



**CITY OF  
NEW HOLSTEIN**

**POLICE AND FIRE COMMISSION**

**RULES AND REGULATIONS**

## SECTION I – MISSION AND JURISDICTION

### Mission -

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

### Jurisdiction –

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

1. Appoint the Chief of Police and Fire Chief and exercise the power to suspend or remove her or him for cause
2. Appoint subordinate Police Officers
3. Provide for the competitive examination of applicants for Police Officer positions and certification of a pool of persons eligible for employment
4. Adopt rules of procedure for selection of Police Officers, including their qualifications, providing those qualifications do not conflict with qualifications established by state statute or administrative rule
5. Review and act on charges concerning the conduct of and discipline imposed on Police Officers
6. Exercise other powers conferred upon the Commission by the Wisconsin Statutes or the City Ordinances

### Scope of Rules

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

### Definitions

1. “By-Laws” means the City of New Holstein Police & Fire Commission By-Laws and Rules of Procedure currently in effect
2. “Commission” means the City of New Holstein Police & Fire Commission
3. “Department” means the City of New Holstein Police Department
4. “Police Officer” means a sworn department employee who performs the duties of a law enforcement officer
5. “Chief of Police” means the Chief of Police or temporary acting Chief of Police of the Department
6. “Fire Chief” means the Chief of the Fire Department or temporary acting Chief of the Fire Department

## **SECTION II – INTERNAL PROCEDURES/ADMINISTRATION**

Regular meetings of the Police and Fire Commission shall be held at New Holstein City Hall located at 2110 Washington Street, quarterly, the second Tuesday of the month of February, May, August and November at 4:30 p.m. unless the President shall notify the Commission members that there is no business to bring before the Commission.

Notices of the meetings shall be given according to relevant Wisconsin Statutes.

The President may call special meetings at any time, at the request of any members of the Commission, the Chief of Police, the Fire Chief or the Mayor, upon 24 hours notices in advance to each member of the commission and to the public. Notice of any special meeting shall be given according to the relevant Wisconsin Statutes.

The Officers of the commission shall be a President, Vice-President and a Secretary.

### Commission President Duties –

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

### Commission Secretary Duties -

1. The Secretary shall receive appeals from action of the Chief of Police, send out notices required by law, ordinance, these By-Laws, or as requested by the Commission, make official publications as may be necessary, attend all Commission meetings and hearings, provide for the taking and recording of testimony and other evidence received at hearings, preserve the evidence in a permanent record, and certify the record to the Circuit Court when required by law.
2. The Secretary shall keep a minute book, showing all-important facts pertaining to each meeting and hearing. The minutes of each meeting and hearing shall be signed by the Secretary and approved by the Commission. A copy of the unapproved minutes shall be provided each Commission member, the Chief of Police and Fire Chief as soon after each meeting as is possible.
3. After the Commission approves the official records and minutes, the original record shall be filed with the City Administrator.
4. The Secretary, at the direction of the Commission President, may conduct correspondence on behalf of the Commission. Any Commission member designated by the Commission President may also conduct correspondence on the Commission's behalf.

At the regular meeting in the month of May, the commission shall elect one of its members to act as President, one to act as Vice-President and one to act as Secretary for a term of one (1) year or until a successor is duly elected. There shall be no limitation on the number of terms any officer may serve but each term shall be for one (1) year commencing from the May meeting.

Appointees filling vacancies created by resignation, removal or death of a commissioner shall serve out the term of their predecessor.

A commission member may be removed for cause provided the majority of the Common Council agrees the facts presented at a hearing before it warrant the commissioner's removal.

Three members of the Commission shall constitute a quorum to conduct business as per Wisconsin Statutes.

The Secretary shall attend all meetings and shall record all official actions. Minutes along with other records of the Commission shall be secured in the office of the City Administrator. The Vice-President shall act on behalf of the President in the President's absence. The Secretary shall preside if both the President and Vice-President are absent.

The regular order of business of the Commission shall be as follows:

1. Call to order
2. Approval of printed minutes of previous meeting
3. Report of the Chief of Police (Closed session per Wisconsin Statutes may apply during this report)
4. Report of the Fire Chief (Closed session per Wisconsin Statutes may apply during this report)
5. Unfinished business
6. New Business including reports and request, commissioner requests etc.
7. Any other business which may lawfully come before the Commission including comments from the public
8. Adjournment

Personnel records shall be sealed and opened only in the presence of the Chief of Police, the Fire Chief or the Commission.

#### SCOPE OF AUTHORITY

The commission has the statutory power, duty and responsibility to do all acts and perform all duties of a police and fire commission created pursuant to Section 62.13, Wisconsin Statutes, including but not limited to the following:

1. Appoint, suspend or remove the Chief of Police and/or the Fire Chief
2. Approve all appointments made by the Chief of Police and the Fire Chief including the promotion of subordinates
3. Adopt, modify and repeal rules governing how the list of individuals, concluded to be eligible for appointment and promotion are established
4. Approve competitive examinations used to judge suitability for appointment or promotion
5. Approve each list of individuals determined to be eligible for appointment or promotion
6. Suspend the Chief of a department or subordinates pending the filing and hearing of charges against them
7. Initiate charges against the Chief of a department or any subordinate

8. Hear charges filed against a Chief of a department or a subordinate, make findings and determinations and impose penalties
9. Hear appeals of disciplinary actions taken by the Chief of a department against any subordinate
10. Adopt rules governing the management of commission activities

The New Holstein Police and Fire Commission has determined that without further order of the commission, it will not exercise the optional powers of the board prescribed under section 62.13(6), Wisconsin Statutes.

The Commission may waive any specific provision relating to hiring or promotions upon the request of either Chief and upon majority vote of all Commission members present.

The Commission may review these Rules and Regulations at any time and any amendment thereto may be made on a majority vote of the Commission

### **SECTION III – EMPLOYMENT QUALIFICATIONS AND ELIGIBILITY**

#### Qualifications of the Chief of Police –

For the position of Chief of Police, the Commission may, in its discretion, appoint a suitable person, who need not be a member of the Department or a resident of the City. If the applicant is a nonresident, the applicant must establish residency within 15 miles of the city after appointment.

#### Qualifications for Recruitment –

Before an individual may commence employment as a Police Officer, that individual must have met these recruitment qualifications:

1. Ability to obtain a valid Wisconsin driver's license or other valid operator's permit recognized by the Wisconsin Department of Transportation as authorizing operation of a motor vehicle in Wisconsin prior to beginning employment. The results of a check of the issuing agency's motor vehicle files constitutes evidence of driver's status
2. A minimum age of 20 years. A birth or naturalization certificate shall serve as evidence of applicant's date of birth
3. No conviction for any felony under the laws of the United States, Wisconsin or any other state or jurisdiction, unless the applicant has been granted an absolute and unconditional pardon
4. Possession of a two-year Associate's degree or 60 college credits from an accredited college or university
5. Successful completion of a written examination which may include a reading test, incident observation and report writing test and a testing system for law enforcement
6. Oral exam to be conducted by three Law Enforcement officials appointed by the Chief
7. Oral exam by the Police & Fire commission
8. Certification by the Training and Standards for Law Enforcement by the State of Wisconsin within the period of probation
9. No Domestic Violence Convictions
10. Completion of a background investigation to determine if the applicant is acceptable
11. The applicant shall be free from any physical, emotional, or mental condition, which would render him or her unable to perform their essential duties as a Police Officer. Applicants made a conditional offer of employment will be required to submit to and successfully complete psychological and medical examinations and drug testing. The Commission shall make reasonable accommodations to comply with the Americans with Disabilities Act and any other applicable Federal and State laws.
12. Chief's Interview

#### Qualifications of the Fire Chief –

For the position of Fire Chief, the Commission may, in its discretion, appoint a suitable person based upon written standards adopted by the Commission.

Qualifications of Assistant Fire Chief's –

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

## **SECTION IV: RECRUITMENT, TESTING AND HIRING**

### Chief of Police –

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

### Subordinates –

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

### Application –

The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for issuing forms shall be given by publication in a newspaper of general circulation in the City of New Holstein, and by any other means that the Commission may direct, at least ten days prior to issuing forms.

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

### Insufficient Application –

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

### Changes in Medical Information –

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

### Terminated Employees –

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

### Reentry Applications –

Any former Police Officer who desires reentry to the Department shall undergo any examination determined necessary by the Commission, except as provided in the previous paragraph.

Examination –

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

Delegation -

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

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

Position Description –

The Mayor, in consultation with the Chief of Police, and with the approval of the Common Council, shall establish duties for every position in the Department and include these duties as part of a written position description. The written position description shall include the position title or classification; a brief description of the position; the basic or minimum qualifications to be considered for employment in the position; the level or type of supervision received by the employee; who the employee is responsible to; the type or level of independent judgment used by the employee when performing tasks; the essential functions performed by an employee in the position; other duties that may not be essential but are typically undertaken by an employee in the position; basic abilities and knowledge the employee will need to perform adequately in the position; the type of equipment used by the employee; the location and environment in which the job is usually undertaken; any special environmental or physical requirement the employee may encounter. All position descriptions shall be reviewed and, as necessary, revised regularly.

Eligibility for Examination –

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

Substance of Examination –

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

Other examinations as deemed necessary by the Commission in the case of individual position selections, provided, however, that the determinations of which examinations are to be required is made prior to commencement of recruitment and is applied to all applicants for a position. It is currently the policy of the Commission to require all applicants made a conditional offer of employment to submit to a medical exam, drug testing, character investigation and a psychological evaluation.

### Examination Protocol –

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

All examinations shall comply with the following protocol:

1. Each applicant taking an examination shall follow the instructions given to her or him by the person conducting the examination
2. Information relative to applicants' scores, shall be strictly confidential, and shall not be divulged, except insofar as it may be necessary to determine those applicants eligible for additional testing, or if deemed necessary by the Commission, for a purpose related to administration of the selection process. Under provisions of Section 103.13(6)(c) of the Wisconsin Statutes, an applicant may request and be provided with the score attained on any specific section of the examination or the entire examination.
3. No applicant shall receive any assistance in any manner during the examination, unless allowed by law. 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.
4. No applicant shall be given a second or special competitive test in connection with any examination held, unless it is shown to the Commission's satisfaction that the applicant's failure to take or complete the test was due to a manifest error or mistake for which the Commission or its designated assistants are responsible. The nature of the error or mistake shall be set forth in the minutes. The commission may, in the interest of fairness, void the examination and re-test all applicants.
5. The Commission or its designated representative shall retain examination papers for one year after the expiration of the eligibility list for which the examination was held
6. Each applicant shall present to the person conducting the examination one or more forms of identification that contains the name and a photograph of the applicant

### Eligibility Pool -

1. The Chief of Police may appoint Police Officers only from the eligibility pool (open application for part time) certified by the Commission pursuant to these By-Laws
2. Upon the conclusion of examinations, the Commission in consultation with the Police Chief shall prepare and certify an eligibility pool that contains the names of applicants who have passed all necessary examinations and are eligible to be appointed if they successfully pass the character investigation, drug tests, psychological evaluation and the medical examination contingencies
3. Whenever it becomes necessary to fill a vacancy in the Department, the Chief shall choose an applicant from the eligibility pool and make a conditional offer of employment as a police officer to the applicant. The conditions of employment shall be the applicant's satisfactory completion of the character investigation, medical exam, drug tests and psychological evaluation

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

Medical Examination –

A physician licensed to practice medicine in Wisconsin and approved by the Commission shall examine every person, to whom a conditional offer of employment has been made pursuant to previous section of these By-Laws. The applicant shall complete a personal medical history, a copy of which is to be submitted to the examining physician. The examination shall be solely for the purpose of verifying that the candidate is capable of meeting the essential occupational requirements of the position, and to address those physical and health requirements that relate to the occupational qualifications for the position involved, or the nature of reasonable accommodations required to enable the applicant to meet these qualifications.

Background Investigation –

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

1. The applicant's fingerprints and a search of local, state and national fingerprint records
2. Inquire of all local, county, state and federal law enforcement agencies of the applicant's current and previous areas of residence
3. Investigation at all the applicant's schools attended beyond the age of fourteen; beginning with high school
4. Investigation in the applicant's current neighborhood of residence and in neighborhood of former permanent residence
5. Investigation in each place of employment. The interview of applicant's current employer should be at or towards the end of the investigation. The applicant's specific permission for the interview must be obtained

## SECTION V – PROBATIONARY PERIOD

### Probation -

All full time appointees, except the Chief of Police and the Police Captain, shall be on probation for two (2) years from the date of hire. The Police Captain shall serve a probationary period of 90 days. All part time officers shall be on probation period of 2,080 hours of employment with the City of New Holstein. As used in these By-Laws, the term “probation” means the customary initial provisional employment status, subject to terms that include, but are not limited to, the following:

1. The employee has no expectation of continued employment or any contractual or other vested property right in employment
2. The Commission may terminate the employee at any time for any reason
3. The employee is not entitled to any showing of cause for termination; and
4. The employee is not accorded any formal hearing rights of any kind other than those that are necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes

If during the two (2) years of actual service in the new position, the person appointed proves unsatisfactory or undesirable for the position, whether the employee be an original appointee or a promotional appointee, the Chief of Police may terminate the employee’s employment without regard to whether the appointment as original, or may reduce the employee to the employee’s former rank, where the appointment was promotional, as approved by the Commission.

1. The appointee shall not be entitled to an appeal from a dismissal or reduction
2. The Commission in its discretion may extend the probationary period beyond two (2) years if the Chief of Police, subject to the approval of the Police Union, makes a request.

## **SECTION VI – PROMOTIONS AND TRANSFERS WITHIN THE DEPARTMENT**

### Promotions –

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

1. The Commission may, at its sole discretion, open the process to candidates from outside the Department.
2. The internal promotion policy preference as stated in this subsection does not apply to the position of Chief of Police, which shall be open to qualified candidates from both inside and outside the Department.

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

Notice of the promotional opportunity and the scheduling of promotional examinations shall be authorized by the Commission. The Chief of Police shall post appropriate notice to Police Officers of the promotional opportunity on the Department bulletin board. The notice of the promotional opportunity shall be posted at the time the requirements are posted. That posting will be at least seven (7) days prior to the beginning the process. All efforts will be made to adjust any department work schedule to accommodate all qualified members who desire the opportunity to compete. If the Department work schedule interferes, the Commission will arrange to schedule examinations so that no one is disqualified due to the needs of the Department

1. All qualified members desiring to compete shall apply to the Commission using a written application for the promotion developed by the Commission
2. The promotion examination shall consist of appropriate examinations as determined by the Commission prior to the beginning of the selection process
3. The selection process shall be weighted one-third to the Chief, one-third to the commission and one-third to the exam(s). For positions not covered by the union contract, the selection shall be weighted one-third Chief, one-third Commission, and one-third exams.

### Acting Chief of Supervisory Officers -

1. The Commission may appoint a subordinate officer as a temporary acting Chief in the event the Chief retires, resigns, or is temporarily unable to fulfill the Chief's duties. Generally, the rules governing the chain of command shall be followed.
2. The Chief, only after receiving Commission approval, may appoint a subordinate officer as a temporary acting Captain, in the event that one of those supervisory officers retires, resigns, or is temporarily unable to fulfill their duties.
3. Temporary acting appointments under this subsection shall be a for a period not to exceed six (6) months, except that the Commission in its discretion, may extend the temporary acting appointment for [an] additional three-month period(s), or to a date or event certain within an additional three-month period.

## **SECTION VII – PROMOTIONAL PROCEDURES – POLICE DEPARTMENT**

## Promotional Potential Process

### 1. Candidate Evaluation

- a. Review the job description and standards for the promotional job
- b. Consider applicant's personal work record including efficiency, experience, training, attendance, commendations and disciplinary actions.
- c. Evaluate the applicant on the basis of his/her merit and apparent ability to perform the duties of the new job, not his/her relative ability as compared with other applicants.
- d. Recognize individual abilities and limitations for the higher job in addition to the performance on his/her present job.

### 2. Characteristics Evaluation

- a. Attitude and Loyalty – consider ability to work towards a common end in harmony with others, attitude toward other employees, departmental and city policies and willingness to assume additional responsibility.  
Does candidate show pride in his/her work? Does candidate support his/her superiors? Does candidate contribute toward good morale?
- b. Technical Skill and Job Knowledge – Has the candidate have the knowledge and skill necessary for the promotional job?
- c. Judgment – Can confidence be placed in his/her judgment? In the absence of superiors, would there be need for worry about his/her decisions? Does candidate show common sense?
- d. Expression and Communication – Does the candidate express himself/herself clearly and concisely? Are his/her oral and written explanations understandable? Is candidate's language acceptable? Initiative and Resourcefulness – Self-starting energy, mental alertness, adaptability to accommodate changes and the ability to conceive and execute new ideas.
- e. Initiative and Resourcefulness – Self-starting energy, mental alertness, adaptability to accommodate changes and the ability to conceive and execute new ideas will be considered
- f. Supervisory and Leadership Ability – The following will be considered: the candidate's ability to plan and organize work, the candidate's capacity to direct, control and influence others and demonstrated leadership ability to his/her daily relations with other employees.

### 3. Oral Interview

- a. All successful candidates will participate in an oral interview
- b. Members of the Police and Fire Commission and any persons approved by the commission will conduct the oral interview
- c. The oral interview will consist of a series of questions to evaluate the candidate's thinking, reasoning and problem solving abilities and communications skills
- d. The Police and Fire Commission shall evaluate the final rankings and will approve or disapprove the promotion by the majority vote

Scoring to be determined prior to commencing the process

#### Eligibility List for Promotion

Upon completion of all required tests, a final eligibility pool will be established by the Chief of Police subject to the approval of the Police and Fire Commission.

#### Probation Period

All promoted employees (exempt) will serve a 90-day probation period. After successful completion of the probationary period, permanent status will be granted.

#### Job Descriptions

All New Holstein Police Department job descriptions are included in the Department Policy Manual.

## **SECTION VIII – HIRING AND PROMOTIONAL PROCEDURES FIRE DEPARTMENT**

According to Section 62.13(3), Wisconsin Statutes, the Chief of the New Holstein Fire Department is to be appointed by the New Holstein Police and Fire Commission.

### A. Minimum Requirements/Qualifications, Fire Chief

1. Must be a member of the New Holstein Fire Department for at least five (5) years
2. Must be able to exhibit technical competence in the field of fire suppression, and must have certifications of Fire Fighter I and II, Incident Command and Officer Training
3. Must have some managerial competence for fire administration
4. Must exhibit job skill improvements by having participated in seminars, training sessions and technical course offerings

B. Application and selection procedures will be the same as for the Chief of Police of these rules and regulations except the search for a new Fire Chief would be conducted locally and within the New Holstein Fire/Rescue Department.

C. When a vacancy exists in the position of Fire Chief, the Acting Chief will be the 1<sup>st</sup> Assistant Chief of the New Holstein Fire/Rescue Department. He or she will assume the role of Acting Fire Chief until the New Holstein Police and Fire Commission appoints a new Fire Chief.

All other policies and procedures of the New Holstein Fire Department are governed by the New Holstein Volunteer Fire/Rescue Department.

The Commission stands ready to handle any hiring or disciplinary problems the New Holstein Fire Department wishes to refer to it.

## **SECTION IX– DISCIPLINE, SUSPENSION, REDUCTION OR DEMOTION**

### Suspension or Discharge of the Chief of Police -

- A. Investigatory Suspension. The Commission may suspend the Chief of Police 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 within which the charges may be investigated and resolved.
- B. In the event that the Commission deems it appropriate and necessary, the Commission may discipline the Chief of Police, including discipline in the form of an unpaid suspension. The Commission shall determine the appropriate discipline to be administered in its sole discretion.
- C. The Commission may, for cause shown, terminate the Chief of Police.
- D. The Chief of Police shall be notified in writing of the charges filed against her or him and shall have the hearing rights provided in Section 8 of these By-Laws, except that Section 8 of these By-Laws apply to the Chief of Police only to the extent required by Wisconsin law.
- E. Section 62.13(5)(j) of the Wisconsin Statutes, applies Section 62.13(5) of the Wisconsin Statutes to disciplinary actions against the Chief of Police when applicable and allows the Commission to suspend the Chief of Police pending disposition of charges filed with the Commission

### Discipline, Demotion, Suspension and Termination of Subordinate Police Officers -

- A. Discipline. The Chief of Police may, for just cause impose discipline on a subordinate Police Officer. The Commission may, on its own motion, impose discipline if the Commission believes discipline is warranted after a hearing on charges pursuant to Section 8.
- A. The Commission or the Chief of Police may suspend, demote, or terminate a subordinate for just cause. If the Chief of Police suspends, demotes, or terminates a subordinate, he or she shall immediately report it in writing, with the cause, to the Commission.
- B. The Commission shall review any disciplinary action taken or approved by the Chief of Police only if the individual affected appeals the decision, or if the Commission, on its own motion, initiates review.

### Who May File Charges –

As provided by Section 62.13(5)(b) of the Wisconsin Statutes, charges may be filed against a subordinate by the Chief of Police, by a member of the Commission, by the commission as body, or by an aggrieved person. Such charges shall be in writing and shall be filed with the Commission President. Pending disposition of charges, the Commission or Chief of Police may suspend the subordinate.

### Administrative Details –

The Commission shall adopt procedures further redefining the following administrative details in proceeding toward disposition of charges filed with the Commission:

- A. Set a hearing date within the time frame provided by the statute, i.e., not less than ten (10) days or more than thirty (30) days after service of the charges on the accused
- B. Establish procedures for causing service of charges (byway of the Commission
- C. Attorney or otherwise) and notice of hearing to be served in the same manner that a summons is served
- D. Direct the obtaining of court reporter for the hearing
- E. Establish procedures for issuance of subpoenas by the President and policy as to payment of witness fees;
- F. Direct the development of the format of the public hearing and direct the furnishing of relevant information to the parties and their attorneys, if any;
- G. Direct the giving of any required notice of public hearing;
- H. In the event the parties reach agreement prior to scheduled hearing and have expressed an interest in canceling the hearing, the cancellation requires the concurrence of the Commission President or her or his designee.

#### Public Hearing –

A public hearing may be held at regular or special meetings of the Commission at such time as shall be determined by the Commission. All hearings shall be open to the public, except that the Commission may deliberate in closed session. Hearing procedures are as follows:

- A. The accused and the complainant may be represented by counsel;
- B. All testimony of witnesses shall be under oath in the form and manner provided by Chapter 887 of the Wisconsin Statutes;
- C. Commission members may ask questions of the witnesses directly or through its attorney.
- D. The hearing order shall be as follows:
  - 1. Reading of the charges by the Secretary
  - 2. Opening statements by the parties, at the commission's discretion
  - 3. Testimony and introduction of evidence by the complainant to substantiate the charges with right of cross-examination by the accused
  - 4. Testimony and introduction of evidence by the accused with right of cross examination by the complainant
  - 5. Complainant's arguments
  - 6. Accuser's arguments

#### Legal Counsel -

The City Attorney for the City of New Holstein shall act as the attorney for the Police and Fire Commission.

- A. Independent legal counsel shall be retained as prosecuting attorney in all cases except when citizens file charges.
- B. Complainant citizens shall prosecute their charges before the Commission either by themselves or by counsel they retain at their own expense.

## **SECTION X – HEARING PROCEDURE FOR COMMISSION DELIBERATIONS ON DISCIPLINE, SUSPENSION, DEMOTION OR CHARGES**

### Filing Charges –

Any person may file charges against the Chief of Police, Fire Chief or subordinate officer. Charges shall be in writing. The Commission shall make a form available for filing charges, but charges need not be filed on the form.

### Procedure -

- A. Pursuant to Section 62.13(5)(d) of the Wisconsin Statutes, after the filing of charges in any case, a copy of the charges shall be served on the Police Officer charged.
- B. Notice of hearing. The Commission shall set a date for hearing not less than ten (10) days nor more than thirty (30) days following the date of service of charges.
- C. Preliminary Meeting. When charges against a Police Officer or Chief of Police are filed with the Commission, if the date of filing is more than ten days prior to the next regular meeting, the Commission President shall call a special meeting of the commission. That meeting may, in the President's discretion, be conducted as an open meeting or a closed session, provided that closed sessions are conducted in accord with Section 19.85 of the Wisconsin Statutes. Should the filing be within ten (10) days of the next regular meeting, it shall not be necessary to call a special meeting, but the charges shall be considered as part of the next regular meeting agenda.
  1. Notice of regular or special meetings shall be given in the 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 charges shall be furnished to the accused along with the notice as well as an explanation that delivery does not constitute service. If the meeting is set for closed session, the notice shall advise the accused that he or she has the right to demand that the meeting be conducted in open session.
  2. At the preliminary meeting, the Commission, to avoid defamation of the accused, shall read and examine the charges to assure that they are sufficiently specific, and related to police duties, and that if proven they are sufficient to warrant imposition of discipline.
  3. The Commission shall also determine whether the accused should be suspended with pay pending the hearing on the charges.
  4. The accused and the complainant and/or their attorneys may be heard. However, the preliminary meeting shall not hear or evaluate evidence. The Commission's legal counsel shall, upon request of the Commission President, attend such meeting and advise the Commission as to the proceedings.
  5. The hearing on the charges shall be public. Independent legal counsel may represent both the accused and the complainant. Any party may compel the attendance of witnesses by subpoenas that shall be issued by

the Commission President at the request of a party. The subpoenas shall be served under Chapter 885 of the Wisconsin Statutes.

Action -

- A. If the charges are found to be sufficient, as to form and nature, the Commission shall so find and proceed to disposing of the charges pursuant to the next paragraph of these By-Laws.
- B. 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 providing additional detail or facts, the Commission may grant the complainant up to thirty (30) days to supplement the complaint.

Standard –

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

- A. Whether the subordinate could reasonably be expected to have had knowledge of the probably consequences of the alleged conduct.
- B. Whether the rule or order that the subordinate allegedly violated is reasonable.
- C. Whether the Chief of Police, 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 charges described were fair and objective.
- E. Whether the Chief of Police discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.
- F. Whether the Chief of Police is applying the rule or order fairly and without discrimination against the subordinate.
- G. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Department.

Decision of the Commission -

- A. All Commission findings and determinations made after a hearing on charges, and all disciplinary orders based on the findings and determinations shall be filed with the Commission Secretary within three (3) days of the Commission's action.
- B. The Commission shall issue its decision in conformity with Section 62.13(5)(e) of the Wisconsin Statutes, which provides; that if the Commission finds the charges are not sustained, the accused, if suspended pending hearing, shall be immediately reinstated and all lost pay restored. If the Commission determines that the charges are sustained, the accused, by Commission order, may be suspended or reduced in rank and/or removed, as the good of the Department may require.
- C. The Commission shall, within three (3) days after hearing, by a majority vote of its members in open meeting, determine whether the charges are sustained by a preponderance of the evidence.

- D. Should the Commission determine that the charges are sustained it shall at once determine whether the good of the service requires disciplinary action by permanent discharge of the accused, by suspension without pay for a period not exceeding sixty (60) days, by reduction in the rank, or any disciplinary action deemed appropriate.
- E. The Secretary shall keep a record of each hearing, name and address of the accused and complainant, if there be one, a brief description of the charges involved, and the final disposition of the case. The Secretary shall also show on the docket for each case all other important data and dates concerning the case, such as date of filing notice of appeal, date of sending out notices and to whom sent, date of posting of notice of hearing, and the dates of hearings, continuances and final determinations and all exhibits, documents involved in hearing, including a transcript of the proceedings. All documents shall be filed with the Secretary. The Secretary may use the assistance of the Commission Legal Counsel or professional court reporters performing these duties.

Appeal –

Any person suspended or terminated after hearing may appeal from the order to the Circuit Court by serving written notice with the Commission Secretary within ten (10) days after the order is filed, stating the grounds upon which the appeal is based. Within five (5) days thereafter the Commission Secretary shall certify to the Clerk of the Circuit Court the records of the proceedings, including all documents, testimony and minutes. After the taking of the appeal, the proceedings shall be governed by the provisions of Section 62.13(5)(i) of the Wisconsin Statutes.

## SECTION XI – DISCIPLINARY ACTIONS

- A. A subordinate who has been disciplined may appeal the disciplinary action to the Commission within ten (10) days of the action with the exception of verbal or written warnings
- B. Any appeal from the suspension or disciplinary action of a regular member of either department by the respective Chief thereof shall be made and conducted according to Wisconsin Statutes Section 62.13(5). The hearing shall be held no less than 10 days or more than 30 days after filing of charges with the Commission by the Chief.
- C. The Commission may suspend a Chief for just cause upon its own initiative or pending the investigation of written charges filed by the Mayor or by filing charges with the President or presiding officer of the Commission. The Commission shall not remove a Chief except upon written charges filed with the President or presiding officer of the Commission by the Mayor, a member of the Commission, the Commission as a body or by an aggrieved person.
- D. Hearings to investigate charges against a Chief shall be governed by the provisions of Section 62.13(5) of the Wisconsin Statutes.

### Closed Sessions –

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

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

## **SECTION XII – CITIZEN COMPLAINT PROCEDURE**

- A. Any person filing signed charges against any member of either department shall file the original with the President or presiding officer of the Commission or the Chief of Police or the Fire Chief.
- B. The complaint shall be in writing and shall state the following: Name, age and address of complainant, the name or other clear identification of the accused, the facts which rise to the complaint, including the time and place of the alleged offense, the names of any independent witnesses upon whose testimony the complainant relies and their current address. The individual filing the complaint must sign the complaint.
- C. If a hearing is required, it shall be conducted according to the procedures outlined in Section VI.
- D. The Citizen Complaint Procedure is detailed in the New Holstein Police Department Policy and Procedure Manual.

### **SECTION XIII – CONSTRUCTION OF BY-LAWS**

Federal or State Law –

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

Repeal of Rules –

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

Severability –

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

*Adopted: September 28, 2010*

*Revised: February 13, 2020*