

**CITY OF SUPERIOR
POLICE AND FIRE COMMISSION RULES
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ARTICLE I - ORGANIZATION OF THE SUPERIOR POLICE AND FIRE COMMISSION

(Last Updated May 2018)

§ 100. Establishment of the Police and Fire Commission.

The Superior Police and Fire Commission is a “Police and Fire Commission” as provided for in §62.13 of the Wisconsin Statutes.

§ 101. Powers of the Commission.

The Commission exercises those powers specified in §62.13(1) - (12) of the Wisconsin Statutes pertaining to boards of police and fire commissioners, but it does not exercise the “optional powers” specified in §62.13(6) of the Statutes.

§ 102. Appointment of Commissioners.

The Commission is composed of five members appointed in accordance with §62.13(1) of the Wisconsin Statutes.

§ 103. Terms of Office.

- (1) Terms of Office. Terms of office for all Commission members shall be five years in duration.
- (2) Vacancies. Whenever a vacancy occurs during the term of office of a Commissioner, a new Commissioner shall be appointed to complete his or her predecessor’s term of office. The appointment shall be made in the same manner as original appointments are made.

§ 104. Officers of the Commission.

- (1) **President**
 - (a) Election. The Commission shall elect a President at the first meeting of the Commission that occurs after May 1st of each year. The President shall hold office until his or her replacement is duly elected by the Commission.
 - (b) Duties. The President of the Commission shall have the responsibility to:
 - (1) Set the agenda for Commission meetings, which shall include all items requested by any Commission member;
 - (2) Preside over Commission meetings;
 - (3) Preside over any disciplinary hearings involving the Chief or subordinate members over whom the Commission has jurisdiction and perform such other functions in the disciplinary process as are identified in Article VII of these Rules or in §62.13 of the Wisconsin Statutes;

- (4) Appoint Commission members to any committees that are created by the Commission from time to time;
 - (5) Approve all official correspondence of the Commission;
 - (6) Take such other action as is necessary to assure that the duties of the Commission are properly discharged, provided that such action is not inconsistent with these Rules or with the Wisconsin Statutes.
 - (2) **Vice President.**
 - (a) Election. The Commission shall elect a Vice President at the first meeting of the Commission that occurs after May 1st of each year. The Vice President shall hold office until his or her replacement is duly elected by the Commission.
 - (b) Duties. The Vice President of the Commission shall have the responsibility to:
 - (1) Preside at Commission meetings when the President is absent;
 - (2) Assume the responsibilities of the President when requested to do so by the President; and
 - (3) Perform such other Commission duties as requested by the President, provided that such duties are not inconsistent with these Rules or with the Wisconsin Statutes.
 - (3) **Secretary.**
 - (a) Election. The Commission shall elect a Secretary, who need not be a member of the Commission, at the first meeting of the Commission that occurs after May 1st of each year. The Secretary shall hold office until his or her replacement is duly elected by the Commission.
 - (b) Duties. The Secretary of the Commission shall have the responsibility to:
 - (1) Attend all meetings of the Commission, prepare the Minutes thereof for approval by the Commission.
 - (2) Prepare and publish official notices of Commission business, including meeting notices and agendas, as required by these Rules or by the Wisconsin Statutes;
 - (3) Assist the President in preparing and circulating Commission correspondence;
 - (4) Accept for filing all appointments of Commission members pursuant to §62.13(1) of the Wisconsin Statutes;
 - (5) Perform such other Commission duties as requested by the President,

provided that such duties are not inconsistent with these Rules or with the Wisconsin Statutes.

- (6) The Secretary may delegate any of these duties to a recording secretary with the approval of the Commission. This determination and subsequent delegation will formally occur each May.

(4) **Press Spokesperson.**

- (a) The Commission shall elect a press spokesperson, who need not be a member of the Commission at the first meeting of the Commission that occurs after May 1st of each year. The press spokesperson shall hold office until his or her replacement is duly elected by the Commission.
- (b) Duties. The press spokesperson shall have the responsibility to:
 - (1) Serve as public spokesperson for the Commission.
 - (2) Perform such other Commission duties as requested by the President, provided such duties are not inconsistent with these rules or with the Wisconsin Statutes.

§ 105. Address of the Commission.

All correspondence with the Commission, its officers, and its members shall be sent to the following address:

Superior Police and Fire Commission
c/o Human Resources Department
1316 N. 14th, Suite 301
Superior, WI 54880

§ 106. Service of Process on the Commission.

The Commission designates the Human Resources Director, whose offices are located at 1316 N. 14th Street, Suite 301, Superior as its agent to receive legal process addressed to the Commission or to any of its members in their official capacities, unless personal service of process is otherwise required by law.

§ 107. Rules of the Commission.

- (1) These Rules of the Commission shall govern the conduct of all business relating to the duties and responsibilities of the Commission and shall further apply to the positions of Police and Fire Chief and to all subordinate positions within the Police and Fire Departments that are under the jurisdiction of the Commission.
- (2) These Rules of the Commission and any amendments thereto shall take effect upon adoption by the Commission at a regular meeting thereof and shall remain in effect until such time as they are repealed and amended in whole or in part.

- (3) These Rules of the Commission are subject to the applicable provisions of state and federal law. It is the express intention of the Commission to comply with all applicable state and federal laws as they relate to hiring, promotion, discipline, and termination of Department members within the jurisdiction of the Commission.
- (4) Should any provision of these Rules be declared unlawful by a court of competent jurisdiction, all other provisions shall remain in full force and effect.

§ 108. Definitions.

Unless otherwise indicated, the following terms have the indicated meanings whenever they are used in these Rules:

- (1) **“President”** means the duly elected President of the Commission.
- (2) **“Chief”** means the person officially appointed by the Commission to the position of Police Chief or Fire Chief of the City of Superior and, in the event of a vacancy in the position of Police or Fire Chief, the person appointed by the Commission to serve as Acting Chief.
- (2) **“Commission”** means the Commission officially known as the Superior Police and Fire Commission.
- (3) **“Commissioner”** means a duly appointed member of the Superior Police and Fire Commission.
- (4) **“Department”** means the Superior Police or Fire Department.
- (5) **“Member”** means all personnel employed by the Superior Police or Fire Department, including the Chiefs, who are within the jurisdiction of the Commission.
- (6) **“Rules”** means the Rules of the Superior Police and Fire Commission.
- (7) **“Secretary”** means the duly elected secretary of the Commission.
- (8) **“Subordinate”** and **“subordinate member”** mean all personnel employed by the Superior Police and Fire Departments, except the Chiefs, who are within the jurisdiction of the Commission. As used in these Rules, the terms “subordinate” and “subordinate member” do not include non-firefighters and unsworn employees of the Police Department.
- (9) **“Vice President”** means the duly elected Vice-President of the Commission.

ARTICLE II - COMMISSION MEETINGS

(Last Updated November 2021)

§ 200. Schedule of Meetings.

- (1) The Commission shall meet at least annually during the month of May to elect a President, Vice President, Secretary and Press Spokesperson.
- (2) The Commission shall also meet at any time set by the Commission during an official business meeting, at the call of the President, or upon the written request of at least two members of the Commission.

§ 201. Location of Meetings.

The Commission meets at the City Council Chambers and at such other locations as specified in the Commission's public meeting notices.

§ 202. Notice of Meetings.

- (1) Public notice of every meeting shall be given at least twenty-four (24) hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two hours in advance of the meeting.
- (2) The notice of meeting shall be provided to each Commission member, the Human Resources Director, the Mayor, the City Council's Representative to the Commission, the Chiefs, the Superior Telegram, the Duluth News Tribune and to the designated representatives of the Police and Fire Department Labor Associations.
- (3) The notice of meeting shall be provided to those news media which have filed a written request for such notice and to any official newspapers designated under §§985.04, 985.05 or 985.06 of the Wisconsin Statutes or, if none exists, to a news medium likely to give notice in the area.
- (4) The notice of meeting shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.
- (5) The notice of meeting shall invite those who require special accommodations in order to attend the meeting to contact the President in advance so that reasonable accommodations can be made.

§ 203. Meeting Agenda.

- (1) The President shall set the agenda for each meeting and cause it to be included in the notice of meeting.
- (2) In setting the agenda the President shall include any item of business requested by any Commission member.

§ 204. Order of Business.

The ordinary order of business for most meetings of the Commission is as follows:

Call to Order
Roll Call
Consideration of Minutes of Previous Meeting(s)
Unfinished Business from Prior Meetings
New Business
Other Business Authorized by Law
Set Next Meeting Date
Adjournment

§ 205. Meetings Subject to Wisconsin Open Meetings Law.

Meetings of the Commission are open to the public and all business of the Commission shall be conducted in open session, except that the Commission may convene in closed session when duly authorized to do so pursuant to law and then only upon a motion to that effect that is carried in a roll call vote that is recorded in the Minutes. The motion shall specify the subject matters to be discussed in closed session and the statutory authority for considering them in closed session.

§ 206. Quorum.

A simple majority of the members of the commission physically and virtually present shall constitute a quorum for the transaction of any business at a meeting of the Commission. Virtual participants counting toward the quorum must maintain full aural communication during the meeting. The Chairperson/President or designee must be physically present to conduct the meeting.

§ 207. Vote Required to Take Action.

- (1) The act of a majority of the Commissioners present at a Commission meeting at which a quorum is present shall be the act of the Commission.
- (2) Only duly appointed members of the Commission may vote on matters at a Commission meeting.

- (3) Proxy voting is not permitted at Commission meetings.
- (4) Members joining the meeting via phone, Skype or other similar means are eligible to participate in the voting.

§ 208. Floor Privileges.

- (1) Only duly appointed members of the Commission shall have the right to speak at Commission meetings.
- (2) The Commission may, in its sole discretion, allow anyone else present at a Commission meeting to speak at the meeting and then only to the extent of and subject to any parameters established by the Commission.

§ 209. Rules of Order.

The then current edition of Robert's Rules of Order shall be the rules of order for the conduct of business at Commission meetings, unless otherwise provided by these Rules of the Commission or by the Wisconsin Statutes or unless the Commission waives those rules of order or specified provisions thereof for a particular meeting.

ARTICLE III - APPOINTMENT OF CHIEFS

(Last Updated July 2018)

§ 300. General Provisions.

The provisions of Article III shall govern the appointment of the Police Chief, Fire Chief, and, when necessary, Acting Chiefs.

§ 301. Recruitment and Appointment of Police Chief, Fire Chief, Acting Chiefs.

- (1) The Commission is vested under the Wisconsin Statutes 62.13 with the authority to appoint the Police Chief and the Fire Chief, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause.
- (2) Whenever there is a vacancy in the office of Chief, the Commission shall devise and implement a search process to recruit and appoint a Chief. The steps in the search process are, subject to applicable state and federal law, within the sole discretion of the Commission.
- (3) Whenever there is a vacancy in the office of Police Chief or the Fire Chief, the Commission may appoint an Acting Chief who shall perform the duties of the Chief until such time as he or she is removed by the Commission or until a new permanent Chief is appointed and takes office.

ARTICLE IV - PROMOTION PROCEDURES FOR THE FIRE DEPARTMENT

(Last Updated April 1998)

§ 400. General Provisions.

- (1) The provision of Article IV shall apply to promotions within the Superior Fire Department.
- (2) Position descriptions establishing duties, required knowledge and abilities are established by the Chief in consultation with the Human Resources Director and approved by the Human Resources Committee of the City Council.
- (3) All promotions are subject to a one (1) year probationary period. During this probationary period it shall be the responsibility of the Chief to rate the individual quarterly, on the efficiency rating schedule, and to inform the individual of his rating. By the end of the one (1) year probationary period, a letter of confirmation or denial shall be submitted to the individual. A letter of denial shall cite any deficiencies indicated by the efficiency rating schedules.
- (4) Following the period of probation in a promoted rank, a member becomes permanent in that rank only upon positive action by the Commission.
- (5) In making promotions, it is the policy of the Commission to approve promotions from within the Superior Fire Department before soliciting applications from outside the Department.

§ 401. Promotion Procedure.

- (1) The provisions of this Article apply whenever there is a Notice of Intent to Promote posted by the Chief.
- (2) Whenever a vacancy shall be filled, the Chief shall within a reasonable period of time, post a Notice of Intent to Promote and devise a procedure to fairly evaluate candidates under those factors listed in § 401.(3).
 - (a) **Posting of Notice.** The Chief shall post a Notice of Intent to Promote to a vacant position, which shall give persons interested in applying for promotion at least 10 days in which to do so. The Notice shall include a description of the following:
 - (1) Minimum requirements for participation in the promotion process,
 - (2) A general description of the type and nature of any written examinations, interviews or assessment center that may be conducted and the weight to

- be given to each portion of the evaluation process,
- (3) The general subject matters to be covered in any written examinations, interviews or assessment center, and
 - (4) The anticipated schedule for the promotion process.
- (b) **Evaluation Procedure.** The Chief shall devise a procedure which, in the Chief's judgment, will best evaluate those factors listed in § 401.(3). In devising an evaluation procedure, the Chief shall not be constrained by any former procedure or scoring scheme followed in any previous promotion process.
- (3) Considerations for Promotion. Prior to making a recommendation to the Commission for promotion, the Chief shall consider the following factors:
- (a) The specialist assignments within the Department shall be filled on the basis of ability. In the event of equal ability, the most senior applicant shall be selected.
 - (b) Except as provided for in (a), all positions shall be filled by the applicant with the greatest seniority; provided that, if such position requires specialty training and skills, such positions shall be filled on the basis of ability to perform such skills. In the event of equal ability, the most senior applicant will be selected.
 - (c) Subject to (a) and (b), the Chief shall consider the following objective criteria in any evaluation process: Seniority, certifications, previous experience including station assignments and prior job experience, civilian education, fire department education and training, and participation in department events and committees.
 - (d) Subject to (a) through (c), the Chief shall consider the following subjective criteria in any evaluation process: Attitudes, current and past performance, and perceived ability to perform in the new position.
- (4) Promotion to supervisory ranks not covered by a labor agreement shall be made by the Chief with due consideration to §401(3)(c) and (d).

ARTICLE V - PROMOTION PROCEDURES FOR THE POLICE DEPARTMENT

(Last Updated April 1998)

§ 500. General Provisions.

- (1) The provisions of Article V shall apply to promotions within the Superior Police Department.
- (2) Position descriptions establishing duties, required knowledge and abilities established by the Chief in consultation with the Human Resources Director and approved by the City Human Resources Committee of the City Council.
- (3) Any person promoted shall be on probation in the new rank for a period of twelve (12) months from the date the promotion takes effect.
- (4) Following the period of probation in a promoted rank, a member becomes permanent in that rank only upon positive action by the Commission.
- (5) In making promotions, it is the policy of the Commission to approve promotions from within the Superior Police Department before soliciting applications from outside the department.

§ 501. Promotion Procedure.

- (1) The provisions of this Article apply whenever there is a Notice of Intent to Promote posted by the Chief.
- (2) Whenever the Chief determines that a vacancy shall be filled, the Chief shall, within a reasonable period of time, post a Notice of Intent to Promote and devise a procedure to fairly evaluate candidates under those factors listed in § 501.(3).
 - (a) **Posting of Notice.** The Chief shall post a Notice of Intent to Promote to a vacant position which Notice shall give persons interested in applying for promotion at least 10 days in which to do so. The Notice shall include a description of the following:
 - (1) Minimum requirements for participation in the promotion process;
 - (2) A general description of the type and nature of any written examinations, interviews or assessment center that may be conducted and the weight to be given to each portion of the evaluation process;
 - (3) The general subject matters to be covered in any written examinations,

interviews or assessment center; and

- (4) The anticipated schedule for the promotion process.
 - (b) **Evaluation Procedure.** The Chief shall devise a procedure which, in the Chief's judgment, will best evaluate those factors listed in § 501.(3). In devising an evaluation procedure, the Chief shall not be constrained by any former scoring procedure or scoring scheme followed by any previous promotion.
- (3) Considerations for promotions. Prior to making a recommendation to the Commission for promotion the Chief shall consider the following factors:
- (a) **Experience.** Consideration shall be given to the numbers of years of service and how the officer has developed during those years of service.
 - (b) **Training.** Consideration shall be given to optional training the officer has taken with emphasis upon training taken within the most recent two years.
 - (c) **Education.** Consideration shall be given for college and other academic courses completed.
 - (d) **Community Involvement.** Consideration shall be given to an officer's participation in community related activities such as DARE, other police-community committees, civic groups, youth and church activities.
 - (e) **Fitness.** Consideration shall be given to officers who maintain good physical and mental health habits by participating in courses and/or programs in diet, stress management, or physical fitness.
 - (f) **Performance.** Depending on the position, the Chief shall also consider an officer's performance (through evaluations where available), reputation for integrity, teamwork skills, and leadership skills.

ARTICLE VI - EXAMINATION RULES AND CERTIFIED HIRING LISTS

(Last Updated July 2023)

§ 600. Purpose.

The purpose of these rules is to establish guidelines for recruiting and selecting new recruits to the Police and Fire Departments.

§ 601. Policy.

- (1) The Police and Fire Commission and the Superior Police and Fire Departments will strive for a balanced work force, reasonably reflecting the demographic makeup of the community, including ethnic, racial and gender factors.
- (2) The process will be conducted in compliance with Equal Employment Opportunity and Americans with Disabilities Act guidelines.

§ 602. Determination of Need for Testing and Advertising.

- (1) The Commission will determine when a testing process is needed and the time within which the process will be completed.
- (2) Advertisements will be prepared and placed by Human Resources staff. The content will be subject to the approval of the Commission.
- (3) At a minimum, the advertisement will include:
 - (a) Educational, age and physical requisites.
 - (b) Criminal history restrictions.
 - (c) Application requisites.
 - (d) Salary range.
 - (e) Deadline for submission of applications.
- (4) The Commission will determine which advertising mediums will be used and in which regions the ads will be placed.
- (5) Lateral Transfer Applicants:

Police: Applicants who are certified WI law enforcement officers, or are eligible for the reciprocity exam for WI certification, may submit an application for employment at any time. At a minimum, lateral transfer applicants need to possess one year of full-time law enforcement experience and will be required to have passed the WI certification reciprocity test, if needed, prior to being hired.

Fire: Applicants who are eligible for WI Firefighter II certification, and are nationally registered EMT's and/or licensed in the State of Wisconsin, may submit an application

for employment at any time. At a minimum, lateral transfer applicants need to have completed one year of full-time firefighting experience prior to being placed on a certified hiring list.

Lateral Transfer Applicants will be exempt from taking the Written Examination described in 604(3) below. Lateral Transfer Applicants will be exempt from participating in the Oral Examination described in 604(4) below. Instead, one PFC member will participate in the Chief's interview of the Lateral Transfer Applicant.

§ 603. Changes.

These rules may be changed only upon approval of the Police and Fire Commission.

§ 604. Examinations.

- (1) Immediately after the closing date for submitting applications and transcripts, Human Resources Department staff will verify that all materials have been submitted in a complete and timely manner.
- (2) The first examination will be a preliminary examination of the application materials by the Human Resources Department to ensure that minimum qualifications are met. Candidates will not be present for this review.
 - (a) In the event the number of qualified candidates exceeds 200, an additional step may be added at the discretion of the PFC.
- (3) **Written examination:** Qualified candidates will be notified by email of the date for a written examination. Those not qualified will be so notified by email.

The email will include a statement that individuals with disabilities who will need reasonable accommodation to complete a test should inform the City prior to administration of the test. Accommodation need not be made if the ability to complete the test is an essential requirement of the job.

- (a) The Human Resources Department staff will thereafter make arrangements for the written examination.
 - (1) The written examination may be provided by the Wisconsin Employee Relations Commission Testing Unit, or any other source determined by the Commission.
 - (2) Each candidate must receive at least 70% standardized score on the written test to continue in the process. The Commission will predetermine the number of top scoring candidates to be invited to the oral examination and will publish this number in the recruitment brochure.
- (4) **Oral Examination:** The Commission will schedule oral examinations for the top scoring candidates receiving 70% or greater on the written examination.

The Commission shall act as an interview panel to conduct the oral examinations. The Commission may also establish five separate interview panels of three persons. Depending on whether the selection is for the Police or the Fire Department, each panel will consist of:

- (1) One Police and Fire Commissioner (Chairperson of each panel);
 - (2) A Police or Fire Department supervisor; and
 - (3) One sworn member of the Police Department or the Fire Department.
- (a) The candidates to be interviewed may be divided randomly among the five above-described interview panels.
 - (b) Questions asked will be those approved by the Commission.
 - (c) Interview panelists will be given training prior to participating in the interview process.
 - (1) The oral exam scores will be based on a standardized score of 100%. Below 70% points will mandate disqualification.
 - (2) The rank order is established by the results of the oral examination weighted 100%.
- (5) **Physical Agility Examination:** The candidates who pass the written examinations will proceed to a physical agility examination.
- (a) The content of the physical agility examination will be determined by the Commission, and will be a pass/fail exam.
 - (b) The physical agility test may be administered by itself or in conjunction with the oral examination based upon scheduling facility requirements.
- (6) The three exam scores, written, oral and physical will be considered as follows:
- (a) Written Exam: Pass/Fail
 - (b) Oral Exam: 100%
 - (c) Physical Exam: Pass/Fail
- (7) The candidates shall be ranked based on the total score in accordance with 605 (4) below. This shall become the official hiring list.

§ 605. Police and Fire Department Certified Hiring Lists.

- (1) Police and Fire Department hiring lists shall remain valid for either one (1) or two (2) years depending upon the needs of the respective department as recommended by the Chief and approved by the Police and Fire Commission. The life of the hiring list will be determined from the date it is first published and shall remain valid until all candidates

have been removed from the list by hiring or otherwise or until the list expires. The hiring list may be extended beyond the original published period through approval of the Police and Fire Commission. However, in no event shall the hiring lists remain valid for more than three (3) years. Before three years have elapsed and in consultation with the respective chiefs, the PFC shall elect a date for official expiration of the hiring list and establish a schedule for the creation of a new hiring list. The PFC shall not announce the expiration of a hiring list without first noticing it on the agenda for the meeting prior to the meeting at which the list officially expires by action of the PFC.

- (2) In accordance with these rules, a rank order for those final applicants will be established. This ranking will remain confidential and shall not be made known to either the Police or Fire Chief or any other person not on the PFC.
- (3) Applicants qualifying for and requesting veterans preference will have points added in accordance with Wis. Stats. §230.16(7) following establishment of rank order as noted above. An applicant's total with veterans points will not prevent a panel's number one candidate from being placed on the certified hire list, both applicants would be elevated to the certified list.
- (4) In accordance with its examination rules, the PFC will establish a rank order list of candidates who have successfully completed all phases of the examination procedure and submit the names of the top five scoring candidates and each interview panel's top candidate if he/she is not included in the top five scoring candidates (in alphabetical order) to each respective chief for use as a CERTIFIED HIRING LIST. Tie scores will be given the same ranking and may result in six (6) or more candidates' names submitted to the respective chief. When a name is removed from the list, another name will be added so the respective chief always has a list of five names available. The next name added will be the highest scoring candidate who was a panel's second highest scoring candidate. All panels' second highest scoring candidates must be elevated to the certified list before any panels' third highest scoring candidates are added; and so on. A person considered for appointment for the third time and not selected may be requested by the Chief to be removed from the list.

For the Police Officer certified hire list, the certified list will also include the top five scoring candidates that are currently certified by the Wisconsin Law Enforcement Standards Board to be a police officer. Lateral transfer applicants will be placed on the certified list if there is less than five certified WI law enforcement officers on the certified list. Placement of lateral transfer applicants will not displace other candidates on the certified hire list. The addition of these candidates to the certified list may result in six or more candidates' names submitted to the Police Chief. If the certified list of five names is reduced to a point that it does not include a Wisconsin certified police officer candidate, the next two highest scoring Wisconsin police officer certified candidates' names will be elevated to the certified list which would cause the certified police officer list to include more than five names.

- (a) Once a name is placed on the CERTIFIED HIRING LIST it may be removed only under the following conditions:

- (1) Person is hired.
 - (2) Removed for justified cause. (Requires PFC approval.)
 - (3) Refused employment. (Requires PFC approval.)
 - (4) Considered for appointment at least three times and not selected.
(Requires PFC approval.)
- (b) It is the intention of the PFC that each chief may hire a new employee from the PFC approved list for an entry level position without further action by the PFC. Each chief must notify the PFC of that selection at the next regular PFC meeting. Each chief must submit a written request seeking PFC approval to remove a person from probationary status.
- (5) The candidate list will be kept up to date by the PFC Secretary or designee. This list will be filed with the City Clerk for public dissemination.

ARTICLE VII - DISCIPLINARY PROCEDURES

(Last Updated January 2021)

§ 700. Scope and Authority.

- (1) The provisions of this Article govern the administration of disciplinary procedures over which the Commission has jurisdiction pursuant to § 62.13(5) of the Wisconsin Statutes. They are adopted pursuant to the authority granted to the Commission under § 62.13(5)(g) to promulgate rules for the administration of disciplinary actions.
- (2) The provisions of Article VII apply to the Fire Chief, the Police Chief, and to all subordinate members of each department.
- (3) The provisions of Article VII do not apply to:
 - (a) Probationary employees, who may be summarily discharged from the Department by the Chief;
 - (b) Members of the Department who are serving in a probationary capacity in a promoted rank and who are demoted by the Commission for failing to satisfactorily complete the period of probation; and
 - (c) Unsworn employees of the Department.

§ 701. Definitions.

- (1) When used in Article VII, the following terms have the indicated meanings:
 - (a) **“Complainant”** means the person who signs the statement of charges against the respondent. In the case of a statement of charges filed by the Commission as a body, “complainant” means the Commission.
 - (b) **“Respondent”** means the person charged in the statement of charges.
 - (c) **“Formal Discipline Process”** is a specifically detailed process described in § 705 of this section, where someone may file charges against a member of the fire or police department.
 - (d) **“Informal Complaint Process”** is an alternative to the Formal Discipline Process, which is described in § 708 of this section, where a citizen may file a written complaint about the conduct of a member of the fire or police department.

§ 702. Legal Counsel for the Commission.

The Commission may retain legal counsel to assist it in the administration of any disciplinary matter pending before it.

§ 703. Appointment of Hearing Examiner.

The Commission may appoint a hearing examiner to assist it in the administration of any disciplinary matter pending before it. Use of a hearing examiner, however, does not relieve the Commission of its responsibility for making findings of facts and conclusions of law in the matter. A hearing examiner duly appointed by the Commission may be discharged by it at anytime.

§ 704. Suspension of Members as a Penalty.

- (1) **Authority to Suspend; Written Order of Suspension.** The Chief or the Commission may suspend a member of the Department as a penalty. Such suspension may be imposed only for just cause, as described in § 707+(7)(b) below. The order of suspension shall be in writing, shall state the reasons for the suspension and the length thereof, shall indicate the date on which the suspension takes effect, and shall advise the member suspended of the right to appeal the suspension to the Commission pursuant to § 704(3) of these Rules.
- (2) **Report of Suspension.** If a suspension penalty is imposed by the Chief, the Chief shall file a report with the Chair of the Commission immediately upon issuing the order of suspension.
- (3) **Request for Hearing.**
 - (a) If a member suspended by the Chief requests a hearing on the suspension, the Chief shall file with the Chair of the Commission a written statement of charges upon which the suspension is based. The statement shall conform to the requirements of § 705(2) below. Thereafter, the processes described §§ 706-707 shall be observed.
 - (b) If a member suspended by the Commission requests a hearing on the suspension, the Commission shall require the complainant to file a written statement of charges upon which the suspension is based. The statement shall conform to the requirements of § 705(2) below. Thereafter, the processes described in §§ 706-707 shall be observed.
 - (c) A request for a hearing shall be in writing and shall be filed with the Chair of the Commission within ten (10) calendar days of the date on which the written order of suspension was received by the respondent.
- (4) **No Request for Hearing.** If the suspended member does not request a hearing on the suspension within ten (10) calendar days of the date on which he or she received the written order of suspension, no hearing shall be held.

§ 705. Formal Discipline Process.

Filing of Charges; Suspension Pending Disposition of Charges.

- (1) **Who May File Charges.** Charges may be filed against a subordinate member of the Department by the Chief, by a member of the Commission, by the Commission as a body, or by any aggrieved person. Charges may be filed against the Chief by a member of the Commission, by the Commission as a body, or by any aggrieved person.
- (2) **Statement of Charges.** In order to invoke the formal disciplinary process as described in Article VII of these Rules, the statement of charges shall:
 - (a) Be in writing;
 - (b) Be addressed to the Commission;
 - (c) Identify the person against whom the charges are brought;
 - (d) State sufficient facts to allow the accused to know and understand the factual allegations and to be able to prepare a defense. The statement of charges shall indicate the date(s) and location(s) of the alleged offense(s). If any portion of the statement of charges is made upon information and belief, the source(s) of such information and belief shall be identified by name and address;
 - (e) State the specific statute, rule, regulation, policy, procedure, or order which the accused is charged with violating;
 - (f) Be verified, meaning that the complainant must sign and date the statement of charges in the presence of a notary public after declaring under oath or affirmation that the contents of the statement are true and correct to the best of the person's knowledge, information, and belief; and
 - (g) Be filed with the Chair of the Commission at the address specified in § 105 of these Rules.
- (3) **Dismissal of Charges.** The Commission may dismiss without prejudice any statement of charges that fails to comply with the requirement of § 705(2). The Commission may, in the exercise of its discretion, dismiss any complaint where it determines that the complainant through neglect failed to file a complaint in a timely manner.
- (4) **Service of Charges.** Following the filing of charges with the Chair of the Commission, the complainant shall cause a copy thereof to be promptly served upon the respondent and shall promptly furnish the Chair of the Commission with written evidence of that service.
- (5) **Suspension Pending Disposition of Charges.** Pending disposition of charges that have been filed with the Chair of the Commission, the Chief or the Commission may suspend the respondent.

§ 706. Pre-Hearing Procedures.

- (1) **Scheduling Conference.** After the respondent has been served with the statement of charges, the Commission may conduct a scheduling conference with the parties and their counsel to calendar future proceedings in the matter and to consider any other matters relating to the administration of future proceedings in the case.
- (2) **Pre-Hearing Conference.** The Commission may authorize the Chair, a Commissioner designated by the Chair, or a hearing officer to conduct a pre-hearing conference with the parties for such purposes as attempting to simplify the issues at the hearing, determining which issues are contested by the respondent, and identifying facts to which the parties are willing to stipulate. Participation in a pre-hearing conference shall not disqualify any Commissioner from participating in further proceedings in the case.
- (3) **Discovery.**
 - (a) At least seven calendar days before the date scheduled for the hearing, the complainant and the respondent shall furnish each other and the Chair with the names and addresses of the witnesses each intends to call at the hearing. The Commission may refuse to allow a party to call a witness not named on the witness list, unless the Commission determines that the failure to name the witness occurred for good reason.
 - (b) Except as otherwise allowed by the Commission, there is no right to any additional pre-hearing discovery.
- (4) **Subpoenas.** Both the complainant and the respondent may compel the attendance of witnesses by subpoena, which shall be issued by the Chair of the Commission on request. The service of subpoena shall be the responsibility of the party requesting the subpoenas, and the cost of any service fees, witness fees and other related expenses shall be borne by the party requesting the subpoenas.

§ 707. Hearing Procedures.

- (1) **Commencement.** The hearing shall be commenced not less than 10 days nor more than 30 days following the service of charges on the respondent.

- (2) **Notice of Hearing.** The Commission shall furnish written notice of the hearing to the complainant and to the respondent promptly upon scheduling the hearing. The notice shall state the date, time and location of the hearing and shall advise the respondent of the following rights:
 - (a) To attend the hearing in person;
 - (b) To be represented by an attorney;
 - (c) To respond to and challenge the charges;
 - (d) To cross-examine and confront the witnesses against him or her under oath.
 - (e) To present witnesses under oath on his or her own behalf;
 - (f) To testify on his or her own behalf;
 - (g) To argue his or her view of the law and the facts; and
 - (h) To subpoena witnesses.
- (3) **Representation by Counsel.** Both the complainant and the respondent may be represented by counsel at the hearing.
- (4) **Duty to Prosecute Case.** When the complainant is the Chief, it is the responsibility of the Chief and the Chief's counsel, if any, to prosecute the case. When the complainant is other than the Chief, it is the responsibility of the complainant and the complainant's counsel, if any, to prosecute the case.
- (5) **Hearing to be Public.** Disciplinary hearings before the Commission shall be conducted in public, except that deliberations by the Commission may be conducted in closed session.
- (6) **Hearing to be Recorded.** All public portions of the hearing shall be recorded verbatim.
- (7) **Issues at Hearing.**
 - (a) No member may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Commission based on charges filed by the Commission as a body, by an individual Commissioner, by the Chief, or by an aggrieved person, unless the Commission determines that there is just cause, as described in § 707(7)(b) below, to sustain the charges.
 - (b) In making its determination of just cause under § 707(7)(a), the Commission shall apply the following standards, to the extent applicable:
 - (1) Whether the member could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;
 - (2) Whether the rule or order that the member allegedly violated is reasonable;
 - (3) Whether the Chief, before filing the charge against the member, made a

reasonable effort to discover whether the member did in fact violate a rule or order;

- (4) Whether the effort described in § 707(7)(b)3 was fair and objective;
 - (5) Whether the Chief discovered substantial evidence that the member violated the rule or order as described in the statement of charges filed against the member;
 - (6) Whether the Chief is applying the rule or order fairly and without discrimination against the member; and
 - (7) Whether the proposed discipline reasonably related to the seriousness of the alleged violation and to the member's record of service with the Department.
- (8) **Opening Statements.** The parties shall be allowed to make opening statements to the Commission prior to the presentation of evidence. The Commission may set reasonable time limitations on the length of opening statements.
- (9) **Presentation of Evidence.**
- (a) The complainant shall proceed first with the presentation of evidence in support of the charges filed with the Commission. The respondent may then present evidence. Thereafter, each side may offer evidence in rebuttal until both sides rest.
 - (b) The testimony of witnesses shall be under oath or affirmation and shall be recorded verbatim.
 - (c) Cross-examination of all witnesses by the opposing party shall be permitted.
 - (d) The Commission may question any witness and may call witnesses of its own.
 - (e) Parties may be called to testify adversely.
 - (f) Witnesses may be sequestered upon order of the Commission.
 - (g) The Wisconsin Rules of Evidence shall be applied at the hearing, provided that the Commission may, in its discretion, relax said rules if it deems that the interests of justice will be served by doing so. Objections to the admissibility of evidence and offers of proof regarding evidence ruled inadmissible may be made and incorporated into the hearing record.
- (10) **Final Arguments.** At the close of the presentation of evidence, the complainant may make a final argument, the respondent may make a final argument, and the complainant

may make a rebuttal argument. The Commission may set reasonable time limitations on the length of final arguments.

(11) **Decisions by the Commission.**

(a) If the Commission determines that one or more of the charges have been sustained, it may order any of the following as the good of the service may require:

- (1) That the respondent be suspended;
- (2) That the respondent be reduced in rank;
- (3) That the respondent be both suspended and reduced in rank; or
- (4) That the respondent be removed from the Department.

(b) If the Commission determines that none of the charges are sustained, the respondent, if suspended, shall be immediately reinstated and all lost pay restored.

(12) **Filing of Written Findings.** Findings and determinations rendered at the conclusion of the hearing and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and shall be filed within three days of their rendering with the Secretary of the Commission.

(13) **Appeal and Judicial Review.** Appeals and other forms of judicial review of Commission determinations shall be as provided for by the Wisconsin Statutes and by controlling decisions of Wisconsin courts.

(14) **Additional Hearing Rules.** The Commission may make additional rules for the conduct of the hearing for purposes of assuring fairness to the parties or promoting the orderly administration of the proceedings.

§ 708. **Informal Citizen Complaint Process.**

A citizen can file a written complaint with the Commission about the conduct of a member of the Department without invoking the formal disciplinary process in § 705(2) above. This is done by submitting a written complaint to:

Superior Police & Fire Commission
c/o Human Resources Department
1316 N 14th Street, Suite 301
Superior, WI 54880

Or email: humanresources@ci.superior.wi.us

Or fax: 715-395-7590

For questions about the process, contact Human Resources at 715-395-7210.

The Commission may in its discretion either refer the matter to the Chief for investigation and possible disciplinary action or cause its own investigation of the matter to be conducted. In either event the citizen shall be notified of the results of any investigation conducted in response to his or her complaint. Use of the Informal Complaint Process does not prohibit a citizen from invoking the Formal Discipline Process.