

Village of Cottage Grove
Meeting

Notice of Public

POLICE COMMISSION

Thursday, August 11, 2022

5:30 p.m.

Municipal Services Building, Suite 1
210 Progress Drive,
Cottage Grove, WI 53527

You may also choose to participate by providing public comment prior to the meeting via email to Village Clerk Lisa Kalata: lkalata@village.cottage-grove.wi.us

1. Call To Order
2. Determination Of Quorum And That The Agenda Was Properly Posted
3. Discuss And Consider The Minutes From The July 13, 2022 Meeting.

Documents:

[7-13-22 POLICE COMMISSION MEETING MINUTES.PDF](#)

4. Presentation By GovHR On The Hiring Process For Chief Of Police
5. Discuss And Consider Motion To Amend Current By-Laws

Documents:

[BYLAWS AND RULES OF PROCEDURE FOR COTTAGE GROVE POLICE COMMISSION \(A2131888X9DEB4\).PDF](#)

6. Adjournment

This agenda has been prepared by Staff and approved by the Chair of the Village Police Commission for use at the meeting as listed above. Any item on the agenda is subject to final action. Notice: Persons needing special accommodations should call 608-839-4704 at least 24 hours prior to the meeting. It is possible that members of and possibly a quorum of members of other governmental bodies may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

Village of Cottage Grove Police Commission

Minutes of Public Meeting

Wednesday, July 13, 2022

5:30pm

Municipal Services Building, Suite 1

210 Progress Drive

Cottage Grove, WI 53527

Present: Jeff Stadtmueller, Jess Robinson, Joanna Williams, Cara Musick and Chief Dan Layber.

Absent: Jennie Lueder and Lt. Matt Wagner

1. Call to Order at 5:31pm
2. Roll Call
3. Determined that agenda was properly posted, and that a quorum was present
4. Discuss and consider the minutes from January 12, 2022 meeting
A correction to remove the last paragraph of the minutes due to being a duplicate closing statement. Motion by Jess to make correction and resubmit. Second by Cara. Motion carried.
5. Discuss and consider current By-laws
Jeff asked the Chief to review page 10 of the bylaws regarding adding residency; to remove "must live within fifteen (15) miles of the jurisdictional boundaries of the Municipality to: "must reside within 30 minutes". This language will coincide with the language used in the Chief of Police Job Description and Officer Union contract. This update will allow for consistency.

Cara mentioned on page 6 of the bylaws did the commission want to change calendar days to business days. It was determined that no changes to this section of the bylaws.

Jeff proposed on page 3 of the bylaws under 2.02 MEETINGS The Commission shall meet at least two times per year. At least one meeting shall be held in August or September. Change to: The Commission shall meet at least two times per year. At least one meeting shall be held in August or September and one meeting shall be held in May for the election of officers.

Cara made a motion to move forward with the updates. Second by Joanna. Motion carried.

Chief Layber will make updates to the bylaws and present as an agenda item at next scheduled meeting for second voting process as determined in the bylaws for final motion.

6. Police Chief Job Description review: Under Requirements/Qualifications of Work to include completion of FBI Training, Advanced Police Management Training and Northwestern School of Police Staff and Command Training. Motion by Jeff to add these additional qualifications to Police Chief Job Description. Second by Jess. Motion carried.

Chief Layber provided the committee with an update on the Stoughton Police Chief hiring/process.

7. Motion by Jess and Second by Cara at 6:30pm. Motion carried; move into Closed Session Pursuant To Wis. Stat. Sec. 19.85(1)(C) To Consider Employment, Promotion, Compensation, Or Performance Evaluation Data Of Any Public Employee Over Which The Commission Has Jurisdiction Or Exercises Responsibility And Pursuant To Wis. Stat. Sec. 19.85(1)(E) To Deliberate And Conduct Specified Public Business Which For Competitive Or Bargaining Reasons Requires A Closed Session, In Particular To Discuss The Hiring Process As It Relates To The Chief Of Police Vacancy, In Which Discussion Will Reference Particular Individuals And Which Will Encompass Bargaining Strategy With Respect To Wages And Benefits For The Position.
8. Motion to return to open session by Cara. Second by Joanna. Motion carried.

Action taken from closed session:

Jeff a made a single motion to use the external process for hiring the Cottage Grove Chief of Police, and to notify the Village of Cottage Grove Administrator to move forward with the GovHR USA proposal. Second by Joanna. Vote was unanimous.

Motion to adjourn. Jeff made motion to adjourn. Second by Cara. Motion carried.

Meeting ended at 8:00pm

Minutes submitted by Joanna Williams, Secretary

**BYLAWS AND
RULES OF PROCEDURE
FOR THE VILLAGE OF COTTAGE GROVE POLICE COMMISSION**

Adopted
May 11, 2015

BYLAWS AND RULES OF PROCEDURE

FOR THE VILLAGE OF COTTAGE GROVE POLICE COMMISSION

ARTICLE I: SCOPE OF AUTHORITY/JURISDICTION

1.01 **DEFINITIONS:** For the purposes of these “Bylaws and Rules of Procedure” (“Bylaws”), the following terms shall have the following meaning:

- a. “Chief” means the Chief of Police for the Village of Cottage Grove Police Department.
- b. “Commission” means the Village of Cottage Grove Police Commission.
- c. “General Counsel” refers to the attorney retained by the Commission to serve as its legal advisor.
- d. “Law Enforcement Committee” means the Village of Cottage Grove Law Enforcement Committee.
- e. “Municipality” or “Village” means the Village of Cottage Grove, Wisconsin.
- f. “Subordinate” means the sworn officers in the Village of Cottage Grove Police Department and excludes the Chief, the clerical staff and all members of the Commission.
- g. “Board” means the Board of Trustees of the Village of Cottage Grove.
- h. “Department” shall mean the Village of Cottage Grove Police Department.

1.02 **JURISDICTION:** The Commission shall have the authority granted to it by §§61.65, 62.13(2)-(5m), 66.0301 and Chapter 164, Stats. Under these provisions, the Commission may:

- a. Appoint the Chief and exercise the power to suspend or remove the Chief for cause.
- b. Approve Subordinate appointments by the Chief.
- c. Provide for competitive examination of applicants for the Chief and Subordinate positions and, as needed, certify lists of persons who are eligible for appointment to Subordinate positions.
- d. Adopt rules of procedure for the selection of the Chief and Subordinates.
- e. Exercise disciplinary authority with respect to the Chief and subordinates as

outlined in §62.13(5), Stats.

- f. Exercise such other powers as are conferred on the Commission by state law or by the Municipality.
 - g. Oversee the proper implementation of reductions-in-force under §62.13, Stats.
- 1.03 **SCOPE OF AUTHORITY:** These Bylaws shall be applicable to the Commission, Chief and all SUBORDINATES. No provision of these rules shall be applied in a manner contrary to any provision of §62.13, Stats., or any other law.

ARTICLE II: COMMISSION ADMINISTRATION

- 2.01 **GENERAL REQUIREMENTS:** The Commission shall follow those procedures and requirements for the conduct of its meetings, for the administration of its affairs, and for the discharge of its duties as provided by law.
- 2.02 **MEETINGS:** The Commission shall meet at least two times per year. At least one meeting shall be held in August or September. Meetings shall be held at times, dates and places to be set by the Commission Chair and identified in the posted meeting notice.
- 2.03 **SPECIAL MEETINGS:** Special meetings of the Commission may be called by the Chair or by any two (2) Commissioners upon twenty-four hours advance written notice to each member of the Commission and to the public.
- 2.04 **CONDUCT OF THE MEETINGS:**
- a. Meetings shall be noticed and conducted in compliance with Chapter 19, Stats., and the Village's Municipal Code.
 - b. The presiding officer of the meeting shall preserve order and decorum, decide all questions of order and conduct the meetings in accordance with the latest version of Robert's Rules of Order, unless otherwise provided by Statute or these Bylaws.
 - c. Three members of the Commission shall constitute a quorum to transact business. Three members of the Commission are required to vote in the affirmative of the motion for passage.
- 2.05 **OFFICERS:** The Commission Officers shall be a Chair and a Secretary. At the regular meeting in May of each year, the Commission shall elect one of its members to act as a Chair and one to act as a Secretary, each for a term of one year or until a successor is duly elected. There shall be no limitation on the number of terms any Officer may serve, but each term shall be one year commencing at the May meeting. Should an Officer's position become vacant, that position shall be filled by the Commission at its next regularly scheduled meeting.

2.06 RECORDS: The Secretary shall record all official actions. In the absence of the Secretary, the Chair shall appoint an Acting Secretary. The Secretary shall be the custodian of Commission records pursuant to Chapter 19, Stats.

Commission records shall be stored at the Village Hall.

2.07 ORDER OF BUSINESS:

- a. The regular order of business for Commission meetings shall be as follows:
 - i. Call to order
 - ii. Roll call and confirm compliance with Wisconsin's Open Meetings law
 - iii. Public appearances
 - iv. Approval of Minutes
 - v. Old Business
 - vi. New Business
 - vii. Commissioner and Chief Reports
 - viii. Items for future agendas
 - ix. Adjournment.
- b. The Commission may change the order of business upon passage of a proper motion.
- c. Commission members may have an issue placed on the agenda by delivering written request signed by two or more Commission members to the Chair by noon on the Thursday prior to the Commission meeting.

2.08 WAIVER OF RULES: The Commission may waive any specific provision of these Bylaws relating to hiring or promotions upon the Chief's request or upon passage of a proper motion by the Commission.

2.09 AMENDMENT OF BYLAWS: These Bylaws may be amended, modified, waived or repealed in whole or in part at any time by Commission vote at two consecutive meetings.

2.10 DUTIES OF CHAIR: The duties of the Chair shall be to preserve order and decorum, prepare the agenda, decide all questions of order, preside over all Commission meetings, preside over hearings conducted by the Commission, receive written charges filed against the Chief or Subordinates, and to issue subpoenas to compel the attendance of witnesses.

2.11 DUTIES OF THE SECRETARY:

- a. The Secretary shall generate and maintain Commission correspondence; receive appeals from action of the Chief; send out notices required by law, ordinance, Bylaws, or as requested by the Commission; make such official publications as may be necessary; attend meetings and hearings of the Commission's proceedings; provide for the taking and recording of testimony and other evidence

received at hearings; preserve such evidence in a permanent record; and certify such record to the Circuit Court when required by law.

- b. The Secretary shall keep minutes of each meeting and hearing. The minutes of each minute and hearing shall be signed by the Secretary and approved by the Commission. A copy of the unapproved minutes shall be provided to each Commission member and the Chief as soon after each meeting as possible.
- c. After the minutes are approved by the Commission, the Clerk shall file a copy with the Village Clerk.

ARTICLE III: GENERAL SELECTION CRITERIA

3.01 **MINIMUM QUALIFICATIONS FOR RECRUITMENT:** No person may be appointed as Chief or as a Subordinate, either on a probationary or permanent basis, unless that individual meets the following minimum recruitment qualifications:

- a. Is a United States citizen;
- b. Is at least twenty-one (21) years of age at the time of appointment;
- c. Is a high school graduate or the equivalent. To hold an "equivalent degree", an applicant shall possess a diploma issued by an out-of-state high school accredited by that State's appropriate agency, or pass the General Education Development test or any other test established by the Wisconsin Department of Public Instruction as establishing high school graduation equivalency;
- d. Possesses at least an associate degree from a regionally accredited college, university, or vocational school;
- e. Possesses a valid Wisconsin driver's license or other valid operator's permit recognized by the Wisconsin Department of Transportation;
- f. Is certified or certifiable as a Law Enforcement Officer by the State of Wisconsin Training and Standards Board;
- g. Does not have a felony conviction under the laws of the United States or any state or other jurisdiction thereof, unless the applicant has been granted an absolute and unconditional pardon of that conviction;
- h. Does not have a conviction for a misdemeanor crime related to domestic abuse which would limit the person's ability to obtain, possess or use a firearm;
- i. Is in good physical, emotional, and mental health, thereby allowing the applicant to perform those duties and functions essential to the position, with or without accommodation, and not posing a direct threat to the health and safety of the

applicant or other individuals in the workplace or at the scene of a response;

- j. Is of good character. All background investigations and checks performed to assess an applicant's fitness to perform the duties of the position shall be kept in strict confidence. A background investigation shall include a search with respect to the applicant's fingerprint records, police and credit checks, and, investigations involving the applicant's educators, neighbors and employers;
- k. Satisfactorily completes an oral interview. Satisfactory completion shall be determined by the interviewers' observations regarding the applicant's qualifications, appearance, personality, substantive knowledge and ability to communicate; and,
- l. Passes a drug test by a lab certified by the United States Abuse and Mental Health Service Administration for the presence of the following substances or their metabolites:
 - Amphetamines;
 - Cannabis or cannabinoids;
 - Opiates;
 - Cocaine; and,
 - Phencyclidine (PCP).

The test must be performed within sixty (60) days of the date of first employment and only administered after a conditional offer of employment has been extended to the applicant.

- 3.02 **WAIVER:** To the extent allowed by the law, the Commission may forego or modify any of the qualifications set forth in Section 3.01 of the Rules whenever the Commission determines such waiver is in the best interest of the Department.

ARTICLE IV: RECRUITMENT APPLICATION PROCESS

- 4.01 **SCOPE:** This Article applies to the Commission recruitment of (i) all candidates for the Chief position when vacant, (ii) all candidates for entry level Subordinate positions, and (iii) both external and internal candidates for any non-entry level Subordinate position if the Commission elects not to fill any such vacancy by internal promotion only.
- 4.02 **APPLICATION:** The Commission shall authorize the issuance of application forms for appointments. Notice of the time and place of the availability of such application forms shall be given by publication in a newspaper of general circulation in the Village at least twenty (20) calendar days prior to the deadline of the submission of the applications and by any other means that the Commission may direct.
- 4.03 **MISREPRESENTATION:** Misrepresentation of any material fact contained in an application shall be sufficient cause for excluding the applicant from the examination, for

removing the applicant's name from the eligibility list, or for the applicant's discharge, at any time, from the service.

- 4.04 **INCOMPLETE APPLICATION:** The Chief or Commission may refuse to consider an incomplete application or may return the application to the applicant for correction.
- 4.05 **INSUFFICIENT QUALIFICATIONS:** Whenever an application reveals the applicant does not meet the eligibility requirements or qualifications of the position for which the applicant has applied, such application shall be rejected by the Commission or its designee, without further explanation, subject to Section 3.02 above.
- 4.06 **CHANGES IN MEDICAL INFORMATION:** An applicant previously rejected on the basis of medical reasons shall not be allowed to apply for the same or equivalent position until a certificate from a health care professional establishes that the basis for the previous rejection is no longer present or that a reasonable accommodation for the condition has become available.
- 4.07 **TERMINATED SUBORDINATES:** Any person dismissed from a position with the Department for a reason, other than for budgetary purposes, shall thereafter be ineligible to make application for appointment to any position with the Department.
- 4.08 **REENTRY APPLICATIONS:** Any former Subordinate of the Department who desires to again serve as Subordinate shall undergo such examination as determined by the Commission, subject to the provisions of Section 4.07 of the Rules.

ARTICLE V: EXAMINATION PROCESS

- 5.01 **EXAMINATION REQUIRED:** Subject to the provisions of Section 6.03, no person shall be eligible for appointment as the Chief or as a Subordinate unless that person has been examined in accordance with this Article. The Commission shall authorize examinations for appointments, and shall fix their date, place, and conditions whenever necessary to meet the needs of the Village and Department.
- 5.02 **SUPERVISION OF EXAMINATIONS:** All examinations shall be conducted under the Commission's supervision. The Commission may designate any governmental entity or person to conduct, or assist in conducting, the examinations. The Commission may fix the compensation to be paid to such persons or entity, provided the Commission has budgeted funds for such purpose or otherwise approves a Commission request for such funds in accordance with Village procedures.
- 5.03 **POSITION DESCRIPTION:**
 - a. The Commission shall approve all position descriptions and amendments to them.
 - b. The Chief shall establish the duties for every Subordinate position in a written position description. The description shall include the position title; the supervisor

of the position; the position's principal duties; the skills, knowledge, and essential abilities necessary to hold the position; and the qualifications for the position. All position descriptions shall be reviewed regularly and shall be revised as needed to reflect changes in the position's duties and qualifications.

- c. The Commission, or its designee, shall establish the duties for the Chief position in a written position description. The description shall include the position's principal duties; the skills, knowledge, and essential abilities necessary to hold the position; and the qualifications for the position. This position description shall be reviewed regularly and shall be revised as needed to reflect changes in the position's duties and qualifications.

5.04 ELIGIBILITY FOR EXAMINATION: Examinations shall be open to only those persons who are eligible for appointment and who possess the requisite qualifications for the position.

5.05 SUBSTANCE OF EXAMINATION:

- a. GENERAL: Subject to the provisions of Section 5.05 (c), the examination shall be a multi-stage assessment process that fairly tests the applicants' capacity to successfully perform the duties of the position. Each original entrance examination shall consist of the following stages to be administered in the order as listed in Section 5.05 (b). Any applicant who fails to pass any examination shall be removed from the process at that point and denied the opportunity to participate in further examinations for the position.

b. ORDER OF EXAMINATION:

1. WRITTEN EXAMINATION: The written examination may include a standard intelligence quotient test, a mechanical comprehension test, a test of practical knowledge and ability, and such other job-related tests as the Commission may deem of assistance in the selection process. All written questions for a particular position shall be the same for all applicants for that position, designed to measure the job qualifications and skills required for the position, and asked of each applicant.
2. STRENGTH AND AGILITY TEST: Applicants may be required to take a test demonstrating the applicant's strength and agility for the position. The test shall be properly validated. This test is a pass-fail test.
3. ORAL EXAMINATION: An oral examination shall be used to evaluate the applicant's demeanor, personality, ability, and skills related to the position's duties and responsibilities. All questions shall be the same for each applicant, designed to measure the applicant's job qualifications, and skills and asked of each applicant.

4. CHARACTER INVESTIGATION: The character investigation shall be used to determine whether the applicant possesses any disqualifying criminal record or personal history with respect to the qualifications of the position. The character investigation shall not be assigned a score to be used in rating the applicant. Evidence of unsatisfactorily character or activities shall be grounds for disqualification.
 5. MEDICAL AND PSYCHOLOGICAL EXAMINATIONS: Every person to whom a conditional offer of appointment has been made under the provisions of either Section 6.01 or Section 6.02 of the Rules shall be examined by a licensed physician and mental health professional chosen by the Commission. The examinations shall be solely for the purpose of verifying that the candidate is capable of meeting the essential job functions, and to address those physical, psychological and health requirements which relate to the occupational qualifications for the position, or the nature of any reasonable accommodation required to enable the applicant to meet these requirements.
 6. OTHER EXAMINATIONS: The Commission may require other examinations as deemed necessary in the case of individual position selections, provided the Commission determines which other examinations are to be required prior to the commencement of recruitment and applies them equally to all applicants for the position.
- c. WAIVER: The Commission may forego or modify any phase of the assessment process specified under Subsection (b) in the case of individual position selections, provided the Commission determines any such assessment is unnecessary and not to be in the Department's best interests.
- 5.06 EXAMINATION PROTOCOL: All examinations shall comply with the following protocol.
- a. Each applicant taking an examination shall follow the instructions given to the applicant by the person conducting the examination.
 - b. Information obtained in or generated by the examination process shall be strictly confidential and shall not be divulged, except as necessary to determine the applicants' eligibility for additional testing or as necessary for use in the selection process.
 - c. No applicant, Commission member, Department member or Village employee shall give assistance to any applicant in any manner during the examination. A violation of this provision shall subject the applicant to exclusion from the examination and the person involved to appropriate sanctions or discipline.
 - d. No applicant shall be given a second or special examination with any examination held, unless it is shown to the Commission's satisfaction that the applicant's

failure to take or complete the examination was due to a manifest error or mistake for which the Commission or its designees are responsible. The nature of the error or mistake shall be set forth in the Commission minutes approving the additional examination. The Commission may, in the interests of fairness, void the examination and re-test all the applicants.

- e. The standard for passage of the examinations shall be established by the Commission prior to the examinations. The Commission shall apply the appropriate veteran's preference as provided by Wis. Stats. 62.13(4)(d).
- f. Documents obtained in or generated by the examination process shall be retained by the Commission or its designated representative for seven (7) years after the expiration of the eligibility list for which the examination was held.
- g. Reasonable accommodations shall be made for an applicant who requests such an accommodation for any phase of the selection process. Application forms shall advise applicants of their right to request a reasonable accommodation for any disability defined by law.

ARTICLE VI: APPOINTMENTS

6.01 CHIEF:

- a. In selecting the Chief, the Commission shall establish an eligibility list after the completion of the examination process. The applicant judged best qualified by the Commission for the appointment shall be ranked first on the list and the other applicants shall be listed in the order of merit based on the results of the selection process. The eligibility list shall remain valid for a period of one year after initially created, unless otherwise extended or sooner discontinued by the Commission.
- b. The Commission shall make the Chief appointment based on the order of the applicants as they appear on the eligibility list.
- c. The Commission's offer of employment shall be conditional, subject to a medical and psychological examination conducted by a medical provider and/or mental health professional chosen by the Commission. If these examinations produce evidence of a condition that may impair or prevent the candidate's performance of job-related tasks and responsibilities, the Commission may withdraw its offer, unless reasonable accommodations can be made to enable the applicant to meet the qualifications of the Chief position. If the candidate to whom the offer was made is disqualified or otherwise withdraws or becomes unavailable, the Commission shall select the next best qualified candidate appearing on the eligibility list.
- d. The Commission shall appoint the Chief, who shall hold the office during good

behavior, subject to suspension or removal by the Commission for cause. The person selected by the Commission must live within thirty (30) miles of the jurisdictional boundaries of the Municipality. If the selected candidate does not meet this requirement at the time of hire, the candidate shall establish permanent residence complying with this request within six (6) months of hire. The Commission may extend this time based upon exigent circumstances.

6.02 SUBORDINATES:

- a. This Section governs the filling of a vacancy in any Subordinate position except when Section 6.03 for promotion within the Department applies.
- b. Upon the conclusion of examinations, the Commission shall prepare and certify an eligibility list containing the names of the applicants who met other established standards for the examinations and are eligible to be appointed if they successfully pass the character background investigations and the medical and psychological examinations. The list shall be ranked in order of the preferred applicants based upon the examination results.
- c. The Chief may appoint Subordinates only from the eligibility list certified by the Commission in accord with these Bylaws, and subject to the Commission's prior authorization.
- d. Whenever a Subordinate position needs to be filled, the Commission shall certify to the Chief the names of the five highest ranking applicants remaining on the existing eligibility list for that particular position. If more than one position of the same nature and rank needs to be filled, the Commission shall certify to the Chief the names of two additional applicants for each additional person. For example, if three positions need to be filled, the Commission shall certify nine (9) names to the Chief, provided the list does in fact contain such number of names. If the existing eligibility list does not contain the required number of names to be certified to the Chief under this provision, the Commission shall certify the total number of names then on the list, provided the number of names to be certified equals at least the number of positions to be filled. If the number of names on the eligibility list is less than the number of positions needing to be filled, the Commission shall discard the list and begin again the application and selection process, unless in the opinion of the Commission such action would not be to the Department's advantage.
- e. The Chief may conduct a personal interview with each of the certified applicants. Depending on the number of vacant positions to be filled, the Chief shall extend one or more offers of appointment to the applicants certified to the Chief by the Commission. The appointment shall be contingent upon satisfactory completion by the applicant of the medical and psychological examinations. If these examinations produce evidence of a condition that may impair or prevent the applicant's performance of job-related tasks and responsibilities, the appointment

offer may be withdrawn, unless reasonable accommodations can be made to enable the applicant to meet the qualifications of the position involved. If the applicant to whom the offer was made is disqualified or otherwise withdraws or becomes unavailable, the Chief shall select the next best qualified candidate of the remaining applicants certified by the Commission.

- f. Any applicant certified to the Chief shall be deemed approved by the Commission for appointment, provided the applicant is able to satisfy the medical and psychological examinations condition, if so required.
- g. An eligibility list shall be valid for a period of one year unless by an affirmative vote of a majority of the Commission members it is determined the eligibility list should remain in effect for a period other than one year. The eligibility list shall be kept with the Chair, Secretary, and the Chief.

6.03 PROMOTIONS WITHIN DEPARTMENT:

- a. POLICY: The Commission shall fill the vacancies in non-entry level positions, with the exception of the Chief, by internal promotion whenever the Commission and the Chief determine it is in the Department's best interest. Any such promotion process shall be in compliance with any applicable collective bargaining agreement approved by the Commission.
- b. CANDIDATE POOL: Prior to the commencement of the selection process, the Commission shall determine whether the vacant position shall be open only to qualified internal candidates or whether it will be open to qualified internal and external candidates. If an internal promotion process is undertaken and at any point there are not at least two candidates from within the Department who can be certified to the Chief for promotion, the Commission shall open the process to candidates from outside the Department to include the remaining certifiable internal candidate.
- c. The procedures outlined in this Section shall be used by the Commission in filling vacancies in non-entry level positions by internal promotion only to the extent they are consistent with any applicable rules.
- d. POSTING OF PROMOTIONAL OPPORTUNITIES:
 - 1. Consistent with the established position description for the vacant position, the Commission shall establish specific promotional requirements prior to the commencement of the selection process.
 - 2. The Commission shall authorize the notice of the promotional opportunity and the scheduling of promotional examinations. A notice to Subordinates of the promotional opportunity shall be posted by the Chief in an appropriate location in the police station. The notice of the promotional

opportunity shall include the position involved, a description of the selection process, a copy of the job description, and an application for promotion form, if available. The posting shall be maintained for at least ten (10) days prior to the beginning of the selection process.

3. All qualified applicants desiring to compete for a promotional position shall submit their application for promotion directly to the Chief. After the time for submission of applications has elapsed, the Chief shall provide a copy of all applications to the Commission.
 4. Sections 4.03, 4.04, 4.05, and 4.06 shall apply to the application process for internal promotions unless otherwise modified by the Commission.
- e. MINIMUM REQUIREMENTS: An applicant must meet the following minimum requirements to be considered for promotion:
1. Non-probationary in current rank, unless such requirement is otherwise waived by the Commission; and,
 2. Satisfactory departmental evaluations at current rank.
- f. EXAMINATION PROCEDURE: The examination procedure shall include:
1. A written test if the Commission requires one;
 2. An evaluation of promotional potential as assessed by the Chief; and,
 3. An oral examination conducted under the Commission's supervision.
- g. PROCESS TO EVALUATE PROMOTIONAL POTENTIAL:
1. The Chief shall evaluate the promotional potential of each applicant using the following criteria.
 - a. A review of the applicant's work record in the applicant's current position, including the applicant's efficiency, experience, training, attendance, commendations, and disciplinary actions, and,
 - b. An evaluation of the applicant's ability to perform the position's duties, including any limitations or special skills that would be applicable to the position.
- h. ORAL EXAMINATION:
1. The oral examination shall be conducted by a panel consisting of the Chief and at least two Commission members. The oral examination shall be used to evaluate the applicant's demeanor, personality, qualifications, and skills

insofar as they relate to the position's duties and responsibilities. All oral questions asked of each applicant for a particular position shall be the same for all applicants for that position.

2. The panel shall provide the Commission with an assessment of each applicant indicating whether the applicant is qualified for the position. The panel shall also identify the best qualified applicant for that position. If more than one position of the same nature and rank needs to be filled, the panel shall identify the number of best qualified candidates needed to fill all of the vacant positions.

i. PROMOTIONAL ELIGIBILITY LIST:

1. Based on the results of the examination process, the Commission shall create a list of internal candidates who are eligible for promotion.
2. A promotional eligibility list shall be valid for a period of one year. If a position for which that promotional list was established becomes vacant within that one year period, the Commission shall certify to the Chief the names of the five highest ranking candidates remaining on the list. If more than one position of the same nature and rank needs to be filled, the Commission shall certify to the Chief the names of the two additional candidates for each additional position. If the existing promotional list does not contain the required number of names to be certified to the Chief under this provision, the Commission shall certify the total number of names then on the list, provided the number of names to be certified equals at least the number of positions to be filled.
3. The Chief shall appoint one or more applicants certified by the Commission to fill then existing vacant promotional positions. Any applicant certified to the Chief shall be deemed approved by the Commission for appointment.

6.04 PROBATIONARY APPOINTMENTS:

- a. All original appointments of Subordinates shall be made on a probationary basis for eighteen (18) months from the date of appointment, unless otherwise extended as permitted under this section or unless prohibited under any applicable collective bargaining agreement approved by the Commission. Probationary employees:
 1. Have no expectation of continued employment or any contractual or other vested property right in employment;
 2. May be terminated at any time for any reason in the sole discretion of the Chief who shall report such action to the Commission President;

3. Are not entitled to any showing of cause for termination; and,
 4. Are not accorded any formal hearing rights of any kind of other than required to meet constitutional requirements or as required by Chapter 164, Stats.
- b. The following provisions shall apply to all probationary appointments.
1. The Chief may terminate a Subordinate who the Chief believes will not satisfactorily meet the job requirements.
 2. A terminated Subordinate may not appeal from such dismissal or reduction except as permitted under state law.
 3. The Commission may extend the probationary period for a period up to an additional six (6) months if requested by the Chief, provided such is permitted by any applicable collective bargaining agreement approved by the Commission.
 4. At least one month prior to the end of a Subordinate's probationary period, the Chief shall review with the Commission the Subordinate's performance and recommend to the Commission retention, termination, or extension of the probationary period. If a Subordinate's probationary period has been extended, the Chief shall again meet with the Commission one month prior to the end of the extended probationary period to review the Subordinate's performance and to make a recommendation of either retention or termination.

ARTICLE VII: DISCIPLINE AND COMPLAINTS

7.01 DISCIPLINE OF CHIEF:

- a. **GENERALLY:** The Commission may discipline the Chief, including suspension, reduction-in-rank or discharge, pursuant to §62.13(5), Stats.
- b. **SUSPENSION PENDING CHARGES:** The Commission may suspend the Chief upon its own initiative or pending the investigation of written charges under §62.13(5), Stats. The suspension shall be with pay and benefits and shall be for the shortest reasonable duration within which the charges may be investigated and resolved.

7.02 DISCIPLINE OF SUBORDINATES:

- a. A Subordinate may only be discharged, reduced-in-rank, or suspended as provided by §62.13(5), Stats. A Subordinate may otherwise be disciplined consistent with the terms of any applicable labor agreement. Such other discipline may be imposed by the Chief.

- b. **CHARGES GENERALLY:** Charges may be filed against a Subordinate by the Chief, by member of the Commission, by the Commission as a body, or by any aggrieved person. The Commission or the Chief may suspend the Subordinate with pay pending disposition of charges.

7.03 COMPLAINT PROCESS:

- a. The Department shall accept, investigate and resolve complaints by any person regarding the conduct of Department sworn officers and civilian employees related to their status as Department employees.
- b. Citizen complaints will not be investigated if the complaint is received more than ninety (90) days after the alleged incident, unless the complaint involves an alleged criminal violation or the complainant can show good cause for not making the complaint within the specified time limit.
- c. The investigation of a complaint will be resolved within sixty (60) days of receipt of the complaint. An extension of this time may be granted by Chief.
- d. The purpose of this policy is to provide a specific procedure for processing a complaint by any person regarding the conduct of a Department sworn enforcement officer or civilian employee as required by §62.13(5), Stats., and 66.0511(3), Stats. This policy's goal is to maintain a high quality of police services, to foster a positive relationship between the Department and citizens, to provide citizens with a fair and effective avenue for resolving legitimate grievances against sworn enforcement officers and Department employees, and to provide Department law enforcement officers and employees due process when a complaint is filed.
- e. Nothing in this policy and procedure shall be construed to limit prerogatives of the Chief or any other supervisory officer to take corrective action against employees whenever appropriate, nor to prevent the Chief, or designee, from taking disciplinary action against an employee, either internally or pursuant to §62.13(5), Stats., whether or not a citizen complaint is filed.
- f. This policy is subject to any rights retained by Department sworn enforcement officers and employees, subject to the Wisconsin Open Records and Meetings laws.

- g. PROCEDURES:

- 1. Manner of Filing Complaint

- Citizen complaints may be filed in following manner:

- A. Verbally in person or by telephone; or

- B. In writing on the Department's Complaint form.
2. Receipt of Complaint:
- A. All Department employees and Commission members are charged with the responsibility of courteously receiving any complaint regarding the conduct of a Department employee.
 - B. A complainant should be encouraged to file the complaint in person. All written complaints must be documented on the Citizen Complaint Form and signed by the complainant. A copy of this form is attached to the Bylaws.
 - C. A Complainant shall be advised, pursuant to §§66.0511(3) and 946.66, Stats., that "Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture."
 - D. All citizen complaints shall be referred to the Chief for initial review and assessment. Complaints against the Chief shall be directed to the Commission Chair for appropriate handling consistent with this policy.
 - E. Upon review of the complaint, the Chief will determine how the complaint will be handled:
 - i. If a complaint appears to be based merely upon a misunderstanding or other conduct which does not involve violation of Department policy or would entail disciplinary action less than a formal reprimand if true, the Chief will refer the complaint to the appropriate supervisor to attempt to mediate and resolve the issue without performing a formal investigation. If mediation does not work or the complainant is not satisfied with the results of mediation, the complainant will be given the option of filing a written complaint for formal investigation.
 - ii. If the complaint involves conduct which constitutes a violation of Department policy which would entail disciplinary action in the form of a formal reprimand or greater if true, the Chief will either investigate the allegations or assign the complaint to an appropriate outside agency for investigation. If the complaint is verbal, the Chief will request that the complainant file a formal written complaint before the commencement of an investigation.

- iii. If the Chief determines that the complaint is insufficient to support an investigation or mediation (e.g., it is filed after the time limitation or does not include facts required by the complaint form), the Chief will not refer the complaint for further action and will advise the complainant of that fact and the basis for the disposition.

3. Investigation:

- a. The person performing the investigation shall undertake all steps reasonably necessary to investigate the complaint, including obtaining statements from complainants and witnesses; advising complainants and witnesses that they may have to appear at a hearing; obtaining a detailed written report from the accused employee; providing the accused employee with the opportunity to review the complaint; and, explaining any rights that the employee has regarding the investigation.
- b. The investigating officer shall conduct a fair and impartial investigation, respecting the rights and dignity of the parties involved.
- c. The investigating officer shall comply with the requirements of §164.02, Stats., which provides:
 - (1) If a law enforcement officer is under investigation and is subjected to interrogation for any reason, which could lead to disciplinary action, demotion, dismissal or criminal charges:
 - a. The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation; and,
 - b. At the request of any law enforcement officer under interrogation, the officer may be represented by a representative of the officer's choice during the interrogation.
 - (2) Evidence obtained during the course of any interrogation not conducted in accordance with sub. (1) may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer.

- d. The investigating officer shall inform all Department witnesses that all questions must be fully and truthfully answered as a condition of continued employment and that failure to do so may result in disciplinary action, up to and including termination.
- e. *Miranda* warnings are not required if the investigation is for internal disciplinary purposes, but a *Garrity* warning may be required depending on the nature of the allegations.
- f. Upon concluding the investigation, the investigating officer will document the officer's investigative actions, set forth written findings of facts, and provide a recommendation as to the disposition of the complaint. All documents generated during the investigation will be maintained by the Chief.

4. Disposition of the Complaint:

- a. The Chief shall decide upon a final disposition of the complaint. No disposition will be made without affording the employee the opportunity to respond to the complaint. The Chief will inform the employee and the complaining citizen in writing of the Chief's disposition and basis for that decision.
- b. Disposition of the complaint shall fall within the following categories:
 - i. **Unfounded:** The investigation concludes that the allegations are false.
 - ii. **Not Sustained:** There is insufficient evidence to either prove or disprove the allegations.
 - iii. **Sustained:** The allegations are supported by sufficient evidence to conclude they are true and an appropriate departmental action will be imposed.
 - iv. **Exonerated:** The investigation reveals that the actions of the employee were justified, lawful, and proper under the circumstances.
- c. If the Chief sustains the allegations, the Chief shall take such action against the employee as is appropriate, which may include disciplinary action pursuant to §62.13(5), Stats.
- d. The Chief's determination is final. However, either party may make an appeal to the Commission to the extent allowed by §62.13(5), Stats.

- e. Any disciplinary action taken by the Chief on a citizen complaint shall be reported to the Commission Chair.
- f. The Chief, as part of the written notification of the disposition of the complaint, shall inform the complainant that, if not satisfied with the results of the investigation, the complainant may, within 30 days of the date of such notification, file a written request with the Commission Chair for a formal hearing on the complaint before the Commission. The request for a hearing before the Commission shall include the formal written complaint initially filed by the Complainant.
- g. If the Complainant files a formal written request for a hearing before the Commission, the Commission shall handle the complaint as set forth in §62.13(5), Stats.
- h. A sworn law enforcement officer shall have the right to request a hearing before the Commission pursuant to §62.13(5), Stats., regarding disciplinary action imposed by the Chief which results in the officer's suspension, reduction-in-rank, or termination from employment with the Department. For discipline less than this level, the officer may seek review pursuant to the terms of any applicable collective bargaining agreement or pursuant to any applicable procedure established by state law.

7.04 **COMPLAINT FORM:** The Commission shall make a form available for the filing of formal complaints under §62.13(5), Stats. Complaints, however, need not be filed on the Commission-prepared form. All complaints should be signed by the charging party. The sources of all information supporting the charges should be stated in the complaint or in accompanying documents. The complaint must identify the person who is charged, and specify the date, place, and nature of the alleged offense.

**ARTICLE VIII: DISPOSITION OF §62.13(5)
DISCIPLINARY ACTIONS**

8.01 Procedure.

- a. **FILING CHARGES:**
 - 1. Charges may be filed against the Chief or Subordinate by the Chief, the Commission, any Commission member or by an aggrieved person.
 - 2. All charges filed with the Commission shall be recorded on a docket list and assigned a number in sequence of filing with the date of filing added in parenthesis.

b. REPRESENTATION:

1. The accused may be represented by counsel at any meeting, conference, or hearing conducted by or on behalf of the Commission.
2. The attorney assigned to serve as General Counsel shall act as legal advisor for the Commission. If the Chief is the complainant, separate counsel may be retained to act as legal advisor to the Chief, if needed. If the Commission is the complainant, it shall retain separate legal counsel to prosecute such charges on the Commission's behalf. If any member of the Commission files and actively prosecutes such charges, such member shall not participate in deliberating the charges or determining whether they are sustained.
3. Citizen complainants shall prosecute their complaints before the Commission either by themselves or by counsel they retain at their own expense.

c. PRE-HEARING:

1. If charges against the Chief or a Subordinate are filed with the Chair more than ten (10) days prior to the next regular meeting of the Commission, the Chair shall call a special meeting of the Commission. If the charges are filed within ten (10) days of the regular meeting, the Chair need not call a special meeting provided the subject of the charges is made a part of the agenda for that upcoming meeting. The hearing shall be noticed and held in closed session unless the accused requests that the hearing be held in open session.
2. Notice of the Pre-hearing shall be given, by personal service or by certified mail, return receipt requested, to the person charged and to the complainant, if the complainant is not the Chief, the Commission, or a Commission member thereof. A copy of the charges shall be furnished with the notice to the person charged with explanation that delivery of the charges does not constitute service under state law. If the Pre-hearing is set to be conducted in closed session, the person charged shall also be advised that the person has the right to demand that the meeting be conducted in open session.
3. At the pre-hearing, the Commission shall read and examine the charges to assure that the charges are sufficiently specific, related to the duties of the person charged, sufficient to warrant imposition of discipline within the scope of §62.13(5), and not defamatory in nature. The Commission shall also determine whether the person charged should be suspended with pay pending the hearing on the charges.

4. The person charged, the complainant, and/or their attorneys may address the Commission at the Pre-hearing, however the Commission shall not hear or evaluate evidence at the Pre-hearing.

d. ACTION:

1. If the Commission finds the charges to be sufficient as to form and nature at the Pre-hearing, it shall then proceed to consider those administrative details set forth in Section 8.02 for the purpose of processing of the charges.
2. If at the Pre-hearing the Commission finds the charges to be so insufficient as to form and nature that even if proven no disciplinary action would be appropriate, it shall summarily dismiss the charges. However, if the Commission deems the defective charges to be curable by the providing of additional detail or facts, it may grant the complainant up to thirty (30) days in which to supplement the complaint. If the Commission concludes that even if the allegations are proven, the discipline would not reach the level of suspension, reduction-in-rank, or termination, the Commission shall refer the complaint to the Chief for further handling as warranted or, if involving the Chief, shall determine whether lesser discipline is warranted.

8.02 ADMINISTRATION MATTERS: The Commission shall consider the following administrative matters in proceeding toward disposition of charges filed with it.

- a. Set hearing date within the time frame provided by state law i.e. not less than ten (10) days or more than thirty (30) days following the date of service of charges on the person charged. The Commission shall have the authority to extend such time period(s) if circumstances so dictate.
- b. Establish the mechanics for causing the charges and the notice of hearing to be served.
- c. Resolve any representational issues and the need, if any, for the employment of special counsel.
- d. Make provision for the preparation of a record of the proceeding (e.g., tape recording, court reporter, etc.).
- e. Establish the mechanics for issuance of subpoenas by the Chair and the policy as to the payment of witness fees.
- f. Direct the development of the format of the public hearing and direct the furnishing of relevant information to the parties and their attorneys, if any.

- g. Direct the giving of any required notice of public hearing.
- h. Nothing contained herein precludes the parties from reaching a mutual agreement as to a recommended disposition of the charges. The parties shall submit any such Agreement to the Commission in writing. Any such Agreement shall be subject to an approval of the Commission members.

8.03 SERVICE OF CHARGES: Following the Pre-hearing, the Commission shall cause there to be served on the accused and the complainant, if the complainant is neither the Chief nor the Commission, notice of the date, time and place of the hearing on the charges. A copy of the filed charges shall accompany the served notice. Service of the notice and the charges on the accused shall be by personal service if practical, otherwise by certified mail, return receipt requested. Service of the notice on the complainant shall be by certified mail, return receipt requested.

8.04 SCHEDULING CONFERENCE:

- a. SCHEDULING: At the discretion of the Commission, a Scheduling Conference may be conducted. If required, the Scheduling Conference shall be held at least five (5) days before the hearing. The charged person and the complainant shall be notified in writing of the date, time, and place of the pre-hearing conference.
- b. PURPOSE: The following matters shall be accomplished at the Scheduling Conference:
 - 1. Witness lists and any prior written or recorded statements or reports of witnesses shall be exchanged by the parties and/or legal counsel.
 - 2. Exhibits, if any, shall be exchanged.
 - 3. Witness or exhibits not submitted at the Scheduling Conference may be introduced at the hearing only if the Commission determines that there was a satisfactory or sufficient reason for such exclusion from the pre-hearing conference.
- c. FAILURE TO APPEAR: If the complainant or the complainant's counsel does not appear, the Commission may dismiss the charges unless a satisfactory reason for the nonappearance is provided. Such dismissal shall be documented in writing to each of the parties and/or counsel within two (2) days of such dismissal. If the accused or designated counsel does not appear, and no satisfactory reason for nonappearance is provided, the Commission may impose sanctions prohibiting the introduction of exhibits or witnesses on behalf of the accused and reimbursing other parties (including the Commission) for expenses incurred in attending the pre-hearing conference.

8.05 ADJUDICATORY HEARING:

- a. The Adjudicatory Hearing may be held at a regular or special meeting of the Commission at such time as shall be determined by the Commission. All hearings shall be open to the public, except that the Commission may take final action in closed session.
- b. If the accused or legal counsel fails to appear at the Adjudicatory Hearing, the Commission shall proceed to dispose of the matter on such evidence as may be before it.
- c. All testimony of witnesses at hearing shall be given under oath, administered by the Secretary or any other Commission member, in the form and manner provided by Wis. Stats. Ch. 887. The accused and the complainant may compel the attendance of witnesses by subpoenas which shall be used by the Chair on the request and shall be served in the manner provided by Wis. Stats. Ch. 885.
- d. At the Adjudicatory Hearing, the order shall be as follows:
 - 1. Reading of the charges by Secretary.
 - 2. Opening statements by the complainant and the accused.
 - 3. Testimony and introduction of evidence by the complainant to substantiate the charges with the right of cross-examination by the accused.
 - 4. Testimony and introduction of evidence by the accused with the right to cross-examination by the complainant.
 - 5. Complainant's closing arguments.
 - 6. Accused's closing arguments.

In lieu of closing argument, the Commission may direct the parties to file briefs within a prescribed time period summarizing their legal and factual arguments. This order may be modified, added to or deleted from by a majority of the Commission.

8.06 DECISION:

- a. In determining whether there is just cause for discipline, the Commission shall apply the standards set forth in Wis. Stats. 62.13(5), Stats.
- b. The Commission shall, within five (5) business days after the close of the record, (i.e., the conclusion of closing arguments or the submission of briefs), by a majority vote of its members in open or closed session, determine whether by the preponderance of the evidence the charges are sustained. Its written decision and findings shall thereafter be filed with the Secretary.
- c.

If the Commission determines that the charges are sustained against the accused, it shall determine whether the good of the service requires disciplinary action by termination, suspension without pay for a period not exceeding sixty (60) days, reduction-in-rank, or suspension and reduction in rank.

- d. If the Commission determines that the charges were not sustained, the accused, if suspended pending disposition of the charges, shall be immediately reinstated in the accused's former position.

8.07 **APPEAL:** Any person suspended, reduced-in-rank, suspended and reduced-in-rank, or terminated after hearing may appeal from the order to the Circuit Court by serving written notice of appeal, stating the grounds on which the appeal is based, on the Secretary within ten (10) days after the decision is filed. Within five (5) days thereafter, the Secretary shall certify to the Clerk of Circuit Court the record of the proceedings, including all documents, testimony, and minutes. After the taking of such appeal, the proceedings shall be governed by the provisions of §62.13(5)(i), Stats.

8.08 **RECORD KEEPING:** The Secretary shall keep a record of each hearing; the name and address of the accused and complainant; a brief description of the charges involved; and, the final disposition of the case. The Secretary shall also maintain all other important data and dates concerning the case, such as the date of filing of 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 IX: CONSTRUCTION OF RULES

9.01 **FEDERAL OR STATE LAW:** If any law, regulation, or decision of any court of competent jurisdiction shall affect any provision of these Bylaws, the provision or provisions so affected shall be deemed amended so as to conform to the law, regulation, or decision. These Bylaws shall be construed to be consistent with the requirements of federal and state law.

9.02 **SEVERABILITY:** If any portion of these Bylaws is found to be invalid, the remainder of the Bylaws shall still remain in full force and effect.

These Rules have been adopted on the _____ day of April, 2015 by the unanimous vote of the members of the Commission.

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