations relevant to police work, their character and

reasoning abilities. Within thirty (30) days following the oral examination, applicants whose scores are passing, shall be informed of their numerical scores on the oral examination as well as their numerical score on the written examination. If their scores on the oral examination are not passing, they shall be informed of the same without the necessity of providing a numerical score. Each applicant who has passed the written and oral exams shall be informed of the date for physical fitness testing if not already administered.

Section 4.6: Veterans' Preference Points

Pursuant to the Soldiers Preference Act, any applicant for the position of patrol officer who qualifies as a "soldier" under the Act, shall receive an additional ten (10) points on top of his total score if the applicant received passing scores under Sections 4.4 and 4.5. Any applicant requesting veterans' preference points must furnish sufficient proof of both service and honorable discharge in accordance with instructions from the Commission in order to be eligible to receive the veterans' preference points.

Section 4.7: Physical Fitness Testing

The Civil Service Commission shall administer a physical fitness test to all applicants for the position of police officer in accordance with the guidelines of the American College of Sports Medicine and the Cooper Institute for Aerobics Research. The physical fitness test to be administered will be amended from time to time to conform to new amended guidelines from the above-referenced entities. Currently, the test battery consists of the following:

- A. 300 meter run – 66 seconds
- B. Sit-ups – 30 repetitions in 1 minute
- C. Push-ups – 25 repetitions in 1 minute
- D. Vertical jump – 15.5 inches
- E. 1.5 mile run – 15 minutes, 54 seconds

Each test will be preceded by a warm-up or rest period with a mandatory cool-down period at the conclusion of the test.

It is understood that MPOETC also administers a physical fitness test for its applicants. The applicant must also pass the MPOETC physical fitness examination as well, however, that examination will be administered by MPOETC.

Section 4.8: Background Investigation – Polygraph Examination

- A. As part of the background investigation process, an applicant who has successfully passed the requirements of Sections 4.1 through 4.7 of the Rules and Regulations, and is determined to be one of the top three (3) applicants pursuant to the requirements of Section 4.9.F of the Rules and Regulations, shall be administered a polygraph examination. The Commission shall, require an applicant to take and pass a polygraph examination as a condition of further eligibility prior to the complete the remainder of the background process. The party administering the polygraph examination shall be a qualified professional who shall be appointed by the Commission. The polygraph examiner shall render an opinion in writing to the Chief of Police as to whether the conditional appointee has successfully passed the polygraph examination. The polygraph examiner's opinion concerning the applicant will address whether that party has any issues which call into question the person's character, history, records and other information revealed by the polygraph examination which would call into question that person's ability to perform the functions and tasks of a police officer in an appropriate manner.

- B. Failure of the polygraph examination disqualifies the applicant from any further consideration and shall result in the removal of the applicant from the eligibility list. However, within ten (10) days after notice of the applicant's failure of said polygraph examination, the person may request, in writing, to the Borough Manager, a second polygraph examination. The applicant must prepay one hundred percent (100% of the costs related to such re-examination. Failure to request and pay for such polygraph re-examination as set forth above shall conclusively mean that that person has not met a condition of the background investigation and he shall no longer be considered.

If an applicant fails the polygraph examination, the next eligible applicant, based on the weighted scores pursuant to Section 4.2 of the Rules, and who has successfully completed all requirements of Sections 4.1 through 4.7 of the Rules and Regulations, shall be administered a polygraph examination. This process shall continue in order of the eligibility list, based on weighted scores, until such time that there are three (3) eligible applicant for further consideration.

Section 4.9: Background Investigation

- A. Pursuant to the applicant successfully passing the polygraph examination requirements in Section 4.8 above, the Commission shall request the Chief of Police or the Chief's designee to conduct a background investigation on each applicant who has passed the written examination, oral examination, physical fitness test, and polygraph examination. The background investigation shall include, whenever reasonable or practicable, interviews with the applicant's family, acquaintances, current and former employers, current and former neighbors, references and current and/or former teachers and school officials. In addition, the applicant's record of criminal convictions shall be investigated. The applicant may be interviewed directly when the information collected during the background investigation requires clarification or explanation.

- B. The Chief or his designee shall request a credit check on all applicants that have passed the written, oral, physical fitness testing, and polygraph examination. This information shall be reviewed to determine whether, in the Chief or his designee's discretion, the applicant's credit history is unsatisfactory so as to possibly affect police work. The applicant may be interviewed directly when the information collected during the credit check investigation requires clarification or explanation.
- C. After the background investigation is completed, the Chief, or his designee, shall make a written recommendation to the Commission on whether the applicant is appropriate for consideration for appointment as a police officer.
- D. This recommendation shall be in writing and if the recommendation is to disqualify, then a detailed written explanation of the reasons for disqualification must be included. The Commission shall make the final determination on whether the information collected during the background investigation warrants rejection of the applicant.
- E. Within thirty (30) days after the Commission considers the recommendation of the Chief of Police or his designee, each applicant will be informed of whether he has passed the background investigation.
- F. The Chief of Police or the Chief's designee shall report the results of the background examiner to the Commission in segments of three (3) at the election of the Commission. If the Commission requests background investigations, the Chief shall begin his background investigations on the applicants with the top three (3) scores (including, where applicable, veteran's preference points). When requested by the Commission, the Chief will then proceed sequentially with additional applicants until such time that there are three successful eligible applicant. The process shall continue with applicants having the next highest scores until the Commission is satisfied that it has an appropriate number of passing applicants for the current opening and/or all projected openings, provided that there are either three eligible applicants for certification or, if there are not enough applicants to fill the requirement of three, that all eligible applicants have been processed.

CHAPTER 5: CERTIFICATION OF THE LIST OF ELIGIBLE APPLICANTS AND APPOINTMENT

Section 5.1: Creation of Eligibility List

At the completion of the examination requirements set forth in Section 4, written examination, oral examination, background investigation and physical fitness test, the Commission shall rank the applicants who have satisfied the requirements for appointment on an eligibility list. The eligibility list shall contain the names of the individuals eligible for appointment listed from highest to lowest based on their scores on the examinations administered by the Commission and any points for which the applicant was entitled by virtue of 51 Pa.C.S.

Ch.71 (relating to veterans' preference). In the case of tied scores, the tie will be broken by giving preference to the applicant who has the highest oral score. If both are tied, then the applicants will draw lots to determine the eligibility list ranking.

At the election of the Commission, the eligibility list shall be certified, beginning with a segment of the top three (3) applicants, based upon the receipt of the results of the background investigation as set forth in Sections 4.8 and 4.9, including all other requirements of Chapter 4 of the Rules and Regulations. The certified list shall initially consist of three (3) applicants and the same shall be valid immediately without awaiting results from the background investigations of the lower scoring applicants. The Commission shall add to the certification list further names upon receipt and review of the results of the subsequent background investigations on the remaining successful applicants.

The eligibility list shall be valid for one (1) year from the date the Commission approves the whole list or, if segmented, from the date of approval of the first group of applicants. The eligibility list shall include all applicants that have successfully completed all requirements of Sections 4.1 through 4.7 of the Rules and Regulations. Before the expiration of the original first year, the Commission may, at its sole discretion, by a vote of the majority of the Commission at a duly authorized Commission meeting, extend the list for up to an additional twelve (12) months. The Commission may, at its sole discretion, void an eligibility list at any time for any reason.

Section 5.2: Removal from Eligibility List

- A. If a person on the eligibility list fails to respond to a notice sent to that party's current address on file with the Commission or fails to appear for any scheduled testing or interviews, that party's name shall be removed from the eligibility list upon action of the Commission.
- B. If a person no longer desires to remain on the eligibility list, that person shall notify the Commission of the same and the Commission shall remove that person's name from the list.
- C. The name of a person appearing on the eligibility list shall be removed if that person declines or fails the additional testing for a conditional appointment to a permanent position in the Police Department.
- D. The name of a person appearing on the eligibility list shall be removed by the Commission if that person indicated availability for appointment and is so appointed but fails to report for duty at the time prescribed, unless, in the opinion of Borough Council, such person can show good and sufficient reason for failing to report.

- E. The Commission may, at its own discretion, remove from the eligibility list the name of any person certified for appointment consideration and rejected (or not hired) three (3) times.
- F. In the event of any of the above after the Commission takes action to remove the person's name from the eligibility list, it shall notify the person in writing of that person's removal from the list.
- G. The name of the person appearing on the eligibility list shall be removed from the list if that person is conditionally appointed to a position in the Police Department and no notice to the person conditionally appointed shall be necessary.

Section 5.3: Appeals from Removal from Eligibility List

Any person on the eligibility list who is aggrieved by removal therefrom may request a hearing, in writing, before the Civil Service Commission within ten (10) days after notice of the same. Failure to make such a request within the aforesaid time frame is a waiver of the person's right of appeal. The Civil Service Commission will appoint a time and place for a public hearing within ten (10) days if possible, at which time the Commission shall take testimony and review the decision to remove the applicant from the eligibility list. The person removed from the eligibility list may have any attorney present. A representative appointed by Borough Council may present the case on behalf of the Borough. The decision of the Commission shall be final.

Section 5.4: Certified List of Applicants

- A. The Certified List of Applicants shall include the applicants who have the three (3) highest weighted scores in the written and oral examinations, with consideration of Veterans Preference, and have successfully completed all requirements of Chapter 4 of the Rules and Regulations. The certification list may include more than three (3) applicants pursuant to the requirements of Section 5.1 of the Rules and Regulations.
- B. The applicants with the three (3) highest weighted scores and have successfully completed all requirements of Chapter 4 of the Rules and Regulations, shall be certified by the Commission for consideration of employment by Borough Council.
- C. Should any of the top three (3) applicants remove their name from the eligibility list or become ineligible pursuant to the Rules and Regulations, the Commission shall process additional applicants in accordance with Sections 4.8 and 4.9, until such time that there shall be three (3) certified applicants.
- D. If, for any reason, there are not enough eligible applicants to meet the requirement of three (3) certified applicants, the Commission may certify and refer less than three (3) applicants for Borough Council's consideration.

Section 5.5: Appointment

- A. Borough Council may fill any vacancy in an existing position in the Police Department which occurs as a result of expansion of the police force, retirement, resignation, disability or death by the reappointment or reinstatement of a former employee of the Police Department who had been furloughed. Except for physical and psychological examinations, no other testing shall be required for a furloughed employee or a rehired or reappointed employee.
- B. If no furlough list exists or if positions remain to be filled after all of the officers on the furlough list were offered reemployment, every position, except that of Chief of Police, shall be filled only in the following manner:
 - (1) Borough Council 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 names(s) remaining on the list pursuant to the requirements of successfully completing Sections 4.8 and 4.9 of the Rules and Regulations;
 - (3) Borough Council may make a conditional appointment from one of the three names certified based solely on the merits and fitness of the applicants. However, when one of the three applicants on the certified list is a veteran, that applicant shall be given conditional hiring preference.
 - (4) Borough Council may, at its sole discretion, appoint any applicant who has passed the required examinations for appointment (or promotion) although the applicant's name does not appear on the certified list of three when the applicant qualifies for veteran's preference.
- C. Borough Council may object to one or more of the persons certified for the reasons set forth in Section 3.12 and/or Section 5.2 of the Rules and Regulations. If the applicant to whom Borough Council objects fails to timely exercise the rights of appeal under Section 5.3 or if the Commission declines to uphold the appeal, the Commission shall strike the name of that applicant from the eligibility list and certify the next highest name for inclusion on the list of three applicants for each name stricken off.

Section 5.6: Physical and Psychological Medical Examinations

After Borough Council selects an applicant from the eligibility list, the applicant shall receive a conditional offer of employment to the position.

- A. 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 including Act 120 certification. Physical medical examinations shall be under the direction of a physician or other qualified medical professional. Psychological medical examinations shall be under the direction of a psychiatrist or psychologist.
- B. The physician or other qualified medical professional and the psychiatrist or psychologist shall be appointed by 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.
- C. If the opinion rendered by the physician, other qualified medical professional, psychiatrist or psychologist calls into question the conditional appointee's ability to perform all essential functions of a position, a person designated by 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.
- D. If, at the conclusion of the interactive discussion under subsection (c), Council determines that the conditional appointee is not qualified, the appointing officer or body shall give written notice to the conditional appointee and the Commission.
- E. Nothing in this act shall be construed to authorize physical or psychological medical examinations prior to conditional appointment.
- F. As used in this section, the following definitions shall apply:

"*Medical Examination*" shall mean 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.

"*Physician*" shall have the meaning given to it in 1 Pa.C.S. § 1991 (relating to definitions).

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

- (1) 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

- (2) 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."

Section 5.7: Failure of Conditional Appointee to Pass All Conditions

- A. Borough Council, when making a conditional appointment, shall include as conditions of the appointment passage of a physical examination and mental examination. Borough Council may include such other conditions as it deems appropriate.
- B. Failure of the conditional appointee to pass all conditions imposed by Council within the time frames set forth in their appointment shall result in that person's immediate termination from any further consideration for appointment as a police officer with the Borough. A person who has failed one of the conditions may request an opportunity to meet and discuss that person's failure of the condition with Borough Council. Borough Council has the option to grant such meeting and it may take any appropriate steps concerning further opportunities for the conditional appointee. It is specifically understood that such meeting with Borough Council is not an appeal nor is Council bound to take any steps whatsoever. The failure of the condition set by Council as a condition of employment automatically ends the conditional appointee's status with the Borough.

Section 5.8: Probationary Period

Every successful applicant to the position of patrol officer or to a promotional position within the Police Department shall serve a twelve (12) month probationary period commencing upon the swearing in of the officer. For newly hired police officers, the one (1) year probationary period shall not commence until after the officer has completed training under Act 120 and receives a certification number. During the probationary period, a newly hired officer may only be dismissed for cause for the reasons set forth in Section 6.1. A promoted officer, during probation, may be returned to a prior rank only for cause for the reasons set forth in Section 6.1 or because of incapacity for duty due to the use of alcohol or drugs. However, at the end of the twelve (12) month probationary period, if the conduct of the probationer has not been satisfactory to the Borough of Emmaus, the probationer shall be notified in writing that the appointment will not be permanent and the appointment shall cease. At that time, a newly hired officer's employment shall end and a promoted officer shall return to a previous rank. Any officer, who is not informed in writing of dismissal, shall receive a permanent appointment to the new position. Any probationer who is notified in writing that appointment will not be made permanent has no rights of appeal under the Rules and Regulations.

Section 5.9: Provisional Appointments

Whenever there are urgent reasons for the filling of a vacancy in any position in the Police Department and there are no names on the eligibility list for such appointment, 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 weeks of the provisional appointment, to hold a competitive examination and certify a list of persons 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 5.10: Academy Training

If an applicant for conditional appointment is required to attend the academy to become Act 120 certified before being sworn in as a police officer, the Borough will make it part of the conditional offer of employment that the applicant will have the cost of tuition and expenses for his taking the Act 120 course work for certification be deducted from his salary (to the extent not paid by the state or any other agency). Borough Council shall determine the amount of temporary salary, if any, to be paid to a conditionally employed applicant who is not Act 120 certified until he is sworn in as a police officer. Consistent with the CBA, all calculation of benefits will only occur after the police officer is sworn in and begins work as a police officer.

CHAPTER 6: SUSPENSION, REMOVALS AND REDUCTIONS IN RANK

Section 6.1: Grounds for Disciplinary Action

- A. No person employed in the police force of the Borough covered by civil service shall be suspended without pay, removed or reduced in rank except for the following reasons:
- (1) physical or mental disability affecting the person's ability to continue in service, in which case the officer shall receive an honorable discharge from service;
 - (2) neglect or violation of any official duty;
 - (3) violation of any law which provides that the violation constitutes a misdemeanor or felony;
 - (4) inefficiency, neglect, intemperance, immorality, disobedience of orders or conduct unbecoming an officer;
 - (5) intoxication while on duty;

- (6) engaging or participating in or 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 Borough Code.
- B. A person so employed shall not be removed for religious, racial or political reasons.
 - C. A written statement of any charges made against any person so employed shall be furnished to the person within five days after the same are filed. The person so employed shall have ten days from the date of receiving the notice in which to submit a written request for a hearing to the Civil Service Commission.

Section 6.2: Furloughs

- A. If for reasons of economy or other reasons, it shall be deemed necessary by the Borough to reduce the number of full-time police officers in the department, then the Borough shall furlough the person or persons, including probationers, last appointed to the respective force. Such removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until such reduction shall have been accomplished.
- B. In the event said police force shall again be increased, the employees furloughed shall be reinstated in the order of their seniority in the service. The provisions of this paragraph as to reduction in forces are not applicable to the Chief of Police.

Section 6.3: Removal of Names from Furlough Lists

In addition to other reasons stated as grounds for removal in the Rules and Regulations, the name of a person appearing on a furlough list shall be removed by the Commission if that person:

- A. is appointed to a position in the Police Department; or
- B. declines an appointment to a permanent position in the Police Department; or
- C. indicated availability for appointment and is so appointed but fails to report for duty at the time prescribed, unless, in the opinion of Borough Council, such person can show good and sufficient reason for failing to report.

Nothing in this section, however, shall be construed as authorizing the removal of the name of a person from a furlough list who refuses to accept a position of lower rank than that from which furloughed.

Section 6.4: Notice of Suspension, Removal or Reduction in Rank

Whenever a police officer is suspended without pay, removed or reduced in rank, the specific charges warranting such actions shall be stated in writing by the Borough Council or the Mayor. The charges shall be stated clearly and in sufficient detail to enable the officer to understand the charges and to allow the officer an opportunity to respond to those charges. The charges shall specify the clause 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 finding a violation of Section 6.1.

Within seven days after Borough Council has voted or the Mayor has determined to impose the disciplinary action, a written statement of the charges shall be delivered to the officer either by personal service or by certified and regular mail. In addition, the charges shall notify the officer of the right to appeal under Section 6.1 of the Rules and Regulations. A copy of the statement of charges shall also be served upon the members of the Civil Service Commission.

Section 6.5: Appeals/Hearings on Suspension Pay, Removal or Reduction in Rank

All appeals of disciplinary actions for full-time police officers (police covered by the current CBA) will be handled in accord with the terms of the CBA (Collective Bargaining Agreement). If, for any reason, the disciplinary actions are not covered by the CBA or in the future are removed from the CBA (or are held to be required under civil service law), then the disciplinary appeals will be heard by the Civil Service Commission in accordance with the following Rules and Regulations:

- (1) The officer who has been suspended, removed or reduced in rank may appeal the decision of the disciplinary authority by written notice to the Secretary of the Commission at Borough Hall requesting a hearing. This request shall be received by the Borough Manager within ten days after the officer received notice of the discipline. The officer may prepare written responses to any charges filed not later than the date fixed for the hearing. Failure of the officer to provide written responses to any of the charges shall not be deemed an admission by the officer.
- (2) The Commission shall schedule a hearing within ten days from the officer's written request for a hearing unless continued by the Commission for cause at the request of the Commission, Borough Council or the officer. At any such hearing, the officer against whom the charges have been made may be present and represented by counsel, may call witnesses and present testimony and documentation in his defense. Borough Council 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 substantial evidence has been presented to support the 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'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. Either the officer or the Borough has the right to appeal the decision of the Commission to the Court of Common Pleas.

Section 6.6: Hearing Procedure on Suspension, Removal or Reduction in Rank

- A. All testimony shall be given under oath administered by the chairperson. The Commission shall have the power to issue subpoenas as set forth in Section 2.11.
- 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 (concerning hearings on suspension, removal or reduction in rank) 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.
- C. The deliberations of the Commission, including interim rulings on evidentiary or procedural issues, may be held in private and shall not be subject to a request for being open to the public, the Council or the person sought to be suspended, removed or reduced in rank. The Commission's disposition of the disciplinary action shall constitute an official action which shall occur at a public meeting held pursuant to 65 Pa.C.S. Chapter 7 (relating to open meetings).
- D. If the Commission sustains the charges, the officer who was suspended, removed or reduced in rank may file an appeal with the Court of Common Pleas within thirty (30) days from the date of entry by the Commission of its final order. No order of suspension shall be made by the Commission for a period longer than one 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 officer's record.

CHAPTER 7: PROMOTIONS – GENERAL INFORMATION AND QUALIFICATIONS

Section 7.1: Promotion Policy

Promotions in the Police Department shall be based on the needs of the Police Department and the Borough. A rank shall be filled only when, in the opinion of the Borough Council, the Police Department and the Borough will benefit from such action. All ranks specified in the Police Ordinance need not be populated.

Section 7.2: Promotion Eligibility Lists

The Commission shall create eligibility lists for the positions of sergeant, lieutenant and captain when requested by Borough Council. A promotional eligibility list certified by the Commission shall remain in effect for a period of two (2) years from the date of its certification unless voided earlier by the Commission. The Commission may remove the name of any applicant from the promotional eligibility list who is subsequently determined to have been actually ineligible according to the Rules and Regulations.

Section 7.3: General Qualifications

- A. All applicants for a promotional position, except Chief, shall not have been suspended without pay at any time within five (5) years prior to the deadline for submitting applications. A suspension to which the applicant has timely appealed pursuant to a grievance procedure or the Rules and Regulations shall be disregarded unless the appeal is resolved prior to the creation of the eligibility list.
- B. All applicants shall have continuous service with the Police Department of Emmaus as follows:
 - (1) an applicant for the rank of corporal shall have at least two (2) years of service within the Police Department;
 - (2) an applicant for the rank of sergeant shall have at least five (5) years of service within the Police Department;
 - (3) an applicant for the rank of lieutenant shall have at least two (2) years of service as a sergeant within the Police Department;
 - (4) an applicant for the rank of captain shall have at least two (2) years of service as a lieutenant within the Police Department.

Section 7.4: Notification of Vacancy

When a rank within the Police Department is to be filled by promotion, Borough Council shall submit a written request to the Commission for certification of a list of eligible applicants for the vacant rank. If a current eligible list for the rank to be filled does not exist, the Commission shall direct the Borough Manager to post a notice of the opening on the bulletin board in Police Headquarters. This notice shall be posted at least three (3) weeks prior to the date set for the written promotion examination, and shall contain the following information:

- A. The rank to be filled and its qualification requirements;
- B. The place, date and time of the written examination;
- C. A statement specifying that all qualified officers interested in applying for the opening must file a letter of intent with the Commission Secretary or the Borough Manager;
- D. The deadline for accepting letters of intent shall be at least fourteen (14) days after the date of the notice.

CHAPTER 8: APPLICATION FOR PROMOTION

Section 8.1: Letter of Intent

Each person interested in applying for promotion shall file a signed letter of intent with the Commission Secretary or Borough Manager. Letters of Intention may be received at any time during normal business hours in the office of the Borough Manager. The receipt of such letter of intention shall be subject to the following conditions:

- A. The letter shall be received on or before 4:00 p.m. of the deadline date set by the Commission.
- B. Letters of Intent shall become invalid for testing purposes when a current promotional eligibility list is certified for that position.

Section 8.2: Investigation of Applicants

An investigation of the qualifications of the applicant may be made by the Commission or its designee.

Section 8.3: Rejection of Applicant

The Commission may refuse to examine for promotion any applicant who:

- A. Does not possess the qualifications specified in Section 7.3.
- B. Is physically or mentally unfit to perform the full duties and essential job functions of the position to which he/she seeks promotion.

Section 8.4: Hearing for Disqualified Applicant

Any applicant who believes he/she is aggrieved by the action of the Commission in refusing to examine or to certify him/her as eligible after examination may request a hearing before the Commission. The applicant must make the written request within ten (10) calendar days of the date of the written notice of such action. The Commission shall, within ten (10) days following receipt of such written request, designate a time and place for the hearing where the applicant may appear in person and be represented by counsel. The Commission shall review its refusal to make such examination or certification, shall take such testimony as may be offered and render a written decision. The decision of the Commission shall be final.

CHAPTER 9 – PROMOTION EXAMINATIONS

Section 9.1: Notice of Examination

The Commission shall give written notice of each promotion examination to each qualified applicant. The notice shall be mailed or otherwise delivered to each applicant at least ten (10) days prior to the date of the examination. The notice shall specify the date, time, duration and place of the examination and explain the following:

- A. Only applicants receiving notices to report for examination shall be permitted to participate in such examination, and each applicant shall present his/her notice and photo I.D. motor vehicle operator's license to the examiner before being examined.
- B. Failure to report for an examination in accordance with the instructions contained in the notice shall be a cause for disqualification, absent a waiver of such requirement by the Commission upon good cause shown. The decision of the Commission on any waiver request shall be final and binding.

Section 9.2: Examination Process

Examination for promotion shall consist of a written examination and an oral examination. Questions in the written and oral examinations shall be practical in nature and fairly test the merits, experience and fitness of the applicant.

Section 9.3: Grading of Examinations and Evaluation

The written and oral examinations shall each be graded on a scale of zero to one-hundred percent (100%). The minimum passing scores for the written examination and the oral examination shall be seventy percent (70%) on each segment. Any applicant who fails to attain the minimum passing score on any examination shall be disqualified from further consideration for promotion and his/her name shall not appear on the eligibility list. For those applicants who pass each examination, a final overall score shall be determined by adding forty percent (40%) of the written examination score and sixty percent (60%) of the oral examination score to obtain the final score. Veterans' preference shall not be added for calculation of promotional eligibility lists.

Section 9.4: Notice of Applicant's Grade

When the grading of each examination is completed, the Secretary shall give each applicant written notice of his/her grade. Any applicant not receiving a passing grade on any examination is disqualified from continuing in the selection process for the position for which he/she applied.

Section 9.5: Administration of Examinations

Administration of the written and oral examinations and the evaluations of the service records and performance shall be the responsibility of the Commission. The Commission, however, may designate qualified agencies or individuals to conduct or assist in the written and oral examinations while reserving the right to accept or reject for cause, in whole or in part, the recommendations, evaluations and conclusions provided by such agencies or individuals.

Section 9.6: Rules for Conducting Written Examinations

The Commission shall prepare a statement of instructions and rules for the conduct of written examinations. The designated examiner shall administer each examination in accordance with the instructions of the Commission, and be responsible for enforcing the rules of conduct for written examinations.

Section 9.7: Breaking Tie Scores

When two (2) or more eligible applicants receive the same final overall score, the order in which the names of such persons appear on the eligibility list shall be determined by giving preference to the applicant who has the highest oral score. If both are tied, then the applicants' last agency performance evaluation will be given preference. If a tie still exists, the final tie-breaker shall be the length of service of each applicant.

Section 9.8: Eligibility List

When all examinations and evaluations have been completed and final overall scores have been computed, the Commission shall prepare a promotion eligibility list.

CHAPTER 10: PROMOTIONS - CERTIFICATION OF ELIGIBLE APPLICANTS AND APPOINTMENTS

Section 10.1: Certification of Promotion

Upon receipt of a request from Borough Council for certification of a list of eligible applicants for promotion to the rank specified, the Commission shall certify the names of the top three (3) persons, or a lesser number if three are not available, on the promotion eligibility list for the rank to be filled.

Section 10.2: Promotional Appointment

When Borough Council receives the certified list of eligible applicants from the Commission, it may elect to make an appointment from such list of eligible applicants, unless it makes objections to the Commission. Should such objections be sustained by the Commission, the Commission shall remove the name of such person from the eligibility list and certify the next highest person on the list. After an appointment is made, the names of those persons not appointed shall be returned to the eligibility list unless removed for cause as stated above.

CHAPTER 11: CHIEF OF POLICE

Section 11.1: Nomination

In the event of a vacancy in the office of Chief of Police, Borough Council may nominate a person with the qualifications to fill the position of Chief of Police. Such nomination shall be at will unless Council elects as follows. Council, at its option, may request, in writing, that the

Commission certify the nomination by subjecting the nominee to a non-competitive examination administered by the Commission.

Section 11.2: Job Qualifications

Any person seeking appointment to the position of Chief of Police shall meet all of the following minimum requirements:

- A. The nominee shall have a minimum of ten (10) years full time law enforcement experience.
- B. The nominee shall demonstrate leadership ability to deliver and supervise the work of subordinates.
- C. The nominee shall be medically fit and able to perform all of the essential functions of a police officer as set forth in the Rules and Regulations and any of the job related functions of Chief of Police.

Section 11.3: Examination Procedure

The nominee shall take both a written examination and an oral examination.

- A. The written examination administered to the nominee shall be of such a nature as to fairly and thoroughly evaluate that person's police job knowledge. The Commission shall select the type of written examination to be administered and the examination shall be specifically job related to the duties, skills and responsibilities of a Police Chief. At least four (4) weeks prior to the administration of the written test, the Commissioner or testing entity selected by the Commission shall provide the nominee with information relative to the length and format of the test and the subject areas which will be covered in the test including any specific reading material that should be reviewed.
- B. The oral examination shall be administered by a panel of three (3) adult individuals known as the Examination Board who shall be selected by the Civil Service Commission. One such member of the Examination Board shall be a member of the Civil Service Commission. One such member of the Examination Board shall have law enforcement experience. The final member of the Examination Board shall be an adult resident of the Borough of Emmaus for a period of at least one (1) year and shall be chosen by the Civil Service Commission to represent the public interest. The oral examination shall focus on the nominee's experience as a police officer, goals for the department, goals for the Borough and his interpersonal relations and administrative skills. The length and format of the oral examination shall be determined by the oral testing board and the results of the oral examination shall be reported to the Civil Service Commission in writing.

- C. If the Civil Service Commission determines that the nominee has passed both the written and oral examination (the determination of a passing score to be solely left to the discretion of the Civil Service Commission), then he/she shall be certified by the Commission as qualified and the same shall be reported to the Council for the Borough of Emmaus which then has the option to appoint him or her to the position of Chief of Police.

Appendix A:

**COMMONWEALTH OF PENNSYLVANIA
MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION
CORE JOB DESCRIPTION
As of January 17, 2013**

JOB TITLE: PATROL OFFICER

GENERAL STATEMENT OF DUTIES:

Under regular and close supervision, provides basic law enforcement services to the community within the mission, goals and objectives of an employing law enforcement agency and in compliance with governing federal, state and local laws.

ESSENTIAL FUNCTIONS AND TASKS:

A. Essential Function – Respond to and Conduct Initial Investigations of Various Crimes and Events.

Essential Tasks:

1. Secure crime scene, i.e. establish security perimeter.
2. Protect and preserve evidence.
3. Tag confiscated properties.
4. Review facts of case to determine whether case is criminal or civil matter.
5. Exercise discretion (choice) in selecting appropriate police action.
6. Interview complainants, witnesses, etc.
7. Interrogate/Interview suspects.

8. Listen closely to interviewee, suspect, etc. to ensure full understanding of person's words.
9. Review records and pictures to identify suspects.
10. Control spectator/media access at scene of police incident.
11. Describe persons to other officers (e.g., suspects, missing person).
12. Direct actions of law enforcement or public service personnel arriving to assist.
13. Recognize and define elements of individual criminal charges.

B. Essential Function – Protect Crime Scene and collect Evidence and Information

Essential Tasks:

1. Examine evidence from crime scene to determine relevance.
2. Collect evidence and property from crime scene.
3. Package (bag and tag) evidence.
4. Analyze crime scene to determine need for specialist processing.
5. Fill out forms to document chain of custody of evidence.
6. Locate witnesses to a crime.
7. Fill out seized property inventory.
8. Initial/Mark/Label evidence.
9. Initial/Mark/Label recovered property.

C. Essential Function – Arrest and Detain Persons

Essential Tasks:

1. Advise persons of constitutional (Miranda) rights.
2. Apprehend and place juvenile offenders in custody.
3. Conduct field or scene one-on-one “field identification” with victim or witness to identify a suspect.
4. Book persons in custody by completing arrest and related forms.
5. Examine physical condition/appearance of prisoners and/or persons in custody to assess need for medical attention.

6. Execute arrest warrants.
7. Escort (walk) persons in custody to various destinations, e.g. medical facility, court, etc.
8. Arrest persons with a warrant.
9. Arrest persons without a warrant.
10. Handcuff suspects or prisoners.
11. Guard arrested persons outside of detention facility.
12. Conduct field interview of suspicious person.
13. Recognize signs of suicide risk in prisoner/arrested person.
14. Plan and organize service of Arrest Warrant.
15. Obtain arrest warrant and/or make proper return.
16. Use force as necessary and appropriate in apprehension of criminal suspects.

D. Essential Function – Conduct Search and Seizure

Essential Tasks:

1. Conduct full search of arrested persons.
2. Conduct frisk or pat down.
3. Search automobile under independent probable cause.
4. Search automobile incident to arrest.
5. Seize contraband, weapons and stolen property from suspects.
6. Recognize hidden stealth weapons.
7. Detain and search person at gunpoint.
8. Request verification of warrants before execution.

E. Essential Function – Provide Emergency Services and Assistance

Essential Tasks:

1. Observe persons in custody to determine whether they are intoxicated or in medical distress, mentally ill, retarded, etc.

2. Take mentally impaired persons into custody for their own protection or that of others (Mental Health Act – 302 Commitments).
3. Contact Mental Health resource (program, facility, etc.) to obtain help for disturbed person.
4. Administer cardio-pulmonary resuscitation (CPR).
5. Administer mouth-to-mouth resuscitation.
6. Apply basic first aid to treat for gunshot wounds.
7. Apply basic first aid to control bleeding.
8. Apply basic first aid to treat for amputations.
9. Apply basic first aid to unresponsive/unconscious person.
10. Apply basic first aid to treat for heart attack.
11. Apply basic first aid to treat for stabbing or puncture wounds.
12. Apply basic aid for choking, e.g. Heimlich Maneuver.
13. Help evacuate areas endangered by explosive or toxic gases, liquids, or other spilled materials.
14. Help evacuate buildings and surrounding areas in response to threat of explosion, e.g. bomb, natural gas.
15. Use protective gear to prevent contact with infectious diseases, blood-borne pathogens, etc.
16. Put on and take off emergency protective gear; e.g. breathing apparatus, gown, gloves, etc.
17. Observe individual to recognize signs of mental illness.
18. Take control of publicly intoxicated/disruptive person.
19. Place barricades on roadway to protect or secure area, vehicle, etc.
20. Talk with persons attempting to commit suicide to get them to delay or stop their attempt.
21. Transport mental patients.
22. Enforce restraining/protective order under Protection from Abuse Law.
23. Respond to and control scene involving barricaded subject.

F. Essential Function – Respond to and Conduct Investigation of Motor Vehicle Accidents

Essential Tasks:

1. Inspect vehicle involved in accident to assess damage, cause, etc.
2. Search for and collect physical evidence at motor vehicle accident scene.
3. Investigate motor vehicle accident to determine causes or factors contributing to an accident.
4. Collect facts of motor vehicle accident to determine charges.
5. Determine whether accident is reportable or non-reportable.
6. Hand sketch diagram of motor vehicle accident.
7. Identify and interview owners and others involved in motor vehicle accident.
8. Locate and interview witnesses to motor vehicle accidents.
9. Protect physical evidence at motor vehicle accident scene to ensure collection.
10. Issue citation for violation in a motor vehicle accident.
11. Determine point or area(s) of impact or point or areas(s) of motor vehicle accident.
12. Direct traffic scene of accident investigation.
13. Follow agency procedures or state statutes to impound and inventory vehicles.
14. Assess need for and organize emergency assistance for motor vehicle accident (e.g., wrecker, ambulance, sand truck).
15. Determine accurate geographical direction(s) of vehicles/vessels involved in traffic accident.

G. Essential Function – Enforce DUI and Other Commonwealth Motor Vehicle Laws

Essential Tasks:

1. Review/consider facts of case and State Motor Vehicle code to select most appropriate charge and/or enforcement action.
2. Fill out forms to obtain blood sample from DUI suspect.
3. Explain local traffic ordinance to violator.
4. Administer field sobriety test, e.g. PBT, Standardized Field Sobriety Test, Gaze NYSTAGAMUS, etc.

5. Arrest DUI suspects.
6. Observe operator's eyes, body movements, actions, etc. to evaluate his capability to operate vehicle.
7. Complete DUI arrest reports.

H. Essential Function – Operate Emergency Vehicle

Essential Tasks:

1. Engage in high-speed pursuit operating in congested area.
2. Engage in high-speed response operating in congested area.
3. Engage in high-speed pursuit operating on open road.
4. Engage in high-speed response operating on open road.
5. Operate patrol vehicle in driving rain.
6. Operate patrol vehicle on dirt/gravel covered road.
7. Operate patrol vehicle on ice/snow covered road.
8. Operate patrol vehicle at night.
9. Read violator vehicle license plate registration while operating police vehicle.
10. Operate appropriate vehicle to transport prisoners.

I. Essential Function – Execute Motor Vehicle Stop and Investigate Occupants

Essential Tasks:

1. Execute felony motor vehicle stop.
2. Investigate suspicious vehicle.
3. Activate emergency equipment and direct violator vehicle out of moving traffic to execute traffic stop.
4. Look for and identify suspect vehicle by color and description.
5. Execute stop of motor vehicle and approach and talk to operator and passengers.
6. Watch occupants of stopped vehicles to identify unusual or suspicious actions.
7. Stop vehicles to investigate, warn or arrest occupants.

J. Essential Function – Use Physical Force and Exertion to Perform Duties

Essential Tasks:

1. Break up fights between two or more persons.
2. Carry by yourself an immobile child.
3. Carry by yourself an immobile adult.
4. Carry with someone else an immobile child on a stretcher or other device.
5. Carry with someone else an immobile adult on a stretcher or other device.
6. Drag by yourself an immobile child.
7. Drag by yourself an immobile adult.
8. Drag with someone else an immobile child.
9. Drag with someone else an immobile adult.
10. Crawl under an obstruction.
11. Jump down from a height.
12. Climb over a fence.
13. Climb through a window or other such opening.
14. Push a motor vehicle out of a lane of traffic by yourself.
15. Push a motor vehicle out of a lane of traffic with another person.
16. Jump across ditch or other such obstacle.
17. Lift while in a stationary position a heavy object or person.
18. Pull person out of a vehicle through window or open door to effect rescue.
19. Sprint at full speed (less than 300 yards).
20. Run up stairs.
21. Run down stairs.
22. Use holds or devices to control or take suspect down.
23. Tackle a fleeing suspect.
24. Subdue physically attacking person.
25. Use weaponless defense tactics.
26. Subdue person resisting arrest.
27. Stand for more than half of work shift.

28. Walk for more than half of work shift.
29. Use body pressure points to control person.
30. Bend over/kneel to search under vehicle.
31. Grip person tightly to prevent escape/control movement.
32. Disarm violent armed suspect.
33. Pull person out of vehicle who is resisting arrest.
34. Climb stairs in multiple story buildings.
35. Strike person with side-handled baton.
36. Strike person with straight baton.
37. Use hammer lock to hold person.
38. Use submission holds to control person.
39. Twist at waist to direct traffic.
40. Hold person upright to prevent their falling, e.g. drunk.
41. Support person while walking to prevent their falling.
42. Bend/kneel to apply shackles, cuffs, etc.
43. Use chemical/OC spray to control person(s).

K. Essential Function – Develop and Maintain Positive Community and Interpersonal Relations

Essential Tasks:

1. Talk with people on beat, patrol area, district, etc. to establish positive relationship.
2. Talk with families of juvenile suspects or defendant to advise, notify, counsel, etc.
3. Intercede in domestic disputes to resolve, maintain peace, protect persons, etc.
4. Maintain courteous relationship with citizens to foster positive relationship.
5. Behave in a positive and fair manner to develop and maintain trust relationship with citizenry.

L. Essential Function – Write and Read Reports and Other Work Related Documents and Materials.

Essential Tasks:

1. Prepare arrest-related paperwork, e.g. Criminal Complaints and Affidavits, Offense and Incident Report, DACU Fact Summary, Custody Form, Officer's Statement, etc.
2. Describe in written form the location of physical evidence at scene.
3. Summarize in writing the statements of witnesses and complainants.
4. Write in-depth narrative reports containing complete sentences and paragraphs (e.g., investigative reports, supplemental follow-up reports).
5. Write field notes to record actions, interviews, etc.
6. Prepare written reports to record injuries to prisoners or persons in custody.
7. Review facts of case to identify elements and ensure proper charges.
8. Read court and legal papers to determine meaning and proper law enforcement response, e.g. protection from abuse, restraining orders, etc.
9. Read and comprehend Pennsylvania Crime Code.
10. Read and comprehend Pennsylvania Vehicle Code.
11. Read and comprehend departmental bulletins.
12. Read and comprehend training manuals, e.g. handouts.
13. Read and comprehend department rules and regulations, policies and procedures, and operations manuals.
14. Read and comprehend textbooks on policing or legal matters.
15. Read and comprehend Pennsylvania Rules of Criminal Procedure.
16. Read and comprehend technical and Owner's Manuals for Assigned Equipment.
17. Read and comprehend Red Cross First Aid Manual.
18. Read and comprehend CPR Manual.
19. Read and comprehend legal documents, e.g. orders, pleadings, etc.
20. Read and comprehend judicial case law.
21. Read and comprehend witness's affidavits, sworn statements and testimony.
22. Read and comprehend road signs, controls and markings.
23. Read/Review warrants and affidavits to ensure completeness and accuracy.

24. Read, comprehend and maintain copy of Department Policy and Procedure and apply same to law enforcement practices.

M. Essential Function – Present Evidence and Testimony

Essential Tasks:

1. Confer with prosecutor prior to testimony regarding case.
2. Present evidence and testimony in legal and administrative proceedings, e.g. Preliminary Hearing Trial, Grand Jury, etc.
3. Read/Review case reports and notes to prepare court testimony.

N. Essential Function – Intervene in and Control Human Conflicts

Essential Tasks:

1. Use voice and words to calm a situation, send message, etc.
2. Speak plainly/clearly to encourage understanding.
3. Maintain control of one-self as many people speak to you simultaneously.
4. Communicate with people from diverse backgrounds to instruct, explain, obtain information, etc.
5. Use body language to project control and influence situation.
6. Observe person's body language to assess attitude, intentions, etc.
7. Use voice commands to project control and direct action.
8. Restrain unruly or violent individuals; remove from public areas and effect arrest if necessary.
9. Control hostile groups (e.g. demonstrators, rioters or bar patrons, social gatherings).
10. Speak confidently to project control, self-assurance, etc.
11. Maintain personal calm to prevent making situation worse.
12. Offer alternatives to resolve conflict between disputants.
13. Speak to hostile groups to quiet them.

O. Essential Function – Use Deadly Force

Essential Tasks:

1. Discharge firearm at person (not including training).

2. Discharge firearm in low light conditions, e.g. at night, in darkened room, etc. (not including training).
3. Discharge firearm from protective cover position (not including training).
4. Draw weapon to protect self or third party.
5. Clear malfunction of various firearms (not including training).
6. Reload firearms under combat conditions (not including training).
7. Fire weapon in dark environment while using flashlight (not including training).
8. Participate in firearms training.
9. Clean and inspect weapon.
10. Participate in firearm training to satisfy qualification standards.
11. Discharge shoulder weapons, e.g. rifle, shotgun, etc. (not including training).

P. Essential Function – Perform General Patrol Duties

Essential Tasks:

1. Consider ethical standards while performing law enforcement duties.
2. Observe crowds at large gatherings (e.g., concerts, fairs, athletic events, strikes) to detect problems or illegal activity.
3. Perform law enforcement duties in all weather and temperatures.
4. Patrol locations which are potentially physically hazardous (e.g., construction site, attractive nuisance)
5. Issue citations for non-traffic offenses (e.g., local ordinances and state laws).
6. Use police radio equipment to communicate
7. Search for person in darkened building or environment.
8. Use flare patterns to safeguard scene.
9. Use flashlight, illuminated baton or hand signals to direct traffic.
10. Observe moving vehicles to identify possible criminal activity, e.g. drug interdiction.
11. Look at insignias, tattoos, clothing and their colors to identify possible gang affiliation, criminal suspects, etc.
12. Use hand signals to direct pedestrian and vehicular traffic.

13. Inspect patrol vehicle for weapons and contraband (e.g., before and after prisoner transport, shift change, etc.).
14. Monitor department radio communications to stay aware of police activity.
15. Deliver emergency messages (e.g., injuries, death).
16. Transport juveniles to home or detention facility as appropriate.
17. Pick up and process mental patients.
18. Remove, pursuant to court order, persons on premises illegally.
19. Hold flashlight while performing various law enforcement duties.

**DEGREES OF MAJOR PHYSICAL EXERTION REQUIRED OF PATROL OFFICERS
IN THE COMMONWEALTH OF PENNSYLVANIA**

1. Walk continuously for 5 hours.
2. Stand continuously for 5 hours.
3. Chase a fleeing suspect 400 feet.
4. Run up 3 flights of stairs.
5. Jump down from a height of 5 feet.
6. Climb or pull oneself over a 6 foot barrier.
7. Push a 2 ton vehicle 25 feet.
8. Hold a 72 inch, 170 pound person for 3 minutes to control their movements.
9. Physically struggle by oneself with a 71 inch, 180 pound person for 2 minutes.
10. Pull a resisting 72 inch, 200 pound person through a doorway.
11. Jump over a 3 foot barrier.

BE IT FURTHER ORDAINED, and **ENACTED**, that the officers and employees of the Borough of Emmaus are hereby empowered and directed to notify the public of these ordinance provisions and cause them to be published and enforced.

DULY ADOPTED, this 3rd day of November, 2014, and in lawful session duly assembled.

SHANE M. PEPE
Borough Manager

LEE ANN GILBERT
Council President

AND NOW, this 3rd day of November, 2014, the above **ORDINANCE** is hereby **APPROVED** by the Mayor of the Borough of Emmaus in due course.

WINFIELD IOBST
Borough of Emmaus