



Rules and Regulations

of the

City of Plymouth

Police and Fire Commission

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Reference Material:

Wisconsin League of Municipalities – Police and Fire Commission Handbook

CITIES

<https://docs.legis.wisconsin.gov/statutes/statutes/62/title>

RESIGNATIONS, VACANCIES, AND REMOVALS FROM OFFICE

<https://docs.legis.wisconsin.gov/statutes/statutes/17/title>

GENERAL DUTIES OF PUBLIC OFFICIALS

<https://docs.legis.wisconsin.gov/statutes/statutes/19/title>

GENERAL MUNICIPALITY LAW

<https://docs.legis.wisconsin.gov/statutes/statutes/66/title>

LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS

<https://docs.legis.wisconsin.gov/statutes/statutes/164/title>

DEPOSITIONS, OATHS AND AFFIDAVITS

<https://docs.legis.wisconsin.gov/statutes/statutes/887/title>

FIRE DEPARTMENT SAFETY AND HEALTH STANDARDS

https://docs.legis.wisconsin.gov/code/admin_code/sps/safety_and_buildings_and_environment/326_360/330

Chapter 1

Scope of Authority of the Rules and Regulations of the Police and Fire Commission.

These rules shall be applicable for all sworn members of the City of Plymouth Police Department and to all members of the City of Plymouth Fire Department whose primary responsibilities include the suppression or prevention of fires. Civilian employees of the Police Departments are not governed by these rules.

The word “Commission” shall refer to the Police and Fire Commission of the City of Plymouth.

The word “Chief” refers to the Police Chief, Acting Police Chief, Fire Chief or Acting Fire Chief within the Police or Fire Departments.

The word “Department” refers to the Police or Fire Department in relation to the context or requirement in that portion of these rules.

General Information Concerning the Police and Fire commission.

Mission. The mission of the City of Plymouth Police and Fire Commission (“Commission”) shall be to provide citizen oversight of the City of Plymouth Police Department, the City of Plymouth Fire Department, and the members of each department recognized as police officers or, those who have responsibilities related to the suppression of fires.

Duties and Responsibilities. To implement the provisions of Section 62.13 of the Wisconsin Statutes. To appoint Police and Fire Chiefs; establish procedures for employment in accordance with city ordinance 2-4-11 of Police and Fire Commission, conduct exams of applicants for employment with the Police and Fire Departments; and to conduct investigations and hearings regarding members of the Police and Fire Departments in violation of law or policy.

Membership. The Police and Fire Commission shall consist of five (5) citizens who are residents of the City. The Mayor shall annually appoint at the organizational meeting one (1) member for a term of five (5) years. No appointment shall be made, which will result in more than three (3) members of the Commission belonging to the same political party. The Commission shall keep a record of its proceedings. Commission appointments are made between the last Monday in April and the first Monday in May.

Quorum. Three (3) members constitute a quorum. Without a quorum, the Commission lacks authority to meet or transact business. All determinations of the Commission shall be made by a majority vote of members present.

Jurisdiction. The Commission shall have the authority vested in it by Wis. Stat. §62.13. These include the power to:

- A. appoint, suspend, or remove Police and Fire Chiefs.
- B. approve all appointments made by the Chief(s), including the promotion of subordinates. The appointments of subordinates are made by the Chief from the list certified by the Commission in accordance with the procedures outlined later in these rules and regulations.
- C. approve and control competitive examinations used to judge suitability for the appointment of subordinates.
- D. approve each list of individuals determined to be eligible for appointment.
- E. suspend the Police Chief, or Fire Chief, or subordinates pending the filing and hearing of charges against them.
- F. Initiate charges against the Police Chief, or Fire Chief or a subordinate. Since the Commission hears and decides any charges, this should be avoided if possible. If it is necessary, the Commission should seek legal advice to ensure proper mechanisms are put in place to ensure the person charged receives due process.
- G. hear charges filed against the Chief of a department, or a subordinate, make findings and determinations, and impose penalties.
- H. hear appeals of disciplinary actions initiated by the Chief of a department against a subordinate.
- I. to sue, or be sued, where necessary to conduct an express power or duty.

Equal Opportunity Policy. The Commission will hire the most qualified applicant for a vacancy regardless of sex, race, religion, creed, color, national origin, age, disability, sexual orientation, ancestry, marital status, arrest or conviction record, military service, or any other legally protected status.

Preservation of Documents. No official documents of the Commission shall be destroyed except in accordance with existing state statutes.

Unless otherwise required, all applications, examination materials and other documents for the Commission shall be preserved for a minimum of 7 years. The Secretary of the Commission, or his/her designee shall be responsible for preservation of the documents. Official records are kept at the City Clerk's Office.

Administration of Departments. The administration of the Police and Fire Departments shall be conducted in accordance with the applicable sections contained in Chapter 62 of the Wisconsin Statutes. Additionally, the Fire Department shall comply with the provisions of the Department of Safety and Professional Service as set forth in the Wisconsin Administrative Code SPS chap 330.

The Police Chief shall have command of the police department under the direction of the Police and Fire Commission. The Chief shall obey all lawful written orders of the Mayor or Common Council Wis. Stat. 62.09(13)(a).

The Fire Chief shall have command of the fire department under the direction of the Police and Fire Commission. The Chief shall obey all lawful written orders of the Mayor or Common Council.

Federal and State Laws. Should any federal or state law of regulation, or the final decision of any court in competent jurisdiction affect any provision of this document, the provision so affected shall be deemed to be amended, so as to conform to the law, regulation, or decision.

Applicable federal and state laws shall govern all provisions of these rules and regulations. Federal or state law shall supersede any rule or regulation in conflict with these policies.

City Ordinance, Resolution, Personnel Policy Guidelines. No city Ordinance, Resolution or Personnel Policy Guideline shall supersede the rules of the Commission unless specifically referred to in these rules or as required by state or federal law.

Union Contracts. Applicable union contract provisions shall govern all provisions of these rules and regulations. Union contract provisions, other than those expressly invested in the Commission by statute, shall supersede any rule or regulation in conflict with these policies.

Chapter 2

Administration of Police and Fire Commission

Meetings. Regular meetings shall be held on the first Tuesday of each month at 8:30 a.m. Special meetings may be called at any time upon the request of the Commission President or any two (2) Commission members with twenty-four (24) hours' notice to each Commission member and the public unless for good cause such notice is impossible or impractical, in which case shorter notice may be given under Wis. Stat. § 19.84(3). In no case may notice be provided less than two (2) hours in advance of a meeting.

Terms of Commissioners. When a person shall have served a total continuous period of three terms of three (3) years and/or two (2) terms of five (5) years each upon any City board or commission, whether elected by the Council or appointed by the Mayor, such person shall not be eligible to reappointment to such board or commission, for a period of one (1) year, unless a waiver to the herein term limits is granted by the Common Council. (Municipal Code 2-4-13 (b) (3)).

Appointment of Officers. In May of each year, the Commission shall elect from its members a President, Vice-President, and Secretary. Voting shall be conducted via voice vote unless any Commission member moves for said vote to be by secret ballot pursuant to Wis. Stat. § 19.88(1). There shall be no limitation on the number of terms any officer may serve, but each term of office shall be for one year commencing with the May meeting.

If the City Council has not approved the new member of the Commission for the year, the election of officers may be delayed until such time as the appointment is made. If one of the officers should resign, that vacancy shall be filled in accordance with existing statutes.

Duties and Responsibilities. Commission officers shall have the following duties and responsibilities:

President. The President shall:

- A. preside over all meetings and hearings and ensure their orderly conduct.
- B. make rulings on motions and objections with, or without, the advice of the other members of the Commission or, its legal counsel, but always subject to an appeal of the ruling by the member of the Commission as would be allowed under Robert's Rules of Order.
- C. accept filing of written charges against Chiefs and subordinates.
- D. issue subpoenas for the attendance of witnesses at hearings pursuant to Wis. Stat. § 62.13(5)(d).
- E. administer oaths to witnesses appearing before the Commission.

- F. confirm the charge(s) for the accused at any hearing including the provisions alleged to have been violated.
- G. ask questions and control questions asked by other Commission members during any hearing.
- H. ensure standards for procedural due process are afforded the accused at any hearings.
- J. shall provide information to the Mayor when there are unanticipated vacancies.
- K. adjourn Commission proceedings.

Vice-President. The Vice-President shall act in the capacity of President whenever the President is unavailable to act due to disqualification, physical absence, or incapacity for any reason.

Secretary. The Secretary shall:

- A. conduct all correspondence of the Commission, send all notices required by law, ordinance, or these rules, or as otherwise requested by the Commission.
- B. cause to be published such official notices as are required.
- C. attending and keeping a record of all Commission proceedings, including the preservation of testimony and any evidence received by the Commission at any hearings in a permanent record and to certify such record to the circuit court when required by law.
- D. confirm the availability of the services of a court reporter when Commission proceedings require a verbatim transcript.
- E. maintain the minutes of each meeting and hearing, with said minutes being approved by the Commission.
- F. provide copies of all Commission minutes to each Commission member as soon as possible and file a copy of said minutes with the City Clerk.
- G. accept filing of all appointments under Wis. Stat. § 62.13(1).
- H. accept for filing all findings and determinations of the Commission relative to disciplinary actions and Commission orders, all of which shall be filed within three (3) days of their adoption pursuant to Wis. Stat. § 62.13(5)(f).

Miscellaneous. In the event a Commission meeting is commenced in the absence of the President, the individuals leading the meeting shall continue to lead the meeting, even upon the arrival of the President, who shall participate in the meeting as a member of the Commission.

Removal of Commission Members. Involuntary removal of a member appointed to the Commission is governed by Wisconsin Statute Section 17.12. The Mayor or Common Council may remove a PFC member for cause, which is defined as “inefficiency, neglect of duty, official misconduct or malfeasance in office.”, Wis. Stat 17.001 Removals for cause must follow the procedures set forth in Wisconsin Statute Section 17.16.

Order of Business Meetings. The regular order of business at a meeting of the Commission shall normally be in the following listed order:

- A. call to order.
- B. roll call.
- C. persons desiring to be heard before the Commission.
- D. consideration and approval of the minutes of the preceding meeting.
- E. consideration of report from the Chiefs of Police and Fire Departments.
- F. unfinished and miscellaneous business as indicated on the meeting notice agenda.
- G. new business as indicated on the meeting notice agenda.

Closed Session Procedures and Requirements. When information is contained in the notice setting the date, time, and agenda for an open meeting, and if the agenda contains notice of a closed meeting the following applies:

- A. the Presiding Officer must request a motion to go into closed session. No motion to convene in closed session may be adopted unless the Presiding Officer announces to those present at the meeting which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under Wisconsin Statute 19.85(1) which allows for a closed session to be authorized. The announcement shall become part of the record of the meeting.
- B. the vote of each member on the motion to go into closed session shall be ascertained and recorded in the minutes.

No business may be taken up at any closed session except that which relates to matters contained in the Presiding Officer's announcement of the closed session and as indicated on the meeting notice agenda.

If the Commission plans on reconvening in open session after the completion of closed session, the public notice of such subsequent open session must be given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

If the Commission does not reconvene into open session immediately following a meeting in which a closed session was convened the commission shall not convene in open session within 24 hours after completion of the closed session.

Chapter 3

Applications for Employment

Authority to Hire. Even though the hiring process is within the Commission's jurisdiction, funding for the process, and positions must come from the municipality.

Job Description. At the beginning of every process, the Commission should review and revise, if necessary, the job description for vacant positions(s).

Employment Job Announcement. When the Chief desires to hire an entrance level employee, the Chief shall prepare a job notice. The job notice shall contain the following information:

- A. minimum age of applicant.
- B. minimum education level, where appropriate.
- C. any special training, or education, which would be required or desirable.
- D. procedure for applying.
- E. Personnel Evaluation Profile (PEP).
- F. deadline for applications.
- G. deadline to accept applications shall be posted for a minimum of 14 days.

For openings within the Police Department notice of job openings shall be posted on the Wisconsin Department of Justice website WILENET and any other location as directed by the Commission or Chief.

For openings within the Fire Department notice of job openings shall be posted where the Fire Chief or Commission deem appropriate.

A copy of the job announcement shall be provided to the Commission President.

Police Department Application Forms. The Commission shall utilize the Department of Justice form application (DJ-LE-330). Applicants will be required to submit copies of degrees, and certifications, for verification upon request. Applicants will also be required to submit, with the application, a signed release authorizing the Department to conduct a background investigation.

Fire Department Application Forms. The Commission shall utilize the City of Plymouth Employment Application Form. Applicants will be required to submit copies of degrees, and certifications, for verification upon request. Applicants will also be required to submit, with the application, a signed release authorizing the Department to conduct a background investigation.

Misrepresentation

Misrepresentation with Application or at Any Time During the Hiring Process. Any misrepresentation by the applicant regarding any material fact provided during the hiring process shall be sufficient cause for excluding the applicant from the examination, or from removing his or her name from the eligibility list, or for his or her discharge from the Police or Fire Department.

The Commission has authorized the Chief to reject or disqualify any applicant who misrepresented themselves or provided false information during the hiring process.

Failure to Meet Qualifications. The Commission's role is to examine whether applicants possess the required qualifications as established by the governing body.

The Commission has authorized the Chief to reject all applicants whose background history reveals that he/she has failed to meet the specific qualifications for the position for which he/she is applying.

The Commission has authorized the Chief to reject, or disqualify, any applicant who fails to follow directions during any portion of the hiring process.

When any portion of the hiring process contains a pass/fail activity and a candidate fails, the Commission has authorized the Chief to disqualify the applicant from the hiring process for failing to meet the qualifications for hire.

Previously Employed Applicant. Any person dismissed from the Departments, for just cause, shall be ineligible to make application for appointment to any position in either Department named herein.

Any former employee of the Departments, who left in good standing and wishes to be re-employed, must compete for the position in the same manner as all other applicants for the position, except in those instances where the re-employment is done in the best interest of the Departments.

Notwithstanding anything contained in this policy, or collective bargaining agreements, any employee that is dismissed, or laid off due to reasons stated in Section 62.13(5m) of the Wisconsin Statutes, shall be granted re-employment rights according to the provisions of Section 62.13(5m).

Chapter 4

Entrance Level Qualifications and Procedures

Employment Qualifications and Eligibility. The qualifications for positions shall be set forth in the Job Descriptions for each position by the Commission. Before an individual may be appointed as an entry level subordinate, or promoted to a higher subordinate position, the individual must meet the minimum qualifications for the position as set forth in the job description for that position.

Establishing the Hiring Process. The hiring process, and steps within the process, shall be designed to evaluate the applicant's ability to cope effectively with the responsibilities of the position for which he/she is applying.

The process may consist of all, or any, of the following as authorized by the Commission and consistent with existing law:

- A. job announcement and posting.
- B. department level review of submitted application, and materials, to determine if the applicant meets the qualifications.
- C. written exam.
- D. physical agility test.
- E. Personnel Evaluation Profile (PEP).
- F. department command staff interview.
- G. commission interview.
- H. conditional offer of employment contingent upon a successful background investigation, psychological exam, medical exam, and drug test.

Chapter 5

Examinations/Testing/Interview Process

Examination Protocol. All examinations shall be conducted under the Commission's approved protocol. The Commission may designate any suitable municipal, state agency or person to conduct, or assist in conducting examinations. The Commission may use the assistance of the Department including the Chief, outside consultants, and citizens, as appropriate, in performing the Commission's duties, provided that the creation of a Certified List is approved by the Commission.

All examinations shall comply with the following protocol:

- A. examination shall be an assessment process that fairly evaluates the capacity of the applicants to successfully perform the duties of the position.
- B. applicant who fails to pass a pass/fail examination shall be removed from the process. Any applicant taking an examination shall follow the instructions given by the person conducting the examination. Failure to follow directions will result in disqualification from the hiring process.
- C. every stage of the examination process shall be administered the same for all applicants eligible for that stage, except for those applicants who are provided with reasonable accommodation because of a disability.
- D. the Commission shall establish the criteria used to assess whether applicants pass an examination prior to the examination.
- E. reasonable accommodations shall be made for an applicant with a disability under federal or state law for any examination. Application forms shall advise applicants of this right.
- F. information relative to applicant's scores shall be strictly confidential and shall not be divulged, except insofar as disclosure is required by law, necessary to determine those applicants eligible for additional testing, is permitted by these By-laws, or, if deemed necessary by the Commission, for a purpose related to administration of the selection process.
- G. applicants, Commission members, or Department employees shall not give assistance to any applicant in any manner during the examination process. A violation of this rule shall subject each applicant involved to exclusion from the examination. Any Commission member or Department employee who violates this rule shall be subject to appropriate sanctions.
- H. no applicant shall be given a second, or special competitive test, in connection with any examination held, unless it is shown to the Commission's satisfaction that the applicant's failure to take, or complete the test was due to a manifest error, or mistake for which the Commission, or its designated assistants are responsible.
- I. the Commission may, in the interest of fairness, void the examination and re-test all applicants.

- J. documents generated during examinations shall be retained by the Commission, or its designated representative, for seven years after the expiration of the eligibility list for which the examination was held.
- K. candidate for employment previously rejected by a medical examiner shall not take the examinations provided for in these rules until a certificate from a medical examiner shows that the cause for rejection has been corrected, or that some reasonable accommodation of the condition has become available.

The Commission, with recommendations made by the Police/Fire Chief, has the option of establishing that a specified number of applicants receiving the highest score on the written exam shall be considered to continue in the hiring process.

Physical Agility Test/Personnel Evaluation Profile. Applicants being offered an oral interview may first be required to perform a Physical Agility Test and a Personnel Evaluation Profile exam.

Physical Agility Test. The tests and standards for the Physical Agility test will be similar to those required by the State of Wisconsin, Department of Justice Training and Standards, for entry level police officers. The standards represent the level of physical fitness which predicts safe and effective job performance of the essential physical tasks required of police officers. The tests will include the Vertical Jump, Agility Run, Sit-ups, Push-ups, and the 1.5 Mile Run.

At the discretion of the Department, applicants who can provide documentation and results of a similar test taken within the last year may not be required to take the physical agility test.

Personnel Evaluation Profile (PEP). The PEP survey provides insight into the applicant's attitudes, values, and background. Key areas include honesty, reporting dishonesty, socialization, drugs, employment background, work ethic, absenteeism, and tardiness. The results of the PEP survey may be used to ask additional questions during the oral interviews or background investigation.

Oral Interviews

The purpose of an oral interview is to assess individual skills and qualities that may be difficult to measure using other methods. When planned, structured, and conducted carefully, interviews can help those involved in the selection process learn more about. The oral interview is designed to evaluate the applicant's demeanor, character, personality, communication skills, ability, and suitability within the department, such as an applicant's ability to communicate effectively.

- A. An applicant's experience and interests beyond those reflected in an application form and resume.
- B. An applicant's reasons for seeking appointment as a public employee, as well as the applicant's expectations and goals.

Applicants may be required to complete an oral interview with Department staff members and shall be required to complete an interview with the Commission.

The following criteria will be applied to all oral examinations:

- A. applicants shall be asked the same questions.
- B. questions shall be work-related and designed to measure job knowledge, experience, and education, or to solicit responses that reflect personal qualities that are work-related.
- C. questions shall be designed to not lead to the disclosure by an applicant of any protected status (e.g., age or disability).
- D. the interview panel will be provided with a copy of the position description, application, and interview questions.
- E. the same interview panel will interview all applicants.
- F. determine the composition of the interview panel. Depending on the position, a panel of department supervisors is generally appropriate. For promotional positions, Departments sometimes use supervisors from other Departments to serve as the panel to bring a different level of expertise and to eliminate any perception of bias. The Commission should also determine whether the Commission or any of its members will be a part of any interview panels.

Department Interview. At the discretion of the Chief the applicant may be required to complete a Department level interview. When the Department is hiring for a full-time officer position within the Association(Union), the Chief of Police or designee shall select an Association member to sit in on the interview process. All applicants will be asked the same questions.

If a Department interview is conducted it shall be considered a Pass/Fail interview. If the results of the interview indicated that they are a suitable candidate for employment the applicant will be offered an interview with the Commission. If the results of the interview indicate they may not be a suitable candidate for employment the applicant will be removed from the hiring process.

PFC Interview. The Commission, or its designee, shall conduct an oral interview. Only the Commission, designee, and the Chief may be present during the oral interview.

The questions asked during the oral interview will be prepared by the Commission with the assistance of the Chief. All applicants will be asked the same questions.

Background Investigation

A background investigation shall be conducted by the Department on all Police and Fire applicants being considered for employment. The background investigation may explore the applicant's work history and references, educational history, and social and personal history, through relevant interviews. It should include a criminal background check, and a review of the applicant's relevant driving behavior.

Other areas to be considered during the background investigation:

- A. credit checks.
- B. social media.
- C. investigation in the applicant's current neighborhood of residence, and the neighborhood of any former residence in the previous 10 years.
- D. investigation of each place of former employment during the preceding 10 years.
- E. such additional investigation as may be deemed appropriate and necessary, to provide a basis for judgement on the applicant's loyalty to the United States, and the State of Wisconsin, or to detect conditions which would adversely affect performance of the applicant as a Law Enforcement Officer or Firefighter.

Background investigations shall not be conducted by telephone alone. All background investigations shall be reduced to writing and shall be available to the Commission for the Commission's review upon request.

The ADA bars employers from ordering job applicants to undergo a medical examination until an offer of employment has been made. Therefore, an offer of employment must be made conditional on the results of medical and psychological examination.

Medical / Psychological Exams

Medical Examination. An applicant to whom a conditional offer of employment has been made, and whose background investigation reveals that the applicant is suitable for hire, shall be examined by a physician licensed to practice medicine in Wisconsin. The examination shall be solely for the purpose of verifying that the candidate can meet the essential occupational requirements of the position, and to address those physical, and health requirements, that relate to the occupational qualifications for the position involved, or the nature of reasonable accommodations required to enable the applicant to meet these qualifications. The examination shall also include a drug screen.

Psychological Exam. An applicant, to whom a conditional offer of employment has been made, shall undergo a psychological evaluation and personality inventory by a psychiatric social worker, psychiatrist, or other qualified person for the purpose of evaluating the applicant's psychological fitness for duty. The results of the exam will be maintained in a segregated, confidential medical file.

Offer of Employment

Once an applicant has satisfied the provisions of the conditional offer the appointment can be formalized by the Commission by taking formal action to approve the chief's appointment.

Chapter 6

Promotions and Transfers

Promotions Process. The process of filling subordinate positions, other than entry-level positions, is within the Chief's authority. Per Wisconsin State Statute Section 62.13(4)(a), whenever possible, promotions shall be made with advantage. The Chief, rather than the Commission, initially determines whether an appointment of a subordinate may be made with advantage.

Once the Chief determines that promotion with advantage is appropriate, a meeting shall be scheduled with the Commission to discuss the recommendation by the Chief. This meeting shall be in closed session. The Commission may approve the selection made by the Chief, or the Commission may require a hiring process, which may be open to qualified candidates from inside and outside of the Department. This process would then be like that of an entry level hiring process.

Transfers. Movement of a subordinate from one position to another within the same pay scale is a transfer. The Chief may transfer a subordinate without Commission approval, provided the transfer does not violate any collective bargaining agreement.

Transfers may be made with, or without, the consent of the personnel involved.

Temporary Promotions. The Chief may appoint a subordinate officer as a temporary acting Detective, Sergeant, Lieutenant, or Assistant Chief in the event one of those supervisory officers retires, resigns, or is temporarily unable to fulfill their duties.

Notification of Appointments. The Chief shall notify the Commission President of any appointments made.

Chapter 7

Appointment of Police and Fire Chiefs

Acting Chief. The Commission may appoint a subordinate as a temporary acting Chief, in the event the Chief retires, resigns, or is temporarily unable to fulfill the Chief's duties. The Commission may choose any member of the Department to fill this position or may seek an outside candidate.

Commission Responsibilities/Duties in Hiring a Chief. The Commission will establish the hiring process and steps to be taken to fill a vacant Chief's position. This will include approving the required forms and materials to be submitted during the application process, approving the exams and assessment that will be conducted during the process, approving the interview process, and ultimately choosing the candidate from the qualified list that they have approved. The Commission may however choose to fill the Chief's position with advantage by promoting someone from within the Department without conducting a hiring process or creating a hiring list of candidates.

Hiring Process

The hiring process, as found in Chapter 4, will be used to hire Police and/or Fire Chiefs.

Chapter 8

Probationary Status

Police Department

Newly hired officers serve an eighteen (18) month probationary period per union contract. Supervisory positions, Lieutenants and Deputy Chiefs, hired from outside the department, serve a one-year probationary period.

For individuals promoted from inside the Department, there is no probationary period. They may be demoted back to the prior rank for cause but may not be terminated without just cause.

Police Department civilian staff probationary period are governed by the City's "Personnel Manual (Section 7.09)."

Fire Department

The standard probationary period for promotions is 12 months. The initial probationary period for new firefighters is 18 months. During the probationary period, if they do not meet the requirements during that time, we have two options:

- A. demotion to previous position.
- B. extend the probation.

If the requirements of probation are met, they may be eligible to come off probation early.

When on Probation:

- A. the subordinate has no expectation of continued employment, nor any contractual or other vested property right in employment.
- B. the subordinate may be terminated at any time for any reason at the sole discretion of the Chief.
- C. the subordinate is not entitled to any showing of cause for termination; and
- D. the subordinate is not accorded any formal hearing rights of any kind other than those that are necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes.

While on probation, if the appointed subordinate proves unsatisfactory in the position the Chief may:

- A. extend the probationary period.
- B. request the Commission reduce the person to his or her former rank if such a position is vacant as allowed in Wisconsin Statute Section 62.13.

C. request the Commission to terminate employment with just cause.

If option B. or C. is chosen the subordinate shall be allowed a formal hearing with the Commission to dispute the process. The subordinate must file the request for a hearing within fourteen (14) after receiving the dismissal notice

The Chief shall inform the Commission President of any dismissal when an employee is on probation.

Probation of Employee Injured. An employee who is on probation and is injured shall have their probation in abeyance, up to one year, or until they return to their regular assigned duties, whichever comes first.

Police Recruit. If an applicant is hired as a Police Recruit, and is required to attend the Police Academy, the applicant's probationary time begins when they successfully complete the Academy and return to duty as a certified police officer.

Chapter 9

Discharge, Suspension and Other Disciplinary Hearings Before the Commission

Discipline, Suspension, Reduction or Demotion.

Scope, Authority, and Jurisdiction of Commission for Discipline. The scope and authority of the Commission in the disciplinary process applies only to suspensions, reductions in rank, and terminations. Personnel actions involving other forms of discipline such as counseling statements, verbal warnings and written warnings are not within the Commission's jurisdiction. These actions may, however, be within their jurisdiction, if they are included in matters as a form of progressive discipline for disciplinary action related to suspensions, reduction in rank and terminations.

Because the jurisdiction of the Commission applies only to disciplinary actions, the termination of a subordinate on the basis that the individual cannot perform the essential functions of the job because of a permanent physical, or mental health condition, is not within the jurisdiction of the Commission.

With respect to employment laws, the Commission has exclusive statutory authority to review disciplinary actions.

Newly hired, probationary subordinates, who do not successfully complete their probation, are not within the scope of the statutory disciplinary process. A probationary subordinate does not have a property interest in his or her position and only has a unilateral expectation of completing the probationary period and being a permanent officer.

If a subordinate is promoted, and is on probation, and subject to disciplinary charges during the probation period, the subordinate, if being demoted, may request a just cause hearing with the Commission.

Suspension or Discharge of the Chief. The following applies to the discharge, or suspension, of the Chief:

- A. the Commission may suspend the Chief upon its own initiative or pending the investigation of written charges made by a citizen that have been filed with the Commission. The suspension shall be with pay and benefits and shall be for the shortest reasonable duration which the charges may be investigated and resolved.
- B. the Commission may suspend, demote, suspend and demote or terminate the Chief for cause shown pursuant to the filing of charges pursuant to Wis. Stat. §62.13(5).
- C. the Chief shall be notified in writing of the charges filed and the hearing on such charges shall be as noted in this document to the extent they apply to the Chief.

Discipline, Demotion, Suspension and Termination of Subordinates. The following applies to the discipline, demotion, suspension and termination of subordinates:

- A. the Chief may discipline a subordinate subject to the terms of any applicable collective

bargaining agreement, or City of Plymouth Employee Handbook. The Commission may review any disciplinary action taken, or approved by the Chief, if the disciplined subordinate requests such a review.

- B. the Chief may suspend a subordinate and shall report such suspension to the Commission. A suspended subordinate may request that the Chief file charges with the Commission to support such suspension.
- C. the Commission may order the suspension, demotion, or termination of a subordinate for just cause pursuant to the filing of charges against the subordinate under Wis. Stat. §62.13(5).

Hearings Procedure for Commission Deliberations on Disciplinary, Suspension, Demotion or Charges.

Filing Charges and Preliminary Meeting.

Filing Charges. The Chief, a Commission member, the Commission, or any aggrieved person may file charges against the Chief, and/or a subordinate officer, and shall be notified of this right upon making a complaint. No offer of reduction of fines, or agreement not to prosecute shall be offered to induce the complainant to not file, or to withdraw filed charges. Charges shall be in writing. The Commission shall make a form available for filing charges. The charges shall include a statement, pursuant to Wis. Stat. § 66.0511(3), that “Whoever makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.” The charges should be filed with the Commission President. A copy of the Citizen’s Complaint Form is attached hereto as Appendix A

Notice of Meeting. The Commission shall set a date for a preliminary meeting not less than ten (10) days, nor more than thirty (30) days, following the date charges are filed with the Commission President.

Preliminary meeting:

- A. when charges against an officer, or the Chief are filed with the Commission President if the date of filing is more than ten (10) days prior to the next regular meeting the Commission President shall call a special meeting of the Commission. Such meeting may, in the Commission President’s discretion, be conducted in closed session in accordance with Wis. Stat. § 19.85, Stats. Should such a filing be within ten (10) days of the next regular meeting, the subject matter shall be considered at the regular meeting.
- B. notice of such regular, or special meeting, shall be given in a normal and customary manner, but not less than twenty-four (24) hours prior to the meeting. In addition, notice shall be given to the complainant and the accused. A copy of the charge shall be furnished along with the notice to the accused with an explanation that delivery does not constitute formal service. If the meeting is set for closed session, the notice shall advise the accused that the accused has the right to demand that the meeting be conducted in open session.

- C. at the preliminary meeting, the Commission shall read, and examine the charges, to assure that the charges are sufficiently specific, related to duties, sufficient to warrant imposition of discipline within the scope of §62.13(5), and to avoid defamation of the accused.
- D. the Commission shall determine whether the accused should be suspended with pay pending the hearing on the charges.
- E. the accused, and the complainant, and/or their attorneys may be heard. However, the preliminary meeting shall not hear or evaluate evidence. Upon request of the Commission President, the Commission's legal counsel shall attend such meeting and advise the Commission as to the proceedings.
- F. if at the preliminary meeting, the charges are found to be sufficient as to form and nature, the Commission shall recess its meeting, and reconvene at a later date for purposes of conducting a formal hearing pursuant to Wis. Stat. § 62.13(5). The Commission shall also plan for service of the charges on the accused pursuant to § 62.13(5)(d).
- G. should the charges be found at the preliminary meeting to be insufficient as to form and nature, the charges shall be dismissed. If it appears that the defects in the charges may be cured by provision of additional detail or facts, the Commission may grant the complainant up to thirty (30) days in which to supplement the complaint.
- H. if at the preliminary meeting the Commission concludes that even if the allegations are proven, the discipline would not reach the level of suspension, reduction-in-rank or termination, the Commission shall refer the complaint to the Chief for further handling as warranted or, if involving the Chief, shall determine whether lesser discipline is warranted.

Pre-Hearing Scheduling Conference. If at the preliminary meeting, the Commission concludes that the charges are sufficient to warrant a hearing, the Commission shall conduct a pre-hearing conference to be held at least five (5) days before the hearing. The accused, and the complainant, shall be notified in writing of the date, time, and place of the pre-hearing conference.

The following matters shall be accomplished at the pre-hearing conference:

- A. witness lists, and any prior written, or recorded statements, or reports of witnesses shall be exchanged by the parties and/or counsel.
- B. exhibits, if any, shall be exchanged; and
- C. witnesses, or exhibits not submitted, at the pre-hearing conference, may be introduced at the hearing only if the Commission determines that there was a satisfactory or sufficient reason for the failure to introduce at the pre-hearing conference.
- D. if the complainant, or the complainant's counsel, fail to appear at the pre-hearing conference, the Commission shall dismiss the charges unless a satisfactory reason for the nonappearance is provided. Such dismissal shall be documented in writing to each of the parties and/or counsel within two (2) days of such dismissal. If the accused, or designated counsel does not appear, and no satisfactory reason for non-appearance is provided, the Commission may impose sanctions prohibiting the introduction of exhibits,

or witnesses, on behalf of the accused and reimbursing other parties (including the Commission) for expenses incurred in attending the pre-hearing conference.

Hearing on Charges. A public hearing with respect to the charges may be held at regular or special meetings of the Commission at such time as shall be determined by the Commission. Hearing procedures are as follows:

- A. hearings shall be open to the public, except that the Commission may deliberate in closed session. The Commission's vote following deliberations will take place in closed session unless the accused requests that the vote take place in open session.
- B. accused, and complainant shall be entitled to representation by counsel. An attorney appointed by the Commission shall serve as counsel for, and advise, the Commission on specific matters, its hearing procedures, the merits of alleged infractions of d
- C. Department rules and its determinations, and the rendering of advice as requested by the Commission or the Chief. Attendance at meetings by the attorney shall be in the direction of the Commission. The Commission shall designate an attorney to serve as prosecuting counsel for all charges filed by the Chief. Complainant citizens shall prosecute their complaints before the Commission either by themselves, or by counsel they retain at their own expense.
- D. all testimony of witnesses shall be under oath in the form and manner provided by Ch. 887, Wis. Stats.
- E. at the hearing, the order shall be as follows:
 - a. reading of the charges by the Secretary.
 - b. testimony, and introduction of evidence, by the complainant to substantiate the charges with right of cross-examination by the accused.
 - c. testimony, and introduction of evidence, by the accused with right of cross-examination by the complainant.
 - d. complainant's arguments; and
 - e. accused's arguments.

Disciplinary Standard. No subordinate may be suspended, reduced-in-rank, or removed by the Commission based on charges filed by the Commission, the Chief, or any aggrieved person unless the Commission determines that there is just cause to sustain the charges. In making its determination, the Commission shall apply the following just cause standards, to the extent applicable, as required by Wis. Stat. § 62.13(5) (em):

- A. whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.
- B. whether the rule, or order, that the subordinate allegedly violated is reasonable.
- C. 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.

- D. whether the effort described under subsection (c) was fair and objective.
- E. whether the Chief discovered substantial evidence that the subordinate violated the rule, or order, as described in the charges filed against the subordinate.
- F. whether the Chief is applying the rule or order fairly, and without discrimination against the subordinate; and
- G. 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.

Decision of the Commission. The Commission decision shall comply with Wis. Stat. § 62.13 (5)(e). If the Commission finds the charges are not sustained, the accused shall be immediately reinstated, and all lost pay restored. If the Commission determines that the charges are sustained, the accused, by order of the Commission, may be suspended or reduced-in-rank and/or removed, as the good of the service may require.

The decision and findings of the Commission shall be in writing, and shall be filed with the Commission Secretary, or his/her designee within three (3) days of the hearing.

The Secretary, or his/her designee, shall keep a record of each hearing, name and address of the accused and complainant, a brief description of the charges involved, and the final disposition of the case.

The Secretary, or his/her designee, shall also record for each case all other important data and dates concerning the case, such as the date of filing the notice to appear, date of service and to whom served, date of posting of notice of hearing, and the dates of hearings, continuances, and final determinations. All exhibits and documents involved in the hearing, including a transcript of the proceedings, shall be filed with the Secretary or his/her designee.

Appeal. Any persons suspended or terminated after the Commission's hearing may appeal the Commission's order to the Circuit Court, by serving written notice stating the grounds upon which the appeal is based, to the Commission Secretary, or his/her designee, within ten (10) days after the order is filed. Within five (5) days of service, the Commission Secretary, or his/her designee shall certify to the Clerk of Circuit Court the records of the proceedings, including all documents, testimony, and minutes. After the taking of such an appeal, the proceedings shall be governed by the provisions of Wis. Stats. § 62.13(5)(i).

Administrative Matters. The Commission shall adopt procedures further defining the following administrative details with respect to disposition of the charges filed within the Commission:

- A. set a preliminary meeting date within the time frame provided by Wis. Stat § 62.13(5)(d), not less than ten (10) days nor more than thirty (30) days after service of the charges on the Commission President.
- B. establish procedures for service of charges (by way of the Commission attorney or otherwise) and notice of hearing to be served in the same manner that a summons is served.
- C. direct the retention of a court reporter or recording equipment for the hearing.

- D. establish procedures for issuance of subpoenas by the Commission President and policy as to payment of witness fees.
- E. direct the format of the public hearing and provide relevant information to the parties and their attorneys, if any.
- F. issue any required notice of public hearing; and
- G. in the event, the parties reach agreement prior to the scheduled hearing and have expressed an interest in canceling the hearing, such cancellation requires the concurrence of the Commission President or designee.

Chapter 10

Layoffs and Reemployment.

Layoffs. When it becomes necessary because of need for economy, lack of work, or funds, or for other good cause, to reduce the number of subordinates, emergency, special temporary, part-time, or provisional subordinates shall be laid off first. Thereafter, subordinates shall be laid off in the order of the shortest length of service in the Department. Those with identical seniority shall be laid off in order of least ability to serve as determined by the Commission.

Reemployment. The name of a subordinate laid off shall be retained on an eligible reemployment list for a period of two (2) years, after the date of the layoff. If any vacancies occur, or if the number of subordinates is increased in the department, the vacancies, or new positions shall be filled by persons on re-employment list in the inverse order of the layoff.

Appendix A



CITY OF PLYMOUTH POLICE AND FIRE DEPARTMENTS

CITIZEN COMPLAINT STATEMENT FORM

Introduction

The following information is provided to you by the Plymouth Police and Fire Commission to inform you of the citizen complaint process. Citizens, who wish to express dissatisfaction with members or policies of either the police or fire Departments, should adhere to the following guidelines to ensure that a complete and proper investigation is conducted.

As a citizen, if you believe you have been mistreated or have not received adequate service, you have a moral and legal right to express dissatisfaction with your police or fire department. This will not only make you a responsible citizen, but your input will help to improve this department.

Because of the responsibilities imposed on all parties involved in the Citizen Complaint Process, the Plymouth Police and Fire Commission must inform you that Wisconsin Statute, § 946.66(2) False Complaints of misconduct, states in part: “Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.” If you believe a member of this department has acted improperly or has violated a Department rule or procedure, a federal or state law, or an ordinance of the City of Plymouth, you may file a written complaint. However, false complaints will be reviewed by the District Attorney’s Office.

If you have a complaint against a fire fighter, or the Department, you may file the complaint using the Citizen Complaint form. Similar to the filing of a police complaint, any false statements or claims may result in the District Attorney’s Office review.

Instructions for filing your complaint

What is a complaint – A complaint is a belief that a member of the Plymouth Police or Fire Department has violated a Department rule or procedure, a federal or state law, or an ordinance of the City of Plymouth, or dissatisfaction with a policy or procedure of the Plymouth Police or Fire Departments.

Who can file a complaint – In most cases, any citizen or agent representing an aggrieved or injured party may file a complaint. However, the agent shall be limited to the following:

- an attorney
- parent or Guardian of a child.
- a translator representing a non-English speaking complainant.
- agents can obtain a Citizen Complaint Form for the aggrieved or injured party and assist with its completion.

A citizen complaint can be filed at the police or fire department. All citizen complaint reports are confidential.

What must be filed – A narrative of the complaint can be written by a supervisory officer on the Citizen Complaint Form and signed by the citizen or agent and a copy will be provided. However, if more convenient for the citizen, the Citizen Complaint Form can be completed at a later time by the citizen or agent, and returned to the Plymouth Police or Fire Department. If the Citizen Complaint Form is concerning the Police Department it should be returned by to the following address:

Chief of Police
Plymouth Police Department
P.O. Box 218
Plymouth, WI 53073

For complaints against the Fire Department the form should be sent to:

Fire Chief
Plymouth Fire Department
P. O. Box 218
Plymouth, WI 53073

Alternative complaint procedures – Citizens also have the option of having their complaints reviewed by the Police and Fire Commission. Pursuant to Wisconsin Statute § 62.13(5), you may, as an alternative, mail your complaint directly to the Police and Fire Commission at the following address:

City of Plymouth
Police and Fire Commission
P.O. Box 107
Plymouth, WI 53073

Unless the complaint is against the Chief, a complaint filed with the Commission will be referred to the appropriate Chief for informal resolution. If the complaint is not resolved by the Chief to the satisfaction of the complainant, the complainant may request a formal hearing before the Police and Fire Commission provided that he or she shall file a written request with the President of the Commission within thirty (30) days of written notification from the appropriate Chief regarding his disposition of the complaint. Filing of a complaint on the Citizen Complaint Form to a Chief will be considered as a voluntary waiver by the complainant or his or her right to file a complaint directly with the Police and Fire Commission.

What happens with your complaint?

Acknowledgement – Persons who initiate written complaints shall receive written acknowledgment from the Chief or the Chief’s designee.

The investigation – The department will conduct a thorough investigation to include interviews of all available witnesses.

Who will investigate – Supervisors, under the direction of the Chief, will conduct all complaint investigations. Their duty is to gather all the facts and present these facts for review.

Length of investigation – Most investigations will be completed within a timely manner. Complex investigations may take several months to complete.



PLYMOUTH POLICE AND FIRE DEPARTMENTS CITIZEN COMPLAINT FORM

Department: Police: _____ Fire: _____ Date: _____

Complainant's Name: _____
(Last) (First) (Middle)

Date of Birth: ____/____/____ Sex: _____

Address: _____

Home Phone: _____ Work Phone: _____ Work Hours: _____

Nature of Complaint: _____

Date/Time of Incident: _____

Location of Incident: _____

Employee(s) Involved: _____
(Name of Accused and Rank, if known, or description)

Witness(s) to the Incident:

Name: _____
(Last) (First) (Middle)

Address: _____

Home Phone: _____ Work Phone: _____ Work Hours: _____

Name: _____
(Last) (First) (Middle)

Address: _____

Home Phone: _____ Work Phone: _____ Work Hours: _____

If necessary, add additional witness names on a separate sheet.

Details of the Complaint: _____

By signing this form, I swear and affirm that the contents of the complaint are true and correct to the best of my knowledge.

Signature: _____ Date: _____
(Complainant)

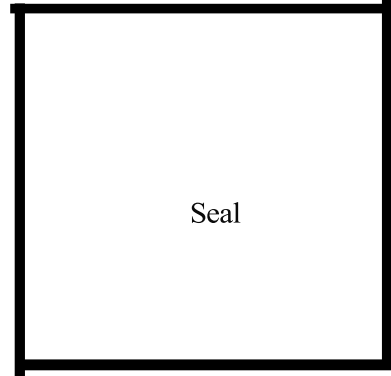
Subscribed and sworn before me this

_____ day of _____

in _____ County, Wisconsin

Notary Public, State of Wisconsin

My Commission Expires: _____



FOR OFFICIAL USE ONLY

Internal Investigation Case Number: _____

Date complaint received: _____

Employee Taking Complaint: _____

Investigating Supervisor: _____

Final Disposition: Sustained Not Sustained Exonerated Unfounded
(Check One)

Investigating Supervisor's Summary Report:

Date Complainant was notified of investigation results: _____

Method of notification: _____

Signature of Supervisor: _____

