

**CITY OF NEW BERLIN**

**POLICE AND FIRE COMMISSION**

**RULES AND REGULATIONS**

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**ARTICLE I - SCOPE OF AUTHORITY**

- 1.01 The Rules and Regulations herein provided shall be applicable to all positions in the police service or fire service of the City of New Berlin.
- 1.02 The word "Commission" when used herein shall refer to the Board of Police and Fire Commissioners of the City of New Berlin.

**ARTICLE II - QUALIFICATIONS OF APPLICANTS – POLICE SERVICE**

- 2.01 Every applicant at the time of appointment to the police service shall:
- (a) Be a citizen of the United States;
  - (b) Be able to speak the English language understandably;
  - (c) Have, as a minimum, 2 year Associate Degree from a technical college or a minimum of 60 college level credits. Only colleges and universities that are accredited by an accrediting agency or association that is acknowledged by the United States Secretary of Education are acceptable;
  - (d) Be of good character and, subject to the provisions of Wisconsin Statute Chapter 111, not have been convicted of a felony which reasonably relates to the duties of a police officer, unless subsequently pardoned;
  - (e) Not have been previously rejected by the Commission's medical examiner for a cause that remains unresolved;
  - (f) Be at least 18 years of age;
  - (g) Be in good health and sound physical condition to perform the duties of the position desired as determined by the designated examiners of the Commission;  
and
  - (h) Every applicant must be physically able to perform the essential functions of the position for which he/she is applying as determined by the medical examiner.
- 2.015 Every applicant for the position of cadet shall:
- (a) Be a citizen of the United States;
  - (b) Speak the English language understandably;
  - (c) Have, as a minimum, a high school diploma;

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- (d) Be of good character and, subject to the provisions of Wisconsin Statute Chapter 111, not have been convicted of a felony which reasonably relates to the duties of a cadet, unless subsequently pardoned;
  - (e) Not have been previously rejected by the Commission's medical examiner for a cause that remains unresolved; and
  - (f) Be at least 18 years of age.
- 2.02 Any cadet may be automatically eligible for the police officer eligibility list if the cadet meets the requirements of Section 2.01 and has completed all provisions of Section 4.11 as part of the cadet entrance process to the New Berlin Police Department.

**ARTICLE III - APPLICATION – POLICE SERVICE**

- 3.01 The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for issuance of such forms shall be given by posting the written announcement in the Police Department and Human Resources Department and posting an electronic version of the announcement on the appropriate website(s) at least ten (10) days prior to the issuance thereof and by such other means of publicity as the Commission may direct.
- 3.02 Any misrepresentation in regard to any material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, removing his name from the eligibility list or discharging him from the service.
- 3.03 Whenever the application itself reveals that the applicant cannot meet the qualifications of the position he or she applied for, such application shall be rejected by the Commission or its designated representative.
- 3.04 Incomplete applications may be returned to applicants for correction.
- 3.05 An applicant previously rejected by the medical examination shall not be eligible to take the examination hereinafter provided for until a certificate from the medical examiner shows that the cause for which the applicant was rejected has been corrected.
- 3.06 Any person dismissed from the Police Department for a reason other than that set forth in Section 11.01 of these rules and regulations may thereafter be ineligible to make application for appointment to any position in the Police Department.
- 3.07 Any former employee of the police service who desires to re-enter the service shall undergo the same examination as a new applicant.

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**ARTICLE IV - EXAMINATIONS – POLICE SERVICE**

- 4.01 The Commission shall hold examinations for appointments to the police service and shall fix the date, place and conditions thereof whenever necessary to meet or anticipate the needs of the service.
- 4.02 The Chief shall indicate to the Commission, in writing, the duties of each position tested for and qualifications required.
- 4.03 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 4.04 All tests will be scored on a “pass-fail” or “qualified-not qualified” basis.
- 4.05 All examinations shall be administered under the supervision of the Commission, which may designate any person or persons to conduct or assist in conducting the examinations.
- 4.06 No applicant shall be given a second or special competitive test in connection with any examination held unless it be shown to the satisfaction of the Commission that applicant’s failure to take or complete such test was the result of good and valid reasons.
- 4.07 An acceptable score for any examination shall be at the discretion of the Commission.
- 4.08 The applicant’s written examination papers shall not be furnished to the applicant.
- 4.09 Written examination papers shall be destroyed by the Commission or its designated representative after the establishment of the eligibility list for which such examination was held.
- 4.10 Each qualified applicant review to the police service shall consist of the following and shall be administered as follows:
- (a) Written exam approved by the Commission shall be conducted. Candidates scoring 70% or greater proceed;
  - (b) An oral interview shall be conducted under the direction of the Chief and shall include members of the command staff. The Chief may designate other person(s) to participate in the oral interview; and
  - (c) Candidates selected shall proceed to the character investigation, psychological testing or job trait assessment and medical examination after a conditional offer is made.
- 4.11 Each original entrance review for the position of cadet shall consist of the following and be administered as follows:

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- (a) Physical performance and written examination;
- (b) Oral interview and character investigation; and
- (c) Psychological testing and medical examination.

4.12 Each original entrance review for position of Tactical Emergency Medical Services Officer shall consist of the following and be administered as follows:

- (a) Oral interview;
- (b) Character investigation;
- (c) Psychological testing; and
- (d) Medical examination.

This position is subject to all other applicable Commission Rules and Regulations.

**ARTICLE V - APPOINTMENTS – POLICE SERVICE**

5.01 The Commission shall appoint the Chief, who shall hold office, subject to suspension or removal by the Commission for cause.

5.02 For the position of Chief, the Commission may appoint a suitable person at its discretion, who need not be a member of the department or a resident of the City of New Berlin. If the appointed Chief is a non-resident, the appointed Chief shall establish residency or reside within 20 miles of the City limits within 18 months after appointment.

5.03 Every applicant at the time of appointment for position of Chief shall:

- (a) Be a citizen of the United States;
- (b) Speak the English language understandably;
- (c) Have a Bachelor's Degree in Criminal Justice or related field with a Master's Degree preferred;
- (d) Possess a valid Wisconsin driver's license;
- (e) Have 10 years police experience with administrative experience at the rank of Sergeant or above;

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- (f) Have current certification as a police officer in the State of Wisconsin; and
- (g) Subject to the provisions of Wisconsin Statute Chapter 111, not have been convicted of a felony which reasonably relates to the duties of the position of Chief of the Police Department, unless subsequently pardoned, and be of good character.

5.04 It is suggested that Commission's hiring process for Chief include:

- (a) Establishing a timeline;
- (b) Human Resources Department's placement of advertisements;
- (c) Human Resources Department screening of applications for minimum qualifications as set forth in Section 5.03 and the job description;
- (d) Selection of semi-finalists by the Commission;
- (e) Semi-finalist interviews with Department Heads and a panel designated by the Commission which may include other outside Chiefs and former Chiefs;
- (f) Selection of finalists by the Commission;
- (g) Finalists job trait assessments;
- (h) Finalist interviews with the Commission;
- (i) Selection by the Commission but subject to:
  - 1) Medical examination with drug screen; and
  - 2) Salary negotiation by the City.

5.05 The Commission shall prepare an eligibility list which shall contain the names of those "new hire candidates" who have received a passing mark, without ranking. The list shall be furnished to the Chief. A copy shall also remain on file with the Secretary of the Commission.

5.06 Except when the appointment can be made with advantage by promotion from within the department, the Chief shall make appointments to all positions from the Commission's eligibility list so provided.

5.07 The Commission's eligibility list shall expire at the end of one year from the date filed with the Secretary of the Commission unless continued in force for a longer period or discontinued prior thereto by order of the Commission.

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- 5.08 All original appointments shall be probationary for 18 months as specified in the NBPPA Contract. All appointments for advancement by the Chief of Police shall be ratified by the Commission and shall be probationary for 12 months. If, during the probationary period, the person appointed proves unsatisfactory or undesirable for the position, the Chief may dismiss him/her from the service, where the appointment was original, or may reduce him/her in rank where the appointment was promotional. The appointee shall not be entitled to an appeal to the Commission from such a dismissal or reduction. During this period, the probationer has no fixed rights other than the right to the salary earned.
- (a) Prior to the completion of the probationary period, the Chief shall present to the Commission:
- 1) The names of candidates eligible for permanent appointment;
  - 2) Report of evaluations; and
  - 3) The following, as applicable:
    - a. Current psychological testing or job trait assessment;
    - b. Current medical examination;
    - c. Current physical performance testing; and/or
    - d. Personal interview of candidate with Commission.

**ARTICLE VI - QUALIFICATIONS OF APPLICANTS – FIRE SERVICE**

- 6.01 Every applicant at the time of appointment to the fire service shall:
- (a) Be a citizen of the United States;
  - (b) Speak the English language understandably;
  - (c) Have High School Diploma;
  - (d) Have a minimum of:
    - 1) Full Time position – as a minimum, 40 college credits in fire science or a closely related field of study and firefighter II at time of hire. Additionally, 60 college credits toward an Associate Degree in Fire Science or closely related field of study upon completion of the full-time probationary period..

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2) Part Time position– Firefighter I and EMT Basic.

- (e) Subject to the provisions of Wisconsin Statutes Chapter 111, not have been convicted of a felony which reasonably relates to the duties of a firefighter and/or emergency medical services employee, unless subsequently pardoned, and be of good character;
- (f) Not have been previously rejected by the Commission's medical examiner for a cause that remains uncorrected;
- (g) Be not less than 18 years of age;
- (h) Be in good health and sound physical condition to perform the duties of the position desired as determined by the designated examiners of the Commission; and
- (i) Every applicant must be physically able to perform the essential functions of the position for which he/she is applying as determined by the medical examiner.

**ARTICLE VII - APPLICATION – FIRE SERVICE**

- 7.01 The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for issuance of such forms shall be given by posting the written announcement in the Fire Department and Human Resources Department and posting an electronic version of the announcement on the appropriate website(s) at least ten (10) days prior to the issuance thereof and by such other means of publicity as the Commission may direct.
- 7.02 Any misrepresentation in regard to any material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, removing his or her name from the eligibility list, or discharging him or her from the service.
- 7.03 Whenever the application itself reveals that the applicant cannot meet the qualifications of the position he or she applied for, such application shall be rejected by the Commission or its designated representative.
- 7.04 Incomplete applications may be returned to applicants for correction.
- 7.05 An applicant previously rejected by the medical examination shall not be eligible to take the examination hereinafter provided for until a certificate from the medical examiner shows that the cause for which the applicant was rejected has been corrected.
- 7.06 Any person dismissed from the Fire Department for a reason other than that set forth in Section 11.01 of these rules and regulations may thereafter be ineligible to make application for appointment to any position in the fire department.

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- 7.07 Any former employee of the fire service who desires to re-enter the service shall undergo the same examination as a new applicant.

**ARTICLE VIII - EXAMINATIONS – FIRE SERVICE**

- 8.01 The Commission shall hold examinations for appointments to the fire service and shall fix the date, place and conditions thereof whenever necessary to meet or anticipate the needs of the service.
- 8.02 The Chief shall indicate to the Commission, in writing, the duties of each position tested for and qualifications required.
- 8.03 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 8.04 All tests will be scored on a “pass-fail” or “qualified-not qualified” basis.
- 8.05 The examinations shall be practical in nature and relate to those matters which will fairly test the capacity of the applicants for the position they seek.
- 8.06 Each original entrance review for position of part-time firefighter shall consist of the following and be administered as follows:
- (a) Written exam approved by the Commission shall be conducted. Candidates scoring 70% or greater proceed;
  - (b) An oral interview shall be conducted under the direction of the Chief and shall include members of the command staff. The Chief may designate other person(s) to participate in the oral interview;
  - (c) Candidates selected shall undergo and pass the Candidate Physical Ability Test (CPAT);
  - (d) Candidates selected shall proceed to the character investigation, psychological testing or job trait assessment and medical examination after a conditional offer is made;
  - (e) Approval by the Police and Fire Commission; and
  - (f) Candidates selected will be hired and placed on probation for a period of 18 months at which time they must have, in addition to the original hiring qualifications, Firefighter II and Driver Operator Pumper.

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- 8.07 Each promotional review for part-time to full-time firefighter shall consist of the following and be administered as follows:
- (a) Written exam approved by the Commission shall be conducted. Candidates scoring 70% or greater proceed;
  - (b) An oral interview shall be conducted under the direction of the Chief and shall include members of the command staff. The Chief may designate other person(s) to participate in the oral interview;
  - (c) Departmental performance evaluations shall be considered;
  - (d) The Chief shall select the candidate based on the above and current vacancies;
  - (e) Candidates selected shall proceed to the character investigation and medical examination, and if not done at original time of hire, psychological testing or job trait assessment after a conditional offer is made;
  - (f) Approval by the Police and Fire Commission; and
  - (g) Candidates selected will be hired and placed on probation for a period of 12 months at which time they must have, in addition to the original Full-Time hiring qualifications, Fire Inspector I and Company Officer Certification.
- 8.08 All tests will be scored on a “pass-fail” or “qualified-not qualified” basis.
- 8.09 All examinations shall be administered under the supervision of the Commission, which may designate any person or persons to conduct or assist in conducting the examinations to include the Chief and Human Resources Director.
- 8.10 No applicant shall be given a second or special competitive test in connection with any examination held unless it be shown to the satisfaction of the Commission that applicant’s failure to take or complete such test was the result of other good and valid reasons.
- 8.11 An acceptable score for any examination shall be at the discretion of the Commission.
- 8.12 The applicant’s written examination papers shall not be furnished to the applicant.
- 8.13 Written examination papers shall be destroyed by the Commission or its designated representative after the establishment of the eligibility list for which such examination was held.

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**ARTICLE IX - APPOINTMENTS – FIRE SERVICE**

- 9.01 The Commission shall appoint the Chief, who shall hold office, subject to suspension or removal by the Commission for cause.
- 9.02 For the position of Chief, the Commission may appoint a suitable person at its discretion, who need not be a member of the department or a resident of the City of New Berlin. If the appointed Chief is a non-resident, the appointed Chief shall establish residency or reside within 20 miles of the City limits within 18 months after appointment.
- 9.03 Every applicant at the time of appointment for position of Chief shall:
- (a) Be a citizen of the United States;
  - (b) Speak the English language understandably;
  - (c) Have a Bachelor's Degree in Management, Public Administration, Fire Science or a related field with a Master's Degree preferred;
  - (d) Have a minimum of 5 years of experience in Fire Department Management including budgeting, planning and administration and 10 years of fire supervisory experience;
  - (e) Possess a valid Wisconsin driver's license; and
  - (f) Subject to the provisions of Wisconsin Statute Chapter 111, not have been convicted of a felony which reasonably relates to the duties of the position of Chief of the Fire Department, unless subsequently pardoned, and be of good character.
- 9.04 It is suggested that Commission's hiring process for Chief include:
- (a) Establishing a timeline;
  - (b) Human Resources Department's placement of advertisements;
  - (c) Human Resources Department screening of applications for minimum qualifications as set forth in Section 9.03 and the job description;
  - (d) Selection of semi-finalists by the Commission;
  - (e) Semi-finalist interviews with Department Heads and a panel designated by the Commission which may include other outside Chiefs and former Chiefs;
  - (f) Selection of finalists by the Commission;

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- (g) Finalists job trait assessments;
  - (h) Finalist interviews with the Commission;
  - (i) Selection by the Commission but subject to:
    - 1) Medical examination with drug screen; and
    - 2) Salary negotiation by the City.
- 9.05 The Commission shall prepare an eligibility list which shall contain the names of those "new hire candidates" who have received a passing mark, without ranking. The list shall be furnished to the Chief of the Fire Department. A copy shall also remain on file with the Secretary of the Commission.
- 9.06 Except when the appointment can be made with advantage by promotion from within the department, the Chief shall make appointments to all positions from the eligibility list so provided. All appointments shall be subject to approval by the Commission.
- 9.07 The Commission's eligibility list shall expire at the end of one year from the date filed with the Secretary of the Commission unless continued in force for a longer period or discontinued prior thereto by order of the Commission.
- 9.08 All original appointments shall be probationary for 18 months following date of hire. If, during the probationary period, the person appointed proves unsatisfactory for the position, the Chief may dismiss him/her from the service. The appointee shall not be entitled to an appeal to the Commission. During this period, the probationer has no fixed rights other than the right to the salary earned.
- (a) The Chief shall present the candidate for a personal interview with the Commission for ratification, along with the following:
    - 1) The names of candidates eligible for appointment;
    - 2) Application materials;
    - 3) Written test scores;
    - 4) Evidence of CPAT certification;
    - 5) Results of medical examination; and
    - 6) Results of psychological testing or job trait assessment results.

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(b) The Chief shall present to the Commission prior to the completion of an employee's probationary period, the following:

- 1) The name of the candidate eligible for regular appointment;
- 2) Documentation of required certifications;
- 3) Departmental evaluations; and
- 4) Letter of recommendation from the Chief.

9.09 All promotional appointments from part-time to full-time by the Chief shall be ratified by the Commission and shall be probationary for 12 months. If during the probationary period the person appointed proves unsatisfactory for the position, the employee shall be returned to his/her former position. The appointee shall not be entitled to an appeal to the Commission from such reduction.

(a) The Chief shall present the candidate for a personal interview for a promotional appointment to the Commission for ratification, along with the following:

- 1) The name of candidate eligible for promotion;
- 2) All test scores used in the process;
- 3) Evidence of CPAT certification;
- 4) Results of medical examination including drug screening;
- 5) Results of psychological testing or job trait assessment results;
- 6) Departmental evaluations; and
- 7) Letter of recommendation from the Chief.

(b) The Chief shall present to the Commission prior to the completion of an employee's probationary period, the following:

- 1) The name of candidate eligible for regular appointment;
- 2) Documentation of required certifications;
- 3) Departmental evaluations; and
- 4) Letter of recommendation from the Chief.

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9.10 All promotional appointments by the Chief shall be ratified by the Commission and shall be probationary for 12 months. If during the probationary period the person appointed proves unsatisfactory for the position, the employee shall be returned to his/her former position. The appointee shall not be entitled to an appeal to the Commission from such reduction.

(a) The Chief shall present the candidate for a personal interview for a promotional appointment to the Commission for ratification, along with the following:

- 1) The name of candidate eligible for promotion;
- 2) All test scores used in the process;
- 3) Most recent physical exam results;
- 4) Results of current drug screening;
- 5) Departmental evaluations; and
- 6) Letter of recommendation from the Chief.

(b) The Chief shall present to the Commission prior to the completion of an employee's probationary period, the following:

- 1) The name of candidate eligible for regular appointment;
- 2) Documentation of required certifications;
- 3) Departmental evaluations; and
- 4) Letter of recommendation from the Chief.

**ARTICLE X - DEPARTMENTAL DISCIPLINE**

10.01 Subject to Wisconsin Law and in accordance with applicable departmental policies, procedures and regulations, subordinates may, for just cause, be disciplined by the Police or Fire Chief as follows:

- (a) Temporarily removed from duty without loss of pay and benefits; and
- (b) Suspended with loss of pay and benefits.

10.02 The Police or Fire Chief shall notify the Commission in writing within 24 hours of imposition of a discipline under 10.01(a) or (b) and the reasons therefore.

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- 10.03 A subordinate subject to discipline under 10.01(a) or (b) may seek review by making a written request for a hearing before the Commission. Said request shall be served on the Police or Fire Chief, the Chairperson of the Commission and the Commission Secretary within ten days of receipt of notice of the discipline. The Commission may modify all disciplinary action of the Chief.
- 10.04 Unless agreed to by the subordinate, a Police or Fire Chief shall file charges with the Commission as described herein whenever a Chief seeks to reduce a subordinate's rank or removal of a subordinate.
- 10.05 No Chief or subordinate shall be deprived of pay or benefits while charges are pending disposition by the Commission.
- 10.06 Charges may be filed against any Police or Fire Department member by the following persons:
- (a) The Fire or Police Chief;
  - (b) Any aggrieved person;
  - (c) Any member of the Commission or the Commission acting as a body under Wis. Stat. 62.13; or
  - (d) The Mayor.
- 10.07 All charges filed with the Commission shall be in the form of a written complaint which shall state the following in plain language:
- (a) The full name, address and telephone number of the complainant;
  - (b) The name or other means of identifying the accused member(s);
  - (c) The date(s), approximate time(s) and location(s) of the conduct complained of;
  - (d) A clear statement of facts specifically stating the individual member's conduct being complained of; and
  - (e) Citation of the rule or order allegedly violated, including its date of issuance and the facts surrounding its dissemination.
- 10.08 Charges may be filed by mailing the original complaint to: Police & Fire Commission Chairperson, 16300 West National Avenue, New Berlin, Wisconsin 53151.
- 10.09 In any case where charges are filed against a subordinate, the Chief shall see to the service, either personally or through another member of the department or a private

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process server, a copy of all charges on the subordinate to be disciplined and shall provide the Chairperson with written confirmation of such service and the date thereof.

In the event charges are brought against a Chief, the Commission shall cause a copy of such charges to be served on the Chief.

10.10 All hearings shall be conducted in accordance with the provision of Section 62.13, Wis. Stats. and these Rules & Regulations.

10.11 Scheduling of Hearings.

- (a) Following consultation with the Commission and the parties, the Chairperson shall set a hearing date before the Commission not less than 10 or more than 30 days after the service of charges. A modification of this time period may occur upon agreement of the parties and the Commission.
- (b) Notice of the hearing date, time and place shall be personally served or sent by registered or certified mail to the complainant and the accused or his/her legal counsel at least eight (8) days prior to the hearing date. A copy of the charges shall accompany the notice. Notices to the accused shall be sent to the accused at the address noted in the department records.
- (c) The notice provided by the Commission shall state whether, pending the disposition of any pending charges, the accused shall continue to be suspended if previously suspended.
- (d) The Commission may adjourn any hearing date on its own motion or upon a showing of good cause.

10.12 Hearings before the Commission shall be conducted so as to assure fundamental fairness to the parties.

- (a) Both the complainant and respondent may request subpoenas from the Chairperson to compel the attendance of witnesses. Service of subpoenas and witness fees shall be the responsibility of the party requesting the subpoena.
- (b) An accused member may have an attorney represent him or her at the hearing. The Commission may be represented by the City Attorney or by a Special Counsel as selected by the Commission.
- (c) As soon as possible after the filing of charges, but in no event less than five (5) days prior to the scheduled hearing, representatives of both parties shall confer with the Chairperson and/or legal counsel for the Commission for purposes of defining the issues to be considered at the hearing. The retention of a court reporter shall also be addressed at that time.

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Both parties shall provide witness and exhibit lists to opposing counsel and provide for the inspection of any exhibits prior to the hearing. A copy of said lists shall be provided by both parties to the Commission. Any witness or exhibit not on the list filed with the Commission may be excluded at hearing unless the party seeking its introduction can demonstrate satisfactory reasons to the Commission for its inclusion.

- (d) All hearings before the Commission shall be conducted in public except that deliberations, including consultation with legal counsel, by the Commission shall be conducted in closed session.
- (e) No subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Commission unless the Commission determines there is just cause to sustain the charges. In making its just cause determination, the Commission shall apply the following standards, to the extent applicable:
  - 1) Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;
  - 2) Whether the rule or order that the subordinate allegedly violated is reasonable;
  - 3) Whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did, in fact, violate a rule or order;
  - 4) Whether the effort described under sub. 3 was fair and objective;
  - 5) Whether the Chief has presented credible evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate;
  - 6) Whether the Chief is applying the rule or order fairly and without discrimination against the subordinate; and
  - 7) Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Chief's department.
- (f) The accused and the complainant, at their individual expense, shall be entitled to representation by counsel at any hearing. In the absence of the appearance of the accused, the Commission will proceed to dispose of the matter on such evidence as may be before it. In the absence of the appearance of the complainant, if there be one, the Commission may dismiss the charges without consideration.

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- (g) The complainant shall first present its evidence supporting the charges filed with the Commission. The accused may then present evidence. Thereafter, each side may offer rebuttal evidence. Cross-examination of all witnesses by the opposing party shall be permitted. The complainant and the accused may be called adversely.
- (h) Testimony of witnesses shall be under oath administered by the Chairperson or court reporter in the form and manner provided by the Wisconsin Statutes. Testimony of witnesses at the hearing may also be preserved. Witnesses may be sequestered upon the request of either the complainant or the accused or any member of the Commission.
- (i) Proceedings before the Commission shall not be governed by the common law or statutory rules of evidence except those relating to privileges under Wis. Stat. Ch. 905 or to admissibility under Wis. Stat. § 901.05. The Commission shall admit all evidence having reasonable probative value, but may exclude irrelevant or repetitious evidence or arguments. Objections to evidentiary offers and offers of proof regarding evidence ruled inadmissible may be made and incorporated into the record.
- (j) At the close of the presentation of evidence, each party shall be entitled to a limited oral summation of the evidence, or at the discretion of the Commission, a written submission representing proposed findings of fact and conclusions of law.
- (k) The Chairperson may entertain a motion to enter into closed session pursuant to Wis. Stat. § 19.85(1) to deliberate and confer with legal counsel for the Commission.
- (l) In the event the Commission determines that the complainant has failed to meet his/her burden of proof, the charges shall be dismissed and the proceedings terminated with the accused being immediately reinstated and all lost pay restored.
- (m) At the conclusion of any hearing, the Department shall provide the Commission Secretary with a sealed copy of the employment history and performance records of the accused member(s) if same has not been made a part of the record during the hearing. Such file(s) shall not be opened or reviewed by the Commission unless the Commission shall have first determined by a majority vote that the charges have been sustained. If the Commission shall determine that there is just cause to sustain the charges, the Commission shall review said file to determine what, if any, discipline is appropriate. If the charges are sustained, the Commission may, for the good of the service, order that the accused be:
  - 1) Suspended;
  - 2) Reduced in rank;

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- 3) Suspended and reduced in rank;
  - 4) Discharged; or
  - 5) Otherwise disciplined.
- (n) The Commission shall prepare a written decision containing a summary of its findings and orders within three days of its decision. A longer period may be provided by agreement of the parties. A copy of the written decision shall be provided to both parties.
- 10.13 No request for a rehearing shall be entertained unless substantial new material evidence is submitted which could not reasonably have been presented at the previous hearing and which was not presented through any fault or lack of diligence of the party offering it. In all cases, the request for a rehearing shall be presented to the Commission in writing, reciting the reasons for the request.
- 10.14 Any person suspended, reduced, suspended and reduced, or removed after a hearing may appeal from the order to the circuit court by serving written notice thereof, stating the grounds upon which the appeal is based, on the Secretary of the Commission within ten (10) days after the order is filed. Within five (5) days thereafter, the Secretary of the Commission shall certify to the clerk of the circuit court the records of the proceedings, including all documents, testimony and minutes. After the taking of such appeal, the proceedings thereafter shall be governed by the provisions of Wis. Stat. Sec. 62.13(5)(i).
- 10.15 The Secretary of the Commission shall keep a record of each hearing, name and address of the accused and complainant, if there be one, a brief description of the charges involved, and the final disposition of the case. The Secretary shall also show on the docket for each case, all other important date and dates concerning the case, such as date of filing, notice of appeal, date of sending out notices and to whom sent, date of posting of notice of hearing, and dates of hearings, continuances and final determination.

**ARTICLE XI - LAY-OFFS AND RE-EMPLOYMENT**

- 11.01 When it becomes necessary because of need for economy, lack of work or funds, or for other just causes to reduce the number of subordinates, the emergency, special, temporary, part-time, or provisional subordinates, if any, shall be laid off first, and thereafter subordinates shall be laid off in the order of the shortest length of service in the departments. Those with identical seniority shall be laid off in order of least ability to serve as determined by the Commission from a consideration of service reports.

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- 11.02 When it becomes necessary for the reasons set forth in Section 11.01 to reduce the number of subordinates in the higher positions or offices, or to abolish any higher positions or offices in the department, the subordinate or subordinates affected thereby shall be placed in a position or office in the department less responsible according to his efficiency and length of service in the department.
- 11.03 The name of a subordinate laid off for any cause set forth in sections 11.01 or 11.02 shall be retained on an eligible re-employment list for a period of two years after date of his or her layoff. If any vacancies occur, or if the number of subordinates is increased in the department, such vacancies or new positions shall be filled by persons on such list in the inverse order of layoff.

**ARTICLE XII - ADMINISTRATION**

- 12.01 The Commission shall hold regular meetings at the time and place designated in the public notice for the meeting. No less frequently than quarterly as called by the Chairperson of the Commission. All meetings of the Commission shall comply with the Wisconsin statutes relative to notice.
- 12.02 Annually, at the June meeting, the Commission shall elect, from among its members, a Chairperson and Secretary.
- 12.03 A special meeting may be called by the Chairperson or by any two members of the Commission. All special meetings shall comply with the Wisconsin statutes relative to notice to the public. Notice to commissioners requires that the notice be personally served or, if personal service cannot be accomplished, by leaving the notice with an adult member of his/her family at his/her residence.
- 12.04 Any member of the Commission, upon reasonable notice to the Chairperson, may place an item on the agenda for the Commission's next meeting.
- 12.05 Whenever there are no appeals or disciplinary action to be considered, and there appears to be no other business to be transacted by the Commission at any regular meeting, other than the annual meeting, the Chairperson may dispense with such meeting by notifying each member of the Commission not more than three days nor less than 24 hours prior to the time of such meeting.
- 12.06 Three members of the Commission shall constitute a quorum in order to transact business, but a lesser number may adjourn from time to time. All determinations of the Commission shall be made by a majority of the members.
- 12.07 The regular order of business of the Commission shall be:
- (a) Roll call

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- (b) Consideration of the minutes of the preceding meeting
- (c) Consideration of communications/bills
- (d) Old business
- (e) New business
- (f) Disciplinary and personnel matters—in closed session, according to law

12.08 The Chairperson of the Commission shall:

- (a) Set the date/time for meetings of the Commission;
- (b) Prepare the Agendas of the Commission;
- (c) Preside over the Commission meetings and hearings as described herein; and
- (d) Receive charges, notices and issue subpoenas as described herein.

In the event of the absence or disability of the Chairperson, the members shall select a temporary Chairperson to carry out the Chairperson's duties.

12.09 The Secretary of the Commission shall:

- (a) Prepare minutes of the Commission's proceedings. A copy of the minutes shall be provided to each Commissioner and the City Clerk prior to the next meeting. Minutes shall be approved by the Commission;
- (b) Conduct correspondence of the Commission;
- (c) Receive changes/notices and send notices as described herein;
- (d) Arrange for the taking, recording and preservation of testimony and other evidence received at hearings as described herein;
- (e) Preserve the Commission's records; and
- (f) Certify the Commission's records when required by law.

In the event of the absence or disability of the Secretary, the members shall select a temporary Secretary to carry out the Secretary's duties.

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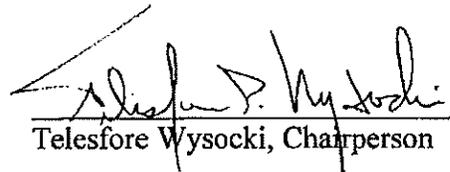
**ARTICLE XIII - REPEAL OF RULES AND REGULATIONS**

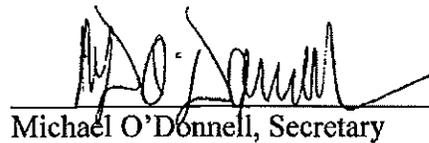
13.01 These rules and regulations shall not be repealed, amended, or modified except by a super majority action of the Commission at a regular meeting of the Commission. Super Majority is defined as a minimum of 80% of the entire membership. The phrase "entire membership" means *all* members of the voting body, whether or not they are present at the meeting or if the seats are vacant or full.

**ARTICLE XIV - COMMISSION RECORDS**

14.01 Agendas and meeting minutes of the Commission shall be stored electronically by the City Clerk. The Commission's records shall be stored in the Commission's locked cabinet in the Public Safety Building.

Dated February 19, 2015

  
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Telesfore Wysocki, Chairperson

  
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Michael O'Donnell, Secretary

