

CITY OF SPARTA
POLICE COMMISSION



RULES OF PROCEDURE

Adopted 4/8/2010

ARTICLE 1: MISSION AND JURISDICTION

- 1.01 Mission. The mission of the City of Sparta Police Commission shall be to provide citizen oversight of the Sparta Police Department, Police Chief and Police Officers so that they may protect and assist the people of the City of Sparta, consistent with their responsibilities to the public.
- 1.02 Jurisdiction. The Police Commission shall have the authority vested in it by Sections 61.65 and 62.13 of the Wisconsin Statutes, subject to Chapter 164 of the Wisconsin Statutes. These powers include:
- a. Appoint the Police Chief and exercise the power to suspend or remove the Chief for just cause;
 - b. Approve the appointments of Police Officers by the Police Chief;
 - c. Provide for the competitive examination of applicants for Police Officer positions and certification of a list of persons eligible for employment;
 - d. 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;
 - e. Review and act on charges concerning the conduct of and discipline imposed on Police Officers;
 - f. Supervise reductions in the Department in the event it is necessary to reduce the number of Police Officers; and,
 - g. Exercise other powers conferred upon the commission by Wisconsin Statutes or City Ordinance(s).
- 1.03 Scope of Rules. These rules apply to all Department positions requiring the employment of a Police Officer.
- 1.04 Definitions.
- a. "Commission" means the City of Sparta Police Commission.
 - b. "Department" means the City of Sparta Police Department.
 - c. "Police Officer" means a Department position requiring the employment of a law enforcement officer.

- d. "Police Officers" means all Police Officers as defined in subsection (c).
- e. "Police Chief" means the Chief of Police or acting Chief of Police of the Department.

ARTICLE 2: EMPLOYMENT QUALIFICATIONS AND ELIGIBILITY

- 2.01 Qualifications of the Police Chief. For the position of Police Chief, the Commission shall appoint a suitable person, who need not be a member of the Department or resident of the City.
- 2.02 Possess Qualifications for Recruitment. Before an individual may commence employment as a Police Officer, that individual must have met these recruitment qualifications:
 - a. A valid Wisconsin driver's license or other valid operator's permit recognized by the Wisconsin Department of Transportation authorizing operation of a motor vehicle in Wisconsin. The results of a check of the issuing agency's motor vehicle files constitutes evidence of driver's status;
 - b. A minimum age of eighteen years. A birth or naturalization certificate shall serve as evidence of applicant's date of birth;
 - c. No conviction for any felony under the laws of the United States, Wisconsin or any other state or jurisdiction. This provision shall not apply if the applicant has been granted an absolute and unconditional pardon;
 - d. Possession of either a two-year associate degree from a Wisconsin vocational, technical, and adult education district, or its accredited equivalent from another state, or a minimum of 60 fully accredited college level credits;
 - e. The applicant shall be of good character;
 - f. The applicant shall be free from any physical, emotional or mental condition which would render the applicant unable to perform the essential duties of a Police Officer. The Commission shall make reasonable accommodations to comply with the Americans with Disabilities Act and any other applicable federal and state laws; and,
 - g. Satisfactory completion of an oral interview to be conducted by the Commission or its representative(s).

- 2.03 Eligibility. Every applicant for appointment as a Police Officer shall meet these eligibility requirements:
- a. Not less than eighteen years of age at the time of taking the written examination;
 - b. Able to meet the essential occupational requirements of the position in terms of their health and physical condition;
 - c. A citizen of the United States;
 - d. No conviction for any felony under the laws of the United States, Wisconsin or any other state or jurisdiction. This provision shall not apply if the applicant has been granted an absolute and unconditional pardon;
 - e. Ability to speak, read, comprehend and write using the English language.

ARTICLE 3: RECRUITMENT, TESTING AND HIRING

- 3.01 Police Chief. The Commission shall appoint the Police Chief, 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 that the most qualified and suitable candidate shall be selected.
- 3.02 Subordinates. The Police Chief shall appoint all subordinate Police Officers using the selection and promotion procedures specified in these Rules of Procedure.
- 3.03 Application. The Commission shall authorize the issuance of forms for making application for appointment as a police officer. Notice of the time and place for issuing forms shall be given by publication in a newspaper of general circulation in the City of Sparta, and by any other means that the Commission may direct. This notice shall be published at least ten (10) days prior to issuing forms.
- 3.04 Misrepresentation. Misrepresentation of any material fact in the application shall be sufficient cause for excluding the applicant from the examination, or for removing the applicant's name from the eligibility list, or for the applicant's discharge, at any time, from the Department.

- 3.05 Insufficient Application. In order to avoid the expense of examining applicants who are barred from appointment, an application shall be rejected by the Commission or its designee, without further examination, whenever the application reveals the applicant cannot meet the eligibility requirements or the qualifications of the position applied for.
- 3.06 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.
- 3.07 Terminated Employees. Any Police Officer dismissed from the Department for just cause or for a reason other than a layoff for budgetary purposes shall thereafter be ineligible to make application for appointment to any position in the Department.
- 3.08 Re-entry Applications. Any former Police Officer who desires re-entry to the Department shall undergo any examination determined necessary by the Commission, except as provided in Section 3.07 of these Rules of Procedure.
- 3.09 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 a Police Officer, and shall fix the date, place and conditions whenever necessary to meet the needs of the Department.
- 3.10 Delegation.
- a. The Commission may authorize other municipal or state agencies to conduct the written examination. The agency shall provide a certified list of those applicants who have successfully completed the examination.
 - b. The Commission may use the assistance of the Department including the Police Chief, the City Administrator, outside consultants, and/or citizens, as appropriate, in carrying out the Commission duties in this Section. However, the final selection of a Police Chief, and the creation of the Certified List in Section 3.15 of these Rules of Procedure, shall be done only by Commission members.

- 3.11 Position Description. The Police Chief 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; who the person reports to; the primary function of the position; the major duties and responsibilities, and the basic requirements.
- 3.12 Eligibility for Examination. Examinations shall be open only to those persons who are eligible for appointment and who possess the requisite qualifications in conformity with the provisions of these Rules of Procedure.
- 3.13 Substance of Examination. The examination shall be a multi-stage assessment process which fairly tests the capacity of the applicant to successfully perform the duties of the position. Each original entrance examination shall consist of the following stages, to be administered in the order listed below. Any applicant who fails to pass any examination shall be removed from the process at that point and denied the opportunity to participate in further examinations.
- a. Written Examination
 - a1. Every applicant shall be tested using a suitable written law enforcement recruitment exam.
 - a2. The Commission may include such other tests as they deem of assistance in the selection of personnel.
 - b. Oral Examination. The Commission shall conduct an oral examination to evaluate the applicant's demeanor, character, personality, communication skills and ability insofar as these relate to the position qualifications.
 - c. Physical Agility Examination. A physical agility examination shall be conducted to test the applicant's strength, flexibility, endurance and coordination as it relates to the duties of a law enforcement officer.
 - d. Police Department Oral Examination. The Chief of Police and or other members of the Department will conduct an oral examination to evaluate the applicant's demeanor, character, personality, communication skills and ability insofar as these relate to his/her ability to interact appropriately with other department members.
 - e. Character Investigation. A character investigation shall be conducted to determine whether the applicant possesses any

disqualifying criminal record or specific disqualifying personal history, all of which shall relate specifically to qualifications of the position involved. "Good character" shall be determined from a written report containing the following:

- e1. The applicant's fingerprints and a search of local, state and national fingerprint records;
 - e2. Police checks in all of the applicant's current and previous areas of residence;
 - e3. Investigation of each school attended by the applicant from high school and beyond;
 - e4. Investigation in the applicant's current neighborhood of residence and in neighborhood of former permanent residence(s);
 - e5. Investigation of each place of employment. The interview of applicant's current employer should be at or toward the end of the investigation. The applicant's specific permission for this interview must be obtained; and,
 - e6. Any other investigation as deemed necessary to provide a basis for judgment on the applicant's fitness to perform the duty of a Police Officer.
 - e7. The character investigation shall not be assigned a score to be used in rating the applicant. Evidence of unsatisfactory character and/or activities shall be grounds for disqualification.
- f. And, any other examination that the Commission deems reasonable to determine fitness for duty; to include, but not limited to, a psychological evaluation, an assessment center, or any other evaluation tool deemed necessary.

3.14 Examination Protocol. All examinations shall be carried out under the Commission's supervision. The Commission may designate members of the Police Department, any suitable municipality or state agency, person or persons to conduct or assist in conducting the examinations. All examinations shall comply with the following protocol:

- a. Each applicant taking an examination shall follow the instructions given by the person conducting the examination;
- b. Information relative to applicant's 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.
- c. Neither applicants, Commission members or Department employee(s) shall give assistance to any applicant in any manner during the examination. 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.
- d. 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.
- e. A passing grade for the entire examination shall be established by the Commission prior to the examination. The Commission shall apply the appropriate veteran's preference as provided by Section 62.13(4)(d) of the Wisconsin Statutes.
- f. Examination papers 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.
- g. Each applicant shall present to the person conducting the examination one or more forms of identification which contain the name and a photograph of the applicant.

3.15 Certified List.

- a. The Police Chief may appoint Police Officers only from the list certified by the Commission pursuant to these Rules of Procedure.
- b. Upon the conclusion of examinations, the Commission shall prepare and certify a list that contains the names of applicants who have passed all necessary examinations and are therein eligible to be appointed provided they satisfy the medical examination and the character investigation conditions.
- c. Whenever it becomes necessary to fill a vacancy in the Department, the Commission shall certify to the Police Chief the names of the applicants remaining on the certified list. Any applicants certified to the Police Chief shall be deemed approved by the Commission for appointment, provided they satisfy the medical examination and the character investigation conditions.
- d. The certified list shall expire twelve(12) months from the date of certification unless extended or discontinued at the discretion of the Commission.

3.16 Medical Examination. Every person to whom a conditional offer of employment has been made pursuant to Section 3.15 of these Rules of Procedure, shall be examined by a physician licensed to practice medicine in Wisconsin and approved by the City. 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 related to the occupational qualifications of the position involved, or the nature of reasonable accommodations required to enable the applicant to meet these qualifications.

ARTICLE 4: PROBATIONARY PERIOD

4.01 Probation.

- a. All appointees, except the Police Chief, shall be on probation for eighteen (18) months from the date of hire or twelve months (12) from the completion of the Field Training Program, whichever is longer. As used in these Rules of Procedure, the term "probation" means the customary initial provisional employment status, subject to terms that include, but are not limited to, the following:

- a1. The employee has no expectation of continued employment or any contractual or other vested property right in employment;
 - a2. The employee may be terminated at any time for any reason in the sole discretion of the Police Chief;
 - a3. The employee is not entitled to any showing of cause for termination; and,
 - a4. The employee is not accorded formal hearing rights of any kind other than those necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes.
- b. If during the first probationary period the person appointed proves unsatisfactory or undesirable for the position, the Police Chief may terminate the employee's employment. The appointee shall not be entitled to an appeal from either a dismissal or reduction.
 - c. The Commission in its discretion may extend the probationary period beyond eighteen (18) months if a request is made by the Police Chief.

4.02 Promotional Probation

Any promotion shall be made as a probationary promotion. The probationary period shall be for a period of twelve (12) months from the date of the probationary promotion for Sergeant or Lieutenant and six (6) months for Detective. The probationary period may be extended for an additional six (6) months at the request of the Police Chief if approved by the Commission. At the end of the probationary period the Police Chief shall certify in writing to the Commission that the employee has successfully completed his or her probationary period at which time the Commission shall appoint the employee to the position. During the probationary period the Police Chief shall evaluate the employee for the purpose of determining the employee's competence to fill the promotional position. In the event that the Police Chief determines in his or her sole discretion not to certify that the employee has successfully completed his or her probationary period, then the employee shall continue in their former rank however without any loss of seniority or benefits.

ARTICLE 5: PROMOTIONS AND TRANSFERS WITHIN THE DEPARTMENT

5.01 Promotions.

- a. 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.
- b. Notice of the promotional opportunity and the scheduling of promotional examinations shall be authorized by the Police Commission. Appropriate notice to Police Officers of the promotional opportunity shall be posted on the Department bulletin board by the Police Chief. The notice of the promotional opportunity shall be posted at the time the requirements are posted. That posting will be at least ten (10) days prior to the beginning of 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.
- e. The promotion examination shall consist of appropriate examinations by the Commission or its designee in accordance with Section 3.13(a) and (b) of these Rules of Procedure.

5.02 Acting Chief or Supervisory Officers.

- a. The Commission may appoint a subordinate officer as an acting Chief in the event the Chief retires, resigns, or is temporarily unable to fulfill the Chief's duties.
- b. The Chief may appoint a subordinate officer as an acting Sergeant or Lieutenant in the event that one of those supervisory officers retires, resigns, or is temporarily unable to fulfill their duties. The Commission will be notified in a written report as to this acting position.

ARTICLE 6: DISCIPLINE, SUSPENSION, REDUCTION OR DEMOTION

6.01 Suspension or Discharge of the Police Chief.

- a. Investigatory suspension. The Commission may suspend the Police Chief upon its own initiative, and/or pending the investigation of written charges made by a citizen and 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 the Commission deems it appropriate and necessary, the Commission may discipline the Police Chief. The Commission shall determine the appropriate discipline to be administered consistent with local, state and federal laws.
- c. The Commission may terminate the Police Chief for just cause.
- d. The Commission shall notify the Police Chief in writing of the charges filed against him/her. The Police Chief shall have the hearing rights provided in Article 7 of these Rules of Procedure, except that Section 7.04 of these Rules of Procedure shall apply 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 Police Chief when applicable and allows the Commission to suspend the Police Chief pending disposition of charges filed with the Commission.

6.02 Discipline, Demotion, Suspension and Termination of Subordinate Police Officers.

- a. Discipline. The Police Chief 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 Article 7 of these Rules of Procedure.
- b. The Commission or the Police Chief may suspend, demote, or terminate a subordinate for just cause. If the Police Chief suspends, demotes, or terminates a subordinate, the Police Chief shall immediately report it in writing, with the cause, to the Commission.

- c. The Commission shall review any disciplinary action taken or approved by the Police Chief only if:
 - c1. The individual affected appeals the decision; and,
 - c2. The Commission, on its own motion, initiates review.

6.03 Who May File Charges.

- a. As provided by Section 62.13(5)(b) of the Wisconsin Statutes, charges may be filed against a subordinate by the Police Chief, by a member of the Commission, by the Commission as a body, or by an aggrieved person.

ARTICLE 7: HEARING PROCEDURE FOR COMMISSION DELIBERATIONS ON DISCIPLINE, SUSPENSION, DEMOTION OR CHARGES

7.01 Filing Charges.

- a. Any person may file charges against the Police Chief or a subordinate officer. Charges shall be in writing.
- b. Prior to the filing of a charge against any police officer by an aggrieved person (other than the Mayor, Chief of Police, Commission Member, or Commission as a body), the person shall file a complaint with the Police Department under the citizen complaint procedure. A charge may be filed with the Commission if the person is not satisfied with the disposition under the Citizen Complaint procedure. The charge shall be filed with the Commission no later than ten (10) days following receipt of the written disposition.
- c. Charges shall:
 - c1. Be in writing on a form provided by or approved by the Commission;
 - c2. Be addressed to the City of Sparta Police and Fire Commission;
 - c3. Identify the person against whom the charges are brought;
 - c4. State sufficient facts to allow the accused to know and understand the factual allegations and to be able to

prepare his or her defense. If any portion of the charge is made upon information or belief, the source of such information and belief shall be stated, including the names and addresses of witnesses having such knowledge. The charge shall specifically indicate the date and place of the alleged offense;

- c5. State the specific Code of Conduct, Rules and Regulations, City Work Rules, and/or any state or federal law which the accused is charged with violating;
 - c6. Be sworn to under penalty of perjury;
 - c7. Be filed with the President or Secretary of the Commission. (In the event that the charges are filed with the Secretary, the Secretary shall thereupon file the charges with the President).
- d. If there is more than one charge against an accused which emanates from a specific event, all such charges may be consolidated and be heard in one hearing. The President is authorized to take reasonable steps to effectuate a consolidation.

7.02 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 Police Chief are filed with the Commission, 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. That meeting may, at the President's direction, 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.

- c1. 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.
 - c2. At the preliminary meeting, the Commission 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.
 - c3. The Commission shall also determine whether the accused should be suspended with pay pending a hearing on the charges.
 - c4. 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.
- d. The hearing on the charges shall be public as outlined in subsection 9.09(a) of these Rules of Procedure.

7.03

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 Section 7.04 of these Rules of Procedure.
- 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.
- c. If the preliminary meeting was in closed session, the action taken must be announced in open session.

7.04

Standard. No subordinate may be suspended, reduced in rank, or removed by the Commission, based on charges filed by the Commission, a member of the Commission, the Police Chief 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)(e-m) of the Wisconsin Statutes:

- 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 Police 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 Police Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.
- f. Whether the Police Chief is applying the rule or order fairly and without discrimination against the subordinate.
- g. Whether the proposed discipline is reasonably related to the seriousness of the alleged violation and to the subordinate's record of service with the Department.

7.05

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 under subsection 7.05(c) of these Rules of Procedure.
- b. The Commission shall issue its decision in conformity with Section 62.13(5)(e) of the Wisconsin Statutes, which provides: 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 majority vote of its members in open or closed 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, by reduction in rank, or by any disciplinary action authorized by law.
- 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 and hearing, and 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 reporter to perform these duties.

7.06 Appeal. Any person suspended or terminated after a hearing may appeal the decision by following the procedures set forth in their respective Collective Bargaining Agreement (Addendum A) or as prescribed by state law.

ARTICLE 8: LAYOFFS AND RE-EMPLOYMENT

8.01 Layoffs and the re-employment of laid off employees shall be in accordance with the respective Collective Bargaining Agreements (Addendum B).

ARTICLE 9: COMMISSION ADMINISTRATION

- 9.01 Meetings. The Commission shall hold meetings at City Hall or any other designated place at a time and day selected by the Commission.
- 9.02 Officers. Pursuant to Wisconsin State Statute 62.13 (1), the Mayor designates one member of the Commission as President for a term of five (5) years. The Board of Police Commissioners may from time to time designate a vice president and/or secretary.
- 9.03 Special Meetings. All special meetings of the Commission shall be held at the place where the regular meetings are held, if possible. Special meetings may be called at any time by the President, or by any two members, by causing a written or oral notice of the special meeting to be personally delivered to each Commissioner. If a Commissioner cannot be found, notice may be delivered by leaving a written copy of the notice at the Commissioner's usual place of abode in the presence of a member of their family of suitable age and discretion.
- 9.04 Quorum. Three (3) Commission members constitute a quorum in order to transact business. All Commission decisions shall be made by a majority vote of members present.
- 9.05 Order of Business. The Commission's regular order of business shall be:
- a. Roll call.
 - b. Persons desiring to be heard.
 - c. Consideration of the preceding meeting minutes.
 - d. Consideration of communications from the Police Chief.
 - e. Unfinished and miscellaneous business.
 - f. New business.
- 9.06 Commission President; Duties. The Commission President shall preside over all Commission meetings and hearings. The President shall receive written charges filed against the Police Chief 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.
- 9.07 Commission Secretary; Duties.
- a. The Secretary or designee shall receive appeals from action of the Police Chief, send out notices as required by law, ordinance, these Rules of Procedure, 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.

- b. The Secretary or designee 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 or designee and approved by the Commission. A copy of the unapproved minutes shall be provided each Commission member and the Police Chief as soon after each meeting as is possible.
- c. After the minutes are approved by the Commission, one copy shall also be filed with the City Administrator.
- d. The Secretary, at the discretion 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 behalf of the Commission.

9.08 Administrative Details. The Commission shall adopt procedures further defining 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 nor more than thirty(30) days after service of the charges on the accused;
- b. Establish procedures for causing 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 obtaining of a court reporter for the hearing;
- d. Establish procedures for issuance of subpoenas by the President and policy as to payment of witness fees;
- e. Direct the development of the format of the public hearing and direct the furnishing of relevant information to the parties and their attorney, if any;
- f. Direct the giving of any required notice of public hearing; and,

- g. In the event the parties reach agreement prior to a scheduled hearing and have expressed an interest in cancelling the hearing, the cancellation requires the concurrence of the Commission President or designee.

9.09

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 take final action in closed session. Hearing procedures are as follows:

- a. The accused and the complainant may be represented by legal counsel. 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.
 - a1. The person filing the charge and the accused shall file with the Commission, and provide the opposing party, at least seven (7) days before the hearing date, a list of all intended witnesses, including names and addresses. The Commission may refuse to allow a party to call a witness not named on the witness list, unless the failure to include the name occurred for good reason, in determination of the Commission. Neither party will be required to call all of the witnesses included on his or her witness list.
- b. All testimony of witnesses shall be under oath in the form and manner provided by Chapter 887 of the Wisconsin Statutes;
- c. The hearing order shall be as follows:
 - c1. Reading of the charges by the Secretary.
 - c2. Opening statements by the parties, at the Commission's discretion.
 - c3. Testimony and introduction of evidence by the complainant to substantiate the charges with right of cross examination by the accused.
 - c4. Testimony and introduction of evidence by the accused with right of cross examination by the complainant.
 - c5. Complainant's arguments.

c6. Accused arguments

9.10 Legal Counsel.

- a. The prosecuting counsel for all charges filed by the Police Chief, the Commission, the City Council, the Mayor, or City Administrator shall be special counsel appointed by the City Council or City Administrator.
- b. The City Attorney shall, in the absence of a conflict of interest, advise the Commission on its hearing procedures, the merits of alleged violations of department rules and its findings, determinations, and orders, and represent the Commission in any appeal or other legal proceedings or action.
- c. Complainant citizens shall prosecute their charges before the Commission either by themselves or by counsel retained at their own expense.

ARTICLE 10: CONSTRUCTION OF RULES OF PROCEDURE

10.01 Federal or State Law. Should any Federal or State law or regulation, or the final decision of any court of competent jurisdiction affect any provision of these Rules of Procedure, the provision or provisions affected shall be deemed to be amended to conform to the law, regulation or decision subject to the right of appeal or review. These Rules of Procedure shall be construed to be consistent with the requirements of Federal and State law and shall be so applied.

10.02 Repeal of Rules. These Rules of Procedure shall not be repealed, amended or modified except by majority action of the Commission at a Commission meeting.

10.03 Severability. In the event any portion of these Rules of Procedure are found to be invalid, the remaining portion shall stand.

Approved by:

Gary Asher, Commission President

John Kress, Commissioner

Tom Sullivan, Commissioner

Harlan Perry, Commissioner

Wade Riniker, Commissioner

Date: _____

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Addendum "A"

5.04 Disciplinary Hearing Procedure. Following the filing of charges in any case, the following procedures shall apply:

Step 1: A copy of the charges shall be served upon the employee charged and the Association by personal delivery or by certified mail. The commission shall set a date for hearing not less than ten (10) days nor more than thirty (30) days following the service of copies of the charges. The hearing on the charges shall be public and both accused and the complainant may be represented by an attorney. A court reporter shall be engaged by the commission and the reporter shall make a verbatim record of the proceedings. Each party shall bear the expense of preparing and presenting its own case, including its own attorney's fees and witness fees and shall equally share the expense of the court reporter. Any party desiring a transcript of the record shall acquire it at its or his own expense. No employee hereunder shall receive compensation for time spent in the preparation or attendance at such hearing, unless required to engage in such preparation or attend such hearing by order of the employer. If the commission determines that the charges are not sustained, the accused, if he has been suspended, 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, or removed, as the good of the service may require. Findings and determinations hereunder and orders of suspension, reduction, suspension or reduction, or removal, shall be in writing, and if they follow a hearing, shall be filed with the City Clerk within five (5) days after the hearing. The clerk shall submit a copy thereof to the employee at his last known address, and to the Association such submission to be by personal deliver or be certified mail.

Step 2: A party may appeal from the decision of the commission by filing notice thereof with the City Clerk and with the Wisconsin Employment Relations Commission (WERC) within five (5) days after receipt of the decision of the commission. The WERC or the person designed by it shall be the arbitrator. The arbitrator shall notify the City and the Association of his selection and shall set a time and place for hearing. At that time, the record of the proceedings before the Police and Fire Commission, including all documents, testimony and minutes, shall be submitted to the arbitrator. The arbitrator shall thereafter fix a time and place for hearing which shall not be later than fifteen (15) days after such notification, except by agreement. The hearing shall be based upon the record of the proceedings before the Police and Fire Commission. The arbitrator shall determine the following question: Was the decision of the Police and Fire Commission for Just Cause? The arbitrator shall not have authority to substitute his judgment for that of the commission unless the

commission's decision is not for Just Cause. The parties shall be entitled to present oral arguments based on the record to the arbitrator, and the costs of such arbitrator shall be shared equally by the parties. The burden shall be on the party appealing to establish that Just Cause was not proven. If the order of the commission is reversed, the accused employee shall be forthwith reinstated and entitled to his pay as though in continuous service. If the order of the commission is sustained, it shall be final and conclusive.

Addendum "B"

SENIORITY

- 16.01 The principle of seniority shall be taken into account of layoff and recall and where vacation time requests conflict. In the event that there shall be a layoff of employees, the employee with the least seniority shall be the employee laid off provided that the remaining employees shall have the capabilities to perform the employer's work. Recall from layoff shall be by seniority provided the employee recalled is capable of performing the available work.
- 16.02 Seniority shall accrue from the first day of employment with the Sparta Police Department. An employee's seniority shall be terminated for any of the following reasons:
1. If the employee quits.
 2. If the employee is discharged and such discharge is sustained, if it is disputed
 3. If the employee is laid off for a period equal to accumulated seniority or two years, whichever is shorter.
 4. If the employee is laid off and fails to notify the employer of his intention to return to work within fourteen (14) days after issuance of a recall notice and fails to report for work within twenty-one (21) days of the date of issuance of the recall notice, unless such failure to report is beyond the employee's control.
 5. If the employee is absent from employment for three (3) consecutive working days without notice to the employer unless failure to give notice is beyond the employee's control, provided; however, that this section shall not affect disciplinary action against the employee for unexcused absence.