

CITY OF PLATTEVILLE

POLICE & FIRE COMMISSION

BY-LAWS AND RULES OF PROCEDURE

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ARTICLE 1: MISSION AND JURISDICTION

1.01 Mission. The mission of the City of Platteville Police & Fire Commission shall be to provide citizen oversight of the Platteville Police Department, Police Chief and Police Officers so that they may protect and assist the people of the City of Platteville, consistent with their responsibilities to the public, and determine the qualifications and appoint the Chief of the Platteville Fire Department.

1.02 Jurisdiction. The Police & Fire Commission shall have the authority vested in it by Sections 61.65 and 62.13 of the Wisconsin Statutes, subject to Chapter 164 of the Wisconsin Statutes. These powers include:

(a) Appoint the Police Chief and Fire Chief and exercise the power to suspend or remove her or him for cause;

(b) Approve the appointments of subordinate Police Officers by the Police Chief;

(c) Provide for the competitive examination of applicants for Police Officer positions and certification of a pool of persons eligible for employment;

(d) Adopt rules of procedure for selection of Police Officers, including their qualifications, providing those qualifications do not conflict with qualifications established by state statute or administrative rule;

(e) Review and act on charges concerning the conduct of and discipline imposed on Police Officers;

(f) Supervise reductions in the Department in the event it is necessary to reduce the number of Police Officers; and

(g) Exercise other powers conferred upon the Commission by the Wisconsin Statutes or the City Ordinances.

1.03 Scope of Rules. These rules apply to all Department positions requiring the employment of a Police Officer and the Fire Chief.

1.04 Definitions.

(a) "By-Laws" means the City of Platteville Police & Fire Commission By-Laws and Rules of Procedure currently in effect.

(b) "Commission" means the City of Platteville Police & Fire Commission.

(c) "Department" means the City of Platteville Police Department.

(d) "Police Officer" means a sworn department employee who performs the duties of a law enforcement officer.

(e) "Police Officers" means all Police Officers as defined in subsection (d).

(f) "Police Chief" means the Chief of Police or temporary acting Chief of Police of the Department.

(g) "Fire Chief" means the Chief of the Fire Department or temporary acting Chief of the Fire Department.

ARTICLE 2: EMPLOYMENT QUALIFICATIONS AND ELIGIBILITY.

2.01 Qualifications of the Police Chief. For the position of Police Chief, the Commission may, in its discretion, appoint a suitable person, who need not be a member of the Department or a resident of the City. An applicant who is a member of the Police Department must be a resident of the State of Wisconsin and reside within a 15 mile radius of Platteville City Hall, or within the city limits of Lancaster. Residency within the City shall be required if a member appointed moves from their residence at the time of appointment. If the applicant is not a member of the Department, the applicant must establish residency in the City within twelve (12) months after appointment.

2.02 Qualifications for Recruitment. Before an individual may commence employment as a Police Officer, that individual must have met these recruitment qualifications:

(a) Ability to obtain a valid Wisconsin driver's license or other valid operator's permit recognized by the Wisconsin Department of Transportation as authorizing operation of a motor vehicle in Wisconsin prior to beginning employment. The results of a check of the issuing agency's motor vehicle files constitutes evidence of driver's status;

(b) A minimum age of eighteen years. A birth or naturalization certificate shall serve as evidence of applicant's date of birth;

(c) No conviction for any felony under the laws of the United States, Wisconsin or any other state or jurisdiction, unless the applicant has been granted an absolute and unconditional pardon;

(d) Possession of a four-year bachelor's degree from an accredited college or university;

(e) Successful completion of a written examination which may include a reading test, incident observation and report writing test and a testing system for law enforcement;

(f) Oral exam to be conducted by two sergeants and two field training officers appointed by the Commission;

(g) Physical agility exam;

(h) Oral exam by the Police & Fire Commission;

(i) Certification as a Law Enforcement Officer by the Wis. Law Enforcement Standards Board or eligibility for immediate certification after employment.

(j) Completion of a background investigation and credit history to determine if the applicant is acceptable; and,

(k) The applicant shall be free from any physical, emotional, or mental condition which would render him or her unable to perform their essential duties as a Police Officer. Applicants made a conditional offer of employment will be required to submit to and successfully complete psychological and medical examinations and drug testing. The Commission shall make reasonable accommodations to comply with the Americans with Disabilities Act and any other applicable Federal and State laws.

2.03 Qualifications of the Fire Chief. For the position of Fire Chief, the Commission may, in its discretion, appoint a suitable person based upon written standards adopted by the Commission. The Fire Chief must reside within the boundaries of the Platteville Fire and EMS District.

2.04 Qualifications of Assistant Fire Chiefs. For the position of Assistant Fire Chiefs, the Commission may, in its discretion, appoint suitable persons based upon written standards adopted by the Commission.

ARTICLE 3: RECRUITMENT, TESTING AND HIRING.

3.01 Police Chief. The Commission shall appoint the Police Chief, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause. The Commission shall, prior to commencement of recruitment, adopt a specific recruitment and examination procedure designed to assure the most qualified suitable candidate is selected.

3.02 Subordinates. The Police Chief shall appoint all subordinate Police Officers using the selection and promotion procedures in these By-Laws.

3.03 Application. The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for issuing forms shall be given by publication in a newspaper of general circulation in the City of Platteville, and by any other means

that the Commission may direct, at least ten days prior to issuing forms.

3.04 Misrepresentation. Misrepresentation of any material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, or for removing the applicant's name from the eligibility pool, or for the applicant's discharge, at any time, from the Department.

3.05 Insufficient Application. In order to avoid the expense of examining applicants who are barred from appointment, the application shall be rejected by the Commission or its designee, without further examination, whenever the application reveals the applicant cannot meet the eligibility requirements.

3.06 Changes in Medical Information. A candidate for employment previously rejected by a medical examiner shall not take the examinations provided for in these rules until a certificate from a medical examiner shows that the cause for rejection has been corrected or that some reasonable accommodation of the condition has become available.

3.07 Terminated Employees. Any Police Officer dismissed from the Department for just cause or a reason other than a layoff for budgetary purposes shall thereafter be ineligible to make application for appointment to any position in the Department.

3.08 Reentry Applications. Any former Police Officer who desires reentry to the Department shall undergo any examination determined necessary by the Commission, except as provided in Section 3.07 of these By-Laws.

3.09 Examination. No person shall be eligible for appointment as a Police Officer unless that person has been examined pursuant to the requirements of this section. The Commission shall hold or authorize the holding of examinations for appointment as Police Officer, and shall fix the date, place and conditions whenever necessary to meet the needs of the Department.

3.10 Delegation.

(a) The Commission may authorize other municipal, state or private agencies to conduct the examinations and provide a list of those applicants successfully completing same.

(b) The Commission may use the assistance of the Department including the Police Chief, the City Manager, outside consultants, and citizens, as appropriate, in carrying out the Commission duties in this Section.

3.11 Position Description. The City Manager, in consultation with the Police Chief, and with the approval of the Common Council, shall establish duties for every position in the Department and include these duties as part of a written position description. The written position description shall include the position title or classification; a brief description of the position; the

basic or minimum qualifications to be considered for employment in the position; the level or type of supervision received by the employee; who the employee is responsible to; the type or level of independent judgment used by the employee when performing tasks; the essential functions performed by an employee in the position; other duties that may not be essential but are typically undertaken by an employee in the position; basic abilities and knowledge the employee will need to perform adequately in the position; the type of equipment used by the employee; the location and environment in which the job is usually undertaken; any special environmental or physical requirement the employee may encounter. All position descriptions shall be reviewed and, as necessary, revised regularly.

3.12 Eligibility for Examination. Examinations shall be open only to those persons who are eligible for appointment and who possess the requisite qualifications in conformity with the provisions of these By-Laws.

3.13 Substance of Examination. The examination shall be a multi-stage assessment process that fairly tests the capacity of the applicants to successfully perform the duties of a police officer. Any applicant who performs any stage of the assessment process unacceptably shall be removed from the process at that point.

The determination of which examinations are to be required shall be made prior to commencement of recruitment and applied to all applicants for the position. In addition, it is currently the policy of the Commission to require all applicants made a conditional offer of employment to submit to a medical exam, drug testing and a psychological evaluation.

3.14 Examination Protocol. All examinations shall be carried on under the Commission's supervision. The Commission may designate any suitable municipality or state agency, person or persons to conduct or assist in conducting the examinations. The Commission may fix the compensation to be paid these designated assistants by the City, in conformity with budgetary restraints and other provisions set by the Common Council. All examinations shall comply with the following protocol:

(a) Each applicant taking an examination shall follow the instructions given to her or him by the person conducting the examination.

(b) Information relative to applicants' scores, shall be strictly confidential, and shall not be divulged, except insofar as it may be necessary to determine those applicants eligible for additional testing, or if deemed necessary by the Commission, for a purpose related to administration of the selection process. Under provisions of Section 103.13(6)(c) of the Wisconsin Statutes, an applicant may request and be provided with the score attained on any specific section of the examination or the entire examination.

(c) No applicant shall receive any assistance in any manner during the examination. A violation of this rule shall subject each applicant involved to exclusion from the examination. Any

Commission member or Department employee who violates this rule shall be subject to appropriate sanctions.

(d) No applicant shall be given a second or special competitive test in connection with any examination held, unless it is shown to the Commission's satisfaction that the applicant's failure to take or complete the test was due to a manifest error or mistake for which the Commission or its designated assistants are responsible. The nature of the error or mistake shall be set forth in the minutes. The Commission may, in the interest of fairness, void the examination and re-test all applicants.

(e) Examination papers shall be retained by the Commission or its designated representative for seven years after the expiration of the eligibility list for which the examination was held.

(f) Each applicant shall present to the person conducting the examination one or more forms of identification that contains the name and a photograph of the applicant.

3.15 Eligibility Pool.

(a) The Police Chief may appoint Police Officers only from the eligibility pool certified by the Commission pursuant to these By-Laws.

(b) Upon the conclusion of examinations, the Commission in consultation with the Police Chief shall prepare and certify an eligibility pool that contains the names of applicants who have passed all necessary examinations and are eligible to be appointed if they successfully pass the character investigation, drug tests, psychological evaluation and the medical examination contingencies.

(c) Whenever it becomes necessary to fill a vacancy in the Department, the Chief shall choose an applicant from the eligibility pool and make a conditional offer of employment as a police officer to the applicant. The conditions of employment shall be the applicant's satisfactory completion of the character investigation, medical exam, drug tests and psychological evaluation.

(d) The certified pool will expire twelve months from the date of certification unless extended or discontinued by the Commission.

3.16 Medical Examination. Every person to whom a conditional offer of employment has been made pursuant to Section 3.15 of these By-Laws, shall be examined by a physician licensed to practice medicine in Wisconsin and approved by the Commission. The applicant shall complete a personal medical history, a copy of which is to be submitted to the examining physician. The examination shall be solely for the purpose of verifying that the candidate is capable of meeting the essential occupational requirements of the position, and to address those physical and health requirements that relate to the occupational qualifications for the position

involved, or the nature of reasonable accommodations required to enable the applicant to meet these qualifications.

3.17 Background Investigation. After a conditional offer of employment has been made, a character investigation shall be conducted to determine whether the applicant possesses any specifically disqualifying criminal record or specific disqualifying personal history, all of which shall relate specifically to qualifications of the position involved. The background investigation shall include the following:

- (a) The applicant's fingerprints and a search of local, state and national fingerprint records;
- (b) Inquiry of all local, county, state and federal law enforcement agencies of the applicant's current and previous areas of residence;
- (c) Investigation at all the applicant's schools attended beyond the age of fourteen; beginning with high school;
- (d) Investigation in the applicant's current neighborhood of residence and in neighborhood of former permanent residence;
- (e) Investigation in each place of employment. The interview of applicant's current employer should be at or towards the end of the investigation. The applicant's specific permission for this interview must be obtained; and
- (f) Investigation of credit history.

ARTICLE 4: PROBATIONARY PERIOD

4.01 Probation.

(a) All appointees, except the Police Chief, shall be on probation for one year from the date of hire. As used in these By-Laws, the term "probation" means the customary initial provisional employment status, subject to terms that include, but are not limited to, the following:

- (1) The employee has no expectation of continued employment, nor any contractual or other vested property right in employment;
- (2) The employee may be terminated at any time for any reason by the Police Chief.
- (3) The employee is not entitled to any showing of cause for termination; and

(4) The employee is not accorded any formal hearing rights of any kind other than those that are necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes.

(b) If during the first year of actual service in the new position, the person appointed proves unsatisfactory or undesirable for the position, whether the employee be an original appointee or a promotional appointee, the Police Chief may terminate the employee's employment if the appointment was original, or may reduce the employee to the employee's former rank, where the appointment was promotional.

(c) The appointee shall not be entitled to an appeal from a dismissal or reduction.

(d) The Commission in its discretion may extend the probationary period beyond one year if a request is made by the Police Chief.

(e) Prior to making a promotional appointment, the Police Chief may require the prospective appointee to execute a waiver to establish the provisional employee status of the appointment as provided in Section 4.01(a).

ARTICLE 5: PROMOTIONS AND TRANSFERS WITHIN THE DEPARTMENT.

5.01 Promotions.

(a) It is Commission policy to fill vacancies in non-entry level positions by internal promotion, from within the Department, provided a qualified applicant is available.

(1) The Commission may, at its sole discretion, open the process to candidates from outside the Department.

(2) The internal promotion policy preference as stated in this subsection does not apply to the position of Police Chief, which shall be open to qualified candidates from both inside and outside the Department.

(b) Consistent with the established position description for a vacant position, specific promotional requirements will be established by the Commission prior to the beginning of the selection process.

(c) Notice of the promotional opportunity and the scheduling of promotional examinations shall be authorized by the Police Commission. Appropriate notice to Police Officers of the promotional opportunity shall be posted on the Department bulletin board by the Police Chief. The notice of the promotional opportunity shall be posted at the time the requirements are posted. That posting will be at least ten days prior to the beginning of the process. All effort will be made to adjust any Department work schedule to accommodate all qualified members who desire the opportunity to

compete. If the Department work schedule interferes, the Commission will arrange to schedule examinations so that no one is disqualified due to the needs of the Department.

(d) All qualified members desiring to compete shall apply to the Commission using a written application for promotion developed by the Commission.

(e) The promotion examination shall consist of appropriate examinations as determined by the Commission prior to the beginning of the selection process.

(f) The selection process shall be weighted one-third Chief, one-third Commission, one-third exams.

(g) Those candidates determined to be qualified to fill a vacancy in a non-entry level position shall be placed in an eligibility pool for the position. Promotions to fill a vacant position shall be made by the Police Chief from the eligibility pool for the position, as certified by the Commission. The certified pool shall expire thirty-six months from the date of certification, unless extended or discontinued by the Commission.

5.02 Acting Chief or Supervisory Officers.

(a) The Commission may appoint a subordinate officer as a temporary acting Chief in the event the Chief retires, resigns, or is temporarily unable to fulfill the Chief's duties. Generally, the rules governing the chain of command shall be followed.

(b) The Chief may appoint a subordinate officer as a temporary acting Sergeant or Lieutenant, in the event that one of those supervisory officers retires, resigns, or is temporarily unable to fulfill their duties, if selected from a pool of candidates previously approved by the Commission.

(c) Temporary acting appointments under this subsection shall be for a period not to exceed six months, except that the Commission in its discretion, may extend the temporary acting appointment for [an] additional three month period(s), or to a date or event certain within an additional three month period.

ARTICLE 6: DISCIPLINE, SUSPENSION, REDUCTION OR DEMOTION.

6.01 Suspension or Discharge of the Police Chief

(a) Investigatory Suspension. The Commission may suspend the Police Chief upon its own initiative, or pending the investigation of written charges made by a person that have been filed with the Commission. 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.

(b) In the event that the Commission deems it appropriate and necessary, the Commission may discipline the Police Chief, including discipline in the form of an unpaid suspension. The Commission shall determine the appropriate discipline to be administered in its sole discretion.

(c) The Commission may, for cause shown, terminate the Police Chief.

(d) The Police Chief shall be notified in writing of the charges filed against her or him and shall have the hearing rights provided in Article 7 of these By-Laws, except that Section 7.04 of these By-Laws apply to the Police Chief only to the extent required by Wisconsin law.

(e) Section 62.13(5)(j) of the Wisconsin Statutes, applies Section 62.13(5) of the Wisconsin Statutes to disciplinary actions against the Police Chief when applicable and allows the Commission to suspend the Police Chief pending disposition of charges filed with the Commission.

6.02 Discipline, Demotion, Suspension and Termination of Subordinate Police Officers.

(a) The Police Chief may, for just cause, impose discipline on a subordinate Police Officer. The Commission may, on its own motion, impose discipline if the Commission believes discipline is warranted after a hearing on charges pursuant to Article 7.

(b) The Police Chief may suspend a subordinate for just cause as a penalty. If the Police Chief suspends a subordinate, he or she shall immediately report it in writing, with the cause, to the Commission.

(c) The Commission shall review any disciplinary action taken or approved by the Police Chief only if the individual affected appeals the decision, or if the Commission, on its own motion, initiates review.

(d) If the Commission determines that the charges are sustained, the accused, by order of the Commission, may be suspended, or reduced in rank, or suspended and reduced in rank, or removed, as the good of the service may require.

(e) Pending disposition of charges, either the Chief or the Commission may suspend the subordinate.

6.03 Who May File Charges. As provided by Section 62.13(5)(b) of the Wisconsin Statutes, charges may be filed against a subordinate by the Police Chief, by a member of the Commission, by the Commission as body, or by an aggrieved person. Prior to the filing of a charge against a police officer (other than a charge filed by the City Manager, the chief, a member of the Commission, or the Commission as a body), an aggrieved person shall file a sworn complaint with the Police Department under the Citizen Complaints Procedures set forth in the Platteville Police Department Policy Rules of Conduct, Section V. Procedures, Complaints of Conduct. If the

complaint is against an officer other than the Police Chief, the sworn complaint shall be made to the Police Chief. If the complaint is against the Police Chief, the sworn complaint shall be made to the City Manager. The matter complained of shall be investigated and the complainant shall be advised of the results of the investigation and its disposition under the Citizen Complaint Procedures. A charge may then be filed with the Commission if the complainant is not satisfied with the disposition under the Citizen Complaint Procedures. The charge shall be filed no later than ten (10) days following receipt of the written disposition. All charges shall be in writing and shall be filed with the Commission President and shall comply with the requirements of Section 7.01. Pending disposition of charges the Commission or Police Chief may suspend the subordinate

ARTICLE 7: HEARING PROCEDURE FOR COMMISSION DELIBERATIONS ON DISCIPLINE, SUSPENSION, DEMOTION OR CHARGES.

7.01 Filing Charges. Any person or body authorized under Wis. Stat. Section 62.13(5)(b) may file charges against the Police Chief or a subordinate officer. Charges shall:

- (a) be in writing on a form provided or approved by the Commission;
- (b) be addressed to the Platteville Police and Fire Commission;
- (c) identify the person against whom the charges are brought;
- (d) state sufficient facts to allow the accused to know and understand the factual allegations and to be able to prepare his or her defense. If any portion of the charge is made upon information or belief, the source of such information and belief shall be stated, including the names and addresses of witnesses having such knowledge. The charge shall specifically indicate the date and place of the alleged offense;
- (e) state the specific Rules of Conduct of the Platteville Police Department, City Work Rules, and/or any local, state or federal law which the accused is charged with violating;
- (f) be sworn to under penalty of perjury;
- (g) be filed with the President or Secretary of the Commission. In the event that the charges are filed with the Secretary, the Secretary shall thereupon file the charges with the President;
- (h) be filed within six (6) months from the date the alleged misconduct occurred or was discovered, whichever occurs later. The Commission may extend the time for filing charges by a majority vote of all the Commissioners, for good cause shown.

7.02 Procedure.

(a) Pursuant to Section 62.13(5)(d) of the Wisconsin Statutes, after the filing of charges in any case, a copy of the charges shall be served on the Police Officer charged.

(b) Notice of hearing. The Commission shall set a date for hearing not less than ten days nor more than thirty days following the date of service of charges.

(c) Preliminary Meeting. When charges against a Police Officer or Police Chief are filed with the Commission, the Commission President shall call a meeting of the Commission that may, in the President's discretion, be conducted as an open meeting or a closed session, provided that closed sessions are conducted in accord with Section 19.85 of the Wisconsin Statutes.

(1) Notice of regular or special meetings shall be given in the normal and customary manner, but not less than twenty-four hours prior to the meeting. In addition, notice shall be given to the complainant and the accused. A copy of the charges shall be furnished to the accused along with the notice as well as an explanation that delivery does not constitute service. If the meeting is set for closed session, the notice shall advise the accused that he or she has the right to demand that the meeting be conducted in open session.

(2) At the preliminary meeting, the Commission, to avoid defamation of the accused, shall read and examine the charges to assure that they are sufficiently specific, relate to police duties, satisfy all the requirements of Section 7.01, and that if proven, the charges are sufficient to warrant imposition of discipline.

(3) The Commission shall also determine whether the accused should be suspended with pay pending the hearing on the charges.

(4) The accused and the complainant and/or their attorneys may be heard. However, the preliminary meeting shall not hear or evaluate evidence. The Commission's legal counsel shall, upon request of the Commission President, attend such meeting and advise the Commission as to the proceedings.

7.03 Action.

(a) If the charges are found to be sufficient, as to form and nature, the Commission shall so find and proceed to disposing of the charges pursuant to Section 7.04 of these By-Laws.

(b) Should the charges be found at the preliminary meeting to be insufficient as to form or and nature, the charges shall be dismissed. If it appears that the defects in the charges may be cured by providing additional detail or facts, the Commission may grant the complainant up to thirty days to supplement the complaint.

(a) No subordinate may be disciplined by the Commission, based on charges filed by the Commission, a member of the Commission, the Police Chief or an aggrieved person unless the Commission determines that there is just cause to sustain the charges, as described in this paragraph. In making its determination, the Commission shall apply the following standards, to the extent applicable, as required by Section 62.13(5)(em) of the Wisconsin Statutes:

(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 Police 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 subsection (c) was fair and objective.

(5) Whether the Police Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.

(6) Whether the Police Chief is applying the rule or order fairly and without discrimination against the subordinate.

(7) Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Department.

(b) The person filing the charge and the accused shall file with the Commission, and provide to the opposing party, at least seven (7) days before the hearing date, a list of all intended witnesses, including names and addresses. The Commission may refuse to allow a party to call a witness not named on the intended witness list, unless the failure to include the name occurred for good reason, in the determination of the Commission. Neither party will be required to call all of the witnesses included on his or her witness list.

(c) The accused and the person filing the charge may be represented by attorneys at no expense to the Commission.

(d) The accused and the person filing the charge may compel the attendance of witnesses by subpoenas which shall be issued by the President of the Commission on request. The service of the subpoena, and the cost of service fees and other related expenses shall be borne by the party requesting the subpoena.

(e) The responsibility for prosecuting a case shall be with the person filing the charge. The burden of proof for proving the charges shall be by preponderance of the evidence.

(f) At least one (1) day prior to the scheduled hearing, parties shall provide each other with copies of or access to documents and other exhibits they intend to use at any hearing. At the hearing, parties shall provide each member of the Commission with copies of any documents and/or exhibits they intend to use.

(g) As the first order of business at any scheduled hearing, the Commission may hear and decide procedural motions, determine order of testimony, attempt to determine uncontested issues, attempt to simplify issues, attempt to obtain a stipulation of facts, determine what exhibits, if any, will be offered into evidence, and to conduct any such other procedural matters as may be deemed necessary.

(h) The hearing on charges shall be public. The Commission may make reasonable rules for the orderly conduct of the hearing. The Commission reserves the right to go into closed session as allowed by law.

(i) The Commission may divide the hearing into two phases. In the first phase the Commission shall determine whether or not the charges have been sustained. If any of the charges are sustained, the hearing shall continue to the second phase, in which the Commission shall determine the disposition as provided by Section 7.05(c).

(j) At the hearing, the Complainant shall present his or her testimony and evidence first. After the testimony of the Complainant and each of the Complainant's witnesses, the Respondent or Respondent's attorney may cross-examine the witness. After completion of the Complainant's testimony and evidence, the accused may testify and call witnesses to testify. After each of the accused's witnesses testifies, the Complainant or Complainant's attorney may cross-examine the witness. Parties may thereafter present rebuttal and surrebuttal evidence, all subject to cross-examination. Members of the Commission may question any witness at any time, and may call its own witnesses.

(k) Civil Rules of Evidence shall apply at any hearing with the Commission being at liberty to relax the Rules of Evidence if it deems the best interests of justice to be served thereby.

(l) All public portions of the hearing shall be recorded electronically or by court reporter or both. The decision shall be at the discretion of the Commission.

(m) The City Attorney or special counsel if necessary shall represent the Commission.

(n) The term "President" shall include the President and/or his or her designee. In the event of the incapacity, unavailability or unwillingness of the President to act, the duties of the President may be exercised by the Vice President, or the Commissioner with the greatest seniority, in descending order, based on their availability.

7.05 Decision of the Commission.

(a) All Commission findings and determinations made after a hearing on charges, and all disciplinary orders based on the findings and determinations shall be filed with the Commission Secretary within three days of the Commission's action under subsection 7.05(c) of these By-Laws. The Commission may, if it deems it appropriate, provide an oral decision with regards to its determinations and findings following the hearing.

(b) The Commission shall, within three days after hearing, by a majority vote of its members in open meeting, determine whether the charges are sustained by a preponderance of the evidence.

(c) The Commission shall issue its decision in conformity with Section 62.13(5)(e) of the Wisconsin Statutes, which provides: If the Commission finds the charges are not sustained, the accused, if suspended pending hearing, shall be immediately reinstated and all lost pay restored. If the Commission determines that the charges are sustained, the accused, by Commission order, may be suspended or reduced in rank or suspended and reduced in rank or removed, as the good of the service may require.

(d) The Secretary 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 data 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 determinations and all exhibits, documents involved in hearing, including a transcript of the proceedings. All documents shall be filed with the Secretary. The Secretary may use the assistance of the Commission Legal Counsel or professional court reporters performing these duties.

7.06 Appeal. Any person suspended, reduced, suspended and reduced, or removed by the Commission after hearing may appeal from the order to the Circuit Court by serving written notice with the Commission Secretary within ten days after the order is filed, stating the grounds upon which the appeal is based. Within five days thereafter the Commission Secretary shall certify to the Clerk of the Circuit Court the records of the proceedings, including all documents, testimony and minutes. After the taking of the appeal, the proceedings shall be governed by the provisions of Section 62.13(5)(i) of the Wisconsin Statutes.

ARTICLE 8: LAYOFFS AND REEMPLOYMENT

8.01 Layoffs. When it becomes necessary, because of need for economy, lack of work or funds, or for other reason to reduce the number of subordinate Police Officers, subordinate Police Officers shall be laid off in the order of the shortest length of service in the Department. Those with identical seniority shall be laid off in order of least ability to serve as determined by the Commission from the consideration of service reports.

8.02 Reemployment. The name of a subordinate Police Officer laid off for any cause set forth in Section 8.01 of these By-Laws shall be retained on an eligible reemployment list for a period of two years after the date of the layoff. If any vacancies occur, or if the number of subordinate Police Officers is increased in the Department, the vacancies or new positions shall be filled by persons on the reemployment list in the inverse order of layoff.

ARTICLE 9: COMMISSION ADMINISTRATION.

9.01 Meetings. The Commission shall hold regular monthly meetings in the City hall or any other designated place at a regular time and day selected by the Commission.

9.02 Officers. Annually, at the June meeting, the Commission shall elect from among its members a President, Vice-President, and Secretary. Should a permanent vacancy occur within the Commission officers, that vacancy will be filled, by appointment of the Council President.

9.03 Special Meetings. All special meetings of the Commission shall be held at the place where the regular meetings are held, if possible. Special meetings may be called at any time by the President, or by any two members, by causing a written or oral notice of the special meeting to be personally delivered to each Commissioner. If a Commissioner cannot be found, notice may be delivered by leaving a written copy of the notice at the Commissioner's usual place of abode in the presence of a member of their family of suitable age and discretion.

9.04 Quorum. Three Commission members constitute a quorum in order to transact business. All Commission decisions shall be made by a majority vote of members present unless otherwise specified.

9.05 Order of Business. The Commission's regular order of business shall be:

- (a) Call to Order.
- (b) Roll call.
- (c) Approval of minutes.
- (d) Citizen comments, observations and petitions.
- (e) Discussion: Fire Department Items.
- (f) Discussion: Police Department Items.
- (g) Any other business.

(h) Adjournment.

9.06 Commission President; Duties. The Commission President shall preside over all Commission meetings and hearings. She or he shall receive written charges filed against the Police Chief or subordinate Police Officers, and when necessary, the Commission President may issue subpoenas to compel the attendance of witnesses in accordance with Chapter 885 of the Wisconsin Statutes. In the event of the Commission President's absence or disability, the Vice President shall assume the duties of the President.

9.07 Commission Secretary; Duties. (a) The Secretary shall receive appeals from action of the Police Chief, send out notices required by law, ordinance, these By-Laws, or as requested by the Commission, make official publications as may be necessary, attend all Commission meetings and hearings, provide for the taking and recording of testimony and other evidence received at hearings, preserve the evidence in a permanent record, and certify the record to the Circuit Court when required by law.

(b) The Secretary shall keep a minute book, showing all important facts pertaining to each meeting and hearing. The minutes of each meeting and hearing shall be signed by the Secretary and approved by the Commission. A copy of the unapproved minutes shall be provided each Commission member and the Police Chief as soon after each meeting as is possible.

(c) After the official records and minutes are approved by the Commission, the original record shall be filed with the City Clerk.

(d) The Secretary at the direction of the Commission President may conduct correspondence on behalf of the Commission. Any Commission member designated by the Commission President may also conduct correspondence on the Commission's behalf.

9.08 Administrative Details. The Commission shall adopt procedures further defining the following administrative details in proceeding toward disposition of charges filed with the Commission:

(a) Set a hearing date within the time frame provided by the statute, i.e., not less than ten days nor more than thirty days after service of the charges on the accused;

(b) Establish procedures for causing service of charges (by way of the Commission Attorney or otherwise) and notice of hearing to be served in the same manner that a summons is served;

(c) Direct the obtaining of court reporter for the hearing;

(d) Establish procedures for issuance of subpoenas by the President and policy as to payment of witness fees;

(e) 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;

(f) Direct the giving of any required notice of public hearing;

(g) In the event the parties reach agreement prior to scheduled hearing and have expressed an interest in canceling the hearing, the cancellation requires the concurrence of the Commission President or her or his designee.

9.09 Closed Sessions.

(a) The Commission may meet in closed session when permitted by Wis. Stats. Section 19.85. Whenever practical, the Commission's meeting agenda shall include as an agenda item the closed session, a reference to the statute which allows the item to be dealt with in closed session as well as sufficient information so that a person, by reading the notice, will know what the Commission intends to take up.

(b) Persons who are not Commission members are not entitled to be present during a closed session unless specifically invited by the Commission to be present. Non-members may be allowed to attend a closed session where their presence would be necessary or helpful in conducting the business of the Commission.

ARTICLE 10: CONSTRUCTION OF BY-LAWS

10.01 Federal or State Law. Should any Federal or State law or regulations, or the final decision of any court of competent jurisdiction affect any provision of these By-Laws, the provision or provisions affected shall be deemed to be amended to conform to the law, regulation or decision. These By-Laws shall be construed to be consistent with the requirements of Federal and State law.

10.02 Repeal of Rules. These rules shall not be repealed, amended or modified except by majority action of the Commission at a Commission meeting.

10.03 Severability. In the event any portion of these By-Laws is found to be invalid, the remaining portion shall stand.

Adopted: June 4, 1996
Revised: November 5, 1996
Revised: April 1, 1997
Revised: July 6, 1999
Revised: September 5, 2000
Revised: October 7, 2003

Revised: May 19, 2005
Revised: May 1, 2007
Revised: September 4, 2007
Revised: January 7, 2014

Michael J. Olds, President
Platteville Police & Fire Commission

Timothy Boldt, Secretary
Platteville Police & Fire Commission