R U L E S

of the

BOARD OF FIRE AND POLICE COMMISSIONERS

CITY OF MILWAUKEE

Milwaukee, Wisconsin

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Note: Dates in parentheses indicate the date of the most recent amendment to the section. Refer to the Appendix for specific information on amendments.

RULE I.

DEFINITION OF TERMS

Section 1. (a) The word "Board" when used in these Rules means the Board of Fire and Police Commissioners. (Rev. 7/26/01)

(b) The "Executive Director" is the chief administrator for the Board. (Rev. 7/26/01)

(c) The "Hearing Examiner" acts as presiding officer in disciplinary appeal and citizen complaint trials. At its discretion, the Board may designate one of its members or may appoint an attorney to act as Hearing Examiner. (Rev. 12/8/08)

(d) The term "Exempt" in these Rules refers to positions not subject to competitive examination, unless the Board determines otherwise. (Rev. 12/8/08)

(e) The term "Non-Exempt" in these Rules refers to positions subject to competitive examination, unless the Board determines otherwise. (Rev. 12/8/08)

RULE II.

SCOPE OF AUTHORITY

Section 1. These Rules shall apply to all positions in the Fire Department and the Police Department in the City of Milwaukee which are under the jurisdiction of the Board of Fire and Police Commissioners, and to the conduct of all business relating to the functions and responsibilities of the Board. (Rev. 7/26/01)

Section 2. These Rules shall become effective immediately upon adoption by the Board and shall be published and distributed. Any Fire or Police Department rule, regulation, or standard operating procedure shall be subordinate to the Board Rules. (Rev. 3/6/03)

Section 3.

(a) The Board shall, on an ongoing basis, review all aspects of the operations of the Fire and Police Departments, including, but not limited to, a consideration of discipline, promotion, work rules, standard operating procedures, and other procedures relating to the conduct of employees of the Fire and Police Departments. The Commission, and Commission members or staff when authorized by the Commission, shall have full access to observe and review all department activities. (Rev. 10/4/01)

(b) The Board may prescribe rules for the governance of each department. A Chief may not suspend any rule prescribed by the Board. (Rev. 7/26/01)

(c) The Chief of each department may propose rules for the governance of the department. Any rule proposed by a Chief shall be subject to review and approval by the Board. Any rule proposed by a Chief shall not take effect until the rule is reviewed and approved by the Board. (Rev. 7/26/01)

Section 4. The Chief of each department shall provide the Board with current standard operating procedures or other directives. Nothing in a standard operating procedure or other directive shall be used to circumvent a Board or department rule. (Rev. 7/26/01)

Section 5. When the Chief of Police or the Fire Chief will be absent from office for more than one week or will be leaving the state for more than 48 hours, the Chief shall, in advance, in writing, notify the Executive Director of the Fire and Police Commission. Such notification shall include notice of who will be in command of the department during the Chief's absence. (Rev. 7/26/01)

RULE III.

ADMINISTRATION

Section 1. (a) Regular meetings of the Board shall be held twice a month at a date, time, and place as determined by the Board, except for a one month recess as determined by the Board. The public shall be notified of all Board meetings pursuant to Section 19.84 Wis. Stats. (Rev. 7/26/01)

(b) Special meetings may be called at any time at the request of the Chair, upon notice as required by law. Any two members of the Board may call a special meeting with twenty-four (24) hours advance notice to the Executive Director, each member of the Board and the public, subject to Section 19.84 Wis. Stats. (Rev. 7/26/01)

(c) The Board, upon motion duly made and carried in open session, may meet in closed session under one or more of the exemptions provided for in Section 19.85 Wis. Stats. No one attending any closed meeting, including Board members and those invited or allowed to attend the closed meeting, shall be permitted to record that meeting through the utilization of audiotape, videotape, stenographic reporter or by any other means. (Rev. 5/8/03)

Section 2. A majority of the members-elect of the Board shall constitute a quorum for the purpose of conducting business and making decisions, provided, however, that pursuant to section 62.50(1h), a 3-member panel of the Board may conduct and decide by majority vote disciplinary appeal trials and citizen complaint trials as described in section 62.50 Wis.Stats. and elsewhere in these Fire and Police Commission rules. (Rev. 7/16/09)

Section 3. At the last regular meeting of July, the Board shall elect one of its members to act as Chair and one to act as Vice-Chair for a term of one year or until a successor is duly elected. (Rev. 7/26/01)

Section 4. The Chair may appoint committees, consisting of one or more members, as may be necessary to carry on the business of the Board. (Rev. 7/26/01)

Section 5. The Executive Director or designee shall attend all meetings and shall record all official actions. (Rev. 7/26/01)

Section 6. The regular meeting agenda of the Fire and Police Commission shall be as determined by the Chair. (Rev. 7/26/01)

Section 7. A consent agenda may be presented by the Executive Director as an item on the regular meeting agenda. Items may be removed from the consent agenda upon the request of any one Commissioner. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda or placed later on the regular meeting agenda at the discretion of the Chair. (Rev. 3/3/16)

Section 8. A duplicate copy of the official minutes of the proceedings of the Board shall be filed with the Legislative Reference Bureau. (Rev. 3/3/16)

RULE IV.

BOARD PROCEDURE

Section 1. Rules of the Board or of the Fire or Police Departments may be prescribed, amended, or repealed by a majority vote of the Board pursuant to the following procedure: Notice of the proposed rule, amendment, or repeal shall be given and recorded in the minutes of a regular or special meeting, and action shall be deferred to at least the next regular or special meeting, provided that at least ten (10) calendar days have elapsed before final action is taken. (Rev. 7/26/01)

Section 2. The Board shall be provided with any rule change proposed by a Chief at least thirty (30) calendar days prior to its anticipated effective date. All proposed rule changes provided to the Board shall be in writing. The Board shall then follow the procedure outlined in Section 1. (Rev. 7/26/01)

Section 3. The Board shall be provided with any modification of a standard operating procedure, standard operating guideline, or other directive affecting the policies and standards of the Fire or Police Departments, in writing at least fifteen (15) calendar days prior to its anticipated effective date. (Rev. 5/20/10)

Section 4. Immediate action may be taken on a proposed rule, amendment, or repeal provided that such action has approval of two-thirds of the Board members present. (Rev. 5/20/10)

Section 5. The Board may, by a vote of two-thirds of those present and voting, but in no event by less than a majority of the Board, vote to suspend or waive any of its Rules or provisions contained herein. (Rev. 5/20/10)

Section 6. Robert's Rules of Order shall be the official Rules of Order of the Board except as otherwise provided herein. (Rev. 5/20/10)

RULE V.

CLASSIFICATIONS

Section 1. The following shall be classified as sworn personnel titles in the Fire Department: (Rev. 9/15/16)

Administrative Fire Captain (E)
Administrative Fire Lieutenant (E)
Assistant Fire Chief (E)
Battalion Chief, Fire (E)
Deputy Chief, Fire (E)
Fire Captain
Fire Captain – Incident Safety Officer (E)
Fire Chief (E)
Fire Lieutenant
Fire Paramedic
Fire Paramedic Field Lieutenant
Firefighter
Heavy Equipment Operator
Vehicle Operations Instructor (E)
Vehicle Operations Training Coordinator (E)

Section 2. The following shall be classified as non-sworn (civilian) personnel titles in the Fire Department: (Rev. 9/15/16)

Accounting Assistant III
Administrative Assistant IV
Athletic Trainer (E)
Business Finance Manager
Carpenter
Custodial Worker II/City Laborer
Database Specialist
Fire Building and Equipment Maintenance Specialist
Fire Cadet (EP)
Fire Dispatch Manager (E) (EP)
Fire Dispatch Supervisor (E)
Fire Equipment Compressed Air Technician
Fire Equipment Dispatcher
Fire Equipment Machinist
Fire Equipment Mechanic
Fire Equipment Repairer I, II
Fire Equipment Repairs Manager (EP)
Fire Equipment Repairs Supervisor (EP)

Fire Equipment Welder
Fire Health and Safety Manager
Fire Information Technology Manager (EP)
Fire Mechanic Helper
Fire Medical Officer
Fire Personnel Officer
Inventory Control Assistant III
Media Specialist
Microcomputer Services Assistant
Network Coordinator-Senior
Network Coordinator-Associate
Office Assistant II, III, IV
Office Coordinator, Office Coordinator II
Painter
Personnel Payroll Assistant II
Program Assistant II

Section 3. The following shall be classified as sworn personnel titles in the Police Department: (Rev. 12/5/16)

Administrative Lieutenant of Police (Health and Safety) (E)
Administrative Lieutenant of Police (E)
Assistant Chief of Police (E)
Captain of Police (E)
Chief Latent Print Examiner (E)
Chief of Police (E)
Court Liaison Officer
Deputy Inspector of Police (E)
Detective
Document Examiner (E)
Forensic Investigator
Forensic Video Examiner
Identification Systems Specialist (E)
Inspector of Police (E)
Latent Print Examiner (E)
Police Alarm Operator (E)
Police Audiovisual Specialist (E)
Police Identification Supervisor
Police Lieutenant
Police Officer
Police Sergeant

Section 4. The following shall be classified as non-sworn (civilian) personnel titles in the Police Department: (Rev. 9/15/16)

Accountant I, III
Accounting Assistant I, II
Administrative Assistant I, II, IV
Building Maintenance Mechanic II
Building Maintenance Supervisor I, II
Chief of Staff - Police
Communications Systems Manager (E) (EP)
Community Service Officer (E)
Crime Analyst (E)
Crime and Intelligence Manager
Custodial Worker II-City Laborer
Data Communications Specialist (E)
Data Services Manager
Database Analyst (E)
Domestic Violence Victim Liaison
Electronic Technician
Electronic Technician Supervisor
Emergency Communications Operator II
Emergency Communications Manager (E) (EP)
Emergency Vehicle Equipment Installer
Garage Attendant
Graphic Designer II
Health and Safety Officer
Health and Safety Specialist
Heating and Ventilating Mechanic II
Helpdesk Specialist I, II
Human Resources Administrator
Human Resources Analyst—Sr.
Human Resources Specialist
Information Services Manager
Inventory Control Assistant II, III
IT Support Specialist-Senior (E)
Mail Processor
Maintenance Technician II
Media Producer (E)
Microfilm Technician
MPD Safety Division Manager
Network Coordinator-Senior
Network Manager
Office Assistant I, II, III, IV

Office Supervisor II
Personnel Payroll Assistant I, II, III
Police Aide (EP)
Police Budget and Administration Manager (E)
Police District Office Assistant
Police Facilities Assistant Manager
Police Facilities Manager (EP)
Police Fleet Manager
Police Fleet Supervisor
Police Information Systems Director (EP)
Police Payroll Supervisor
Police Planning and Policy Director
Police Records Assistant Manager
Police Records Manager
Police Records Specialist III
Police Records Supervisor
Police Services Specialist (E)
Police Services Specialist – Investigator (E)
Printer
Printing, Stores, and Building Services Supervisor
Programmer Analyst
Property Control Manager
Safety Specialist-Senior
School Crossing Guard (E)
School Crossing Guard Dispatcher
School Crossing Guard Operator
Sensitive Crimes Project Coordinator
Staff Assistant - Sr.
Systems Analyst-Project Leader
Systems Analyst-Senior
Systems Security Administrator
Telecommunications Specialist
Telecommunications Supervisor
Teller
Transcriptionist III
Vehicle Services Assistant
Video Electronic Technician

Section 5. Positions in Sections 1, 2, 3, and 4 above which are designated with "(E)" shall be exempt from competitive examination unless otherwise determined by the Board. (Rev. 9/15/16)

Section 6. Positions in Sections 2 and 4 above which are designated with "(EP)" shall be considered emergency personnel pursuant to Wis. Stat. Sec. 66.0502 (4(b). (Rev. 9/15/16)

RULE VI.

QUALIFICATIONS

Section 1. Requirements to compete in examinations in the Milwaukee Fire Department and Milwaukee Police Department will be job related and established by the Board for specific positions or job classes in accordance with professional testing standards and guidelines. (Rev. 7/26/01)

Section 2. Every applicant for positions in the Milwaukee Fire Department and Milwaukee Police Department shall be of good moral character as determined by a background investigation. Persons convicted of a felony, or the equivalent under Wisconsin law, or of a misdemeanor crime of domestic violence are ineligible for the position of Police Officer or Police Aide unless fully pardoned. (Rev. 7/26/01)

Section 3. Every applicant for either department shall meet job-related medical standards required for the position for which they are being considered, which shall be determined by qualified physicians designated by the Board. (Rev. 7/26/01)

Section 4. (a) Every applicant for the position of Firefighter and Police Officer must be a citizen of the United States. (Rev. 7/26/01)

(b) Every applicant for the position of Police Aide or Fire Cadet shall be a citizen of the United States or must have resided in the United States for a period of not less than five (5) years immediately prior to date of application. (Rev. 7/28/11)

A Police Aide or Fire Cadet applicant who is not a citizen of the United States and who has not yet reached the age of eighteen (18) may apply for the position of Police Aide or Fire Cadet, provided that such individual agrees in writing to file a Form N300 (Declaration of Intent to Apply for Naturalization) with the United States Department of Immigration and Naturalization within sixty (60) days of reaching eighteen (18) years of age. Failure to so agree shall result in denial of application. Failure to provide written proof of filing the requisite form within sixty (60) days of reaching the age of eighteen (18) shall result in removal from any testing process and/or eligible list, or termination of employment if already employed as a Police Aide or Fire Cadet. (Rev. 7/28/11)

A Police Aide or Fire Cadet applicant who is eighteen (18) years of age or older, and who is not a citizen of the United States, shall provide written proof of having filed either a Form N300 (Declaration of Intent to Apply for Naturalization) or a Form N400 (Application for Naturalization) or its

equivalent with the United States Department of Immigration and Naturalization prior to applying for the position of Police Aide or Fire Cadet. Failure to provide written proof of filing the requisite form at time of application shall result in denial of application. (Rev. 7/28/11)

(c) Applicants for all other positions in either department must be eligible for employment in the United States in accordance with the Immigration and Reform Act of 1986. (Rev. 7/26/01)

Section 5. (a) Every applicant for Police Officer and Firefighter must either be a graduate of an accredited high school, possess a G.E.D., or possess a high school equivalency certificate which conforms to the standards established by the State of Wisconsin for a high school equivalency certificate, by such time as determined by the Board. (Rev. 12/6/12)

(b) Every applicant for Police Aide and Fire Cadet must be a graduate of an accredited high school with a cumulative GPA of 2.0 by such time as determined by the Board. (Rev. 12/6/12)

(c) Police Officer applicants must meet all the educational requirements for Police Officer applicants established by the State of Wisconsin Law Enforcement Standards Board. (Rev. 12/6/12)

Section 6. (a) Every applicant for Police Officer shall be twenty one (21) years of age by such date as determined by the Board. (Rev. 7/26/01)

(b) Every applicant for Firefighter shall be eighteen (18) years of age by such date as determined by the Board. (Rev. 12/4/08)

(c) Every applicant for Police Aide or Fire Cadet shall be at least seventeen (17) years of age and less than (20) twenty years of age at such time as determined by the Board. No person may be appointed to the position of Police Aide or Fire Cadet who has reached twenty (20) years of age. (Rev. 7/28/11)

Section 7. Every applicant for Police Officer, Police Aide, Firefighter, Fire Cadet and other positions as determined by the Board shall possess a valid Wisconsin Motor Vehicle Operator's License at such time as determined by the Board. (Rev. 7/28/11)

Section 8. Members of either department, after actual service in a position in the next lower rank or in a position approved by the Board, shall be eligible to take a promotional examination provided they have served as regular and not acting, administrative, or temporary appointees and have met the qualifications and service requirements established by the Board and noticed on the examination announcement bulletin

for the promotional position. Applicants for promotional positions must have served continuously, as defined by the Board, in the next lower rank or in a position approved by the Board. (Rev. 7/26/01)

Section 9. Service as a Police Liaison Officer shall count toward the service time required in a promotional examination for the next higher rank than that which the officer holds. A Fire Association Contract Administrator may file an application for a promotional examination provided required service time is met prior to appointment as Association Contract Administrator. The above shall be subject to the provisions of the applicable collective bargaining agreement. (Rev. 7/26/01)

Section 10. Time spent on duty disability or military leave due to an ordered call up shall be credited to the time necessary to meet the actual service requirement in order to qualify for a promotional examination. Time spent on other types of leave shall not fulfill the requirement of actual service. (Rev. 7/26/01)

Section 11. Every applicant shall comply with such other qualifications as the Board may establish and outline in the examination announcement bulletin. (Rev. 7/26/01)

Section 12. Qualifications which are set forth in each examination announcement bulletin shall have the same force and effect as Rules adopted by the Board. (Rev. 7/26/01)

RULE VII.

APPLICATION PROCEDURES

Section 1. The Board shall authorize the issuance of applications for all competitive examinations to candidates having the qualifications, as noticed on the examination announcement bulletin. Notice of the dates, times, and places for issuing applications shall be made in a manner prescribed by the Board. (Rev. 7/26/01)

Section 2. Any willful misrepresentation in regard to any material fact made by an applicant, or by a person vouching for the applicant with applicant's knowledge or at applicant's request, shall be sufficient cause for exclusion from the selection process or for removal of name from an eligible list or for discharge. (Rev. 7/26/01)

Section 3. An applicant who does not meet background standards established by the Board shall be excluded from the application procedure or from the selection process or the applicant's name may be removed from the eligible list. (Rev. 7/26/01)

Section 4. An application which is incomplete or indicates that the applicant does not meet the qualifications for the position shall be rejected and the applicant notified of the reason. (Rev. 7/26/01)

Section 5. The Board shall refuse to accept an application from, shall exclude from the selection process, or shall remove from the eligible list: (Rev. 7/26/01)

(a) any person who does not meet the qualifications for the position, either at time of application or appointment; or (Rev. 7/26/01)

(b) any person who has failed a background investigation for the same department within the last two (2) years prior to the date of application. (Rev. 7/26/01)

Section 6. Any discharged member of either department or a member who resigned while departmental charges were pending must wait two (2) years from the date of discharge or resignation before an application can be issued. Thereafter, the former member shall be issued an application on a provisional basis. The Board shall request a written report and recommendation relative to the discharge or resignation from the respective Chief. The Board shall decide whether the former member shall be allowed to proceed in the selection process. Applicants may be permitted to proceed with the selection process pending Board action. (Rev. 5/17/07)

RULE VIII.

EXAMINATIONS

Section 1. The Board shall authorize the holding of examinations for non-exempt positions in the Milwaukee Fire Department and Milwaukee Police Department and shall list the qualifications for the position in an examination announcement bulletin approved by the Board, except when the Board deems other procedures to be appropriate. Non-sworn positions may be filled from City Service Commission eligible lists, by promotion from within the department, by competitive examination, or other method of selection as determined by the Board. (Rev. 7/26/01)

Section 2. The selection process shall be open to all persons who meet the qualifications for the position as specified in the examination announcement bulletin and who have filed the necessary application by such time as determined by the Board. (Rev. 2/6/03)

Section 3. Examinations shall be based upon information from job analysis or other information documenting actual job tasks and/or the knowledge, skills, abilities, or other characteristics required to perform job tasks; shall be developed in such a manner as to establish the relationship between the knowledge, skills, abilities, or other characteristics required for successful performance on the test, and those required for successful job performance; and shall be in compliance with applicable professional testing standards to ensure the fairness, reliability and validity of the examination process. (Rev. 7/26/01)

Section 4. Examinations may consist of one or more tests which the Board may deem necessary and sets forth in the examination announcement bulletin. All tests shall fairly and reliably evaluate the applicant for fitness to hold the position. (Rev. 7/26/01)

Section 5. Prior to an examination for a position, the Chief of the department shall, if requested, allow and assist the Board or its designee to perform a job analysis of the position. The job analysis may include, but is not limited to, the following: meetings and interviews with incumbents and their supervisors, job observations, ride-alongs, and the administration of questionnaires. (Rev. 7/26/01)

Section 6. Applicants who obtain a final passing score on any entry-level examination, and who meet one or more of the following criteria, shall be entitled to additional points, not to exceed an aggregate of ten (10) points total (except in the case of disabled veterans receiving 15 points and disabled veterans with disabilities of at least 30% receiving 20 points), to be added to the final passing score of the applicant, as follows: (Rev. 5/17/07)

(a) Additional points shall be awarded for military service or related military disability as defined within Section 230.16(7) Wis. Stats., applicable to examinations for all entry-level positions. Award of these additional points shall be in conformity with state law. (Rev. 7/26/01)

(b) Graduates of an accredited two year fire technology program shall be awarded three (3) additional points applicable to the Firefighter examination only. (Rev. 2/6/03)

(c) Graduates of an accredited four year program in fire science shall be awarded five (5) additional points applicable to the Firefighter examination only. (Rev. 7/26/01)

(d) Graduates of an accredited two year criminal justice, law enforcement or police science program shall be awarded three (3) additional points applicable to the Police Officer examination only. (Rev. 7/26/01)

(e) Graduates of an accredited four year criminal justice, law enforcement or police science program shall be awarded five (5) additional points applicable to the Police Officer examination only. (Rev. 7/26/01)

(f) Bona fide residents of the City of Milwaukee at time of application shall be awarded five (5) additional points applicable to entry-level examinations for Firefighter, Police Officer, Police Aide, Fire Cadet and such other entry-level positions as the Board may so designate in the applicable examination announcement bulletin. (Rev. 7/28/11)

Applicants who wish to apply for additional points as outlined above shall be solely responsible for obtaining and providing sufficient documentation on a timely basis to the Board. Any decision as to the sufficiency or timeliness of such documentation shall be within the sole discretion of the Board. (Rev. 7/26/01)

Section 7. (a) Prior to appointment, each candidate for an entry-level position shall undergo a thorough medical examination by medical examiners approved by the Board to determine whether or not the candidate meets the standards of health and physical fitness necessary to successfully perform the essential functions of the position. (Rev. 7/26/01)

(b) In the medical examination, the candidate shall be reported to be either medically qualified or medically unqualified. (Rev. 7/26/01)

(c) The medical examiners shall immediately report the results of the examination to the Board. There shall be no appeal from the decision of

the medical examiners, and any candidate rejected shall not be re-examined for the same selection process, unless the Board so decides. (Rev. 7/26/01)

Section 8. All candidates for entry-level positions must pass a background investigation as to their suitability for a position. The background investigation results will be furnished to the Board, and candidates who fail will be provided an opportunity to appeal to the Board. (Rev. 7/26/01)

RULE IX.

TESTING PROCEDURES

Section 1. The Board and staff shall not release or reveal information that may be deemed confidential including, but not limited to, examination booklets, examination questions, rating guides, scoring keys, written comments of examination raters, audio or video tapes of examination sessions, scores of candidates identified by name, and answers to specific items on examinations, unless specifically authorized by the Board. (Rev. 7/26/01)

Section 2. Scoring of examinations will occur without reference to the identity of a candidate. (Rev. 7/26/01)

Section 3. Candidates who use or attempt to use unfair or deceitful means to pass an examination or give assistance to other candidates during an examination shall be excluded from further participation in the selection process and may be subject to further penalties the Board may deem appropriate. (Rev. 7/26/01)

Section 4. Upon the completion of the examination process, each candidate on the eligible list shall be notified of their final score and ranking. Candidates who are not placed on the eligible list shall be notified of their score upon failure to qualify. (Rev. 7/26/01)

Section 5. Whenever an examination has been prepared for administration, the respective Chief shall, upon the Board's request, assign appropriate personnel to meet with Board staff to review the technical accuracy of the examination. (Rev. 7/26/01)

RULE X.

ELIGIBLE LISTS

Section 1. (a) After an examination, an eligible list shall be prepared containing the names of the candidates in the order of their relative ranking. Eligible lists remain in effect for two (2) years or as otherwise determined by the Board unless exhausted, rescinded, abolished or extended by formal action of the Board. (Rev. 12/4/08)

(b) All eligible lists, consisting of name and ranking of each candidate, shall be presented for adoption. (Rev. 7/26/01)

(c) If a tie occurs on an eligible list for an entrance position, candidates whose scores are identical will be ranked in alphabetical order by last name. If a tie occurs on a promotional eligible list, the candidate with the most seniority in the previous position held will be given first consideration for the position. (Rev. 7/26/01)

(d) When an eligible list expires and candidates remain who have scores identical to a candidate already appointed, the eligible list will be automatically extended until the candidate(s) with identical scores have been appointed or other disposition is made by the Board. (Rev. 7/26/01)

Section 2. Any candidate on any eligible list for appointment or promotion in either department who is on active military duty when his/her name is reached on that eligible list shall be held over and remain eligible for appointment or promotion for such period of time, and under such terms and conditions, as may be required by applicable law. (Rev. 2/6/03)

RULE XI.

APPOINTMENTS

Section 1. Appointments to sworn, non-exempt positions in either department will be made from eligible lists established by the Board. Appointments to non-sworn positions in either department may be made from eligible lists established by the Board or from City Service Commission eligible lists or through other procedures established by the Board. (Rev. 7/26/01)

Section 2. (a) A Police Aide shall be eligible for appointment to Police Officer upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Police Aide program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a specified course of instruction approved by the Assistant Chief overseeing the Training Bureau or their designee, together with the concurrence of the FPC Director, and; successfully passing the Physical Ability Test (PAT), and; successfully passing a Police Officer medical examination, psychological evaluation, drug screen test, and updated background investigation. (Rev. 9/20/12)

(b) A Fire Cadet shall be eligible for appointment to Firefighter upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Fire Cadet program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a course of instruction approved by the Assistant Chief overseeing the Bureau of Instruction and Training or their designee, together with the concurrence of the FPC Director, and; successfully passing a Firefighter physical ability test, medical examination, updated psychological evaluation, drug screen test, and updated background investigation. (Rev. 7/28/11)

(c) Any individual who was not a citizen of the United States at the time of appointment to Police Aide or Fire Cadet must provide written proof of United States citizenship prior to completing the Police Aide or fire Cadet program or reaching twenty one (21) years of age, whichever is later. Failure to do so shall result in termination of employment. (Rev. 7/28/11)

(d) Graduates of the Police Aide or Fire Cadet program will have precedence of appointment to the position of Police Officer or Firefighter in their respective department. (Rev. 7/28/11)

Section 3. (a) Whenever there is a vacancy in a sworn position in either department which is to be filled from an eligible list, the Board shall make the appointment in numerical order from the appropriate list. (Rev. 7/26/01)

(b) Whenever there is a vacancy in a non-sworn position in either department which is to be filled from an eligible list, the Board will certify to the appointing department for each vacancy the names of the persons whose scores rank in the five top places on the eligible list. The Chief shall recommend the appointment of an individual from among the five certified names and report the selection to the Board for review and approval. (Rev. 7/26/01)

Section 4. The Chief may object to a candidate on an eligible list for a sworn position by notifying the Board in writing of the reasons for such objection. The Board shall then interview the candidate and determine whether the name of the candidate will remain on the eligible list. (Rev. 7/26/01)

Section 5. Appointments or promotions to positions in either department require Board approval and are not effective until approved by a majority of the Board at a meeting of the Board. (Rev. 7/26/01)

Section 6. Persons selected for appointment from eligible lists shall not be retained on the eligible list if they decline or are unable to accept appointment, at the time offered, unless they are unavailable due to circumstances beyond their control, or other valid reason approved by the Board. (Rev. 7/26/01)

Section 7. (a) Original entrance appointees to Police Officer or Firefighter and persons not eligible for reinstatement to these positions who are re-employed in either department shall be on probation for an aggregate of 16 months of actual active service. All other appointees shall be on probation for one year unless otherwise specified by the Board, City Ordinance or a collective bargaining agreement. If during the probationary period, the appointee proves unfit for the position, the Chief may discharge the appointee. A full written statement of the reasons for the discharge must be filed with the Board within five (5) days of the discharge. There shall be no appeal from this discharge. If the probationary period is completed in a satisfactory manner, the appointee shall then be classified as a regular employee. (Rev. 7/26/01)

(b) Promotional appointees shall be on probation for an aggregate of one (l) year of actual service unless the Board specifies a longer or shorter period for any position or class. If during the probationary period the appointee proves unfit for the position, the Chief may demote to the position held prior to promotion by filing with the Board and the affected individual a

full written statement of the specific reason(s) for the demotion within five days of the demotion. Upon request of the affected individual, the Board shall interview the individual in closed session and thereafter, in open session, determine whether or not to affirm the demotion. (Rev. 5/1/08)

Section 8. (a) For non-sworn positions, whenever an appointment can be made from a City Service eligible list, the Chief may appoint from the list to fill the existing vacancy, subject to the approval of the Board. (Rev. 7/26/01)

(b) All requests for the filling of a vacancy from City Service Commission eligible lists shall be made to the Board in writing. (Rev. 7/26/01)

Section 9. The Chief of Police, with the permission of the Board, shall have the power to appoint special Police Officers, as defined by Charter Ordinance, in a particular emergency for a period not to exceed thirty (30) days. (Rev. 7/26/01)

Section 10. Where a vacancy exists in a non-sworn position, and it is shown to the satisfaction of the Board that there is a person who has been serving in a lower or different non-sworn position and whose familiarity with the work of the vacant position and whose qualifications make it desirable for the best interests of the service and the efficiency of the department, the Board may approve the promotion of such person either with or without examination, even if an eligible list for the position exists. (Rev. 7/26/01)

Section 11. When there is no eligible list, the respective Chief may appoint individuals to act in the next higher capacity than that signified by their actual rank when such appointment is deemed advisable for the good of the service. Acting personnel shall have the same authority as regular or temporary appointees, but no provision shall be made for other benefits usually associated with the higher ranking position such as pay, seniority in rank or change in uniform. Such appointment shall be effective only until such time as a temporary or regular appointment is made from an eligible list. (Rev. 7/26/01)

Section 12. (a) When a vacancy occurs in an exempt position in either department, the Chief shall submit the name of an appointee to the Board at a meeting of the Board together with the request for the appointment. A written report from the Chief on the qualified candidate together with a copy of the appointee's service record shall be attached to the request. Appointment requests presented under this rule shall be laid over to a future meeting of the Board at which time the appointee shall be present. In the interim, the Board may elect to interview the appointee in executive session. If the appointment is not approved, the Board, upon request of the individual, shall make known the reason. In the event a nominee is rejected by the

Board, the respective Chief shall submit a new nomination at the next meeting of the Board. (Rev. 12/4/08)

(b) Any person appointed or promoted to an exempt position shall continue to serve in said exempt position only and shall not be transferred or assigned to similar non-exempt positions and shall not be allowed to qualify for higher level non-exempt positions, unless specifically approved by the Board. (Rev. 12/4/08)

(c) If a vacancy exists in the office of Assistant Fire Chief, the Fire Chief shall nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Fire Department. (Rev. 12/4/08)

(d) If a vacancy exists in the office of Assistant Chief of Police, the Chief of Police shall, pursuant to Section 62.50 (7) Wis. Stats., nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Police Department. (Rev. 12/4/08)

Section 13. A Chief shall immediately notify the Board in writing of any department member performing in an acting capacity in any of the following positions: Assistant Chief of Police, Deputy Chief of Police, Police Commander, Deputy Inspector of Police, Captain of Police, First Assistant Chief Engineer, and Deputy Chief, Fire. No department member shall serve in an acting capacity in any of the aforementioned positions for a period in excess of thirty (30) calendar days without approval of the Board. Upon date of adoption of this Rule, the Chiefs of the respective departments shall immediately file with the Board a written report setting forth the name of each department member presently serving in an acting capacity in any of the aforementioned positions. For each such position filled on an acting basis, the thirty (30) calendar day period for serving in such position in an acting capacity shall commence upon date of approval of this Rule. (Rev. 12/4/08)

Section 14. Any member that currently occupies a sworn position identified in Rule V Classifications Sections 1 and 3, and is in good standing without any department charges pending, may request appointment to any vacant non-sworn position identified in Rule V Classifications Sections 2 and 4 for which they are qualified, upon recommendation of the Chief. Qualifications and examinations for such appointment shall be determined by the Board. (Rev. 7/28/11)

RULE XII.

REINSTATEMENT

Section 1. Members of either department who enlist, are inducted, or are ordered into active military service pursuant to those acts as enumerated in the Milwaukee Code of Ordinances shall be granted a leave of absence during the period of such service and shall, upon application, be entitled to reinstatement in accordance with the Milwaukee Code of Ordinances. The Board shall hear any complaints regarding requests for reinstatement of members returning from military service and shall make recommendations to the respective Chief for appropriate reinstatement and/or employment of such person. (Rev. 7/26/01)

Section 2. Members of either department who have been granted a leave of absence for reasons other than military service shall be reinstated in accordance with the Milwaukee Code of Ordinances, effective at such time as determined by the Board. (Rev. 7/26/01)

Section 3. All members who are reinstated pursuant to this Rule shall submit to a medical examination and drug screen test to determine fitness for duty prior to being reinstated. (Rev. 7/26/01)

Section 4. The Chief of the respective department shall notify the Board when any leave of absence is granted and when reinstatement has been made. (Rev. 7/26/01)

Section 5. Effective September 1, 1992, any member of either department who has been retired because of ordinary disability before reaching the ordinary minimum retirement age, and who has been medically re-examined and found by the medical panel and the Annuity and Pension Board to be fit for service, shall be eligible for reinstatement. Such person, upon recommendation of the Chief of the applicable department, shall be eligible for reinstatement to the position previously occupied or to another position for which the person is qualified, as determined by the Board upon the recommendation of the Chief of the department, but any such reinstatement may be made only to fill a vacancy and shall not be made if the effect thereof would be to displace any person presently holding such position. If at the time the person applies for reinstatement no vacancy exists in the position previously occupied by the person seeking reinstatement, or in another position for which the person is qualified, then that member's name shall be placed on a reinstatement list. Except as specifically provided otherwise in these rules, reinstatement lists shall have preference over all other lists for appointments or promotions. A person on a reinstatement list upon recommendation by the Chief and approval by the Board, shall be reinstated to the department on the first date following the vacancy in the position previously

occupied by the member prior to his or her retirement on ordinary disability. (Rev. 7/26/01)

RULE XIII.

REAPPOINTMENT

Section 1. Any former member of either department who has successfully completed his/her recruit training and graduated from the Training Academy as of the date of his/her separation from active service and who resigned in good standing without any departmental charges pending may within six months apply for re-entry into the department in which the member previously served through a written request to the Chief. The Chief shall forward the request together with a recommendation to the Board. If the Board acts favorably on the request, reappointment shall be made effective at such time as determined by the Board. (Rev. 4/24/03)

Section 2. Former members of either department shall submit to a medical examination and drug screen test to determine fitness for duty before being reappointed. A reappointed member shall in all respects be treated as a new employee, subject to provisions of the applicable collective bargaining agreement. (Rev. 12/6/01)

Section 3. Any former member of either department who was discharged or resigned while departmental charges were pending is not eligible for reappointment and must qualify for a new appointment through competitive examination. (Rev. 3/18/10)

Section 4. Any former member of the Police Department who separated from the department as a result of being decertified as a law enforcement officer by the Wisconsin Law Enforcement Standards Board is not eligible for reappointment and must qualify for a new appointment through competitive examination. If the decertification is for failure to achieve the college credit requirement, the former member must fulfill the requirement prior to application for appointment through competitive examination. (Rev. 3/18/10)

Section 5. Any former member of either department who resigned within five years of application for re-entry and is reappointed to the position of chief of police or fire chief may be granted appropriate service credit toward salary advancement, sick leave balance, and vacation accrual. (Rev. 5/1/08)

Section 6. Any sworn member of either department that accepts an appointment to a non-sworn position is not eligible for reappointment to a sworn position and must qualify for a new sworn appointment through competitive examination. (Rev. 7/28/11)

RULE XIV.

RESIDENCY

Section 1. All sworn law enforcement, sworn fire, and emergency personnel as set forth in Rule V, *supra*, are bound by City of Milwaukee Charter provisions regarding residency and are required to establish and maintain an actual and bona fide residence within 15 miles of the jurisdictional boundaries of the City of Milwaukee throughout the period of employment by the City. (Rev. 9/15/16)

Section 2. Unless an extension of time to establish residency or a temporary exception from the residency requirement has been granted by the Board, failure of any employee subject to this rule to reside within 15 miles of the jurisdictional boundaries of the City of Milwaukee shall render that employee ineligible for continued employment and shall result in the employee being separated from service. (Rev. 915/16)

Section 3. All new employees hired into a position subject to this residency requirement, and any incumbent employee who at any time has his/her position designated as subject to this residency requirement, shall be granted a period of time not to exceed six (6) months from the date of hire or the date the requirement becomes effective. (Rev. 9/15/16)

Section 4. Any employee subject to this residency requirement who believes it may be necessary to request an extension of the time period for establishing residency, or who believes that it may be necessary to request a temporary exception from the residency requirement, shall file such request in writing with the Fire and Police Commission, together with copies of all supporting documentation, at least fifteen (15) calendar days prior to the date on which the extension or temporary exception is anticipated to begin. Failure to file the request on a timely basis, absent extraordinary circumstances, shall be grounds for denial. The requestor shall forward a copy of the request to the Chief of the respective department. (Rev. 9/15/16)

Section 5. Any request for an extension or temporary exception shall specify, in detail, the reason(s) for the request and shall be accompanied by copies of all documentary evidence in support thereof including, but not limited to, real estate listing contracts, apartment leases, medical reports, educational reports, etc. Failure to supply appropriate supporting documentation together with the request shall be grounds for denial of the request. The burden of proof regarding whether or not a request for an extension or temporary exception should be granted shall at all times be on the requestor. (Rev. 9/16/5/16)

Section 6. Any request for an extension or temporary exception or supporting documentation which contains medical information shall be treated and maintained as confidential by the Fire and Police Commission, the Fire and Police Departments, and their respective staffs. Such information shall be utilized solely for the purpose of evaluating the request for extension or temporary exception. (Rev. 9/15/16)

Section 7. Upon receipt of a request and appropriate supporting documentation, the request may be referred to Fire and Police Commission staff for investigation and preparation of a report, if necessary, to be submitted to the Board. Any employee making a request shall, upon request, immediately provide any and all releases necessary for Commission staff to obtain additional information, including medical information that may have a bearing upon the request. Failure by the employee to immediately supply the necessary releases shall be deemed a failure to cooperate and shall result in denial of the request for extension. (Rev. 9/15/16)

Section 8. The Board shall not be limited to information supplied by the requestor. Staff may seek and obtain additional information which is relevant to the request. Upon completion of its investigation, staff may prepare a written report and the Board may pose questions to the requestor. (Rev. 9/15/16)

Section 9. The Board may approve, modify, or deny requests for extensions or temporary exceptions from the residency requirement in accordance with the authority delegated to it by the City Charter. (Rev. 9/15/16)

Section 10. All employees of the Fire Department or Police Department shall advise their respective departments within 72 hours of a change in residence on the department's required form. Each submission shall be reviewed and maintained by the respective department. (Rev. 9/15/16)

RULE XV.

CITIZEN COMPLAINT PROCEDURE

Section 1. PURPOSE. The citizen complaint procedure addresses misconduct alleged to have been committed by Fire or Police Department members. The FPC utilizes the Citizen Complaint Intake Investigation Guidelines to receive, evaluate and administer the complaint process. All complaints will be addressed swiftly, consistently and fairly for both complainants and department members. (Rev. 7/16/09)

Section 2. COMPLAINT. A complaint may be initiated by mail, email, telephone, website, or in person. Prior to referral for resolution, the complainant must sign the complaint and affirm that all information in the complaint is true and correct to the best of the complainant's knowledge. (Rev. 7/16/09)

Section 3. INVESTIGATION. FPC staff will conduct an investigation of every complaint received. All complaints will be fully and fairly investigated. The investigation will be conducted in accordance with the FPC Citizen Complaint Intake Investigation Guidelines and applicable department standard operating procedures. (Rev. 7/16/09)

Section 4. REFERRAL. The Executive Director, within ten (10) days after receiving the results of the investigation, will refer the complaint for resolution in accordance with the FPC Citizen Complaint Intake Investigation Guidelines utilizing one of five methods: rapid resolution complaint inquiry, trial, dismissal, mediation, or policy training. (Rev. 6/3/10)

Section 5. RESOLUTION. Complaints will be resolved by the following methods: (Rev. 7/16/09)

(a) RAPID RESOLUTION COMPLAINT INQUIRY.

1. A Rapid Resolution Complaint Inquiry (RRCI) is a complaint filed with the FPC and then forwarded to the department for quick resolution. The complainant is questioning the actions of an employee of the Fire or Police Department concerning a matter that does not, on its face, appear to be a violation of a department rule. (Rev. 7/16/09)

2. The department that receives a RRCI referral will follow its applicable standard operating procedures to resolve the complaint. (Rev. 7/16/09)

3. The Executive Director will review the completed RRCI. (Rev. 7/16/09)

(b) TRIAL. Trials will be conducted in accordance with FPC Rule XVI Trial Procedures. (Rev. 7/16/09)

(c) DISMISSAL. The complainant will be advised in writing of the reason(s) for the dismissal. A complainant may, within thirty (30) days after the date of the notice of dismissal, request in writing that the dismissal be reviewed by the Board. (Rev. 7/16/09)

(d) MEDIATION. Mediation is the process in which both the complainant and employee agree to resolve a complaint with the assistance of a neutral mediator. Information disclosed during a mediation session is confidential and cannot be used in any subsequent proceeding. When making a referral to mediation, the Executive Director will consider whether mediation is likely to result in greater complainant satisfaction; improve citizen understanding of department procedures and actions; result in improved employee conduct; or contribute to increased community relations. Normally a complaint will not be referred to mediation if the case involves an allegation of criminal conduct against an employee, use of force involving bodily injury, or if the employee is a witness against the complainant in a court proceeding. (Rev. 7/16/09)

Procedure:

1. Complaint is received by an FPC investigator, and a complaint number is assigned. (Rev. 7/16/09)

2. The FPC investigator conducts an initial review and forwards to the Executive Director. (Rev. 7/16/09)

3. The Executive Director makes the determination to refer the complaint to the mediation resolution process. (Rev. 7/16/09)

4. Complainant and employee(s) are contacted and confirm they are willing to participate in the mediation process. (Rev. 7/16/09)

5. Complaint is scheduled for mediation conducted by mediator. (Rev. 7/16/09)

6. Mediation session is conducted at a neutral location. (Rev. 7/16/09)

7. Complainant and employee(s) acknowledge resolution of the complaint, or the mediator certifies that the employee participated in the mediation session. (Rev. 7/16/09)

8. Complaint is dismissed. (Rev. 7/16/09)

(e) POLICY TRAINING. The Executive Director may require a member to participate satisfactorily in a specified policy training program. (Rev. 6/3/10)

Section 6. COMPLAINTS FILED WITH THE FIRE OR POLICE DEPARTMENT. The Executive Director shall audit internal Police and Fire Department investigations. The Executive Director shall review a complaint investigation when a citizen is dissatisfied with the outcome of an investigation that has been completed by the Police or Fire Department. (Rev. 7/16/09)

RULE XVI.

TRIAL PROCEDURES

Section 1. PURPOSE. These procedures apply to citizen complaints and disciplinary appeals by sworn and non-sworn Fire or Police Department personnel. (Rev. 7/16/09)

Section 2. JURISDICTION.

(a) Any member who is served with an appealable order of discipline shall, at the same time that service of the appealable disciplinary order is made, receive any exculpatory evidence in the Chief's possession related to the discharge, demotion or suspension. (Rev. 7/16/09)

(b) Sworn, non-probationary members of the Police Department who are discharged, demoted or suspended without pay for a period of more than five (5) eight-hour working days may appeal such discipline to the Board. (Rev. 7/16/09)

(c) Sworn, non-probationary members of the Fire Department who are discharged, demoted or suspended without pay for a period of more than two (2) twenty-four-hour working days, or more than five (5) eight-hour working days may appeal such discipline to the Board. (Rev. 7/16/09)

(d) Non-sworn (civilian), non-probationary, non-exempt full-time members of the Fire Department or the Police Department who are discharged, demoted or suspended without pay for more than five (5) working days may appeal such discipline to the Board. Any member subject to a collective bargaining agreement that provides final and binding arbitration as an alternative method of hearing disciplinary matters may elect either the alternative method or a hearing before the Board. If the member elects final and binding arbitration, the right to a hearing before the Board will be deemed to have been permanently waived. (Rev. 9/15/11)

(e) Citizen complaints that are referred for trial by the Executive Director pursuant to Rule XV shall utilize the procedures of Sections 7 through 14 below to the extent applicable. A copy of the FPC investigation may be provided to the complainant and member. Upon request by the complainant, the Board or Hearing Examiner may allow a complainant to be represented by an advocate for any part of the proceedings. (Rev. 7/16/09)

Section 3. APPEAL. Within ten (10) calendar days after service of a disciplinary order which is appealable to the Board, the department member so disciplined may file with the Board a written notice of appeal utilizing the following form: (Rev. 7/16/09)

To the Honorable Board of Fire and Police Commissioners:

Please take notice that I appeal the order/decision of the (Fire Chief or Police Chief) (discharging or demoting or suspending) me from the (Fire or Police) Department pursuant to (MFD or MPD) Order No. _____ dated (Month and Date and Year).

Dated this _____ day of _____, 20 _____ .

_____
Signature

_____
Print Name, Address & Phone Number of Appellant and/or Legal Counsel
(Rev. 7/16/09)

Section 4. NOTICE OF COMPLAINT. Within two (2) calendar days after service of an appealable disciplinary order upon a department member, the department shall file with the Board a copy of the disciplinary order and a signed complaint outlining the specific conduct which serves as the basis for each rule violation alleged. (Rev. 7/16/09)

Section 5. SERVICE OF COMPLAINT. Within five (5) calendar days after an appeal is filed, the Board shall serve appellant with a copy of a Notice of Complaint indicating the department rule that is alleged to have been violated, a copy of the complaint, and notification of a trial date scheduled pursuant to Wis. Stat. §62.50(14). Service by mail upon appellant's counsel of record shall be deemed sufficient to satisfy this requirement. (Rev. 7/16/09)

Section 6. SCHEDULING ORDER. The Board shall serve appellant and the Chief of the department with a Scheduling Order fixing the time and place of the trial not less than sixty (60) days nor more than one hundred and twenty (120) days after service of the notice to the member, a pretrial date not less than seven (7) days prior to the trial date, and time limitations for discovery and motions. (Rev. 7/16/09)

Section 7. PRETRIAL. A pretrial shall be conducted to complete any remaining discovery and narrow the issues to be addressed at time of trial. The Hearing Examiner may require a party to prepare a written stipulation of issues which are agreed upon and need not be proven at time of trial. (Rev. 7/16/09)

Section 8. ADJOURNMENT. A request for adjournment shall be in writing. The request shall state the specific reason(s) that a party will not be able to proceed on the scheduled date, and that the reason(s) for such inability are beyond the control of

the party making such request. Absent an express waiver by both parties, no adjournment shall exceed fifteen (15) calendar days except as deemed necessary by the Hearing Examiner. (Rev. 7/16/09)

Section 9. TRIAL BEFORE A HEARING EXAMINER. (Rev. 7/16/09)

(a) The Hearing Examiner is authorized to conduct trials without the Board being present. (Rev. 7/16/09)

(b) Trials will be videotaped, and the procedural and evidentiary provisions governing trials before the Board will apply to trials before the Hearing Examiner to the extent applicable. (Rev. 7/16/09)

(c) Within thirty (30) days after the close of any trial conducted before the Hearing Examiner, parties will be provided with copies of the transcript, videotape, exhibits, report summarizing the evidence presented, proposed findings of fact, recommended decision on the merits, and recommended penalty, if applicable. (Rev. 7/16/09)

(d) Within thirty (30) calendar days after mailing of the report and recommendation to the parties, either party may file a response to the Hearing Examiner's report and recommendation. (Rev. 7/16/09)

(e) The Board will convene in closed session to review the record. The Board shall make a final determination and may adopt or modify, in whole or in part, the proposed findings and recommendations of the Hearing Examiner. (Rev. 7/16/09)

Section 10. TRIAL BEFORE THE BOARD.

(a) A Hearing Examiner may assist at trials before the Board, and is authorized to make rulings on all legal and procedural matters that arise during the trial. (Rev. 7/16/09)

(b) Any witness may testify regarding matters about which the witness has personal knowledge and which are sufficiently related to issues before the Board. (Rev. 7/16/09)

(c) The Board may limit the calling of witnesses or the taking of testimony which appears to be cumulative or lacking sufficient relevance. (Rev. 7/16/09)

(d) The Board may question any witness called by either party during the hearing. (Rev. 7/16/09)

(e) The Board or parties may subpoena witnesses. (Rev. 7/16/09)

(f) A written decision will be signed by Board members who participated in the decision within ten (10) days after such decision is rendered and will be forwarded to each of the parties. (Rev. 7/16/09)

Section 11. TESTIMONY.

(a) Trials are quasi-judicial proceedings intended to secure the facts in as direct and simple a manner as possible. Wisconsin Rules of Evidence controlling civil cases will apply, but the Hearing Examiner may relax the rules of evidence to assure that relevant facts are elicited during the trial. Hearsay evidence, including any documents from an investigation relating to the charges being tried, may be admitted provided such evidence is probative. All trials are open to the public. Witnesses may be sequestered at the request of either party, or upon direction of the Board or the Hearing Examiner. The Board or Hearing Examiner may adjourn the trial to take additional evidence. (Rev. 7/16/09)

(b) In a citizen complaint trial the obligation to proceed and present evidence first is on the complainant, with the accused department member thereafter being given an opportunity to respond. (Rev. 7/16/09)

(c) In a disciplinary appeal the obligation to proceed and present evidence first is on the department, with the appellant thereafter being given an opportunity to respond. (Rev. 7/16/09)

(d) Prior to taking evidence, each party shall be given an opportunity to make an opening statement outlining what that party believes the evidence to be presented will show. (Rev. 7/16/09)

(e) Either party may call the other as a witness adversely, and may cross-examine the other party and that party's witnesses when they testify voluntarily. The Board and the Hearing Examiner may question any witness called by either party. (Rev. 7/16/09)

(f) At the close of testimony each party may make a closing statement outlining what that party believes the testimony and evidence shows. (Rev. 7/16/09)

Section 12. BURDEN OF PROOF.

(a) <u>Non-sworn Employee Disciplinary Appeals</u>

The Board must find that a preponderance of the evidence exists to sustain the charge(s). (Rev. 7/16/09)

(b) Citizen Complaints and Sworn Member Disciplinary Appeals
The Board must find by a preponderance of the evidence that there is just cause to sustain the charge(s). In determining whether or not there is just cause to sustain the charge(s) the Board shall apply the following standards, to the extent applicable, pursuant to Wis. Stat. §62.50(17)(b): (Rev. 7/16/09)

1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct. (Rev. 7/16/09)

2. Whether the rule or order that the subordinate allegedly violated is reasonable. (Rev. 7/16/09)

3. Whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order. (Rev. 7/16/09)

4. Whether the effort described under subd. 3. was fair and objective. (Rev. 7/16/09)

5. Whether the Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate. (Rev. 7/16/09)

6. Whether the Chief is applying the rule or order fairly and without discrimination against the subordinate. (Rev. 7/16/09)

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. (Rev. 7/16/09)

Section 13. TRIAL PROCEDURE-COMPLAINT NOT SUSTAINED. If the Board determines that the burden of proof has not been met, the matter will immediately be dismissed and proceedings terminated. (Rev. 7/16/09)

Section 14. TRIAL PROCEDURE-COMPLAINT SUSTAINED. If the Board sustains a finding of one or more rule violations, evidence may then be received regarding the member's character, work record, and the impact of the misconduct on the complainant, department, and community. The Board may deliberate in closed

session in order to determine whether the good of the service requires that the appellant be: (Rev. 7/16/09)

(a) permanently discharged; or (Rev. 7/16/09)

(b) suspended without pay for a period to be determined by the Board; or (Rev. 7/16/09)

(c) demoted to a lower rank; or (Rev. 7/16/09)

(d) participate in policy training. (Rev. 7/16/09)

APPENDIX

AMENDMENTS TO FIRE AND POLICE COMMISSION RULES
Since July 26, 2001

Date Approved	**Rule and Section**	**Amendment**
10/4/01	Rule V, Section 4	Delete the titles "Offset Press Operator II" and "Lead Offset Press Operator". Add the titles "Printer" and "Production Designer II".
10/4/01	Rule XVI, Section 1	Include the words "full-time" as follows: "All non-sworn (civilian), non-probationary, non-exempt **full-time** members of the Fire Department or the Police Department who are discharged, demoted or suspended without pay for more than fifteen (15) working days may appeal such discipline to the Board of Fire and Police Commissioners." (emphasis added)
10/4/01	Rule II, Section 3 (a)	Include the words "and Police" at the end of the first sentence as follows: "The Board shall, on an ongoing basis, review all aspects of the operations of the Fire and Police Departments, including, but not limited to, a consideration of discipline, promotion, work rules, standard operating procedures, and other procedures relating to the conduct of employees of the Fire **and Police** Departments." (emphasis added)
11/1/01	Rule V, Section 3	Delete the title "Police Sergeant (Garage)"
11/1/01	Rule V, Section 4	Add the title "Fleet Maintenance Supervisor"
12/6/01	Rule XIII, Section 2	Add the following sentence at the end of existing Section 2: "A reappointed member shall in all respects be treated as a new employee, subject to provisions of the applicable collective bargaining agreement."
2/7/02	Rule XI, Section 14	Include the language in **bold** below at the places indicated: "A Chief shall immediately notify the Board in writing of any department member performing in an acting capacity in any of the following positions: Assistant Chief of Police, Deputy Chief of Police, **Police Commander, Deputy Inspector of Police, Captain of Police,** First Assistant Chief Engineer, and Deputy Chief, Fire. No department member shall serve in an acting capacity, in any of the aforementioned positions for a period in excess of thirty (30) calendar days without approval of the Board. **Upon date of adoption of this Rule, the Chiefs of the respective departments shall immediately file with the Board a written report setting forth the name of each department member**

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
2/7/02	Rule XI, Section 14	**presently serving in an acting capacity in any of the afore-mentioned positions. For each such position filled on an acting basis, the thirty (30) calendar day period for serving in such position in an acting capacity shall commence upon date of approval of this Rule."**
6/20/02	Rule V, Section 3	Add the designation "(E)" after the title "Identification Systems Specialist".
7/11/02	Rule V, Section 3	Delete the title "Assistant Custodian of Police Property and Stores (E)"
9/5/02	Rule XI	Renumber current Section 13 as Section 13 (a). Renumber current Section 15 as Section 13 (b). Create new Section 13 (c) as follows: "If a vacancy exists in the office of Assistant Fire Chief, the Fire Chief shall nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Fire Department." Create new Section 13 (d) to read as follows: "If a vacancy exists in the office of Assistant Chief of Police, the Chief of Police shall, pursuant to Section 62.50 (7) Wis. Stats., nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Police Department."
10/3/02	Rule XIV	Delete existing Rule XIV and create new rule as follows: "Section 1. All employees of the City of Milwaukee, including all members of the Fire Department and Police Department, are bound by City of Milwaukee Charter provisions regarding residency and are required to establish and maintain their actual and bona fide residence within the boundaries of the city throughout the period of employment by the city. It is strongly presumed that adequate housing, transportation, educational opportunities, health care and other amenities exist within the City of Milwaukee so as to permit all employees to establish and maintain a bona fide residence within the boundaries of the city as required."

Date Approved	Rule and Section	Amendment
10/3/02	Rule XIV	"Section 2. Unless an extension of time to establish residency or a temporary exemption from the residency requirement has been granted by the Board, failure of any employee of the Milwaukee Fire Department or Milwaukee Police Department to reside within the boundaries of the City of Milwaukee shall render that employee ineligible for continued employment and shall result in termination of that employee." "Section 3. All new employees of the Fire Department or Police Department who are not already employees of the City of Milwaukee shall be granted a period of time not to exceed six (6) months from the date of hire to establish a residence within the boundaries of the City of Milwaukee. All individuals who are hired as members of the Fire Department or Police Department are expected, upon being hired, to immediately begin taking all steps necessary to meet the residency requirement within six (6) months of the date of hire. Extensions of the six (6) month time period for establishing a bona fide residence within the City of Milwaukee are not favored and will not be granted absent extraordinary circumstances." Section 4. Any newly hired member of the Fire Department or Police Department who believes it may be necessary to request an extension of the time period for establishing residency, or any other member who believes it may be necessary to request a temporary exemption from the residency requirement, shall file such request in writing, together with copies of all supporting documentation, at least thirty (30) calendar days prior to the date on which the extension or temporary exemption is anticipated to begin. Failure to file the request on a timely basis, absent extraordinary circumstances, shall be grounds for denial. The request shall be addressed to Fire and Police Commission, 809 North Broadway, Room 104, Milwaukee, Wisconsin, 53202. The requestor shall forward a copy of the request to the Chief of the respective department." "Section 5. Any request for an extension or temporary exemption shall specify, in detail, the reason(s) for the request and shall be accompanied by copies of all documentary evidence in support thereof including, but not limited to, real estate listing contracts,

Date Approved	Rule and Section	Amendment
10/3/02	Rule XIV	apartment leases, medical reports, educational reports, etc. Failure to supply appropriate supporting documentation together with the request shall be grounds for denial of the request. The burden of proof regarding whether or not a request for an extension or temporary exemption should be granted shall at all times be on the requestor. There is a strong presumption against the granting of all such requests absent extraordinary circumstances." "Section 6. Any request for an extension or temporary exemption or supporting documentation, which contains medical information, shall be treated and maintained as confidential by the Fire and Police Commission, the Fire and Police Departments, and their respective staffs. Such information shall be utilized solely for the purpose of evaluating the request for extension or temporary exemption, and no further release of such information may be made other than to individuals, entities, corporations or health care providers referred to therein for the purpose of verifying and/or clarifying information contained in the request." "Section 7. Upon receipt of a request and appropriate supporting documentation, the request shall be referred to Fire and Police Commission staff for investigation and preparation of a report and recommendation to be submitted to the Board. Any employee making a request shall, upon request, immediately provide any and all releases necessary for Commission staff to obtain additional information, including medical information that may have a bearing upon the request. Failure by the employee to immediately supply the necessary releases shall be deemed a failure to cooperate and shall result in denial of the request for extension." "Section 8. The Board shall not be limited to information supplied by the requestor. Staff may seek and obtain additional information, which is relevant to making a recommendation regarding the request. Upon completion of its investigation, staff shall prepare a written recommendation. The recommendation shall be to grant the request as made, grant the request with modifications or conditions, or deny the request. Copies of any additional information obtained by staff, along with a copy of the recommendation to the Board, shall be supplied to the requestor."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
10/3/02	Rule XIV	"Section 9. The Board shall review the request, supporting documentation, the report and recommendation of staff prior to making its decision at a public meeting with the understanding that the report and recommendation of staff is conclusive and should be adopted unless good cause to the contrary is shown. The employee requesting the extension or temporary exemption shall be notified of the meeting and invited to address the Board. Board members may pose questions to the employee. A roll call vote will be taken on the request. The decision of the Board may be to grant the request as made, or grant the request with modifications, or deny the request in whole or in part. The decision of the Board will be reduced to writing and a copy forwarded to the employee and the respective Department within ten (10) calendar days of the vote by the Board."
12/19/02	Rule V, Section 1	Delete the title "First Assistant Chief Engineer (E)" and add the titles "Assistant Fire Chief (E)", "Administrative Captain—EMS (E)", and "Administrative Fire Lieutenant (E)".
12/19/02	Rule V, Section 3	Delete the title "Police Electronic Technician."
12/19/02	Rule V, Section 4	Delete the title "Public Relations Manager."
1/23/03	Rule V, Section 4	Add the title "Administrative Services Specialist (E)".
2/6/03	Rule VIII, Section 6(b)	Delete the following language: "and individuals licensed by the State of Wisconsin or certified by the National Registry of Emergency Medical Technicians as Paramedics".
2/6/03	Rule VIII, Section 2	Delete the word "Examinations" and insert the following words in its place: "The selection process".
2/6/03	Rule X, Section 2	Delete Section 2 and insert the following language: "Any candidate on any eligible list for appointment or promotion in either department who is on active military duty when his/her name is reached on that eligible list shall be held over and remain eligible for appointment or promotion for such period of time, and under such terms and conditions, as may be required by applicable law."
3/6/03	Rule II, Section 2	Delete the word "printed" in the first sentence and insert the word "published" in its place.
3/6/03	Rule XI, Section 13 (a)	In the third sentence, delete the words "the next" and insert the words "a future" in its place.

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	Rule and Section	Amendment
4/24/03	Rule XIII, Section 1	Amend the first sentence to read as follows: "Any former member of either department who has successfully completed his/her recruit training and graduated from the Training Academy as of the date of his/her separation from active service and who resigned in good standing without any departmental charges pending may within six months apply for re-entry into the department in which the member previously served through a written request to the Chief."
5/8/03	Rule III, Section 1 (c)	Add (c) to read: "The Board, upon motion duly made and carried in open session, may meet in closed session under one or more of the exemptions provided for in Section 19.85 Wis. Stats. No one attending any closed meeting, including Board members and those invited or allowed to attend the closed meeting, shall be permitted to record that meeting through the utilization of audiotape, videotape, stenographic reporter or by any other means."
7/10/03	Rule V, Section 1	Add "(E)" after the position title "Battalion Chief, Fire".
9/2/03	Rule XVII, Section 3	Delete "809 North Broadway, Room 104" and add "City Hall, 200 East Wells Street, Room 706." (Administrative change)
1/8/04	Rule V, Section 1	Add the title "Vehicle Operations Training Coordinator (E)".
1/8/04	Rule V, Section 2	Add the titles "Custodial Worker II" and "Carpenter". Delete the title "Fire Equipment Metal Fabricator".
2/5/04	Rule V, Section 2	Add the titles "Audiovisual Specialist I" and "Audiovisual Specialist II".
2/5/04	Rule V, Section 4	Add the title "Audiovisual Specialist I".
2/19/04	Rule V, Section 2	Add the title "Network Coordinator-Associate".
2/19/04	Rule V, Section 4	Add the title "Personnel Analyst".
3/18/04	Rule V, Section 1	Delete the following position titles: "Battalion Chief, Assistant EMS Coordinator (E)"; "Battalion Chief, Vehicle Operations (E)"; Fire Audio Visual Training Specialist (E)"; "Fire Paramedic Lieutenant"; "Paramedic"; and "Paramedic Lieutenant".
3/18/04	Rule V, Section 3	Delete the title "Police Commander (E)". Add the title "Inspector of Police (E)".
3/18/04	Rule V, Section 4	Add the following position titles: "Administrative Specialist"; "Programmer II"; and "Safety Specialist".

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	Rule and Section	Amendment
5/20/04	Rule V, Section 2	Add the title "Business Finance Manager".
11/18/04	Rule V, Section 4	Add the title "Public Relations Manager (E)".
12/16/04	Rule V, Section 2	Add the title "Fire Dispatch Manager (E)".
1/20/05	Rule V, Section 1	Delete the title "Chief Dispatcher of Fire Alarm and Telegraph (E)".
2/3/05	Rule V, Section 4	Add the titles "Systems Coordinator" and "Systems Security Administrator".
4/21/05	Rule XVII, section 7 (c)	Delete current Rule XVII, Section 7 (c) and recreate as follows: "Failure of the complainant to appear at the conciliation conference shall result in a recommendation to the Board that the complaint be dismissed. Members of both departments are required to appear at the conciliation conference. Failure of the accused member to appear shall result in a referral to the chief of the appropriate department for investigation and possible disciplinary action."
5/19/05	Rule V, Section 2	Add the title "Data Base Specialist".
6/15/06	Rule V, Section 4	Delete the title "Building and Fleet Maintenance Manager" and add the title "Police Buildings and Fleet Manager".
7/13/06	Rule V, Section 2	Add the title "Health and Safety Officer".
7/13/06	Rule V, Section 4	Add the title "Electronic Technician Supervisor".
9/21/06	Rule V, Section 4	Add the title "Police Services Specialist – Investigator (E)".
10/19/06	Rule V, Section 2	Add the title "Information Technology Specialist".
1/18/07	Rule V, Section 3	Delete the title "Communications Maintenance Manager" and add the title "Communications Systems Manager". Place in Section 4 after incumbent vacates position.
5/17/07	Rule VIII, Section 6	Add the words "(except in the case of disabled veterans receiving 15 points and disabled veterans with disabilities of at least 30% receiving 20 points)" to read as follows: "Applicants who obtain a final passing score on any entry-level examination, and who meet one or more of the following criteria, shall be entitled to additional points, not to exceed an aggregate of ten (10) points total (except in the case of disabled veterans receiving 15 points

Date Approved	Rule and Section	Amendment
5/17/07	Rule VIII, Section 6	and disabled veterans with disabilities of at least 30% receiving 20 points), to be added to the final passing score of the applicant, as follows:".
5/17/07	Rule VII, Section 6	Change "wait one (1) year" to "wait two (2) years".
6/7/07	Rule V, Section 4	Add the title "Crime & Intelligence Specialist (E)".
11/1/07	Rule V, Section 1	Add the title "Fire Captain – Incident Safety Officer (E)".
11/1/07	Rule V, Section 2	Add the title "Accounting Assistant III".
2/7/08	Rule XVII	Delete entire rule and recreate as follows: "Section 1. CITIZEN COMPLAINT DEFINED. (a) A citizen complaint is a written statement filed by an aggrieved person (complainant) that alleges conduct by a member of the Fire or Police Department that the complainant believes is inappropriate and that meets the requirements of Sections 1 through 3. The complaint shall be signed by the complainant and shall be sworn to under oath or affirmation declaring that the contents of the complaint are true and correct to the best of the complainant's knowledge. The complaint must be notarized by a notary public. (b) Statements that meet the requirements of Section 1(a) may be attached to the complaint. (c) The Board shall publish a standard complaint in blank form that can be obtained from the Office of the Fire and Police Commission or from the Board's website, *www.milwaukee.gov/fpc*. The Board shall not refuse unreasonably to accept a complaint that conforms to the requirements of law and this Rule solely because the complaint is not submitted on such a form. Section 2. AGGRIEVED PERSON DEFINED. An aggrieved person is a person who has been injured by, or witnesses, misconduct of a member of the Fire or Police Department. The

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	personal representative of the estate of an aggrieved person may file a complaint on behalf of a decedent. Section 3. CONTENTS OF COMPLAINT. The complaint shall state the following: (a) the full name, street address, and telephone number of the complainant; (b) the date, approximate time and location of the conduct giving rise to the alleged misconduct set forth in the complaint; and, (c) to the extent known by the complainant, the name, badge number, race, sex, or other identifying information regarding the accused member or members. (a) Complaints filed pursuant to Wis. Stat. §62.50(19) must contain facts, which set forth the actions of the accused person or persons that the complainant contends constitute grounds for removal of the accused from the department, specifically indicating the individual acts of each member accused giving rise to the filing of the complaint. (b) Complaints filed pursuant to Milwaukee City Charter §22-10 must contain facts, which set forth the actions of the accused person or persons that the complainant contends constitute grounds for discipline, specifically indicating the individual acts of each member accused giving rise to the filing of the complaint. Section 4. FILING AND RECEIPT OF COMPLAINT. (a) The complaint must be personally delivered or mailed to the Fire and Police Commission, City Hall, Room 706, 200 East Wells Street, Milwaukee, WI, 53202. (b) Upon proper filing of the complaint, an investigation shall be initiated. The Executive Director will determine if the complaint meets the procedural requirements of Sections 1 through 3. If the complaint does not meet the requirements of 1 through 3, the Executive Director shall notify the complainant in writing, within seven (7) days of the filing of the complaint, that the complaint will not be processed and the reasons the complaint will not be processed.

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	Notification that the complaint does not meet the requirements of 1 through 3 does not preclude a complainant from refiling a complaint or amending his or her complaint. (c) Complaints that meet the requirements of Sections 1 through 3 above will be forwarded to the Committee on Rules and Complaints for review and appropriate action in order to make a recommendation as to whether the Commission has jurisdiction over the complaint under either Wis. Stat. §62.50(19) and/or Milwaukee City Charter §22-10 and the accused member or members. Section 5. JURISDICTION AND FURTHER PROCEEDINGS. (a) Within thirty (30) days after the filing of the complaint, the Committee on Rules and Complaints will recommend to the Board, and the Board by majority vote, will take one of the following actions: (i) grant jurisdiction under Wis. Stat. §62.50(19) and/or Milwaukee City Charter §22-10; (ii) dismiss the complaint; (iii) place the matter on hold in committee to give staff an opportunity to obtain additional information. (b) If the Board dismisses the complaint, the complainant will be advised in writing of the dismissal and the reason(s) for the dismissal. (c) Within five (5) days of granting jurisdiction, the Board shall serve on the accused member, pursuant to Wis. Stat. § 62.50(15), a Notice of Complaint indicating the department rule and/or standard operating procedure that is alleged to have been violated, a copy of the complaint, and notification of a trial date scheduled pursuant to Wis. Stat. §62.50(14). Written notification of the trial date and a copy

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	of the Notice of Complaint will be served on the complainant by mail, sent to the address listed in the complaint unless the Board is notified in writing by the complainant of a change of address. (d) Upon request by the complainant, the Board or Hearing Examiner may allow a complainant to be represented by an advocate for any part of the proceedings. Section 6. CONCILIATION. For matters that the Board has granted jurisdiction, the Board may, on a case-by-case basis, recommend to the parties that they avail themselves of conciliation. The purpose of conciliation is to provide an informal means by which the complainant and the accused can discuss the matter and potentially reach a resolution without trial. Conciliation will only occur if the Board recommends it and both parties agree, in writing, to conciliate the matter. Conciliation will proceed as follows: (a) Written notification of the date, time, and place of the conciliation conference will be sent at least ten (10) days prior to the conference date. A conciliation conference will be conducted within thirty (30) days of receipt of written agreement by both parties to the conciliation process, unless the parties agree to schedule the conference at a later date; (b) The conciliation conference will be conducted by the Executive Director or the Hearing Examiner. Attendance by both the complainant and the accused is mandatory. Either party may be accompanied by an attorney or advocate. Statements made during the course of the conciliation conference are not admissible at a subsequent trial; (c) If an accused member agrees to participate in a conciliation conference and fails to appear as scheduled without good cause, the accused member's failure to appear may be referred to the chief of the respective department for investigation and possible disciplinary action;

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	(d) If an agreement is reached at the conciliation conference, both parties will be asked to sign a statement of resolution indicating that the dispute has been resolved and that the matter may be dismissed. If the resolution requires further action by either party, the statement of resolution will specify the action required and state that, upon completion of the action required, the matter is to be dismissed. The person conducting the conciliation conference will notify the Board when the required action has been completed and the matter is dismissed; (e) If no agreement is reached as a result of the conciliation, the matter will be scheduled for a pretrial conference or trial. Section 7. ADJOURNMENT OF TRIAL. Either party shall have a right to an adjournment not to exceed 15 days in accordance with Wis. Stat. §62.50(16). Any request for an additional adjournment of the trial date should be made in writing, within a reasonable period of time, and must state the reasons for the request. The Executive Director or Hearing Examiner may grant a request for an adjournment upon the showing of good cause. Factors to be considered in determining whether good cause exists are: the reason for the requested adjournment; prejudice to the other party; and any other circumstances or facts that may be appropriate. Section 8. PRETRIAL CONFERENCE. The Board may require that a pretrial conference be conducted by the Hearing Examiner prior to trial. At the pretrial conference, the Hearing Examiner will address and establish, through the execution of a scheduling/pretrial order, the following: (a) dates for filing and exchanging witness lists, exhibit lists, and copies of exhibits; (b) a determination of the issues to be addressed at trial; (c) rescheduling of a trial date; and

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	(d) any other matter that the Hearing Examiner deems appropriate. Failure of either party to file witness lists, exhibit lists, and/or copies of proposed exhibits according to the scheduling order, unless an extension is granted in writing, may result in denial of the right to call witnesses or present exhibits. Section 9. TRIAL BEFORE THE EXAMINER PROCEDURE. The Hearing Examiner is authorized to conduct trials. These trials will be videotaped. The procedure and evidentiary provisions of Rule XV governing trials before the Board will also apply to trials before the Hearing Examiner, except as otherwise noted in this rule. Within thirty (30) days after the close of the proceedings, the Hearing Examiner will provide to the parties a report summarizing the evidence presented, as well as proposed findings of fact, conclusions of law and a recommended decision on the merits as well as a recommended penalty, if applicable. Within thirty (30) calendar days after mailing the report/recommendation to the parties, either party may file a response to the Hearing Examiner's report/recommendation. The Board will meet on a date scheduled thereafter, having first reviewed the record, and deliberate in closed session. Thereafter, the Board shall decide in open session whether to adopt, modify, or reject the recommendations of the Hearing Examiner and issue its written decision in the matter. Section 10. TRIAL BEFORE THE BOARD. A designated Hearing Examiner will assist at all trials before the Board, and is authorized to make evidentiary rulings, and rule on all legal and procedural matters that arise during the trial. The procedural and evidentiary provisions of Rule XV apply, except as otherwise noted in this rule. Section 11. TRIAL PROCEDURE. (a) Trials are quasi-judicial proceedings to secure the facts in as direct and simple a manner as possible. Wisconsin Rules of Evidence controlling civil cases will apply, but the

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	Hearing Examiner may relax the rules of evidence to assure that relevant facts are elicited during the trial. Hearsay evidence may be admitted at the discretion of the Hearing Examiner provided such evidence is probative. (b) The burden of proof is on the complainant to prove the substance of the complaint by a preponderance of the evidence. The complainant will present witnesses and exhibits first, after which the accused will present his or her case. Cross-examination of witnesses is permitted. Either party may be called as a witness by the other party. (c) All trials are open to the public. (d) Witnesses may be sequestered at the request of either party, or upon direction of the Board or the Hearing Examiner. (e) The Board or Hearing Examiner may adjourn the trial to take additional evidence. Section 12. FAILURE TO APPEAR AT TRIAL. If the complainant fails to appear at the trial, the Board may dismiss the complaint, with or without prejudice. Section 13. TRIAL PROCEDURE. FAILURE TO MEET BURDEN TO RESULT IN DISMISSAL. If the Board determines that the complainant has not met the burden of proof, the matter will immediately be dismissed and proceedings terminated. A summary of proceedings, findings of fact and decision will be prepared by the Hearing Examiner and signed by Board members who participated in the decision within ten (10) business days after such decision is made. A copy of the written decision will be mailed to each of the parties. Section 14. TRIAL PROCEDURE. BURDEN MET. DISPOSITIONAL PHASE AND DECISION. (a) Prior to commencement of the trial, either before the Hearing Examiner or before the Board, the department will provide the Executive Director of the Fire and Police

Date Approved	Rule and Section	Amendment
2/7/08	Rule XVII	Commission with a sealed copy of the employment history and performance records of the accused member(s). This file will be retained by the Executive Director and will not be opened or viewed by either the Hearing Examiner or Board members unless a determination has been made that the charges have been sustained. If the Hearing Examiner recommends, or the Board finds, that the accused violated a department rule or procedure, the Hearing Examiner and/or the Board will review the employment history and performance records of the member(s) or such other personnel records as may be requested. The Board and/or Hearing Examiner will then receive testimony, exhibits, and oral argument from each party concerning disposition. Oral argument will be limited to five (5) minutes for each party. (b) If the trial was conducted by the Board, after hearing testimony and argument, the Board will deliberate in closed session. The Board will then announce its decision in open session. A written summary of the proceedings, findings of fact and decision will be prepared by the Hearing Examiner and signed by Board members who participated in the decision within ten (10) business days after the decision is announced. A copy of the decision will be mailed to all parties. Section 15. DISPOSITIONAL OPTIONS. If a department member is found guilty of misconduct, the Board has the following dispositional options: (a) Suspension without pay in accordance with Wis. Stat. §62.50; (b) Demotion to a lesser rank within the department, with a corresponding decrease in pay and benefits; (c) Discharge from the department; or (d) Any other disposition as permitted by law.

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
2/7/08	Rule XVII	Section 16. COMPLAINTS FILED WITH POLICE OR FIRE DEPARTMENT. The Executive Director shall review a complaint investigation when a citizen is dissatisfied with the outcome of an investigation that has been completed by the police or fire department.
4/17/08	Rule V, Section 4	Add the title "Human Resources Analyst—Sr."
5/1/08	Rule XIII, Section 5	Add new section 5 as follows: "Any former member of either department who resigned within five years of application for re-entry and is reappointed to the position of chief of police or fire chief may be granted appropriate service credit toward salary advancement, sick leave balance, and vacation accrual."
5/1/08	Rule XI, Section 7(b)	Add language in italics and delete overstrikes to existing language as follows: Promotional appointees shall be on probation for an aggregate of one (1) year of actual service unless the Board specifies a longer or shorter period for any position or class. If during the probationary period the appointee proves unfit for the position, the Chief may demote to the position held prior to promotion by filing *with the Board and the affected individual* a written statement of the *specific reason(s)* for the demotion within five days of the demotion. Upon request *of the affected individual*, ~~the appointee is entitled to a copy of the specific reasons for demotion and to a hearing before the Board.~~ *the Board shall interview the individual in closed session and thereafter, in open session, determine whether or not to affirm the demotion."*
7/10/08	Rule XI, Section 2(a)	Add language in italics and delete overstrikes to existing language as follows: "~~A Police Aide shall be eligible for appointment to Police Officer upon recommendation of the Chief after reaching age 21, provided the Police Aide has satisfactorily completed a specified course of instruction approved by the Board and a medical examination and drug screen test, and is a citizen of the United States.~~ *A Police Aide shall be eligible for appointment to Police Officer upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Police Aide program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a specified course of instruction approved by the Assistant Chief overseeing the Training Bureau or their designee, together with the concurrence of the FPC Director, and; successfully passing a Police Officer medical examination, psychological evaluation, drug screen test, and updated background investigation*."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XVI, Section 8	Add language in italics and delete overstrikes to existing language as follows: "~~Any party may request and be granted one adjournment of the appeal hearing for a period not to exceed fifteen (15) calendar days. Thereafter, any request to adjourn an appeal hearing before the Board shall be at the sole discretion of the Board.~~ *The Hearing Examiner is authorized to conduct trials in disciplinary appeals without the necessity of the Board being present. These trials will be videotaped, and the procedural and evidentiary provisions governing trials before the Board will apply to trials before the Hearing Examiner to the extent applicable. Within thirty (30) days after the close of the proceedings, the Hearing Examiner will provide to the parties a report summarizing the evidence presented together with proposed findings of fact, conclusions of law and a recommended decision on the merits as well as a recommended penalty, if applicable. Within thirty (30) calendar days after mailing of the report and recommendation to the parties, either party may file a response to the Hearing Examiner's report and/or recommendation. The Board will meet on a date scheduled thereafter, having first reviewed the record, and deliberate in closed session. The Board shall decide and announce in open session whether to adopt, modify, or reject the recommendations of the Hearing Examiner and shall thereafter issue its written decision.*"
7/10/08	Rule XVI, Section 9	Delete overstrikes to the existing language as follows: "At the time of the appeal hearing, each party shall have an opportunity to make an opening statement ~~not to exceed two (2) minutes in length~~. The department shall present evidence first, with the appellant to be given the opportunity to present evidence thereafter."
7/10/08	Rule XVI, Section 11	Add language in italics and delete overstrikes to existing language as follows: "Each party ~~shall have no more than thirty (30) minutes~~ *may be limited to a reasonable amount of time* to present its case, exclusive of opening and closing statements and cross examination by opposing party. The Board shall ~~have the right to~~ expand these time limits only if it deems additional time to be necessary."
7/10/08	Rule XVI, Section 12	Add language in italics and delete overstrikes to existing language as follows: "After all witnesses have testified, each party may make a *closing* statement ~~not to exceed two (2) minutes in length~~ outlining what the party believes is shown in the record."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XV, Section 3	Insert the following language at the beginning of existing Section 3: "A department member shall be given any exculpatory evidence in the Chief's possession related to the discharge or suspension at the same time that service of an appealable disciplinary order is made."
7/10/08	Rule XV, Section 5 (a)	Delete the existing subsection (a) and number the existing first paragraph as subsection (a).
7/10/08	Rule XV, Section 5 (b)	Add language in italics and delete overstrikes to existing language as follows: "~~If appellant or counsel for appellant waives statutory time limits for the setting of a date for trial pursuant to Section 62.50(14) Wis. Stats., t~~*T*he Board shall *also* serve appellant or appellant's counsel of record, and the Chief of the department or the Chief's counsel, with a Scheduling Order ~~setting a pretrial hearing within~~ ~~thirty (30)~~ ~~calendar days and a trial date within sixty (60) calendar days of the date of the Scheduling Order~~ *fixing the time and place of the trial not less than sixty (60) days nor more than 120 days after service of the notice to the member. The Scheduling Order shall also set a pretrial date not less than seven (7) days prior to the trial date*."
7/10/08	Rule XV, Section 5 (c)	Delete overstrikes to existing language as follows: "~~Section 62.50(16) Wis. Stats. grants each party the right to one (1) adjournment of the trial without the need to show cause, and the first such request from each party which is received by the Board or its designated Hearing Examiner shall be granted.~~ Any ~~subsequent~~ request for adjournment of a scheduled trial from each party must be in writing, stating the specific reason(s) that a party will not be able to proceed on the scheduled date, and that the reason(s) for such inability are beyond the control of the party making such request. Failure to make all reasonable attempts to be prepared, or to ascertain the availability of prospective witnesses, will result in denial of the request absent a showing that such failure was beyond the control of the party requestor. Efforts will be made to accommodate the schedules of the parties, attorneys, and prospective witnesses. Requests for adjournment which appear to be due to failure to prepare or merely for the purpose of further delaying the trial shall be denied. Absent an express waiver by both parties, no adjournment of trial shall exceed fifteen (15) calendar days except as may be deemed necessary by the Hearing Examiner."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XV, Section 6 (a)	Remove subsection (a) designation. Add language in italics and delete overstrikes to existing language as follows: "Within ~~ten (10)~~ *fifteen (15)* calendar days after an appeal is filed, the department shall supply appellant or appellant's counsel of record with a list of witnesses intended in good faith to be called to prove the allegations contained in the complaint, ~~and~~ copies of all reports, summaries of reports, witness statements, and summaries of witness statements which the department intends to rely upon to support its case~~, together with any and all documents which are exculpatory in nature~~. A cover letter identifying each such document sequentially, and a brief description and the number of pages contained in each such document, shall also be supplied to appellant or counsel for appellant. A copy of the list of witnesses and exhibits, and the aforementioned cover letter, shall be filed with the Board within ~~ten (10)~~ *fifteen (15)* calendar days after an appeal is filed. Copies of the aforementioned documents need not be filed with the Board until time of trial."
7/10/08	Rule XV, Section 6 (b)	Delete in its entirety as follows: "~~If the department believes that good cause exists to limit the documentation required to be supplied pursuant to Section 6 (a) above, a written request shall be filed with the Board and a copy supplied to appellant within ten (10) calendar days after an appeal is filed. Any such request shall, with as much specificity as is possible, identify those documents which the department believes should not be supplied and/or the limitations which are sought, together with the reasons therefore. Appellant shall have ten (10) calendar days thereafter to file a response. The Board's designated Hearing Examiner may rule on any request for limitations based solely upon the written submission(s) or, if deemed necessary, schedule a hearing and/or in camera inspection of those documents sought to be withheld. General or "blanket" requests for limitations, or those which are not supported by specific reasons for limitations which pertain to the specific case, may be summarily denied. The decision of the Hearing Examiner shall be reduced to writing. Either party may appeal the Hearing Examiner's decision to the Board by filing, within ten (10) calendar days of that decision, a written statement or brief of not more than three (3) typed pages setting forth specific reasons as to why the Hearing Examiner's decision should be overturned. The decision of the Board shall be reduced to writing and shall be final.~~"

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XV, Section 7 (a)	Remove subsection (a) designation. Add language in italics and delete overstrikes to existing language as follows: "~~If appellant or counsel for appellant waives statutory time limits for the setting of a date for trial pursuant to Section 62.50(14) Wis. Stats., a~~*A*ppellant shall file with the Board within ~~forty (40) calendar days after an appeal is filed, but in no case less than thirty (30)~~ *fifteen (15)* calendar days after receipt of the discovery from the department as required by Section 6 (a) above, the following: (i) a written response to the complaint which is signed by the appellant or, in the alternative, signed by appellant's legal counsel, and (ii) a list of witnesses intended in good faith to be called, and exhibits intended to be introduced, to refute the allegations contained in the complaint. Copies of the aforementioned list of proposed witnesses and exhibits shall also be provided to opposing counsel, together with complete and accurate copies of all listed exhibits. Copies of exhibits need not be filed with the Board until time of trial."
7/10/08	Rule XV, Section 7 (b)	Delete in its entirety as follows: "~~If appellant has not waived statutory time limits for trial pursuant to Section 62.50(14) Wis. Stats, the aforementioned witness and exhibit lists shall be filed with the Board and supplied to opposing counsel, together with complete and accurate copies of all listed exhibits, within twenty (20) calendar days after an appeal is filed, but in no case less than ten (10) calendar days after receipt of the discovery from the department as required in Section 6 (a) above. Copies of exhibits need not be filed with the Board until time of trial~~"
7/10/08	Rule XV, Section 8	Add language in italics and delete overstrikes to existing language as follows: "Within ~~twenty (20) calendar days after an appeal is filed, but in no case less than ten (10)~~ *fifteen (15)* calendar days after receipt of the discovery from the department as required by Section 6 (a) above, appellant shall also file with the Board any procedural motions and/or challenges related to the jurisdiction of the Board, admissibility of evidence, the form or sufficiency of the complaint or the charges outlined therein, the timeliness of the proceedings, or the sufficiency of discovery received from the department. The department shall have ~~ten (10)~~ *fifteen (15)* calendar days thereafter to file a written response. The Board's designated Hearing Examiner may rule on any such motion and/or challenges based solely upon the written submission(s) or, if deemed necessary, schedule a hearing for the purpose of receiving

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XV, Section 8	additional input from the parties on the issue(s) raised. The decision of the Hearing Examiner on any such issue shall be reduced to writing. Either party may appeal the Hearing Examiner's decision to the Board by filing, within ten (10) calendar days of that decision, a written statement or brief of not more than three (3) typed pages setting forth specific reasons as to why the Hearing Examiner's decision should be overturned. The decision of the Board shall be reduced to writing and shall be final."
7/10/08	Rule XV, Section 9	Delete overstrikes to existing language as follows: "A pretrial shall be scheduled and conducted in each case for the purpose of attempting final settlement efforts, completing any remaining exchange of documents, and narrowing the issues to be addressed at time of trial via stipulations as to matters which are not in dispute. The Hearing Examiner may require one or the other party to prepare a written stipulation pertaining to those issues which are agreed upon and need not be proven at time of trial. Each party shall appear at the pretrial fully aware of the availability of all prospective witnesses on the scheduled trial date, and issues regarding such availability shall be raised at time of pretrial. ~~If a request for an adjournment of the trial pursuant to Section 62.50(16) Wis. Stats. has been made, or if such a request is made at time of pretrial, the parties shall attempt to reschedule the date of trial~~."
7/10/08	Rule XV, Sections 10 through 16	Renumber Sections 10 through 16 as Sections 12 through 18.
7/10/08	Rule XV, Section 10	Add new Section 10 as follows: "Absent an express written waiver by both parties, all appeal trials shall be scheduled and commenced not more than 120 days after service of the complaint upon the appellant or appellant's counsel of record pursuant to Section 5(a) above."
7/10/08	Rule XV, Section 11	Add new Section 11 as follows: "The trial of any appeal pursuant to this rule may be conducted before the full Board or a panel of not less than three (3) members of the Board or a Hearing Examiner assigned to act on behalf of the Board in their absence pursuant to Section 19 below."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/10/08	Rule XV, Section 12	Delete overstrikes to newly renumbered Section 12 as follows: "At time of trial, each party shall have an opportunity to make an opening statement ~~not to exceed two (2) minutes in length~~. The department shall present evidence first, with the appellant to be given the opportunity to present evidence thereafter."
7/10/08	Rule XV, Section 14	Add language in italics and delete overstrikes to newly renumbered Section 14 as follows: "Each party ~~shall have no more than sixty (60) minutes~~ *may be limited to a reasonable amount of time* to present its case, exclusive of opening statement, closing statement and cross examination by opposing party. The Board shall ~~have the right to~~ expand these time limits only if it deems additional time to be necessary."
7/10/08	Rule XV, Section 16	Add language in italics and delete overstrikes to newly renumbered Section 16 as follows: "After all witnesses have testified, each party may make a *closing* statement ~~not to exceed two (2) minutes in length~~ outlining what that party believes is shown in the record."
7/10/08	Rule XV, Section 19	Create Section 19 as follows: "In those cases where a Hearing Examiner is authorized to conduct the trial of a disciplinary appeal pursuant to this rule without the necessity of the Board being present, the trial will be videotaped and a transcript prepared by a stenographic reporter. Procedural and evidentiary provisions governing trials before the Board or a panel thereof, as outlined in Sections 12-17 above, will apply before the Hearing Examiner to the extent practical and applicable. Within thirty (30) days after the close of the proceedings, the Hearing Examiner will provide to the parties a report summarizing the evidence presented together with proposed findings of fact, conclusions of law and a recommended decision on the merits, as well as a recommended penalty, if applicable. Within thirty (30) calendar days after mailing of the report and recommendation to the parties, either party may file a response to the Hearing Examiner's report and/or recommendation. The Board will meet on a date scheduled thereafter, having first reviewed the record, and deliberate in closed session. The Board shall decide and announce in open session whether to adopt, modify, or reject the recommendations of the Hearing Examiner and shall thereafter issue its written decision."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	Rule and Section	Amendment
10/2/08	Rule V, Section 4	Amend Section 4 by deleting the title "Computer Operator II" and adding the titles "Helpdesk Specialist I, II."
12/4/08	Rule I, Sections (c) and (e)	Delete these sections in their entirety regarding the Supervisor of Examinations and Public Relations Officer and renumber the remaining sections.
12/4/08	Rule III, Section 2	Delete current Section 2 and replace with the following language: "A majority of the members-elect of the Board shall constitute a quorum necessary for the transaction of business. However, a 3-member panel of the Board may conduct and decide by majority vote a trial concerning a disciplinary appeal pursuant to section 62.50(12) Wis. Stats. and FPC Rule XV or XVI and may hear and decide by majority vote charges regarding a complaint filed by an aggrieved person pursuant to section 62.50(19) Wis. Stats. or Milwaukee City Charter section 22-10 and FPC Rule XVII."
12/4/08	Rule V, Section 2	Delete the position title "Fire Cadet".
12/4/08	Rule VI, Section 5 (c)	Delete the entire subsection (c) regarding Fire Cadet qualifications.
12/4/08	Rule VI, Section 6 (b)	Delete the words "and Fire Cadet".
12/4/08	Rule VI, Section 7	Delete the words "Fire Cadet".
12/4/08	Rule X, Section 1 (a)	Delete the language after the first sentence and add additional language so the section now reads as follows: "After an examination, an eligible list shall be prepared containing the names of the candidates in the order of their relative ranking. Eligible lists remain in effect for two (2) years or as otherwise determined by the Board unless exhausted, rescinded, abolished or extended by formal action of the Board."
12/4/08	Rule XI, Section 12	Delete this section in its entirety and renumber the remaining sections.
12/4/08	Rule XIV, Section 4	Amend Section 4 to read as follows: "Any newly hired member of the Fire Department or Police Department who believes it may be necessary to request an extension of the time period for establishing residency, or any other member who believes it may be necessary to request a temporary exemption from the residency requirement, shall file such request in writing with the Fire and Police Commission, together with copies of all supporting documentation, at least thirty (30) calendar days prior to the date on which the extension or temporary exemption is anticipated to

Date Approved	Rule and Section	Amendment
12/4/08	Rule XIV, Section 4	begin. Failure to file the request on a timely basis, absent extraordinary circumstances, shall be grounds for denial. The requestor shall forward a copy of the request to the Chief of the respective department."
12/4/08	Rule XIV, Section 7	In the first sentence, delete the words "and recommendation" so that it reads as follows: "Upon receipt of a request and appropriate supporting documentation, the request shall be referred to Fire and Police Commission staff for investigation and preparation of a report to be submitted to the Board."
12/4/08	Rule XIV, Section 8	Amend Section 8 to read as follows: "The Board shall not be limited to information supplied by the requestor. Staff may seek and obtain additional information which is relevant to the request. Upon completion of its investigation, staff shall prepare a written report. Copies of any additional information obtained by staff, along with a copy of the report to the Board, shall be supplied to the requestor."
12/4/08	Rule XIV, Section 9	Amend Section 9 to read as follows: "The Board shall review the request, supporting documentation, and the report of staff prior to making its decision at a public meeting with the understanding that the report is conclusive and should be adopted unless good cause to the contrary is shown. The employee requesting the extension or temporary exemption shall be notified of the meeting and invited to address the Board. Board members may pose questions to the employee. A roll call vote will be taken on the request. The decision of the Board may be to grant the request as made, or grant the request with modifications, or deny the request in whole or in part. The decision of the Board will be reduced to writing and a copy forwarded to the employee and the respective Department within ten (10) calendar days of the vote by the Board."
7/16/09	Rules XV and XVI	Delete both rules in their entirety and recreate as new Rule XVI as follows: "<u>TRIAL PROCEDURES.</u> Section 1. PURPOSE. These procedures apply to citizen complaints and disciplinary appeals by sworn and non-sworn Fire or Police Department personnel. Section 2. JURISDICTION. (a) Any member who is served with an appealable order of discipline shall, at the same time that service of the appealable disciplinary order is made, receive any

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	exculpatory evidence in the Chief's possession related to the discharge, demotion or suspension. (b) Sworn, non-probationary members of the Police Department who are discharged, demoted or suspended without pay for a period of more than five (5) eight-hour working days may appeal such discipline to the Board. (c) Sworn, non-probationary members of the Fire Department who are discharged, demoted or suspended without pay for a period of more than two (2) twenty-four-hour working days, or more than five (5) eight-hour working days may appeal such discipline to the Board. (d) Non-sworn (civilian), non-probationary, non-exempt full-time members of the Fire Department or the Police Department who are discharged, demoted or suspended without pay for more than fifteen (15) working days may appeal such discipline to the Board. Any employee subject to a collective bargaining agreement that provides final and binding arbitration as an alternative method of hearing disciplinary matters may elect either the alternative method or a hearing before the Board. If the employee elects final and binding arbitration, the right to a hearing before the Board will be deemed to have been permanently waived. (e) Citizen complaints that are referred for trial by the Executive Director pursuant to Rule XV shall utilize the procedures of Sections 7 through 14 below to the extent applicable. A copy of the FPC investigation may be provided to the complainant and member. Upon request by the complainant, the Board or Hearing Examiner may allow a complainant to be represented by an advocate for any part of the proceedings. Section 3. APPEAL. Within ten (10) calendar days after service of a disciplinary order which is appealable to the Board, the department member so disciplined may file with the Board a written notice of appeal utilizing the following form:

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	To the Honorable Board of Fire and Police Commissioners: Please take notice that I appeal the order/decision of the (Fire Chief or Police Chief) (discharging or demoting or suspending) me from the (Fire or Police) Department pursuant to (MFD or MPD) Order No. _____ dated (Month and Date and Year). Dated this _____ day of _____, 20 _____ . _____ Signature _____ Print Name, Address & Phone Number of Appellant and/or Legal Counsel Section 4. NOTICE OF COMPLAINT. Within two (2) calendar days after service of an appealable disciplinary order upon a department member, the department shall file with the Board a copy of the disciplinary order and a signed complaint outlining the specific conduct which serves as the basis for each rule violation alleged. Section 5. SERVICE OF COMPLAINT. Within five (5) calendar days after an appeal is filed, the Board shall serve appellant with a copy of a Notice of Complaint indicating the department rule that is alleged to have been violated, a copy of the complaint, and notification of a trial date scheduled pursuant to Wis. Stat. §62.50(14). Service by mail upon appellant's counsel of record shall be deemed sufficient to satisfy this requirement. Section 6. SCHEDULING ORDER. The Board shall serve appellant and the Chief of the department with a Scheduling Order fixing the time and place of the trial not less than sixty (60) days nor more than one hundred and twenty (120) days after service of the notice to the member, a pretrial date not less than seven (7) days prior to the trial date, and time limitations for discovery and motions.

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	Section 7. PRETRIAL. A pretrial shall be conducted to complete any remaining discovery and narrow the issues to be addressed at time of trial. The Hearing Examiner may require a party to prepare a written stipulation of issues which are agreed upon and need not be proven at time of trial. Section 8. ADJOURNMENT. A request for adjournment shall be in writing. The request shall state the specific reason(s) that a party will not be able to proceed on the scheduled date, and that the reason(s) for such inability are beyond the control of the party making such request. Absent an express waiver by both parties, no adjournment shall exceed fifteen (15) calendar days except as deemed necessary by the Hearing Examiner. Section 9. TRIAL BEFORE A HEARING EXAMINER. (a) The Hearing Examiner is authorized to conduct trials without the Board being present. (b) Trials will be videotaped, and the procedural and evidentiary provisions governing trials before the Board will apply to trials before the Hearing Examiner to the extent applicable. (c) Within thirty (30) days after the close of any trial conducted before the Hearing Examiner, parties will be provided with copies of the transcript, videotape, exhibits, report summarizing the evidence presented, proposed findings of fact, recommended decision on the merits, and recommended penalty, if applicable. (d) Within thirty (30) calendar days after mailing of the report and recommendation to the parties, either party may file a response to the Hearing Examiner's report and recommendation. (e) The Board will convene in closed session to review the record. The Board shall make a final determination and may adopt or modify, in whole or in part, the proposed findings and recommendations of the Hearing Examiner.

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	Section 10. TRIAL BEFORE THE BOARD. (a) A Hearing Examiner may assist at trials before the Board, and is authorized to make rulings on all legal and procedural matters that arise during the trial. (b) Any witness may testify regarding matters about which the witness has personal knowledge and which are sufficiently related to issues before the Board. (c) The Board may limit the calling of witnesses or the taking of testimony which appears to be cumulative or lacking sufficient relevance. (d) The Board may question any witness called by either party during the hearing. (e) The Board or parties may subpoena witnesses. (f) A written decision will be signed by Board members who participated in the decision within ten (10) days after such decision is rendered and will be forwarded to each of the parties. Section 11. TESTIMONY. (a) Trials are quasi-judicial proceedings intended to secure the facts in as direct and simple a manner as possible. Wisconsin Rules of Evidence controlling civil cases will apply, but the Hearing Examiner may relax the rules of evidence to assure that relevant facts are elicited during the trial. Hearsay evidence, including any documents from an investigation relating to the charges being tried, may be admitted provided such evidence is probative. All trials are open to the public. Witnesses may be sequestered at the request of either party, or upon direction of the Board or the Hearing Examiner. The Board or Hearing Examiner may adjourn the trial to take additional evidence.

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	(b) In a citizen complaint trial the obligation to proceed and present evidence first is on the complainant, with the accused department member thereafter being given an opportunity to respond. (c) In a disciplinary appeal the obligation to proceed and present evidence first is on the department, with the appellant thereafter being given an opportunity to respond. (d) Prior to taking evidence, each party shall be given an opportunity to make an opening statement outlining what that party believes the evidence to be presented will show. (e) Either party may call the other as a witness adversely, and may cross-examine the other party and that party's witnesses when they testify voluntarily. The Board and the Hearing Examiner may question any witness called by either party. (f) At the close of testimony each party may make a closing statement outlining what that party believes the testimony and evidence shows. Section 12. BURDEN OF PROOF. (a) <u>Non-sworn Employee Disciplinary Appeals</u> The Board must find that a preponderance of the evidence exists to sustain the charge(s). (b) <u>Citizen Complaints and Sworn Member Disciplinary Appeals</u> The Board must find by a preponderance of the evidence that there is just cause to sustain the charge(s). In determining whether or not there is just cause to sustain the charge(s) the Board shall apply the following standards, to the extent applicable, pursuant to Wis. Stat. §62.50(17)(b): 1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	2. Whether the rule or order that the subordinate allegedly violated is reasonable. 3. Whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order. 4. Whether the effort described under subd. 3. was fair and objective. 5. Whether the Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate. 6. Whether the Chief is applying the rule or order fairly and without discrimination against the subordinate. 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. Section 13. TRIAL PROCEDURE-COMPLAINT NOT SUSTAINED. If the Board determines that the burden of proof has not been met, the matter will immediately be dismissed and proceedings terminated. Section 14. TRIAL PROCEDURE-COMPLAINT SUSTAINED. If the Board sustains a finding of one or more rule violations, evidence may then be received regarding the member's character, work record, and the impact of the misconduct on the complainant, department, and community. The Board may deliberate in closed session in order to determine whether the good of the service requires that the appellant be: (a) permanently discharged; or

Date Approved	Rule and Section	Amendment
7/16/09	Rules XV and XVI	(b) suspended without pay for a period to be determined by the Board; or (c) demoted to a lower rank; or (d) participate in policy training.”
7/16/09	Rule XVII	Delete in its entirety and recreate as new Rule XV as follows: “<u>CITIZEN COMPLAINT PROCEDURE.</u> Section 1. PURPOSE. The citizen complaint procedure addresses misconduct alleged to have been committed by Fire or Police Department members. The FPC utilizes the Citizen Complaint Intake Investigation Guidelines to receive, evaluate and administer the complaint process. All complaints will be addressed swiftly, consistently and fairly for both complainants and department members. Section 2. COMPLAINT. A complaint may be initiated by mail, email, telephone, website, or in person. Prior to referral for resolution, the complainant must sign the complaint and affirm that all information in the complaint is true and correct to the best of the complainant’s knowledge. Section 3. INVESTIGATION. FPC staff will conduct an investigation of every complaint received. All complaints will be fully and fairly investigated. The investigation will be conducted in accordance with the FPC Citizen Complaint Intake Investigation Guidelines and applicable department standard operating procedures. Section 4. REFERRAL. The Executive Director, within ten (10) days after receiving the results of the investigation, will refer the complaint for resolution in accordance with the FPC Citizen Complaint Intake Investigation Guidelines utilizing one of four methods: rapid resolution complaint inquiry, trial, dismissal or mediation. Section 5. RESOLUTION. Complaints will be resolved by the following methods:

Date Approved	Rule and Section	Amendment
7/16/09	Rule XVII	(a) RAPID RESOLUTION COMPLAINT INQUIRY. 1. A Rapid Resolution Complaint Inquiry (RRCI) is a complaint filed with the FPC and then forwarded to the department for quick resolution. The complainant is questioning the actions of an employee of the Fire or Police Department concerning a matter that does not, on its face, appear to be a violation of a department rule. 2. The department that receives a RRCI referral will follow its applicable standard operating procedures to resolve the complaint. 3. The Executive Director will review the completed RRCI. (b) TRIAL. Trials will be conducted in accordance with FPC Rule XVI Trial Procedures. (c) DISMISSAL. The complainant will be advised in writing of the reason(s) for the dismissal. A complainant may, within thirty (30) days after the date of the notice of dismissal, request in writing that the dismissal be reviewed by the Board. (d) MEDIATION. Mediation is the process in which both the complainant and employee agree to resolve a complaint with the assistance of a neutral mediator. Information disclosed during a mediation session is confidential and cannot be used in any subsequent proceeding. When making a referral to mediation, the Executive Director will consider whether mediation is likely to result in greater complainant satisfaction; improve citizen understanding of department procedures and actions; result in improved employee conduct; or contribute to increased community relations. Normally a complaint will not be referred to mediation if the case involves an allegation of criminal conduct against an employee, use of force involving bodily

Date Approved	Rule and Section	Amendment
7/16/09	Rule XVII	injury, or if the employee is a witness against the complainant in a court proceeding. <u>Procedure</u>: 1. Complaint is received by an FPC investigator, and a complaint number is assigned. 2. The FPC investigator conducts an initial review and forwards to the Executive Director. 3. The Executive Director makes the determination to refer the complaint to the mediation resolution process. 4. Complainant and employee(s) are contacted and confirm they are willing to participate in the mediation process. 5. Complaint is scheduled for mediation conducted by mediator. 6. Mediation session is conducted at a neutral location. 7. Complainant and employee(s) acknowledge resolution of the complaint, or the mediator certifies that the employee participated in the mediation session. 8. Complaint is dismissed. Section 6. COMPLAINTS FILED WITH THE FIRE OR POLICE DEPARTMENT. The Executive Director shall audit internal Police and Fire Department investigations. The Executive Director shall review a complaint investigation when a citizen is dissatisfied with the outcome of an investigation that has been completed by the Police or Fire Department.”
7/16/09	Rule III, Section 2	Delete current language and replace with the following: “Section 2. A majority of the members-elect of the Board shall

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
7/16/09	Rule III, Section 2	constitute a quorum for the purpose of conducting business and making decisions, provided, however, that pursuant to section 62.50(1h), a 3-member panel of the Board may conduct and decide by majority vote disciplinary appeal trials and citizen complaint trials as described in section 62.50 Wis.Stats. and elsewhere in these Fire and Police Commission rules."
3/4/10	Rule V, Section 2	Add the titles "Fire Education Specialist", "Fire Technical Services Manager", "Network Coordinator-Senior", and "Painter".
3/4/10	Rule V, Section 2	Delete the titles "Administrative Assistant II", "Information Technology Specialist", "Information Technology Manager – MFD", and "Physician, Fire".
3/18/10	Rule XIII, Section 3	Amend language as follows: "Any former member of either department who was discharged or resigned while departmental charges were pending **is not eligible for reappointment and** must qualify for **a new** ~~re~~appointment through competitive examination."
3/18/10	Rule XIII, Section 4	Amend language as follows: "Any former member of the Police Department who separated from the department as a result of being decertified as a law enforcement officer by the Wisconsin Law Enforcement Standards Board **is not eligible for reappointment and** must qualify for **a new** ~~re~~appointment through competitive examination ~~and may attempt to do so at any scheduled examination for Police Officer~~. **If the decertification is for failure to achieve the college credit requirement, the former member must fulfill the requirement prior to application for appointment through competitive examination.**"
5/20/10	Rule IV, Sections 3-5	Number existing Sections 3 through 5 to 4 through 6. Add new Section 3 as follows: "The Board shall be provided with any modification of a standard operating procedure, standard operating guideline, or other directive affecting the policies and standards of the Fire or Police Departments, in writing at least fifteen (15) calendar days prior to its anticipated effective date."
6/3/10	Rule XV, Section 4	Amend language as follows: "REFERRAL. The Executive Director, within ten (10) days after receiving the results of the investigation, will refer the complaint for resolution in accordance with the FPC Citizen Complaint Intake Investigation Guidelines utilizing one of ~~four~~ **five** methods: rapid resolution complaint inquiry, trial, dismissal**,** ~~or~~ mediation**, or policy training**."

APPENDIX – Amendments to Fire and Police Commission Rules

Date Approved	**Rule and Section**	**Amendment**
6/3/10	Rule XV, Section 5	Add new subsection (e) as follows: "POLICY TRAINING. The Executive Director may require a member to participate satisfactorily in a specified policy training program."
9/16/10	Rule XIV, Section 10	Add new Section 10 as follows: All employees of the Fire Department and Police Department shall complete a "Residency Requirement Compliance Certification" in a form approved by the Board. A new certification shall be completed within 72 hours of a change in residence. Each certification shall be maintained and reviewed by the respective department.
9/16/10	Rule XIV, Section 11	Add new Section 11 as follows: "Any employee of the Fire Department or Police Department that uses living quarters outside the corporate limits of the City of Milwaukee on a regular or frequent basis, excluding a vacation property or cottage, shall indicate with particularity such usage when completing the "Residency Requirement Compliance Certification." Any employee with questions as to whether their current living arrangement complies with Section 5.02 of the City Charter shall contact their department supervisor prior to completing the certification form."
1/6/11	Rule V, Section 4	Exempt the position of Police Budget and Administration Manager (add an "E" after the title).
5/19/11	Rule V, Section 4	Exempt the position of Communication Systems Manager (add an "E" after the title).
7/28/11	Rule VI, Section 4 (b)	Amend the language in subsection (b) to add the words "or Fire Cadet" after the words "Police Aide" everywhere the words "Police Aide" appear.
7/28/11	Rule VI, Section 5 (a)	Amend the language to add the words "and Fire Cadet" as follows: "Every applicant for Police Officer, Police Aide, Firefighter and Fire Cadet must be a graduate of an accredited high school or possess a G.E.D. or a high school equivalency certificate which conforms to standards established by the State of Wisconsin for a high school equivalency certificate, by such time as determined by the Board."
7/28/11	Rule VI, Section 6 (c)	Amend the language in subsection (c) to add the words "or Fire Cadet" after the words "Police Aide" everywhere the words "Police Aide" appear.
7/28/11	Rule VI, Section 7	Amend the language to add the words "Fire Cadet" after "Firefighter".
7/28/11	Rule VIII, Section 6 (f)	Amend the language to add the words "Fire Cadet" after the words "Police Aide".

7/28/11	Rule XI, Section 2 (c)	Renumber existing subsection (c) to (d) and amend the language to read as follows: "Graduates of the Police Aide or Fire Cadet program will have precedence of appointment to the position of Police Officer or Firefighter in their respective department."
7/28/11	Rule XI, Section 2 (b)	Renumber existing subsection (b) to (c) and add the words "or Fire Cadet" after the words "Police Aide" everywhere the words "Police Aide" appear.
7/28/11	Rule XI, Section 2 (b)	Insert a new subsection (b) as follows: "A Fire Cadet shall be eligible for appointment to Firefighter upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Fire Cadet program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a course of instruction approved by the Assistant Chief overseeing the Bureau of Instruction and Training or their designee, together with the concurrence of the FPC Director, and; successfully passing a Firefighter physical ability test, medical examination, updated psychological evaluation, drug screen test, and updated background investigation."
7/28/11	Rule XI, Section 14	Insert a new Section 14 as follows: "Any member that currently occupies a sworn position identified in Rule V Classifications Sections 1 and 3, and is in good standing without any department charges pending, may request appointment to any vacant non-sworn position identified in Rule V Classifications Sections 2 and 4 for which they are qualified, upon recommendation of the Chief. Qualifications and examinations for such appointment shall be determined by the Board."
7/28/11	Rule XIII, Section 6	Insert a new Section 6 as follows: "Any sworn member of either department that accepts an appointment to a non-sworn position is not eligible for reappointment to a sworn position and must qualify for a new sworn appointment through competitive examination."
9/15/11	Rule XVI, Section 2 (d)	Amend language as follows: "Non-sworn (civilian), non-probationary, non-exempt full-time members of the Fire Department or the Police Department who are discharged, demoted or suspended without pay for more than ~~fifteen (15)~~ **five (5)** working days may appeal such discipline to the Board. Any ~~employee~~ **member** subject to a collective bargaining agreement that provides final and binding arbitration as an alternative method of hearing disciplinary matters may elect either the alternative method or a hearing before the Board. If the ~~employee~~ **member** elects final and binding arbitration, the right to a hearing before the Board will be deemed to have been permanently waived.

APPENDIX – Amendments to Fire and Police Commission Rules

1/5/12	Rule V, Section 1	Amend the language by deleting "Administrative Captain – EMS (E)" and Paramedic Field Lieutenant (E)".
1/5/12	Rule V, Section 2	Amend the language by adding "Fire Medical Officer (E)" and deleting "Audiovisual Specialist I", "Fire Education Specialist", "Management and Accounting Officer", and Office Assistant I".
9/20/12	Rule XI, Section 2(a)	Amend the language by adding the language in bold type as follows: "A Police Aide shall be eligible for appointment to Police Officer upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Police Aide program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a specified course of instruction approved by the Assistant Chief overseeing the Training Bureau or their designee, together with the concurrence of the FPC Director, and; **successfully passing the Physical Ability Test (PAT), and;** successfully passing a Police Officer medical examination, psychological evaluation, drug screen test, and updated background investigation."
12/6/12	Rule VI, Section 5 (a) and (b)	Modify Section 5 (a), change (b) to (c), and insert new (b), adding language in italics and deleting overstrikes to existing language as follows: "(a) Every applicant for Police Officer~~, Police Aide,~~ and Firefighter ~~and Fire Cadet~~ must *either* be a graduate of an accredited high school, ~~or~~ possess a G.E.D., or *possess* a high school equivalency certificate which conforms to *the* standards established by the State of Wisconsin for a high school equivalency certificate, by such time as determined by the Board. "(b) *Every applicant for Police Aide and Fire Cadet must be a graduate of an accredited high school with a cumulative GPA of 2.0 by such time as determined by the Board.* "(c) Police Officer applicants must meet all educational requirements for Police Officer applicants established by the State of Wisconsin Law Enforcement Standards Board."
7/11/13	Rule V, Section 1	Amend language by deleting "Paramedic Field Lieutenant" and add "Battalion Chief, Fire-EMS (E)".
7/11/13	Rule V, Section 2	Amend language by deleting "Audiovisual Specialist II" and add "Fire Cadet", "Media Specialist" and "Program Assistant II".
11/7/13	Rule V, Section 4	Amend language by deleting "Public Relations Manager (E)" and adding "Media Producer (E)".
2/6/14	Rule V, Section 4	Amend language by adding the title "Crime Analyst (E)".

APPENDIX – Amendments to Fire and Police Commission Rules

7/24/14	Rule V, Section 4	Amend language by adding "(E)" to "Data Communications Specialist".
12/3/15	Rule V, Section 4	Amend language by adding "(E)" to "Database Analyst" and "IT Support Specialist-Senior".
1/21/16	Rule V, Section 4	Amend language by adding "(E)" to "Emergency Communications Manager".
3/3/16	Rule III, Section 7	Renumber existing Section 7 to Section 8. Insert new Section 7 to read as follows: "A consent agenda may be presented by the Executive Director as an item on the regular meeting agenda. Items may be removed from the consent agenda upon the request of any one Commissioner. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda or placed later on the regular meeting agenda at the discretion of the Chair."
3/17/16	Rule V, Section 2	Amend language by adding the title "Athletic Trainer (E)".
9/15/16	Rule V	Update Sections 1-4 with current position titles, exempt and emergency personnel designations.
9/15/16	Rule V, Section 6	Add new Section 6 to read: "Positions in Sections 2 and 4 above which are designated with "(EP)" shall be considered emergency personnel pursuant to Wis. Stat. Sec. 66.0502 (4(b)."
9/15/16	Rule XIV, Sections 1-11	Modify Sections 1 thru 9, delete Section 10 and renumber Section 11 to Section 10.
12/5/16	Rule V, Section 3	Add "(E)" after the title "Chief Latent Print Examiner."