

CITY OF NEW BERLIN

**POLICE AND FIRE COMMISSION
RULES AND REGULATIONS**

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ARTICLE I – SCOPE OF AUTHORITY

- 1.1 The Rules and Regulations herein provided shall be applicable to all positions in the police service or fire service of the City of New Berlin.
- 1.2 The word “Commission” when used herein shall refer to the Police and Fire Commission of the City of New Berlin.

ARTICLE II – QUALIFICATIONS OF APPLICANTS – POLICE SERVICE

- 2.1 Every applicant at the time of appointment to the police service must:
- (a) Be 18 years of age or older.
 - (b) Possess a general educational development diploma or be a high school graduate who has completed a secondary education program through a public school, private school, an equivalency diploma program, or home education program within the United States or its territories or a foreign country. Criteria for proof of compliance includes any of the following:
 - i. A general educational development diploma;
 - ii. A high school diploma issued by a public school education program;
 - iii. A high school diploma issued by a private school;
 - iv. A high school equivalency diploma;
 - v. Copies of form PI-1206 filed with the Department of Public Instruction for applicants who have completed a home school program in Wisconsin, or documentation that the educational program has met the requirements of the Department of Education from the state where the home school program was completed. Home-schooled students may also substitute an official college transcript showing completion of at least 60 college credits or higher at a college or university accredited by an accrediting agency recognized by the United States Department of Education. College credits from an overseas institution are acceptable to meet the eligibility requirement contingent upon an assessment of the transcript by a professional evaluation service agency recognized by the National Association of Credential Evaluation Services (NACES): <https://www.naces.org/members>;
 - vi. A high school diploma from a foreign country is acceptable to meet the eligibility requirements contingent upon an

assessment of the transcript/diploma by a professional evaluation service agency recognized by the NACES.

- (c) Possess either a two-year associate degree from a Wisconsin technical college system district or its equivalent from an out of state accredited institution or have earned a minimum of 60 college-level credits from an accredited institution.
- (d) Possess a valid Wisconsin driver's license at time of hire.
- (e) Applicants must not have been convicted of any federal felony or of any offense which if committed in Wisconsin could be punishable as a felony unless the applicant has been granted an absolute and unconditional pardon.
- (f) Applicants must not have been convicted of a misdemeanor crime of domestic violence as defined in 18 USC 921(a)(33), convicted of domestic abuse as defined in § 968.075(1)(a), Wis. Stats., or convicted of a crime that is subject to the imposition of the domestic abuse surcharge under §973.055(1), Wis. Stats., regardless of whether any part of the surcharge was waived by the court under §973.055(4), Wis. Stats., unless the applicant has been granted an absolute and unconditional pardon.
- (g) Wisconsin State Statute §66.0501(1) states that no person may be appointed police officer of any city unless that person is a citizen of the United States.
- (h) Be able to speak, read, comprehend, and write using the English language.
- (i) Be of good character as determined from a written report containing the results of the following:
 - i. Fingerprinting of the applicant with a search of local, state, and national fingerprint records;
 - ii. Background investigation conducted by or on behalf of the employing agency;
 - iii. Other investigations as may be deemed necessary to provide a basis of judgment on the applicant's loyalty to the United States or to detect conditions which adversely affect performance of one's duty as a law enforcement officer.
- (j) Free from any physical, emotional, or mental condition which might adversely affect the performance of duties as a law enforcement officer.

- (k) Not have been previously rejected by the Commission's medical examiner(s) for a cause that remains uncorrected or for which no reasonable accommodation is available.
- (l) Undergo a medical assessment by a licensed physician, physician assistant, or nurse practitioner to verify that they can meet the physical standards (essential duties) required for the position. The applicant must also provide the examiner with a personal medical history. The medical assessment will be conducted no more than nine (9) months prior to an applicant's first date of employment.
- (m) Submit to a drug test for the presence of the following controlled substances or their metabolites: amphetamines, cannabis or cannabinoids, opiates, cocaine, and phencyclidine (PCP). The drug test analysis will only be conducted by a laboratory certified by the United States Substance Abuse and Mental Health Services Administration (SAMHSA). Drug testing must be conducted upon hire, and within 120 days prior to the applicant's first date of employment.

ARTICLE III – APPLICATION– POLICE SERVICE

- 3.1 Notice of the time and place for acceptance of applications shall be given by posting the written announcement in the Police Department and Human Resources Department, WILENET, the City's website, or any other media outlet that has a general circulation of the City at least ten (10) days prior to the issuance thereof and by such other means of publicity as the Commission may direct.
- 3.2 Any misrepresentation of a material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, removing the applicant's name from the eligibility list, or discharging the applicant, at any time, from the Police Department.
- 3.3 Whenever the application itself reveals that the applicant cannot meet the qualifications of the position he or she applied for, such application shall be rejected by the Commission or its designated representative, without further examination.
- 3.4 Any person dismissed from the Police Department for a reason other than that set forth in Section 13.1 of these rules and regulations may thereafter be ineligible to make application for appointment to any position in the Police Department.
- 3.5 Any former employee of the police service who desires to re-enter the service shall undergo the same examination as a new applicant, except as provided in Section 3.4 of these rules.

ARTICLE IV – EXAMINATIONS – ENTRY LEVEL POLICE SERVICE

- 4.1 The Chief shall communicate to the Commission the need to initiate an examination. The Commission authorizes the Chief to fix the date, place and conditions thereof as necessary to meet or anticipate the needs of the service.
- 4.2 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 4.3 All tests will be scored on a “pass-fail” or “qualified-not qualified” basis.
- 4.4 All examinations shall be administered under the direction of the Commission, which may designate any person or persons to conduct or assist in conducting the examinations to include the Chief and the City’s Human Resources Department.
- 4.5 No applicants shall be given a second or special competitive test in connection with any examination held unless it is shown to the satisfaction of the Commission that applicant’s failure to take or complete such test was outside the control of the applicant or due to a manifest error or mistake for which the Commission or its designated agents are responsible. The nature of the error or mistake shall be set forth in the minutes of the Commission’s next meeting.
- 4.6 An acceptable score for any examination shall be at the discretion of the Commission in consultation with the Chief.
- 4.7 The applicant’s written examination papers shall not be furnished to the applicant.
- 4.8 The examination process for each qualified applicant for initial entrance to the police service shall consist of the following:
- (a) Written exam approved by the Commission shall be conducted. Candidates scoring below 70% shall not be considered.
 - (b) An oral interview shall be conducted under the direction of the Chief and shall include members of the command staff. The Chief may designate other person(s) to participate in the oral interview.
 - (c) Top candidates selected shall proceed to the background investigation.
 - (d) Candidates still under further consideration shall receive a conditional offer of employment and proceed to the psychological testing, medical examination and drug screening.

- 4.9 The Chief shall present candidate(s) for a personal interview with the Commission when deemed appropriate, along with the following:
- (a) Names of eligible candidates;
 - (b) Application materials; and
 - (c) Written test scores.
- 4.10 The Commission shall prepare and certify an eligibility list which shall contain the names of those “new hire candidates” who have received a passing mark, without ranking. The list shall be furnished to the Chief. A copy shall also remain on file with the Secretary of the Commission.
- 4.11 The Chief shall make appointments to all positions from the Commission’s certified eligibility list provided the candidate successfully meets the medical, and psychological examinations, and background investigation conditions.
- 4.12 The Commission’s eligibility list shall expire at the end of one year from the date filed with the Secretary of the Commission unless continued in force for a longer period or discontinued prior thereto by order of the Commission.
- 4.13 All original appointments shall be probationary for 18 months as specified in the NBPPA contract. The Chief shall present to the Commission prior to the completion of an employee’s probationary period, the following:
- (a) The name of the candidate eligible for permanent appointment;
 - (b) Departmental evaluations; and
 - (c) Letter of recommendation from the Chief.

ARTICLE V – PROMOTIONS – POLICE SERVICE

- 5.1 The Chief shall communicate to the Commission the need to initiate an examination. The Commission authorizes the Chief to fix the date, place and conditions thereof as necessary to meet or anticipate the need of the service.
- 5.2 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 5.3 The Chief shall present the finalist for a promotional appointment to the Commission for a personal interview with the Commission along with the following:
- (a) The name of the candidate eligible for promotion;

- (b) A copy of the job trait assessment or similar analysis performed on the candidate;
 - (c) Departmental evaluations for the last two years; and
 - (d) Letter of recommendation from the Chief.
- 5.4 All promotional appointments by the Chief shall be subject to ratification by the Commission and shall be probationary for twelve (12) months. If during the probationary period the person proves unsatisfactory for the position, the employee shall be returned to his/her former position. The appointee shall not be entitled to an appeal to the Commission from such an action.

ARTICLE VI – CHIEF APPOINTMENT – POLICE SERVICE

- 6.1 The Commission shall appoint the Chief, who shall hold office, subject to suspension or removal by the Commission for cause.
- 6.2 For the position of Chief, the Commission may appoint a suitable person at its discretion, who need not be a member of the Department or a resident of the City of New Berlin. If the appointed Chief is a non-resident, the appointed Chief shall establish residency or reside within 20 miles of the City limits within 18 months after appointment.
- 6.3 Every applicant at the time of the appointment for the position of Chief must:
- (a) Meet all the requirements for Entry Level – Police Service in Article II;
 - (b) Have a Bachelor’s Degree with a Master’s Degree preferred;
 - (c) Have a minimum of 10 years police experience and 5 years of administrative experience at the rank of Sergeant or above;
 - (d) Have current certification as a police officer in the state of Wisconsin.
- 6.4 The Commission’s hiring process for Chief may include, but is not limited to:
- (a) Establishing a timeline
 - (b) Human Resources Department review and placement of advertisements
 - (c) Human Resources Department screening of applications for minimum qualifications as set forth in Section 6.3 and the job description
 - (d) Selection of semi-finalists by the Commission

- (e) Semi-finalist interviews with City Department Heads and a panel designated by the Commission which may include other outside Chiefs and former Chiefs
- (f) Selection of finalists by the Commission
- (g) Finalists' job trait assessments
- (h) Finalist interviews with the Commission
- (i) Selection by the Commission but subject to successful completion of:
 - i. Medical examination with drug screen and psychological examination or job trait assessment;
 - ii. Background investigation; and
 - iii. Salary negotiation by the City.

ARTICLE VII – QUALIFICATIONS OF APPLICANTS – FIRE SERVICE

- 7.1 Every applicant at the time of the appointment to the fire service must:
- (a) Be legally able to live and work in the United States;
 - (b) Be not less than 18 years of age;
 - (c) Hold a valid Wisconsin Driver's License at the time of hire;
 - (d) Be able to speak, read, comprehend and write using the English language;
 - (e) Possess a general educational development diploma or be a high school graduate who has completed a secondary education program through a public school, private school, an equivalency diploma program, or home education program within the United States or its territories or a foreign county. Criteria for proof of compliance includes any of the following:
 - i. A general educational development diploma;
 - ii. A high school diploma issued by a public school education program;
 - iii. A high school diploma issued by a private school;
 - iv. A high school equivalency diploma;
 - v. Copies of form PI-1206 filed with the Department of Public Instruction for applicants who have completed a home school

program in Wisconsin, or documentation that the educational program has met the requirements of the Department of Education from the state where the home school program was completed. Home-schooled students may also substitute an official college transcript showing completion of at least 60 college credits or higher at a college or university accredited by an accrediting agency recognized by the United States Secretary of Education. College credits from an overseas institution are acceptable to meet the eligibility requirement contingent upon an assessment of the transcript by a professional evaluation service agency recognized by the National Association of Credential Evaluation Services (NACES): <https://www.naces.org/members>;

- vi. A high school diploma from a foreign country is acceptable to meet the eligibility requirements contingent upon an assessment of the transcript/diploma by a professional evaluation service agency recognized by the NACES.
- (f) Have a minimum of:
- i. State of Wisconsin Certified Firefighter I, or state of Wisconsin recognized equivalent
 - ii. State of Wisconsin licensed EMT-Basic. State of Wisconsin Paramedic license may be required based on department need at the discretion of the Chief, paramedic requirement may extend probationary period up to 36 months.
 - iii. 60 college credits earned in fire science or a closely related field of study within three (3) years of appointment
 - iv. State of Wisconsin Firefighter II, Driver/Operator Pumper, Driver Operator Aerial and Fire Inspector I and Driver/Operator Aerial certification within the 18-month probationary period
 - v. National Incident Management System (NIMS) Independent Study 100, 200, 700 and 800 within the 18-month probationary period.
- (g) Subject to the provisions of Wisconsin Statutes Chapter 111, not have been convicted of a felony which reasonably relates to the duties of a firefighter and/or emergency medical services employee, unless the applicant has been granted an absolute and unconditional pardon.
- (h) Be of good character as determined from a written report containing the results of the following:

- i. Fingerprinting of the applicant with a search of local, state, and national fingerprint records;
 - ii. Background investigation conducted by or on behalf of the employing agency;
 - iii. Other investigations as may be deemed necessary to provide a basis of judgement on the applicant's loyalty to the United States or to detect conditions which adversely affect performance of one's duties in the Fire Service.
- (l) Not have been previously rejected by the Commission's medical examiner(s) for a cause that remains uncorrected or for which no reasonable accommodations are available.
 - (j) Undergo a medical assessment by a licensed physician, physician assistant, or nurse practitioner to verify that they can meet the physical standards (essential duties) required for the position. The applicant must also provide the examiner with a personal medical history. The medical assessment will be conducted no more than nine (9) months prior to an applicant's first date of employment.
 - (k) Submit to a drug test for the presence of the following controlled substances or their metabolites: amphetamines, cannabis or cannabinoids, opiates, cocaine, and phencyclidine (PCP). The drug test analysis will only be conducted by a laboratory certified by the United States Substance Abuse and Mental Health Services Administration (SAMHSA). Drug testing must be conducted upon hire, and within 120 days prior to the applicant's first date of employment.

ARTICLE VIII – APPLICATION – FIRE SERVICE

- 8.1 Notice of the time and place for accepting applications shall be given by posting the written announcement in the Fire Department and the Human Resources Department, on an electronic recruitment network with statewide access, the City website or any other media outlet that has a general circulation of the City at least ten (10) days prior to the issuance thereof and by such other means of publicity as the Commission may direct.
- 8.2 Any misrepresentation of a material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, removing the applicant's name from the eligibility list, or discharging the applicant, at any time, from the Fire Department.
- 8.3 Whenever the application itself reveals that the applicant cannot meet the qualifications of the position he or she applied for, such application shall be

rejected by the Commission or its designated representative, without further examination.

- 8.4 Any person dismissed from the Fire Department for a reason other than that set forth in section 13.1 of these rules and regulations may thereafter be ineligible to make application for appointment to any position in the Fire Department.
- 8.5 Any former employee of the fire service who desires to re-enter the service shall undergo the same examination as a new applicant, except as provided in section 8.4 of these rules.

ARTICLE IX – EXAMINATIONS – ENTRY LEVEL FIRE SERVICE

- 9.1 The Chief shall communicate to the Commission the need to initiate an examination. The Commission authorizes the Chief to fix the date, place and conditions thereof as necessary to meet or anticipate the needs of the service.
- 9.2 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 9.3 All tests will be scored on a “pass-fail” or “qualified-not qualified” basis.
- 9.4 All examinations shall be administered under the direction of the Commission, which may designate any person or persons to conduct or assist in conducting the examinations to include the Chief and the City’s Human Resources Department.
- 9.5 No applicants shall be given a second or special competitive test in connection with any examination held unless it be shown to the satisfaction of the Commission that applicant’s failure to take or complete such test was the result of other good and valid reasons outside the control of the applicant or due to a manifest error or mistake for which the Commission or its designated agents are responsible. The nature of the error or mistake shall be set forth in the minutes of the Commission’s next meeting.
- 9.6 An acceptable score for any examination shall be at the discretion of the Commission in consultation with the Chief.
- 9.7 The applicant’s written examination papers shall not be furnished to the applicant.
- 9.8 The examination process for each qualified applicant for initial entrance to the position of firefighter/EMT shall consist of the following:
- (a) Written exam approved by the Commission shall be conducted.

- (b) An oral interview shall be conducted under the direction of the Chief and shall include members of the command staff. The Chief may designate other person(s) to participate in the oral interview.
- (c) Candidates shall undergo and pass the Candidate Physical Ability test (CPAT), as applicable
- (d) Top candidates selected shall proceed to the background investigation
- (e) Candidates still under further consideration shall receive a contingent offer of employment and proceed to the psychological testing, medical examination and drug screening.

9.9 The Chief shall present candidate(s) for a personal interview with the Commission when deemed appropriate, along with the following:

- (a) Names of eligible candidates;
- (b) Applications materials; and
- (c) Written test scores.

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

9.11 The Chief shall make appointments to all positions from the Commission's certified eligibility list provided the candidate successfully meets the medical and psychological examinations and background investigation conditions.

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

9.13 All original appointments shall be probationary for a minimum of 18 months but no longer than 36 months following date of hire. If, during the probationary period, the person appointed proves unsatisfactory for the position, the Chief may dismiss him/her from the service. The appointee shall not be entitled to an appeal to the Commission. During this period, the probationer has no fixed rights other than the right to the salary earned.

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

- (a) The name of the candidate eligible for permanent appointment;

- (b) Departmental evaluations; and
- (c) Letter of recommendation from the Chief.

ARTICLE X – PROMOTIONS – FIRE SERVICE

- 10.1 The Chief shall indicate to the Commission, in writing, the need to initiate an examination. The Commission authorizes the Chief to fix the date, place and conditions thereof as necessary to meet or anticipate the need of the service.
- 10.2 Examinations shall be open to those persons who possess the requisite qualifications in conformity with the provisions of these rules and regulations.
- 10.3 The Chief shall present the finalist for a promotional appointment to the Commission for a personal interview with the Commission, along with the following:
- (a) The names of the candidate eligible for promotion;
 - (b) A copy of the job trait assessment or similar analysis performed on the candidate;
 - (c) Departmental evaluations for the last two years; and
 - (d) Letter of recommendation from the Chief.
- 10.4 All promotional appointments by the Chief shall be subject to ratification by the Commission and shall be probationary for 12 months. If, during the probationary period, the person proves unsatisfactory for the position, the employee shall be returned to his/her former position. The appointee shall not be entitled to an appeal to the Commission from such an action.

ARTICLE XI – CHIEF APPOINTMENT– FIRE SERVICE

- 11.1 The Commission shall appoint the Chief, who shall hold office, subject to suspension or removal by the Commission for cause.
- 11.2 For the position of Chief, the Commission may appoint a suitable person at its discretion, who need not be a member of the Department or a resident of the City of New Berlin. If the appointed Chief is a non-resident, the appointed Chief shall establish residency or reside within 20 miles of the City limits within 18 months after appointment.
- 11.3 Every applicant at the time of appointment for the position of Chief must:

- (a) Meet all requirements for Entry Level Fire Service in Article VII;
- (b) Have a Bachelor's Degree with a Master's Degree preferred;
- (c) Have a minimum of 10 years fire experience and 5 years' experience in rank of Lieutenant or above.

11.4 The Commission's hiring process for Chief may include, but is not limited to:

- (a) Establishing a timeline
- (b) Human Resources Department review and placement of advertisements
- (c) Human Resources Department screening of applications for minimum qualifications as set forth in Section 11.3 and the job description
- (d) Selection of semi-finalists by the Commission
- (e) Semi-finalist interviews with City Department Heads and a panel designated by the Commission which may include other outside Chiefs and former Chiefs
- (f) Selection of finalists by the Commission
- (g) Finalists' job trait assessments
- (h) Finalist interviews with the Commission
- (i) Selection by the Commission but subject to successful completion of:
 - i. Medical examination with drug screen and psychological examination or job trait assessment;
 - ii. Background investigation; and
 - iii. Salary negotiation by the City.

ARTICLE XII – DEPARTMENTAL DISCIPLINE

12.1 Subject to Wisconsin law and in accordance with applicable Departmental policies, procedures and regulations, and after an internal investigation by the Chiefs designee in compliance with Department rules and regulations, Code of Conduct, as well as any procedural requirements set forth in the current labor contract, subordinates may, for just cause, be disciplined by the Police or Fire Chief as follows:

- (a) Temporarily removed from duty without loss of pay and benefits

- (b) Suspend with loss of pay and benefits
- 12.2 The Police or Fire Chief shall notify the Commission in writing within 24 hours of imposition of a discipline under 12.1(a) or (b) and the reason(s) therefor.
- 12.3 A subordinate subject to discipline under 12.1 (a) or (b) may seek review by making a written request for a hearing before the Commission. Said request shall be served on the Police or Fire Chief, the Chairperson of the Commission, and the Commission Secretary within ten (10) days of receipt of notice of the discipline. The Commission may modify all disciplinary action of the Chief.
- 12.4 Unless agreed to by the subordinate, a Police or Fire Chief shall file charges with the Commission as described herein whenever a Chief seeks to reduce a subordinate's rank or removal of a subordinate.
- 12.5 No Chief or subordinate shall be deprived of pay or benefits while charges are pending disposition by the Commission.
- 12.6 Charges may be filed against any Police or Fire Department employee who is employed in a position of police service or fire service by the following persons:
- (a) The Fire or Police Chief;
 - (b) Any aggrieved person;
 - (c) Any member of the Commission or the Commission acting as a body under Wis. Stat. §62.13; or
 - (d) The Mayor.
- 12.7 All charges filed with the Commission shall be in the form of a written complaint which shall state the following in plain language:
- (a) The full name, address and telephone number of the complainant
 - (b) The name of other means of identifying the accused employee
 - (c) The date(s), approximate time(s) and location(s) of the conduct complained of
 - (d) A clear statement of facts specifically stating the employee's alleged conduct being complained of that is sufficient to allow the accused to know and understand the factual allegations and to be able to prepare his/her defense
 - (e) Citation of the rule or order allegedly violated, including its date of issuance and the facts surrounding its dissemination

- (f) Complainant's signature verifying the accuracy of the information contained in the complaint under penalty of perjury
- 12.8 Charges may be filed by mailing the original complaint to: Police & Fire Commission Chairperson, 16300 W. National Avenue, New Berlin, WI 53151.
- 12.9 In any case where charges are filed against a subordinate, the Chief shall see to the personal service, either by the Chief or through another member of the Department or a private process server, of a copy of all charges against the subordinate to be disciplined and shall provide the Chairperson with written confirmation of such service and the date thereof.
- 12.10 All hearings shall be conducted in accordance with the provision of Wisc. Stat §62.13 and these Rules and Regulations.
- 12.11 Scheduling of Hearings:
 - (a) Following consultation with the Commission and the parties, the Chairperson shall set a hearing date before the Commission not less than 10 or more than 30 days after the service of charges. A modification of this time period may occur upon agreement of the parties and the Commission.
 - (b) Notice of the hearing date, time and place shall be personally served or sent by registered or certified mail to the complainant and the accused or his/her legal counsel at least eight (8) days prior to the hearing date. A copy of the charges shall accompany the notice. Notices to the accused shall be sent to the accused at the address noted in the Department records.
 - (c) The notice provided by the Commission shall state whether, pending the disposition of any pending charges, the accused shall continue to be suspended if previously suspended.
 - (d) The Commission may adjourn any hearing date on its own motion or upon a showing of good cause.
- 12.12 Hearings before the Commission shall be conducted to assure fundamental fairness to the parties:
 - (a) Both the complainant and respondent may request subpoenas from the Chairperson to compel the attendance of witnesses. Service of subpoenas and witness fees shall be the responsibility of the party requesting the subpoena.
 - (b) An accused member may have an attorney represent him or her at the hearing. The Commission may be represented by a special counsel as selected by the Commission.

- (c) As soon as possible after filing of charges, but in no event less than five (5) days prior to the scheduled hearing, representatives of both parties shall confer with the Chairperson and/or legal counsel for the Commission for purposes of defining the issues to be considered at the hearing. The retention of a court reporter shall also be addressed at that time.

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

- (d) All hearings before the Commission shall be conducted in public except those deliberations, including consultation with legal counsel, by the Commission, shall be conducted in closed session.

- (e) No subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Commission unless the Commission determines there is just cause to sustain the charges. In making its just cause determination, the Commission shall apply the following standards, to the extent applicable:

- i. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct
- ii. Whether the rule or order that the subordinate allegedly violated is reasonable
- iii. 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
- iv. Whether the effort described under subparagraph (iii) was fair and objective
- v. Whether the Chief has presented credible evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate
- vi. Whether the Chief is applying the rule or order fairly and without discrimination against the subordinate
- vii. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Chief's Department.

- (f) The accused and the complainant, at their individual expense, shall be entitled to representation by counsel at any hearing. In the absence of the appearance of the accused, the Commission will proceed to dispose of the matter on such evidence as may be before it. In the absence of the appearance of the complainant, if there is one, the Commission may dismiss the charges without consideration.
- (g) The complainant shall first present its evidence supporting the charges filed with the Commission. The accused may then present evidence. Thereafter, each side may offer rebuttal evidence. Cross examination of all witnesses by the opposing party shall be permitted. The complainant and the accused may be called adversely.
- (h) Testimony of witnesses shall be under oath administered by the Chairperson or court reporter in the form and manner provided by the Wisconsin Statutes. Testimony of witnesses at the hearing may also be preserved. Witnesses may be sequestered upon request of either the complainant or the accused or any member of the Commission.
- (i) Proceedings before the Commission shall not be governed by the common law or statutory rules of evidence except those relating to privileges under Wis. Stat. §905 or to admissibility under Wis. Stat. §901.05. The Commission shall admit all evidence having reasonably probative value but may exclude irrelevant or repetitious evidence or arguments. Objections to evidentiary offers and offers of proof regarding evidence ruled inadmissible may be made and incorporated into the record.
- (j) At the close of the presentation of evidence, each party shall be entitled to a limited oral summation of the evidence, or at the discretion of the Commission, a written submission representing proposed findings of fact and conclusions of law.
- (k) The Chairperson may entertain a motion to enter a closed session pursuant to Wisc. Stat. §19.85(1) to deliberate and confer with legal counsel for the Commission.
- (l) In the event the Commission determines that the complainant has failed to meet his/her burden of proof, the charges shall be dismissed, and the proceedings terminated with the accused being immediately reinstated and all lost pay, if any, restored.
- (m) At the conclusion of any hearing, the Department shall provide the Commission Secretary with a sealed copy of the employment history and performance records of the accused member(s) if same has not been made a part of the record during the hearing. Such file(s) shall not be opened or reviewed by the Commission unless the

Commission shall have first determined by a majority vote that the charges have been sustained. If the Commission shall determine that there is just cause to sustain the charges, the Commission shall review said file(s) to determine what, if any, discipline is appropriate. If the charges are sustained, the Commission may, for the good of the service, order that the accused be:

- i. suspended;
- ii. reduced in rank;
- iii. suspended and reduced in rank;
- iv. discharged; or
- v. otherwise disciplined.

(n) The Commission shall prepare a written decision containing a summary of its findings and orders within three (3) days of its decision. A longer period may be provided by agreement of the parties. A copy of the written decision shall be provided to both parties and to the Chief of the appropriate Department if the Chief is not a party to the proceedings.

12.13 No request for a rehearing shall be entertained unless substantial new material evidence is submitted which could not reasonably have been presented at the previous hearing and which was not presented through any fault or lack of diligence of the party offering it. In all cases, the request for a rehearing shall be presented to the Commission in writing, reciting the reasons for request.

12.14 Any person suspended, reduced in rank, or removed after a hearing may appeal from the order to the circuit court by serving written notice thereof, stating the grounds upon which the appeal is based, to the Secretary of the Commission within ten (10) days after the order, if filed. Within five (5) days thereafter, the Secretary of the Commission shall certify to the clerk of the circuit court the records of the proceedings, including all documents, exhibits, testimony, and minutes. After taking of such appeal, the proceedings thereafter shall be governed by the provisions of Wis Stat. §62.13(5)(i).

12.15 The Secretary of the Commission shall keep a record of each hearing, name and address of the accused and complaint, if there is one, a brief description of the charges involved, and the final disposition of the case. The Secretary shall also show on the docket for each case, all other important date and dates concerning the case, such as date of filing, notice of appeal, date of sending out notices and to whom sent, date of posting of notice of hearing, and dates of hearings, continuances and final determination.

ARTICLE XIII – LAY-OFFS AND RE-EMPLOYMENT

- 13.1 When it becomes necessary because of need for economy, lack of work or funds, or for other just causes to reduce the number of subordinates, the emergency, special, temporary, part-time, or provisional subordinates, if any, shall be laid off first, and thereafter subordinates shall be laid off in the order of the shortest length of service in the Departments. Those with identical seniority shall be laid off in order of least ability to serve as determined by the Commission from a consideration of service reports.
- 13.2 When it becomes necessary for the reasons set forth in section 13.1 to reduce the number of subordinates in the higher positions or offices, or to abolish any higher positions or offices in the Department, the subordinate or subordinates affected thereby shall be placed in a position or office in the Department less responsible according to his or her efficiency and length of service in the Department.
- 13.3 The name of a subordinate laid off for any cause set forth in sections 13.1 or 13.2 shall be retained on an eligible re-employment list for a period of two (2) years after the date of his or her layoff. If any vacancies occur, or if the number of subordinates is increased in the Department, such vacancies or new positions shall be filled by persons on such a list in the inverse order of layoff.

ARTICLE XIV – ADMINISTRATION

- 14.1 The Commission shall hold regular meetings at the time and place designated in the public notice for the meeting, but no less frequently than quarterly as called by the Chairperson of the Commission. All meetings of the Commission shall comply with Wisconsin's Open Meetings Law.
- 14.2 Annually, at the June meeting, the Commission shall elect, from among its members, a Chairperson and Secretary.
- 14.3 A special meeting may be called by the Chairperson or by any two (2) members of the Commission. All special meetings shall comply with Wisconsin's Open Meetings Law. Notice to Commissioners requires that the notice be personally served or, if personal service cannot be accomplished, by leaving the notice with an adult member of his/her family at his/her residence.
- 14.4 Any member of the Commission, upon reasonable notice to the chairperson, may place an item on the agenda for the Commission's next meeting.
- 14.5 Whenever there are no appeals or disciplinary action to be considered, and there appears to be no other business to be transacted by the Commission at

any regular meeting, other than the annual meeting, the Chairperson may dispense with such meeting by notifying each member of the Commission and the City Clerk not less than 24 hours prior to the time of such meeting.

14.6 Three (3) members of the Commission shall constitute a quorum to transact businesses, but a lesser number may adjourn from time to time. All determinations of the Commission shall be made by a majority of the members, except for as provided under Article XV Section 15.1.

14.7 The regular order of business by the Commission shall be:

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

14.8 The Chairperson of the Commission shall:

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

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

14.9 The secretary of the Commission shall:

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

- (f) Certify the Commission's records when required by law

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

ARTICLE XV – REPEAL OF RULES AND REGULATIONS

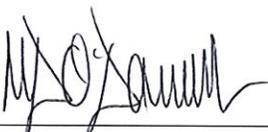
- 15.1 These rules and regulations shall not be repealed, amended, or modified except by a super majority action of the Commission at a regular meeting of the Commission. "Super majority" is defined as a minimum of 80% of the entire membership. The phrase "entire membership" means *all* members of the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

ARTICLE XVI – COMMISSION RECORDS

- 16.1 Agendas and meeting minutes of the Commission shall be stored and maintained electronically by the Office of the City Clerk. The Commission will adhere to the City of New Berlin's record and retention management policies. All documents and records physically retained by the Commission shall be stored in designated locked file cabinets located in the Public Safety Building.

Dated this 3rd day of March 2025.


Richard Piontek, Chairperson


Michael O'Donnell, Secretary

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MAR 03 2025

**CITY OF NEW BERLIN
OFFICE OF THE CITY CLERK
SARAH HOLTZ**

