

# ORDINANCE 2016-03

*BOROUGH OF HIGHTSTOWN  
COUNTY OF MERCER  
STATE OF NEW JERSEY*

**AN ORDINANCE REPLACING CHAPTER 2, ENTITLED “ADMINISTRATION”, SECTION 19, ENTITLED “POLICE DEPARTMENT”, AND AMENDING CHAPTER 4, ENTITLED “GENERAL LICENSING”, SECTION 21, ENTITLED “TAXICAB LICENSING”, AND CHAPTER 7, ENTITLED “TRAFFIC”, SECTION 16 ENTITLED “TAXICAB REGULATIONS”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”**

**WHEREAS**, the Mayor and Council of Borough of Hightstown recently examined the needs of the Borough and its Police Department and determined to re-establish the title of Chief of Police; and

**WHEREAS**, the Mayor and Council believe that the Police Department will be better served with a Chief of Police instead of a Director of Police as a Director of Police is not permitted to be involved in matters involving police powers as a civilian Director; and

**WHEREAS**, the Mayor and Council wish to designate the Borough Administrator as the Appropriate Authority per N.J.S.A. 40A:14-118

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Borough Council of the Borough of Hightstown, County of Mercer, State of New Jersey that Chapter 2, Chapter 4 and Chapter 7 of the Borough be and are amended and supplemented as follows:

**SECTION 1: Chapter 2, Section 19 of the Borough Code shall be replaced in its entirety as follows:**

## **2-19.1 Establishment; Composition; Chain of Command.**

a. Establishment. The Borough Council, as the governing body of the Borough of Hightstown, hereby creates and establishes, pursuant to N.J.S.A. 40A:14-118, as an executive and enforcement function of municipal government, a police force which shall be known as the Police Department of the Borough of Hightstown (referred to herein as the “Police Department”). The Police Department shall be governed by the applicable laws of the State of New Jersey, this section of the Hightstown Borough Code, other applicable ordinances of the Borough, and rules and regulations adopted pursuant thereto.

b. Composition. Under the supervision of the Chief of Police, the composition of the Police Department shall be as follows: a maximum of one lieutenant, a maximum of three sergeants, a maximum of ten patrol officers, and any civilian personnel as deemed appropriate by the Borough Council. In addition to the regular members of the Police Department, the Borough may employ up to Ten (10) Class One special law enforcement officers and Class Two special law enforcement officers in an amount not to exceed 25% of sworn officers, pursuant to N.J.S.A. 40A:14-146.8, et seq., and Subsection 2-19.16 below.

c. Chain of Command. All necessary orders and directives for the management and regulation of the Police Department shall be given through the chain of command. The chain of command shall be as follows:

1. The Borough Administrator as the Appropriate Authority, pursuant to N.J.S.A. 40A:14-118;
2. The Chief of Police;

3. The lieutenant, if one is then serving;
4. The sergeant(s);
5. The patrol officers; and
6. The special law enforcement officers, if necessary.

**Subsection 2-19.2                      Appropriate Authority.**

The Borough Administrator shall serve as the Appropriate Authority pursuant to N.J.S.A. 40A:14-118. Notwithstanding any other provision of this section or any police rules and regulations, and the Appropriate Authority, shall in addition to the other duties permitted by N.J.S.A. 40A:14-118, conduct hearings in connection with minor discipline of police officers in accordance with subsection 2-19.13.

**Subsection 2-19.3                      Police Commissioner.**

The Mayor shall, as soon as possible after the organization of the Council each year in January, name one (1) of the members of Council as Police Department Liaison, who shall also be known as the Police Commissioner. The Police Commissioner shall act as liaison between the Borough Council and the Police Department, with the assistance of the Borough Administrator, as needed. In the event of any vacancy in the office of Police Commissioner, which the Mayor has not filled within thirty (30) days, the Borough Council shall have the authority, by majority vote, to designate a Council Member to serve as Police Commissioner for the duration of that calendar year.

**Subsection 2-19.4                      Chief of Police.**

a.        Duties and Responsibilities. The Chief of Police shall be the executive head of the Department, and shall have complete authority regarding the day-to-day operations of the Police Department. The Chief shall consult and cooperate with the Borough Administrator, as Appropriate Authority. The operations for which the Chief shall be responsible shall include but not be limited to the following:

1.        Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.
2.        Have, exercise and discharge the functions, powers and duties of the force.
3.        Prescribe the duties and assignments of all subordinates and other personnel in the Department.
4.        Delegate such of his authority as the Chief may deem necessary for the efficient operation of the force to be exercised under his direction and supervision.
5.        Report monthly to the Borough Council in such form as shall be prescribed by the Council on the operation of the force during the preceding month, and make such other reports as may be requested by the Council or on its behalf by the Borough Administrator or Police Commissioner.

b.        Officer in Charge. In the temporary absence or disability of the Chief of Police, the Chief shall appoint on a temporary basis one of the senior officers of the Department who will act in place of the Chief under the title of "Acting Chief," this title to be used only for the duration of the temporary appointment. The Chief shall notify the Borough Administrator in writing of any such temporary appointment.

c.        Department Equipment. The Chief of Police shall recommend to the Borough Administrator from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will improve the Department. The Chief shall have full charge and control of all apparatus of the Department and its assignment and use and shall be held responsible for its care, cleanliness and safe keeping.

d.        Qualifications of the Chief of Police. Selection and elevation of the individual to be appointed Chief of Police shall be based upon the following criteria, and the requirements of New Jersey law:

1. Demonstrated possession of a thorough knowledge of the principles and practices of modern police and emergency management administration, modern police science and crime prevention and the ability to command the respect of officers and support staff and to plan, assign, direct, supervise and evaluate their performance.
2. Ten (10) years of police experience as a member of a Police Department or force, including supervisory experience.
3. Education, including a high school diploma or accredited equivalent. Post-secondary courses and degrees are desirable and will be considered in the selection process. Attendance at and completion of a police training course and successful physical and psychological tests are mandatory.
4. Residence within the State of New Jersey and within a radius of fifteen (15) miles of the Borough Police Headquarters.
5. Receipt of a satisfactory grade on any qualifying examination for the office of Chief as may be selected by the Borough Council.

**Subsection 2-19.5            Duties of Department.**

a. The Chief of Police shall take all appropriate and necessary steps to make sure that the Police Department shall:

1. Preserve the public peace, protect life and property and prevent crime; detect and arrest offenders against the penal laws and ordinances effective within the Borough; suppress riots, mobs and insurrections; disperse unlawful or dangerous assemblages; and preserve order at all elections, public meetings and assemblages.
2. Administer and enforce laws and ordinances to regulate, direct, control and restrict movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persons, protect the safety and facilitate the convenience of motorists and pedestrians and make and enforce rules and regulations not inconsistent with the ordinances and resolutions of the Borough for such purposes.
3. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the Borough, inspect and observe all places of public amusement or assemblage and all places of business requiring any State or municipal license or permit and report thereon to the appropriate department.
4. Provide proper police attendance and protection at fires and emergencies.
5. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses and cooperate fully with the law enforcement and prosecuting authorities of Federal, State and County governments.
6. Operate training programs to maintain and improve police efficiency of the members of the Department.

b. All police officers and employees shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, abide by the Constitutions of the United States and of the State of New Jersey.

c. All police officers and employees shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, show abiding respect for government by complying with all laws, statutes, codes, ordinances, rules and regulations, including those of the State of New Jersey and the Borough of Hightstown.

d. All police officers shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, conduct themselves as police officers in accord with the oath of office.

**Subsection 2-19.6 Rules and Regulations of Department.**

a. The Borough Council shall have the power, by resolution, to adopt such rules and regulations for the government and discipline of the Police Department as are not inconsistent with New Jersey law or this section. The Chief of Police shall have the power to adopt such additional rules, regulations, procedures and orders as shall be deemed necessary by him to promote the efficiency of the Department. Any such rule, regulation, procedure or order of the Chief of Police shall be sent immediately to the Borough Administrator and to the Borough Council, and they may be modified or annulled by resolution or motion of the Borough Council.

b. Such rules, regulations, procedures and orders shall be binding upon each member and civilian employee of the Police Department, and copies shall be made available by the Chief of Police for each such members and employees.

c. Within five (5) days after the promulgation of any rule, regulation, procedure or order, same shall be posted by the Police Chief or designee in the Police Department and a copy shall be made available to each member of the Department and to each civilian employee of the Department, all of whom shall acknowledge receipt of same on a form supplied by the Chief.

d. In the event of any inconsistency between this Section 2-19 and the rules, regulations, procedures or orders, the provisions of this section shall control. In the case of inconsistency with any applicable collective bargaining agreement, the provisions of such agreement shall control.

**Subsection 2-19.7 Decrease for reasons of economy and/or efficiency.**

The Borough Council may decrease the force for reasons of economy and/or efficiency. In accordance with N.J.S.A. 40A:14-143, the Council, if it shall deem necessary for reasons of economy and/or efficiency decrease the number of members and officers of the Police Department or force or grades or ranks. In case of demotion from the higher ranks, the officers or members to be so demoted shall be in inverse order of their appointment. Any member or officer who is demoted by reason of such decrease shall be placed on a special employment list, and in the case of subsequent promotion or hiring, a person demoted shall be reinstated to the original rank, if it exists, and in case of termination of service a new appointment, prior consideration shall be given to the persons on said special employment list.

**Subsection 2-19.8 Application; Appointments and Qualification; Probationary Period.**

a. Application. Any applicant for the position of police officer of any rank, other than Chief of Police, shall make written application therefor on forms supplied by the Borough, to the Borough Administrator, and at the same time shall submit such proofs as shall be required with respect to the qualifications as set forth in said application. Every such application shall be signed and sworn by the applicant. No applicant shall be appointed to any position with the Police Department until after the applicant is fingerprinted and said fingerprints are filed and investigated with the New Jersey State Police and the Federal Bureau of Investigation. No applicant shall be appointed until after there has been a thorough background and character investigation of the candidate that will also determine the candidate's fitness for the position. Every person who shall have made due application to be appointed a police officer shall undergo a physical examination by a physician hereinbefore specified after the initial application and interview process. The report of such physical examination shall be delivered to the Borough Administrator, who shall submit said report together with the interview committee's recommendation, to the Borough Council prior to its consideration of the making or any such appointment; provided, however, that no person shall be appointed a police officer unless such person shall have undergone a physical examination by a physician, and the report of such examination shall show that the applicant possesses the required physical qualification.

b. Procedure for Evaluation and Appointment of Patrolman. Applications shall be reviewed by the Borough Administrator and Police Chief, and selected candidates shall be interviewed by the Police Committee consisting of the Borough Administrator, Police Chief, Mayor, and Police Commissioner, with the Police Commissioner serving as the Chair, and making recommendations to the Borough Council. The Borough Administrator and Police Chief

reserve the option of mandating applicants to pass a written examination prior to the interview process, whereby the top written scoring applicants are interviewed. Said Police Committee shall then recommend a name or names to the Council which may determine to conduct interviews itself prior to confirming employment. In either case, no member of the Police Department shall be appointed prior to consideration by the Council and formal appointment by resolution of the Council.

c. Probationary Appointment. No person shall be appointed as a member of the Borough Police Department prior to demonstrating an aptitude for police employment in the Borough of Hightstown for a period of one (1) year, during which time said person shall be known as a probationary police officer. During the probationary period, the appointment as a police officer shall be subject to revocation at any time for any cause and without any hearing. The probationary period may be extended by the Borough Council to a maximum of an additional six (6) months if necessary in order for an officer to successfully complete a police training course as prescribed by law.

For purposes of this subsection, the probationary period for any police officer shall be for a period of one (1) year following the candidate's graduation from a police academy, or if the candidate has prior police experience, said probationary period shall be for one (1) year from the date of employment or from the date of the successful last. No person shall be appointed or promoted to a command or supervisory position above patrolman or patrolwoman unless he or she shall have demonstrated an aptitude for such position. Candidates for and members of the Police Department shall have all other qualifications prescribed by law.

Probationary employees will be evaluated on a monthly basis throughout the entire period of their probation in an effort to determine their suitability for continued employment. Probationary employees will be advised of their progress and counseled when necessary in an effort to correct any deficient performance or behavior.

Upon the completion of the probationary period, the Chief of Police shall recommend the officer for permanent appointment or dismissal by the Borough Council. If the officer is made permanent, the officer shall be subject to the provisions of New Jersey law with respect to discipline and removal. Such recommendation shall be set forth in a written report along with the Chief's observations and findings leading to such recommendation. These recommendations shall be submitted to the Appropriate Authority no later than 10 days prior to the end of the probationary employee's period of probation. Nothing herein shall prohibit the Chief of Police from submitting such recommendation at any time during the employee's probationary period when such employee demonstrates that he/she does not possess the qualities and abilities to competently perform the duties of Borough police officer. Prior to achieving permanent status, probationary members shall not be considered as regular or permanent members of the Department.

The Borough Council may terminate a probationary employee at any time during or at the end of the probationary period, or affirm the retention of the candidate as a permanent member of the police force.

#### **Subsection 2-19.9 Uniforms to be Furnished.**

Police uniforms shall be furnished to all regular or permanent members of the Borough Police Department and shall, at all times, be and remain the property of the Borough. Upon separation from service for any reason whatsoever, all uniforms and other equipment and accessories furnished by the Borough shall be promptly returned to the Police Chief.

#### **Subsection 2-19.10 Qualifications for Police Officers.**

No person shall be appointed as a regular or permanent member of the Police Department unless that person is qualified in accordance with the requirements of N.J.S.A. 40A:14-122 and the age requirements set forth in N.J.S.A. 40A:14-127 et seq. In particular, no person shall be eligible or qualified to be appointed as a regular or permanent police officer unless, at the time of his/her appointment:

- a. She/he shall be a citizen of the United States and resident of the State of New Jersey.
- b. She/he shall not be less than eighteen (18) years of age and shall be sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of

New Jersey as to her/his eligibility for membership in the retirement system. Age shall not be considered in the promotion of any officer to a higher rank.

- c. She/he shall demonstrate the ability to read and write the English language intelligently.
- d. She/he is of good moral character and shall not have been convicted of a crime or disorderly persons offense that, in the judgment of the Borough Council, would be prejudicial to the morale or the reputation of the Police Department.
- e. She/he must successfully pass the required physical fitness examination, drug and alcohol screening, psychological examination administered by a physician or laboratory of the Borough's choosing and be a successful graduate of a certified police academy as she/he may be assigned by the Borough. Any drug screening, psychological or medical examination or physical fitness examination shall be conducted after a conditional offer of employment or promotion has been made by the Borough.
- f. She/he is a holder of a valid New Jersey driver's license.
- g. She/he has a minimum of an associate's degree.

#### **Subsection 2-19.11                      Residency Requirements.**

- a. Findings of Fact. The Borough Council specifically finds that requiring all regular or permanent police officers to be residents of the Borough would seriously impede its ability to establish and maintain competent personnel for its police Department and would be in violation of N.J.S.A. 40A:14-122.1.
- b. Preference in promotions shall be given to residents in accordance with N.J.S.A. 40A:14-122.6, but also shall be based on merit and fairness.
- c. Residency in State. Every regular or permanent member of the Police Department shall be a resident of the State of New Jersey in accordance with N.J.S.A. 40A:14-122.8.

#### **Subsection 2-19.12 Chief of Police; Qualifications; Promotion**

Candidates for the position of Chief of Police shall participate in a promotional procedure administered by the reviewing committee. The reviewing committee, which shall be made up of the Administrator, Police Commissioner, and Mayor, his/her designees and the current Chief of Police (unless there has been no chief or the Chief is involved in pending discipline or litigation with the Borough) shall consider the following: the candidates' knowledge of criminal law and procedure, police science and police administration, leadership and management ability, general knowledge of Borough's local government and N.J.S.A. 40A:14-118, the candidates' poise, alertness, ability to communicate clearly and effectively, ability to effect good working and public relations and moral character. To be considered for the position of Chief of Police, the candidates must be serving as Borough Lieutenant or Sergeant.

#### **Subsection 2-19.13 Promotions to the Rank of Sergeant and/or Lieutenant.**

- a. The Borough Council desires to promote the most qualified candidates to positions of higher rank. This subsection establishes the eligibility requirements and the process for promotion to all higher ranks. The promotion process shall be on the basis of merit, experience, education, demonstrated ability and competitive examinations. In accordance with N.J.S.A. 40A:14-129, promotion of any officer shall be made from the membership of the Department. No person shall be eligible for promotion unless he or she shall have served as a full-time police officer in the Hightstown Borough Police Department for a period of three years (N.J.S.A. 40A:14-130).

- b. Upon receiving instructions from the Borough Council, the Chief of Police shall announce the promotional process to members of the Department at least 45 days before a written test is to be given and at least 15 days before a written submission is to be submitted. The announcement shall be posted in common areas of the Department accessible to all members. The announcement shall contain, at a minimum, the rank to be filled, the dates of the exams, source materials or reading lists from which exam questions will be taken or topics from which questions will be formulated. Candidates who qualify shall notify, in writing, the Chief of Police of his or her interest in taking the examination by submitting a letter of interest no later than 10 calendar days after the promotion announcement. Failure to do so shall render the officer ineligible to participate in the process.
  - c. Where two or more candidates are ranked equally pursuant to the promotional procedure set forth herein, preference shall be given to the candidate with the most seniority in service pursuant to N.J.S.A. 40A:14- 129, or a resident over a nonresident pursuant to N.J.S.A. 40A:14-122.6.
  - d. The Borough Council shall appoint the reviewing committee for departmental promotions, which shall, at a minimum, consist of the Chief of Police, Administrator, Police Commissioner, and Mayor.
  - e. Promotion Testing Procedures. The promotion testing procedure shall consist of a written examination (and/or narrative) and an oral examination in which all candidates will be given the same questions, a review of the candidates' service record, education, merit and experience.
1. Written Examination. The written test shall be supplied by a professional testing company, professional law enforcement organization or such other written examination approved by the Chief of Police. The top five (5) scoring candidates shall then proceed to the Oral Examination.
  2. Oral Examination.
    - a. Candidates shall be notified, in writing, of their successful or unsuccessful completion of the written portion of the exam by the Chief of Police or his/her designee.
    - b. The oral examination shall take place after the receipt of the written examination scores.
    - c. The Oral Examination with the Chief of Police shall focus on leadership and management skills, knowledge of Borough's form of government, knowledge of the Police Department Ordinance, familiarity with municipal budget process and knowledge of N.J.S.A. 40A:14-118. The Reviewing Committee shall grade each candidate on a one-hundred-point scale. The Chief of Police and/or his designee (excluding Chief interviews) shall be present at this step
    - d. The top three (3) scoring candidates of the written and oral examination shall then proceed to the record review portion of the examination.
  3. Record Review.
    - a. The Reviewing Committee shall examine the length and merit of candidate's service. The examination process shall give specific weight to performance evaluations, experience, military service, demonstrated leadership ability, education and disciplinary history.
- f. The review committee shall rank each candidate based on the total score. The list shall include the candidates' names and the final scores of the top three candidates who are eligible for the promotion. The Borough Council shall then appoint from the top three to fill promotional position.
  - g. Eligibility for testing. All candidates for promotion must have served three years with the Borough as full time police officers by the date the written test in order to be eligible to participate in the promotional process.
  - i. Probationary Period for Promoted Officers.

- a. All officers promoted to a higher rank will serve a six-month probationary period during which time the officer will be evaluated on a monthly basis to ensure the officer has the requisite skill set to perform the duties of position to which he/she has been promoted.
- b. The Chief of Police shall make a recommendation to the Borough Council concerning the suitability for transition from probationary status to regular status for each newly promoted officer. Such recommendation shall be set forth in a written report along with the Chief's observations and findings leading to such recommendation. These recommendations shall be submitted to the Appropriate Authority and the Borough Council no later than 10 days prior to the end of the probationary period. Nothing herein shall prohibit the Chief of Police from submitting such recommendation at any time during an officer's probationary period when such officer demonstrates that he/she does not possess the qualities and abilities to competently perform the duties of the position to which the officer has been promoted.

**Subsection 2-19.14 Oath Required.**

Each member of the Police Department shall, before entering upon the performance of official duties, take and subscribe an oath to bear true faith and allegiance to the government established in this Borough and this State, to support the constitutions of the United States of America and the State of New Jersey and to faithfully, impartially and justly discharge and perform all the duties of office, which oath or affirmation shall be filed with the Clerk.

**Subsection 2-19.15 Procedure for Implementation of Disciplinary Hearings.**

- a. The Chief of Police is responsible for issuing major or minor discipline. The Chief of Police shall serve or cause to be served upon the member of the Police Department a signed copy of the complaint and/or charges against the members, along with a written notice that a disciplinary hearing shall be scheduled no sooner than ten (10) days nor later than thirty (30) days after the notice is personally served upon him or her; the Appropriate Authority or an appointed hearing officer, and the member, themselves or through their representatives, if any, may agree to reasonable postponements
- b. Minor discipline, which is any discipline that is five days or less, including reprimands, may be heard and determined before and by the Appropriate Authority, or through the grievance procedures. Major discipline, which is any discipline that is over five days shall be heard and determined before and by the Appropriate Authority, or an appointed a third party hearing officer, at the time and place set forth in the notice.
- c. A written copy of the recommendation of the Appropriate Authority or the hearing officer, whichever applicable, shall be served upon the member of the Police Department and the Borough Council as soon as possible, but in no event later than twenty-one (21) days after the hearing. The Borough Council shall review the recommendation and record established during a hearing, and may accept, amend or reject said recommendation. The Mayor shall participate in the decision, and shall vote to break a tie, if necessary.
- d. The Mayor and Council shall use Chapter 8 of the Police Rules and Regulations as a nonbinding guideline in the conduct of the hearings authorized herein.
- e. All disciplinary actions shall be subject to the requirements and time frames set forth in N.J.S.A. 40A:14-147, et seq.

**Subsection 2-19.16 Reimbursement for Legal Costs.**



Where the Borough Council determines that the provisions of N.J.S.A. 40A:14-155 require that the Borough provide a means of defense or reimburse a police officer for legal costs, the hourly rate for which the Borough shall be responsible shall not exceed the hourly rate charged by the Borough Attorney for litigation matters. All statements for professional services submitted by attorneys representing police officers under this section shall be subject to review by the Borough Attorney and review and approval by the Borough Administrator.

**Subsection 2-19.17                      Term of Service.**

The term of service of any regular or permanent member of the Police Department shall be to the age of sixty-five (65) and shall be calculated as beginning on the date of formal appointment by the Borough Council. If the minutes or records of the Borough Council do not disclose such date, the payroll or other records of the Borough shall be used to determine it. At the age of sixty-five (65) the officer shall be retired by resolution of the Borough Council and his or her services as a police officer shall be at an end; provided, however, that the Borough Council may, in its discretion, continue any officer temporarily in case of emergency, or as the needs and interest of the Borough may require, provided said officer remains qualified for said employment.

**2-19.18 Special Law Enforcement Officers**

a.        Definitions. Whenever any words and phrases are used in this Section, the meanings respectively ascribed to them in N.J.S.A. 40A:14-146.9 shall be deemed to apply to such words and phrases used herein.

b.        Position Established. There is hereby established the position of special law enforcement officer (also referenced as “special police officer”) in and for the Borough of Hightstown.

c.        Determination of Eligibility. Before any special law enforcement officer is appointed, the Chief of Police shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Mayor and Council.

d.        Appointment. Special law enforcement officers may be appointed for terms not to exceed one (1) year, and the appointments may be revoked by the Mayor and Council for cause, after adequate hearing, unless the appointment is for four (4) months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the Borough, and their powers and duties shall cease at the expiration of the term for which appointed.

e.        Qualifications.

1. No person may be appointed as a special law enforcement officer unless the person:

- (a) Is at least eighteen (18) years of age;
- (b) Is a resident of the State of New Jersey during the term of appointment;
- (c) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
- (d) Is sound in body and of good health;
- (e) Is of good moral character;
- (f) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of his or her office; and
- (g) Has successfully undergone the same psychological testing that is required of all full-time police officers in the Borough or, with regard to a special law enforcement officer hired for a

seasonal period which required psychological testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the Police Training Commission (the "Police Training Commission" or the "Commission") established in the New Jersey Department of Law and Public Safety, pursuant to N.J.S.A. 52:17B-70.

2. Every applicant for the position of special law enforcement officer shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.
  3. No person shall be appointed to serve as a special law enforcement officer if that person serves as a special law enforcement officer in another municipality; nor shall any permanent, regularly appointed full-time police officer of any other municipality in the State of New Jersey be appointed as a special law enforcement officer. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of any municipality in the State of New Jersey or supervision of the Police Department of a municipality in the State of New Jersey shall be appointed as a special law enforcement officer.
  4. Any person who at any time prior to this appointment had served as a duly qualified, fully trained, full-time officer in any municipality in the State of New Jersey, and who is separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with the guidelines promulgated by the Police Training Commission. If the Police Training Commission waives the training requirements which are required by statute, the Mayor and Council, if it chooses, may appoint such person as a special law enforcement officer.
- f. Training Course and Certification Requirements. No person may commence his or her duties as a special law enforcement officer unless he or she has successfully completed the training course and certification requirements of N.J.S.A. 40A:14-146.11, unless such training requirements have been waived by the Police Training Commission
- g. Classification of Officers. There are hereby established two (2) classifications of special law enforcement officers as follows:
1. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.
  2. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.
- h. Uniforms. Every special law enforcement officer prior to the commencement of his or her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Hightstown. The uniform shall also include an insignia issued by the Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued by the Commission. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.
- i. Return of Equipment and Uniform Upon Termination. Whenever a special law enforcement officer's appointment is revoked or a special law enforcement officer is not reappointed upon the expiration of the term, the special law enforcement officer shall return to the officer in charge of the station house all Borough of Hightstown issued uniforms, badges and equipment within fifteen (15) days of the revocation or expiration of the term.
- j. Firearms. The special law enforcement officers shall carry and return firearms pursuant to the guidelines

established in N.J.S.A. 40A:146.14(b). The special law enforcement officers shall carry and return firearms pursuant to the guidelines established in 40A:146.14(b).

k. Conduct of Officers. Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the Borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

l. Performance of Duties.

1. A special law enforcement officer shall be under the supervision and direction of the Chief of Police and shall perform his or her duties only in the Borough unless in fresh pursuit of any person pursuant to Chapter 156 of Title 2A of the New Jersey Statutes.

2. The Chief of Police may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the Borough, including, but not limited to, the carrying of firearms and the power to arrest subject to rules and regulations; any such authorization shall not be inconsistent with the certification requirements of Subsection 2-19.16f above.

m. Hours of Employment. The provisions of N.J.S.A. 40A:14-146.16(a) and (c) regarding the maximum hours of employment of special law enforcement officers are hereby incorporated as if stated in full herein.

n. Limitation of use of officers. Special law enforcement officers may be employed only to assist the Borough's law enforcement unit but may not be employed to replace or substitute for full-time regular police officers or in any way to diminish the number of full-time officers employed by the Borough.

o. Number of Positions Designated.

1. There are hereby created ten (10) positions as special law enforcement officers designated as Class One members.

2. There are hereby created positions as special law enforcement officers designated as Class Two members that do not exceed 25% of the total sworn officers on the force.

#### **Subsection 2-19.19 Engagement of Services of Off Duty Police Officers.**

a. Purpose. To establish a policy regarding the hiring and use of off-duty Hightstown Borough police officers by any entity or person other than the Borough of Hightstown.

1. Members of the police Department shall be permitted to accept police related employment only during off-duty hours, only if authorized in writing in advance by the Chief of Police, and only at such time as will not interfere with the efficient performance of regularly-scheduled or emergency duty for the Borough.

2. Any person or entity wishing to employ off-duty police officers shall first obtain the approval, in advance and in writing, of the Chief of Police, which approval shall be granted if, in the opinion of the Chief, such employment would not be inconsistent with the efficient functioning and good reputation of the Police Department, and would not reasonably endanger or threaten the safety of the officer or officers who are to perform the work, and would not impair the reputation of the Borough of Hightstown, the Hightstown Police Department or its officers.

b. Insurance requirement.

1. No party or employer shall employ any off-duty Borough Police officer in order to perform the services of security guard, traffic control officer or plain clothes surveillance officer without having first filed with the Borough Clerk a certificate of comprehensive general liability insurance in the amount of not

less than \$1,000,000.00 combined single limits for any one occurrence with respect to injuries and damages suffered or caused by Borough police officers while in the employ of the party or employer. The insurance certificate shall list the Borough, the Borough Police Department and municipal officials, representatives and employees as additional insureds.

2. No certificate of insurance required by this section shall be deemed filed with the Borough Clerk unless it has first been approved by the Borough's municipal attorney.

3. Any and all policies of insurance evidenced by any certificate filed hereunder shall be maintained by the party or employer in full force and effect at all times while any Borough police officer is employed by such party or employer. Upon the change or renewal of any such policy of insurance, the party or employer shall forthwith file with the Borough Clerk a new and current certificate of insurance in compliance with the foregoing provisions.

4. In the event of an emergency, which results in the person or entity being precluded from complying with the requirements of this subsection, the Police Chief shall have the authority to waive said insurance prerequisite prior to approving the use of off-duty officers for certain Police-related employment; however, proof of insurance must be provided within forty-eight (48) hours.

c. Hold harmless. In addition to the aforesaid requirements, the party or employer shall indemnify and hold harmless the Borough, the Borough Police Department and all Borough officials, representatives and employees, from and against any claim, liability, damage or expense that may arise out of or relate to the actions of:

1. Any Borough police officers employed by the party or employer, including any claims concerning the alleged negligence of the Borough's police officers; and

2. The party or employer, its employees, officers and representatives.

d. Escrow accounts.

1. Except as provided herein below, any party or employer requesting the services of an off-duty Borough police officer shall estimate the number of hours such law enforcement services will be required, which estimate shall be approved in writing by the Chief, and shall establish an escrow account with the Chief Financial Officer of the Borough by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in subsection (f) herein below for the total estimated hours of service.

2. All deposits to the escrow account just described in subsection (1) shall be documented, and no cash will be accepted for this purpose. No officer or employee of the Police Department shall accept any payment in any form from any party or entity other than the Borough, and unless that payment will have been formally and permanently documented by the Chief Financial Officer of the Borough. No party or entity shall give or channel any form of payment or gratuity to any Borough officer, employee, or representative in connection with the services of off-duty officers, but shall use the escrow account described in subsection (1).

3. Prior to posting any request for services of off-duty police officers, the Police Chief shall verify that the balance in the escrow account of the party or employer requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services.

4. The Police Chief shall not post a request for services from any party or employer unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer of the Borough. No officer shall provide any such services for more hours than are specified in the

request for services. No officer shall arrange with any party or employer privately, or without the written authorization of the Police Chief, to provide such services.

5. In the event the funds in such an escrow account should become depleted, services of off-duty police officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.

6. The party or person requesting such services shall be responsible for ensuring that the sufficient funds remain in the escrow account in order to avoid any interruption of services.

7. In the event of an emergency, which results in the person or entity being precluded from timely complying with the requirements of this subsection, the Police Chief shall have the authority to waive the escrow account prerequisite and approve the use of off-duty officers for certain police-related employment. This waiver shall be limited to the escrow account/prepayment aspect of this subsection. The person or entity requesting the law enforcement services shall remain fully responsible for paying for same. In the event the person or entity requesting the off-duty police services fails to submit payment within 30 days of the approval of the use of the off-duty police officers, the Borough shall not be responsible for paying the subject officers for their off-duty services.

8. Every officer shall have the right to turn down without any penalty any request that she or he work as a private duty or off-duty officer. No officer shall be required to work as an off-duty officer for any party or entity.

9. The Police Chief shall keep in view the needs of the Borough for shift coverage in determining whether to approve or to deny any request for off-duty officer services by any party or entity.

e. Requests for services, and posting of authorizations. All requests to the Borough for services of off-duty police officers for a period of one week or longer shall be forwarded to the Police Chief for posting at least ten days before such services are required. The Police Chief may relax this time restriction in the event of an emergency. Requests for services of off-duty officers for periods less than a week may be reviewed by the Police Chief on a case-by-case basis, but with denial warranted where the needs of the Police Department, including need to have officers available for additional shifts or for overtime service, are obvious. All of the authorizations issued by the Police Chief for services of off-duty officers shall be posted so that the information is available to all officers, and shall be provided in advance to the Police Commissioner. Any Police officers, when so employed, shall be treated as an employee of the Borough provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of police officers so employed, nor shall hours worked for outside employment be considered in any way as compensable overtime.

f. Rates of compensation; administrative fees; payment for services. Rates of compensation for contracting the services of off-duty Borough Police officers shall be as follows:

1. For all non-traffic assignments, for the first eight hours, the rate shall be \$70.00 per hour for each officer, of which \$15.00 per each hour shall be a administrative fee retained by the Borough.

2. For all traffic assignments, including construction project assignments, for the first eight hours, the rate shall be \$80.00 per hour for each officer, of which \$15.00 per each hour shall be an administrative fee retained by the Borough.

3. After eight hours, the hourly rate for each officer shall increase by \$10, without an increase in the administrative fee.

4. No administrative fee shall be assessed to any Board of Education, schools, or government units or agencies.

5. Any variance from the above rate schedule shall be authorized only after it shall first have been submitted to, reviewed and approved by the Borough Council by resolution.

g. Use of marked police vehicles. In the event that a party or employer employs any off-duty Borough police officer pursuant to this section, in addition to any compensation to be paid to the Borough pursuant to the requirements herein, there shall also be a \$15.00 per hour per vehicle fee for the use of marked or unmarked police vehicles.

h. Penalty. Any person or entity who employs off-duty Borough police officers in order to perform the above services without first having complied with the requirements of this section shall be subject to the fines set forth section 1-5 of the Borough Code for each day that the party or entity employs any Borough police officer, unless a waiver of said requirements shall have been granted, in writing and in advance, by the Police Chief. Any officer or employee of the Hightstown Police Department who provides off-duty services in a manner other than as specified in this section shall be subject to prosecution for violation of the Borough Code, and also for disciplinary process and penalties, including administrative penalties up to and including dismissal, in addition to the penalties set forth in section 1-5 of the Borough Code.

i. Cancellation policy. Any private employer who determines to cancel the services of police officers, after entering into a contract, shall be required to provide notice to the police officers not less than eight hours before the scheduled start time of the assignment. If a contractor fails to provide such notice, the officer shall be entitled to two hours' payment for said assignment, with the administrative fee to be paid as well to the Borough.

j. Control vested in the Police Chief. The Police Chief of the Borough of Hightstown shall be responsible for the overall conduct of the members of the Police Department in following the rules and regulations promulgated herein, and shall insure that the terms, conditions and provisions of this section shall be fully and faithfully carried out. Additionally, the Police Chief shall have authority to control officers engaged in off-duty or outside employment pursuant to this section, and shall further have the authority and the duty to commence disciplinary process as to any and all officers so engaged in outside employment by private employers, should cause for such charges arise or exist. The Police Chief shall be accountable for the failure to abide by or to enforce the terms of this section as to off-duty employment by police officers.

#### **2-19.20 Drug Screening Procedure for Applicants and All Employees of the Police Department.**

The Police Chief shall establish a drug screening procedure, including screening for steroids, for applicants and employees of the Police Department. The drug testing policy shall be reviewed and approved by the Office of the Mercer County Prosecutor. The policy shall be adopted as a part of the Police Department's rules and regulations and shall be amended from time to time so as to insure that applicants to the Police Department and the Department's sworn law enforcement personnel and employees are drug free. The Police Chief shall make sure that random and unannounced drug tests are conducted as to every single police officer, with every reasonable precaution taken to ensure the integrity, reliability, and fairness of the screening process and of the individual samples collected, and to ensure the confidence of the public and the reputation of the Police Department. The Police Chief shall be accountable for the failure to abide by or to enforce the terms of this section as to all police officers.

#### **SECTION TWO: Certain Subsections of Chapter 4, Section 21 shall be amended as to read as follows:**

##### **4-21.1 Definitions.**

As used in this section, the following terms shall have the meanings indicated:

*Borough* shall mean the Borough of Hightstown.

*Driver* shall mean any person who operates a taxicab within the Borough, whether or not such person is also the owner thereof.

*Operation of a taxicab* shall mean transporting in a taxicab one (1) or more persons for hire. Accepting a passenger to be transported for hire from a point of departure within the Borough to a destination within or without the Borough shall be considered "operation of a taxicab" within the Borough. The "operation of a taxicab" by one other than the owner shall be deemed operation by the owner as well as by the person actually driving the taxi. The transportation of any person other than the owner or driver in any motor vehicle bearing a sign using the words "taxi," "taxicab," "cab" or "hack" shall be prima facie evidence of operation.

*Owner* shall mean any person, business entity, association or other legal entity in whose name title to any taxicab is registered with the New Jersey Division of Motor Vehicles or who appears in the Division's records to be a conditional vendee or lessee or has any other proprietary interest in a taxicab.

*Police Commissioner* shall mean the member of the Borough Council designated as such on an annual basis by the Mayor, pursuant to Subsection 2-19.3 of the Borough Code.

*Chief of Police* shall mean the person serving as the head of the police department pursuant to Section 2-19 of the Borough Code.

*Taxicab or taxi or cab* shall mean a motor vehicle used to transport passengers for hire or compensation which does not operate over a fixed route and is not hired by the day or hour.

#### **4-21.4 Licensing of Taxicab Owners.**

a. The Borough will make available on an annual basis a maximum of five (5) taxicab owner's licenses, subject to the provisions of sub-paragraph "b" below. Licenses shall be awarded on a first come, first served qualifying basis. Those licensees that have been previously licensed by the Borough during the prior year and who remain in good standing and who have submitted their statement for renewal (per the provisions of sub-paragraph "i" below) prior to January 1st, shall be afforded the first opportunity for re-licensing. All other applicants shall be afforded the opportunity to obtain a taxicab owner's license after January 1st.

b. Should the Borough determine to authorize the issuance of one or more new or additional taxicab owner's licenses beyond the maximum number referenced in sub-paragraph "a" above, then such issuance shall be authorized by future Ordinance of the Governing Body.

c. Application Information.

1. Application for a taxicab owner's license shall be made to the Borough Clerk on forms provided by the Borough Clerk's office.

2. Applications shall be signed and verified by oath or affirmation by the applicant. Applications by a partnership shall give the information required for each partner and shall be signed and verified by all partners. Applications by a corporation shall give the information required for and be signed and verified by all officers and directors and all persons holding more than ten (10%) percent of the corporation's common stock, as well as by a person duly authorized to act for the corporation itself.

4. Applications must be accompanied by proof of automobile liability insurance coverage which is in effect and issued by a company licensed and admitted to transact business in the State of New Jersey, and acceptable to the Borough, indicating limits of liability in amounts not less than the following: \$50,000 per

person and \$100,000 per accident for bodily injury or death and \$50,000 per accident for property damage. Proof of insurance must also indicate that insurance coverage applies to all owned or leased vehicles of the applicant or must specify by description all of the vehicles to which the coverage applies. Said proof of insurance must also indicate that the Borough shall receive advance written notice of at least thirty (30) prior to any cancellation or non-renewal thereof, except that no less than ten (10) days advance written notice shall be provided for non-payment of premium. The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance, or use of the vehicle(s) of the applicant, or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid. The Borough of Hightstown shall be named as an additional insured on any insurance policy submitted in accordance with the requirements of this section. If the taxicab owner's application for license applies to more than one vehicle, the taxicab owner may satisfy the insurance requirements specified herein through the submission of a blanket bond or insurance policy which meets the criteria specified in *N.J.S.A. 48:16-4*.

4. Information about each taxicab vehicle to be operated under the taxicab owner's license shall be provided, including the following:

- (a) Vehicle year, make, model and color of vehicle.
- (b) Vehicle identification number.
- (c) New Jersey State license plate number.
- (d) Passenger capacity.
- (e) Insurance company, policy number and expiration date.
- (f) Name and address of vehicle owner if different than applicant.

5. Any person who shall make a false statement in any license application or in any record or certificate that is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.

d. Investigation; Grant or Denial of License. The Chief of Police or his designee shall investigate all applications. A copy of the application shall also be provided to the Zoning Officer for review and for a determination that the proposed location of the taxi operation does not violate applicable zoning regulations. A report containing the results of the Police investigation and evaluation, a recommendation by the Chief of Police or his designee that the license be granted or denied, and the reasons for such recommendation shall be forwarded to the Chief of Police (i.e., in cases where the investigation is performed by the Chief of Police's designee) and the Police Commissioner. A report regarding the Zoning Officer's findings shall also be provided to the Chief of Police and the Police Commissioner. The Borough Clerk shall ensure that copies of these reports are also made available to the applicant. Based upon the findings set forth in the reports, the Chief of Police shall determine whether to grant or deny the license. Said determination shall be rendered in writing and shall be provided to the applicant.

e. Factors Considered. In determining whether to grant or deny the license, the Chief of Police shall take into consideration the following factors:

- 1. The character, business and financial responsibility and experience of the applicant and the probability that, if granted a license, the applicant will operate his taxicab(s) in accordance with the provisions of this section.
- 2. Any other factors directly related to the granting or denial of the license which would substantially affect the public safety or convenience.

f. Issuance of License. If the application is approved by the Chief of Police, the Police Department shall issue the license.



g. License Term; Fees.

1. A taxicab owner's license shall be valid for the remainder of the calendar year for which it is issued, expiring on December 31 of said year.

2. The license fee shall be one hundred (\$100.00) dollars per year or portion thereof per vehicle and shall be nonrefundable in the event that the application is denied. For licenses issued in 2012, the license fee shall be pro-rated. For licenses issued in 2013 and thereafter, all applicants shall be charged the full nonrefundable license fee amount.

h. In those cases where the license has been denied, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Chief of Police. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.

i. Renewals. A taxicab owner's license shall be renewed by the Chief of Police without a hearing upon the licensee's filing with the Chief of Police or his designee a sworn notarized statement certifying that there have been no changes in the information contained in the initial application and upon the completion of the investigation set forth in paragraph (d) above indicating results that are satisfactory to the Chief of Police.

j. Any change(s) in the information contained within the owner's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

**4-21.5 Licensing of Taxicab Drivers.**

a. Applications.

1. Application for a taxicab driver's license shall be made annually to the Borough Clerk upon forms provided by that office, and shall be forwarded to the Chief of Police for processing, screening and determination. Applications shall be taken in the Clerk's office only, during days and hours established by the Clerk. Except as hereinafter provided, applicants shall have the following minimum qualifications:

(a) Applicant must be over twenty-one (21) years of age.

(b) Applicant must be a United States citizen or a legal resident alien. A copy of the alien registration card or work permit must be submitted with the application.

(c) Applicant must possess a valid New Jersey driver's license.

(d) Applicant must supply a certification from a licensed physician, on a form to be provided by the Borough Clerk, indicating that the applicant has been examined within the past sixty (60) days and is in sound physical condition, has eyesight corrected to 20/20 vision and is not subject to any infirmity of body or mind which might render the applicant unfit for safe operation of a vehicle for hire.

(e) Applicant must certify that he/she is not addicted to the use of narcotics or intoxicating liquors.

(f) Applicant must be able to read, write and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.

(g) Applicants must be fingerprinted by the Police Department and submit to the performance of a criminal history record background check (both State and Federal). All costs associated with administering and processing the background check(s) shall be paid by the applicant. An applicant shall be disqualified from operating or driving a taxi within the Borough, and shall not be issued a taxicab driver's license, if a criminal history record background check reveals a record of conviction of any of the following crimes as having been committed by the applicant in New Jersey or elsewhere, or a record of conviction of a crime in another jurisdiction in the world which, in that jurisdiction, is comparable to any of the following crimes:

- (1) Aggravated assault;
- (2) Arson;
- (3) Burglary;
- (4) Escape;
- (5) Extortion;
- (6) Homicide;
- (7) Kidnapping;
- (8) Robbery;
- (9) Aggravated Sexual assault;
- (10) Sexual assault;
- (11) Endangering the welfare of a child pursuant to *N.J.S.A. 2C:24-4*, whether or not armed with or having in his possession any weapon enumerated in subsection "r." of *N.J.S.A. 2C:39-1*; or
- (12) A crime pursuant to the provisions of *N.J.S.A. 2C:39-3*, *N.J.S.A. 2C:39-4* or *N.J.S.A. 2C:39-9*, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in *N.J.S.A. 2C:35-2*.

The above automatic disqualification shall not apply, however, to those applicants who were convicted of any of the above crimes prior to the effective date of this Ordinance and who had previously received the consent of the Borough to operate a taxicab within the Borough and who had a valid taxicab driver's license issued and in effect by the Borough as of the effective date of P.L. 2011, c.135.

Additionally, if a person who has been convicted of one of the crimes listed above can produce a certificate of rehabilitation issued pursuant to *N.J.S.A. 2A:168A-8* or, if the criminal offense occurred outside of New Jersey, an equivalent certificate from the jurisdiction where the criminal offense occurred, then the criminal offense shall not disqualify the applicant from operating or driving a taxicab within the Borough.

- (h) Applicant must not have been convicted, within the three (3) years prior to the date of the application, of reckless driving, leaving the scene of an accident or driving more than thirty (30) miles an hour above the speed limit, and applicant must not have been convicted, within the five (5) years prior to the date of the application, of driving while intoxicated.

(i) At the time of application, applicant must have no more than six (6) New Jersey State Division of Motor Vehicle points on his or her driving record, or the equivalent if licensed in any other state.

(j) Requirements (d) and (g) above, regarding physician's certification and fingerprinting, shall not apply to any taxicab driver who holds a valid taxicab driver's license in any other Mercer County municipality which is compliant with P.L. 2011, c.135 and whose firm is licensed in and operating out of said municipality. Such person(s) shall be qualified to obtain a taxicab driver's license in Hightstown upon completion of the application form, payment of the required fee and submission of the following documentation:

(1) Certification by the applicant that he or she meets all of the requirements set forth in sub-paragraph "a(1)" of Subsection 4-21.5 above.

(2) If not a United States citizen, copy of alien registration card or work permit.

(3) Current valid taxicab driver's license from any other Mercer County municipality.

(4) Valid New Jersey driver's license.

2. The application shall be accompanied by a fee of fifty (\$50.00) dollars for the license period, subject to pro-ration in 2012 in accordance with the provisions of sub-paragraph "d" below.

3. The application shall be accompanied by two (2) unmounted, unretouched glossy photographs of the face of the applicant taken within thirty (30) days preceding filing of the application. Photographs shall be two and one half inches (2 1/2") by two and one half inches (2 1/2") in size and shall be passport picture quality. New photographs shall be submitted whenever the licensee's appearance changes significantly.

4. Any person who shall make a false statement in any license application or in any record or certificate that is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.

b. Investigation; Grant or Denial of License. The Chief of Police or his designee shall investigate the application and shall report the results to the Chief of Police (i.e., in cases where the investigation is performed by the Chief of Police's designee) and the Police Commissioner within a reasonable time. The report shall include a recommendation that the license be granted or denied and the reasons therefor. The Borough Clerk shall ensure that a copy of the report is made available to the applicant. Based upon the findings set forth in the report, the Chief of Police shall determine whether to grant or deny the license.

c. Issuance of License; Contents. Upon approval of the application by the Chief of Police, the Police Department shall immediately issue the applicant a taxicab driver's license. The license shall contain the licensee's name and address, physical description, signature and photograph.

d. Term of License; Fees; Renewal. An initial license to drive a taxicab shall be valid for the remainder of the calendar year in which it is issued, expiring on December 31st of said year. Licenses issued in 2012 shall be subject to a fee of fifty (\$50.00) dollars per license, which shall be pro-rated. Such fee shall be nonrefundable in the event that the application is denied. Licenses issued in 2013 and thereafter shall be subject to a nonrefundable non-prorated fee of fifty (\$50.00) dollars per license. A taxicab driver's license may be renewed annually thereafter, unless it has been revoked or suspended, upon the payment of a renewal fee of fifty (\$50.00) dollars per year, and processing, screening and determination of the application in accordance with all of the procedures set forth above.

e. Use of License. Taxicab driver's licenses are valid for use with any licensed taxi within the Borough of Hightstown.

f. In those cases where the Chief of Police has denied the license, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Chief of Police. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.

g. Any change(s) in the information contained within the driver's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

#### **4-21.8 Suspension or Revocation of Licenses.**

a. In the case of an emergency, licenses may be temporarily suspended for not more than seven (7) days by the Chief of Police.

b. In all other cases, licenses may be suspended or revoked, for cause, by the Borough Council after reasonable notice and a hearing. At said hearing, the licensee shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. At the conclusion of the hearing, the Council will determine whether to suspend the license or to permanently revoke the license. Any license so suspended or revoked shall not be re-issued except for good reasons shown.

In addition to the causes for revocation of a license set forth in Subsection 4-1.10, any license issued under this section may be revoked or suspended by the Borough Council, or any application for the issuance or renewal of a license denied, for any of the following reasons:

1. Failure to render reasonable, prompt, safe and adequate taxicab service.
2. The existence of a judgment unsatisfied of record against the licensee or applicant in any suit arising over the operation of a motor vehicle.
3. Permitting any taxicab owned or driven by the licensee to become unsafe, unsanitary or dirty.
4. Failure to comply with all applicable laws of the State of New Jersey, the ordinances of the Borough or the rules and regulations adopted in accordance with this section.
5. Where taxicab vehicles are found to be used for any improper, immoral or illegal business or purpose or for the violation of any federal or state statute or for the violation of any of the provisions of this section.
6. Failure to maintain the proper amount of insurance on licensed taxicab vehicles pursuant to valid and effective insurance policies, as required by this section.

c. Drivers. If the licensee is a driver, his license may also be revoked or suspended by the Borough Council for the following reasons:

1. Revocation or suspension of his New Jersey motor vehicle operator's license.

2. Contraction by the licensee of a communicable or contagious disease.
3. Operating a taxicab in a reckless or grossly negligent manner or habitually operating a taxicab in a negligent manner.
4. Conviction of one of the crimes listed in Subsection 4-21.5a1(g) above, in New Jersey or elsewhere.

#### **4-21.9 Complaints; Enforcement.**

- a. All complaints shall be submitted to the Hightstown Police Department.
- b. Enforcement of Section 4-21 shall be the responsibility of the Hightstown Police Department or authorized persons designated by the Chief of Police.

### **SECTION 2: Chapter 7, Section 16, shall be amended as to read as follows:**

#### **7-16.3 Operational Regulations.**

- a. All taxicab owners and drivers shall be licensed pursuant to Section 4-21 of the Borough Code.
- b. No taxicab shall stop, stand or remain idle on a public roadway or other public property within the Borough for a period of time in excess of fifteen (15) consecutive minutes without the prior approval of the Borough, unless said location has been properly designated as a taxi stand pursuant to Section 7-26 of this Chapter. Taxicabs while out of service (with an appropriate sign posted), or while parked by the owner or driver at their place of residence, shall be exempt from this regulation.
- c. No taxicab shall be parked or shall remain standing idle on any commercial property for the purpose of utilizing said property as a taxi stand without the express written consent of the property owner or other authorized representative, and the proper designation of said property as a taxi stand by the Borough pursuant to Section 7-26 of this Chapter.
- d. No taxicab shall remain "idling" with the engine running for more than three (3) consecutive minutes on any public roadway or other public property within the Borough, or on any private property within the Borough.
- e. Cruising is prohibited within the Borough.
- f. No person, while operating or attending a taxicab for hire, shall:
  1. Obstruct any sidewalk; or
  2. Knowingly misinform or mislead any person as to the location of a destination.
- g. Any motor vehicle accident involving a taxicab and causing injury to a person or damage to property in excess of \$500.00 shall be reported immediately to the Hightstown Borough Police Department and a copy of the police report for such accident must be given to the Hightstown Police Department within fourteen (14) days of the accident. Such information shall be placed in the Borough's records regarding the taxicab owner and taxicab driver.
- h. All taxicab owners shall keep trip records and receipt books for six (6) months, which shall be kept current and shall be displayed when so requested by authorized Borough officials appointed by the Chief of Police. Trip records shall show, at a minimum, the date, time, pick-up location, destination, number of passengers and fare charged.

- i. All taxicab vehicles shall be kept clean and free of debris.
- j. Each licensed taxicab driver shall be clean in person and fully dressed while on duty, including shirt, pants and shoes.
- k. Taxicab drivers and passengers shall refrain from smoking within the taxicab vehicle while a hired trip is in progress. This prohibition shall be conspicuously posted in each Borough licensed taxicab vehicle.
- l. No driver shall operate a taxicab after fourteen (14) consecutive working hours without an eight (8) hour rest period.
- m. Taxicab drivers shall, immediately after the conclusion of their on-duty time, carefully search the taxicab for any property lost or left therein, and shall, within twenty-four (24) hours after finding any such property, advise the Hightstown Borough Police Department of the nature of the property and where it may be collected.
- n. Taxicabs shall be used exclusively for purposes of transportation of passengers and their baggage.
- o. No owner or driver of a taxicab shall be obliged to transport any person who is not orderly.
- p. Taxicab drivers who are on-duty and available for hire shall not refuse to offer their services to potential patrons who are disabled, on the basis of said disability.

### **SECTION 3** Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

### **SECTION 4** Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Introduced:

Adopted:

ATTEST:

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Debra L. Sopronyi  
Municipal Clerk

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Lawrence D. Quattrone  
Mayor