



Village of Winnetka

Board of Fire and Police Commissioners Special Meeting

October 30, 2024 at 4:00 PM
Winnetka Village Hall Conference Room
510 Green Bay Road

AGENDA

- 1. Call to Order**
- 2. Public Comments**
- 3. Approval of Minutes**
 - a. October 17, 2024
- 4. New Business**
 - a. Adoption of Proposed Changes to the Board of Fire and Police Commissioners Rules and Regulations
 - b. Patrol Officer Village Employee Lateral Recruitment Call for Examination
- 5. Closed Session**
- 6. Other Business**
 - a. Patrol Officer Conditional Offers of Employment
- 7. Adjournment**

NOTICE

All agenda materials are available at villageofwinnetka.org (*Governance > Agendas & Minutes*); or the *Village Manager's Office at Village Hall (2nd floor)*.

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator, 510 Green Bay Road, Winnetka, Illinois 60093, 847-716-3543; T.D.D. 847-501-6041.

**VILLAGE OF WINNETKA
BOARD OF FIRE & POLICE COMMISSIONERS
MINUTES**

October 17, 2024

Approved: _____

A record of a legally convened special meeting of the Winnetka Board of Fire & Police Commissioners, which was held in the Village Hall Conference Room (510 Green Bay Road) on Thursday, October 17, 2024, at 5:00 PM.

1) Call to Order:

Chairperson Benson called the special meeting to order at 5:01 PM. Secretary Storkman called the roll. Present: Chairperson Margaret (Meg) Benson, Commissioner Julian Solotorovsky, and Benefits Manager Lizzy Storkman (Board Secretary).

Absent: Commissioner Scott Myers

Also Present: Deputy Police Chief Dylan Majcher and Commander James O'Neill

2) Public Comment and Questions. None.

3) Approval of Minutes:

Commissioner Solotorovsky moved to approve the minutes of the October 9, 2024, Board of Fire and Police Commissioners special meeting as presented. The motion was seconded by Chairperson Benson. By voice vote, the motion carried.

4) New Business.

a) Review of Proposed Changes to the Board of Fire and Police Commissioners Rules and Regulations

Secretary Storkman shared that staff is working with legal for language to update the Board the Board of Fire and Police Commissioners Rules and Regulations to allow candidates for entry-level and Village lateral police officer to apply at age 20 instead of the current age 21 requirement. Changing the rules to allow 20-year-olds to apply would further expand the potential recruitment pool and allow eligible employees to apply before being eligible to do so with other agencies. Police academies will allow 20-year-olds to attend as long as they will turn 21 before the program's graduation date.

Staff anticipates legal review to be complete and the revised rules to be presented for adoption at the Board's next meeting on October 30.

5) Closed Session:

Chairperson Benson moved to adjourn to closed session pursuant to Section 2(c)1 of the Open Meetings Act to discuss personnel and employment. The motion was seconded by Commissioner Solotorovsky. By roll call vote, the motion carried. Ayes: Chairperson Benson and Commissioner Solotorovsky. Nays: None. Absent: Commissioner Myers.

The Board adjourned to closed session at 5:06 PM.

The Board returned from closed session at 6:38 PM.

6) Other Business:

a) Patrol Officer Conditional Offer of Employment

Commissioner Solotorovsky moved to extend a conditional offer of employment to Mahamadou Traore for the position of patrol officer, subject to the successful completion of post-offer examinations and procedures, and to authorize the Chairperson to sign the Certificate of Appointment should the candidate accept their offer and successfully complete the post-offer examinations. The motion was seconded by Chairperson Benson. By roll call vote, the motion carried. Ayes: Chairperson Benson and Commissioner Solotorovsky. Nays: None. Absent: Commissioner Myers.

7) Adjournment:

Commissioner Solotorovsky moved to adjourn the special meeting. Chairperson Benson seconded the motion. By voice vote, the motion carried. The meeting adjourned at 6:39 PM.

Respectfully submitted,

Secretary, Board of Fire & Police Commissioners

**VILLAGE OF WINNETKA
BOARD OF FIRE AND POLICE COMMISSIONERS
RULES AND REGULATIONS**

**Adopted by the Board of Fire and Police Commissioners
of the Village of Winnetka**

DRAFT REVISIONS OCTOBER 2024

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ARTICLE I: ADMINISTRATION

CHAPTER 1. AUTHORITY; BOARD OF COMMISSIONERS

Section 1.1 Source of Authority.

The Board of Fire and Police Commissioners of the Village of Winnetka (the “*Commission*”) derives its power and authority from the Illinois Board of Fire and Police Commissioners Act, 65 ILCS 5/10-2.1-1 *et seq.* and as authorized by the Village’s Board of Trustees through an exercise of its home-rule authority.

Section 1.2 Applicability of Rules and Regulations; Definitions.

- A. Applicability of Rules and Regulations. These Rules and Regulations apply to the governance, control, and administration of the Commission and to original appointments, promotions, and hearings related to members of the Fire Department and Police Department of the Village of Winnetka.
- B. No Applicability to Governance of Departments. These Rule and Regulations do not govern the operations of the Fire Department or the Police Department.
- C. Definitions. The word “Board” whenever used shall mean the Board of Fire and Police Commissioners of the Village of Winnetka or its duly authorized agent. The word “member” shall mean any Police Officer, Firemedic, Sergeant, Lieutenant, or Captain of the Police or Fire Department of the Village of Winnetka. The masculine noun or pronoun includes the feminine. The singular includes the plural and the plural includes the singular.

Section 1.3 The Commission.

- A. Composition; Appointments; Commissioners. The Commission shall consist of three Commissioners. The Chairperson of the Commission shall be a Commissioner and shall be appointed by the Village President with confirmation by a majority of the Board of Trustees. The Chairperson shall be the presiding Commissioner at all meetings of the Commission except that, in his or her absence, a temporary presiding Commissioner shall be elected by the remaining two Commissioners. The Commission shall elect a Secretary annually, which may or may not be a Commissioner of the Board. The Secretary shall keep the Minutes of all the meetings of the Board in a permanent record book and shall be the custodian of all the forms, papers, books, records, and completed examinations of the Board.
- B. Duties. The Commission shall appoint all members of the Departments in accordance with, and to the extent provided in, these Rules and Regulations. The Commission also shall promote, discipline, and dismiss all members of the Departments, as provided by the Code. The Fire Chief and Police Chief shall be appointed by the Village Manager. Deputy Chiefs and Commanders shall be

appointed by the Fire Chief or Police Chief, subject to the prior advice and consent of the Village Manager.

Section 1.4 Commission Meetings.

- A. Regular and Special Meetings. The regular annual meetings of the Commission shall be held on the third Thursday in April and October of each year. The office of the Commission is designated as 510 Green Bay Road, Winnetka, IL 60093, and the annual meetings shall be held at that office unless otherwise provided. The Chairperson or any two Commissioners may call a special meeting. All meetings of the Commission shall be noticed at least 48 hours in advance or as otherwise provided by the Illinois Open Meetings Act.

- B. Closed Sessions. During any regular or special meeting, a closed session may be held upon a proper motion made by any Commissioner and passed by a roll call vote for the purpose of discussing matters related to appointment, employment, discipline, performance, or dismissal of specific personnel. Closed sessions will be limited to the Commissioners and other persons deemed necessary by the Commission, if any. The Secretary will record the motion to close the meeting, record the vote of the Commissioners on that motion, and keep minutes of the closed session. An audio record of each closed session will be maintained by the Secretary and disposed of in accordance with the provisions of the Open Meetings Act.

- C. Public Notice of Meetings. Public notice of any regularly scheduled or special meeting shall be held in accordance with the Open Meetings Act.

- D. Quorum. Two Commissioners, being a majority of the Commissioners, shall constitute a quorum of the Commission for the conduct of all Commission business.

- E. Agenda. The agenda for each meeting shall include the following elements: Call to Order, Public Comment, Approval of Minutes, Old Business, New Business, Closed Session, and Adjournment.

- F. Procedures. When these Rules and Regulations do not establish a specific procedure for conducting the business of the Commission, then parliamentary procedures prescribed in Roberts Rules of Order shall be followed, as far as applicable and practical. Motions may be made and seconded orally by any member of the Commission and shall be recorded in the minutes together with the action taken thereon.

Section 1.5 Amendments of Rules and Regulations.

Amendments to the rules of the Board may be introduced at any meeting of the Board and adopted at a subsequent meeting. All amendments shall forthwith be printed for distribution and notice shall be given of the place or places where said rules may be obtained. Such notice shall be posted on the Village of Winnetka website. The notice shall

specify the date, not less than ten (10) days subsequent to the date of such publication, when said rules shall go into effect.

Section 1.6 Governing Law; Conflicts; Severability.

- A. These Rules and Regulations Apply. In the case of any conflict between any provision of these Rules and Regulations and any provision of a collective bargaining agreement or any federal, State of Illinois, or Village constitution, statute, ordinance, or regulation (the “*Other Law*”), the provision of these Rules and Regulations shall apply and govern unless such provision is legally preempted by the Other Law.

- B. No Applicability to Managerial Positions. These Rules and Regulations do not apply to Managerial Positions, including the Police Chief, Deputy Police Chief, Police Commander, Fire Chief, and Deputy Fire Chief.

- C. Conflict Limited. If any provision of these Rules and Regulations is rendered invalid pursuant to Subsection A of this Section, then that fact shall not affect any other provision of these Rules and Regulations.

- D. Facial Invalidity. If any court of competent jurisdiction shall adjudge any provision of these Rules and Regulations to be invalid, then that judgment shall not affect any other provision of these Rules and Regulations.

- E. Invalidity as Applied. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these Rules and Regulations to a particular case, then that judgment shall not affect the application of any other provision or of that provision to any other particular case having different facts or circumstances.

CHAPTER 2. CALLS FOR EXAMINATIONS

Section 2.1 Vacancies.

The Fire Chief or Police Chief shall inform the Board in writing of the existence of vacancies in his department and shall request in writing that the position be filled. The Board, upon receipt of such request with approval in writing by the Village Manager, shall make appointments as provided for in Section 2.4.

Section 2.2 Examination Calls.

The Commission shall call examinations from time to time to establish and maintain Registers of Eligibles for entry-level and promotional ranks in the Departments. The Departments shall advise the Commission from time to time about the status of existing Registers of Eligibles and the need for an examination. If it determines to call an examination, then the Commission shall make such call by motion and enter the call in the minutes of the Commission with the following information: the

time and place where the examination will be held; the location where applications may be obtained and the date by which applications must be returned to the Commission; the rank to be filled from the resulting Register of Eligibles; any special eligibility standards established pursuant to Subsections 4.1 and 10.1 of these Rules and Regulations; and notice that applications for that examination will be received for a period of time established by the Commission but not less than two weeks.

Section 2.3 Notice of Examination.

An examination will be held at a time and place fixed by the Commission. Notice of the examination must be given by publication at least two weeks preceding the examination on the Village's website, published in accordance with the statutes of the State of Illinois. The notice of examination must state the period during which applications for that examination will be accepted. The examination may be postponed by order of the Commission, which order shall state the reason for the postponement and shall designate a new date for the examination. Applicants will be notified of the postponement of the examination and of the new date fixed for said examination.

Section 2.4 Equal Employment Opportunity Policy.

It is the policy of the Board to prohibit unlawful discrimination and provide equal employment opportunities to qualified applicants for employment or employees for promotion in accordance with all applicable laws. Except where required or permitted by law, the Board's appointment and examination process shall not be influenced or affected by an applicant's or employee's race, color, religion, sex, national origin, ancestry, age, disability, citizenship, marital status, veteran status, or any other status protected by applicable law.

With respect to applicants and employees with disabilities who are otherwise qualified for the job, it is the Village's policy to make reasonable accommodations in accordance with applicable law. Persons with disabilities who are otherwise qualified for the job may request reasonable accommodations by directing their request to the Secretary of the Board.

This equal employment opportunity policy applies to all aspects of employment: hiring, promotion, assignment, discharge, and other terms and conditions of employment.

ARTICLE II: POLICE DEPARTMENT HIRING

CHAPTER 3. POLICE DEPARTMENT ENTRY-LEVEL AND LATERAL HIRING

Section 3.1 Establishment of Police Department Registers of Eligibles.

The Commission may from time to time establish and maintain a Register of Eligibles for each rank within the Police Department, except for the positions of Police Chief, Deputy Police Chief, and Police Commander. For the entry-level rank of police officer, the Commission may choose to create and maintain an Entry-Level Register of Eligibles, a Police Lateral Hire Pool of Eligibles and/or a Village-Employee Lateral Hire Register of Eligibles. The Commission may in its discretion select candidates from any one of the aforementioned three sources.

Section 3.2 Initial Police Department Entry-Level Register of Eligibles.

The Board may prepare, post, and keep an eligibility list of outside entry-level candidates who successfully pass the Written Examination and Physical Ability Test. Candidates shall take rank upon the eligibility list in order of their relative excellence as determined by the Written Examination, including points for preference in accordance of Section 3.3 of the Board's Rules and Regulations. The official date of the eligibility list will be the date of the posting. Persons will remain on the eligibility list for two years from the date their name is first listed. The initial eligibility list will be posted after the completion of the Written Examination. The Board in its discretion may extend the two-year period of the Eligibility list for up to an additional twelve (12) months. Persons having the same score will be considered to have the same position on the list.

Section 3.3 Police Department Preference Points for the Entry-Level Register of Eligibles.

- A. Preference for Appointment. Preference may be given to applicants who have at least one (1) year of active military or naval service for the United States and who have been honorably discharged therefrom or who are now or may hereafter be on inactive or reserve duty in such military or naval service. Preference points may also be given to applicants who have completed college coursework.
- B. Maximum Preference Points. Five (5) preference points will be added to the written examination scores of applications who first successfully pass the written examination and provide proof of eligibility for preference by submitting a copy of their DD214 form at the time of application. An applicant will be awarded six (6) points if the applicant has obtained a master's degree from an accredited college or university in any field. An applicant will be awarded four (4) points if the applicant has obtained a bachelor's degree from an accredited college or university in any field. An applicant will be awarded two (2) points if the applicant has completed an associate's degree (or 60 college credits) from an accredited college

or university in any field. Applicants must provide a copy of his or her transcripts for all college coursework at the time of application. Note there is no pyramiding of educational preference points awarded under this section.

- C. Time and Method of Claiming Police Department Entry-Level Preference Points. Within 10 days after the posting of an Initial Eligibility List, each applicant on that list who may claim preference points shall submit his or her claim for that preference in writing to the Commission. Claims not made within that 10-day period will be deemed waived. The applicant, at the time of submitting a claim for military service preference, must submit a copy of his or her DD214.

Section 3.4 Final Police Department Entry-Level Register of Eligibles.

After the process of adding preference points has been completed, the Secretary shall re-rank the applicants on the Initial Eligibility List according to their scores including preference points. Each candidate's order of eligibility as thereupon determined will be the basis for placement of the candidates on the Register of Eligibles. In the event of tied scores, the tie will be broken by lot in the presence of at least two Commissioners, at a regular or special meeting of the Commission, in a manner the Commission determines is appropriate under the circumstances.

The Commission will select a certain number of top-ranked candidates from the Register of Eligibles for advancement to Elements 4 and 5 of Section 5.2 of these Rules. That number will be announced before the beginning of Elements 4 and 5. A certain number of candidates who successfully pass Elements 4 and 5 will be selected at the discretion of the Commission to participate in Elements 6 through 9 of Section 5.2 of these Rules without regard to the candidates' original ranking on the Register of Eligibles. The Commission may make a conditional offer of employment to any candidate who successfully passes Elements 6 and 7 of Section 5.2 of these Rules without regard to the candidates' original ranking on the Register of Eligibles.

Those candidates who pass Elements 4, 5, 6 and/or 7 but who do not receive a conditional offer of employment will remain eligible to continue participating in the entry-level hiring process from the last Element that they successfully completed. If or when the Commission decides to fill another entry-level police vacancy from the Register of Eligibles (instead of the Village Employee Lateral Hiring Register or Police Lateral Hiring Pool), any candidates who were originally selected pursuant to the above paragraph and passed Elements 4, 5, 6 and/or 7 will be considered along with any additional top-ranked candidates that the Commission decides to select pursuant to the above paragraph. Depending on the passage of time, the Commission in its discretion may decide to have candidates retake Elements 4, 5, 6 and/or 7.

Section 3.5 Removal of Names from Police Department Entry-Level Register of Eligibles.

- A. Entry-Level Registers. The Secretary shall strike from the Register of Eligibles for the rank of police officer the name of:
1. any applicant who may be disqualified pursuant to any provision of these Rules and Regulations;
 2. any applicant who ceases to meet the qualifications for the rank of police officer;
 3. any applicant who does not, or cannot, accept the position within three (3) days after receiving notice of his or her appointment, except as otherwise provided in Subsection 5.3B of these Rules and Regulations; and
 4. any applicant who fails to respond to a notice to update interest in appointment within seven (7) days after receipt, as provided in Section 5.3D of these Rules and Regulations.

Section 3.6 Village Employee Lateral Hire Register of Eligibles

The Board may prepare, post and keep an eligibility list of current Village employees (part-time or full-time) who successfully pass whatever examination process the Board in its discretion decides to establish for current Village employees (which may deviate from the testing components found in Chapter 5 of these Rules). The testing components (if any) for current Village employees will be announced at the time the Commission approves the creation of a Village Employee Lateral Hire Register of Eligibles. Village Employees must complete the standard employment application and meet the various eligibility criteria described in Chapter 4 of these Rules.

Village employees who are included on the Village Employee Lateral Hire Register of Eligibles will not be entitled to preference points, and will not be ranked in any order of relative excellence. The Board in its discretion may select any candidate from the Village Employee Lateral Hire Register of Eligibles when filling a police officer vacancy in lieu of the other two Registers, or may in its discretion select candidates from the Police Lateral Hire Register of Eligibles and/or the Entry-Level Register of Eligibles. Current Village employees will remain on the Village Employee Lateral Hire Eligibility List until the earlier of (a) two years from when their name was added to the Register; or (b) when they separate from Village employment.

Section 3.7 Police Lateral Hire Pool of Eligibles

The Board delegates the lateral hiring of current police officers from other jurisdictions to Village Human Resources staff and the Village Police Chief (or his/her designee). Village Human Resources staff and the Village Police Chief may in their discretion establish at any time an initial application and testing process (which may deviate from

the application, eligibility and testing components found in Chapters 4 and 5 of these Rules). Lateral applicants must be certified by the Law Enforcement Training Standards Board. The Village Human Resources staff and the Village Police Chief (or his/her designee) shall determine the minimum number of years of law enforcement experience that are required, if any, at the time of the call for applicants. From time to time, Village Human Resources staff and the Village Police Chief may forward lateral police candidates with current police experience to the Board for its consideration. That consideration may include an in-person interview, which will be graded on a pass-fail basis. Lateral candidates with prior police experience who pass the in-person interview will be added to a Police Lateral Hire Pool of Eligibles. The Board in its discretion may select any candidate from the Police Lateral Hire Pool of Eligibles when filling a police officer vacancy in lieu of the two Registers described above, subject to the successful completion of a background investigation and (after a conditional offer of employment) a medical and psychological examination. Lateral candidates added to the Police Lateral Hire Pool of Eligibles will remain in the Pool for two years from when their name was added to the Pool.

CHAPTER 4. APPLICATIONS FOR RANK OF POLICE OFFICER

Section 4.1 **Minimum Qualifications and Requirements for Entry-Level and Lateral Police Officer Applicants.**

- A. Proof of Legal Authorization to Work. At date of hire, an applicant for a position in the Police Department must submit proof of legal authorization to work in the United States.
- B. Age. Each applicant must provide proof of his or her birth date at time of filing an application.
 - 1. Minimum Age for All Police Department Positions. At the time of filing an application for any position in the Police Department, an individual must have passed his or her 21st birthday. Notwithstanding the foregoing, applicants will be permitted to apply for the entry-level and lateral police hiring processes if they have passed their twentieth (20) birthday on the date of application and the Board believes they will likely have passed their twenty-first (21) birthday by the time they have successfully completed the police academy (for entry-level and Village employee lateral hire applicants) or by the time of their first day of employment (for applicants applying for the police lateral hiring pool).
 - 2. Maximum Age for Entry-Level Police Officer Position. At the time of filing an application for the rank of police officer, the applicant must be less than 35 years of age, unless the applicant is exempt from that age limitation under Section 10-2.1-6 of the Act.

- C. Police Department Minimum Education Standards. No person shall be eligible to apply for the rank of police officer unless he or she possesses a high school diploma or equivalent.
- D. Vison. Corrected far vision to 20/20 or better and corrected near vision to 20/40, possess normal peripheral vision and the ability to distinguish colors.
- E. Valid Driver's License.
- F. Special Qualifications. If the application for examination for a position requires special qualifications, the Board may require evidence of special training or practical experience.
- G. P.O.W.E.R. Test. The Board may accept the test results of physical ability testing conducted by the Northeastern Illinois Public Safety Training Academy (NIPSTA) or an Illinois Law Enforcement Training and Standards Board (ILETSB) Mobile Training Unit pursuant to the P.O.W.E.R. test guidelines of the ILETSB. Applicants for the Police Department may present valid Pre-P.O.W.E.R. test cards at the time of application that have been issued within a specified time period that is no more than six (6) months before the application date.

Section 4.2 Police Department Application Form, Basic Standards.

- A. Application Form; Completion. The Commission or its designated representative shall furnish the application form, which form must be completed in its entirety by any applicant, including all supplementary information and documentation.
- B. Supplementary Information. At the time of filing an application, the applicant must furnish the following:
 - 1. a certified copy of his or her birth certificate;
 - 2. a copy of his or her high school diploma or its equivalent;
 - 3. a certified copy of his or her transcripts of post-high school study;
 - 4. a copy of his or her military service record, discharge papers, and U.S. Government Form DD214, if applicable;
 - 5. a copy of his or her Social Security Card (for background check purposes);
 - 6. proof of state law enforcement certification for laterals as required by the Illinois Law Enforcement Training and Standards Board; and
 - 7. P.O.W.E.R. Test Card
- C. General Character, Health. An applicant must be of good moral character, of temperate habits, and must be physically and psychologically able to perform the

essential duties of the position for which he or she is applying, with or without a reasonable accommodation. The burden of establishing compliance with these standards rests on the applicant.

- D. Exclusion for False Statements. A false statement made by a person in an application, or connivance in any false statement made in any supplementary information that may accompany the application, or complicity in any fraud related to an application or supplementary information shall be regarded as good cause for exclusion from the examination.

Section 4.3 Filing of Police Department Application.

The application for the position of police officer must be filed, prior to taking an examination, with the Secretary of the Commission or with an agency or representative designated by the Commission. No application will be accepted until notice of an examination for a position has been given in accordance with Section 2.3 of these Rules and Regulations, and applications will be accepted only during the period designated by the Commission pursuant to Section 2.3. The recipient of the application on behalf of the Commission shall note on the application the date it was received.

Each applicant shall be responsible for advising the Commission of any changes in his or her address or telephone number. The failure of an applicant to provide the Board with timely notice of any change in the address or telephone number given in the application form, shall result in the removal of the applicant's name from consideration.

Section 4.4 Disqualification.

- A. Grounds. The Commission may refuse to examine, or after examination refuse to certify as eligible, or after certification as eligible refuse to retain on the Register of Eligibles, any applicant entry level or lateral:
1. who is found lacking in any of the established general requirements, or in any special standards established pursuant to Subsection 4.1 of these Rules and Regulations, for an entry-level or lateral position stated in these Rules and Regulations or in the Act; or
 2. who illegally uses or has illegally used drugs; is a gambler; or is not a person of good character; or
 3. who has been convicted of a felony, a crime of moral turpitude, or a misdemeanor specifically listed in 65 ILCS 5/10-2.1-6 as amended from time to time; or
 4. who, in the judgment of the Commission, has practiced or attempted to practice any dishonesty, deception, or fraud in his or her application, examination, or other submissions to or dealings with the Commission, the Police Department, or the Village; or

5. who has failed to abide by the rules and procedures governing any aspect of the application process; or
6. who is physically or psychologically unable to perform the essential duties of the position to which he or she seeks appointment, with or without reasonable accommodation; or
7. who has been dismissed from any public service for good cause; or
8. whose character or employment references are unsatisfactory; or
9. who has applied for a position in the Police Department and is, or has been, classified as a conscientious objector; or
10. who has failed to appear for, or failed, any element of the examination or otherwise has not successfully completed any portion of the examination process; or
11. who is unable to speak and understand the English language to the satisfaction of the Commissioners of the Board; or
12. who knowingly divulges or receives questions or answers before any examination, or who is the knowing recipient of test information in advance of the examination.

B. Notification; Hearing. Whenever the Commission makes a preliminary finding that an applicant is disqualified under Subsection A of this Section, the Secretary shall notify the applicant of that finding by a letter stating the reasons for the finding. The applicant then, within five days after the date of that notice, may request an opportunity to be heard by the Commission. The Commission shall set a hearing as soon as practical after receiving such a request. At the hearing, the applicant will have an opportunity to explain the facts relating to the reasons given by the Commission for the finding of disqualification. At the conclusion of the hearing, the Commission must confirm or vacate the preliminary finding of disqualification and must notify the applicant of its determination. If no written request for a hearing is made by the applicant, then the preliminary finding of disqualification will be deemed confirmed five days after the date of notice. No applicant will be precluded from continuing in the application and testing process so long as his or her right to review under this Subsection has not been exhausted by either the passage of time or a decision of the Commission.

Section 4.5 Release of Liability.

In consideration of being admitted to the examination process, all applicants must execute and deliver to the Commission or its designated representative a release of all liability as a result of participating in the examinations, and all waivers and releases of information necessary to allow the Commission to complete all elements of the examination, on forms approved by the Commission.

Section 4.6 Admission to Examination.

No person shall knowingly be admitted to any element of any examination who does not meet the minimum qualifications established for the rank of police officer. The fact that a person is admitted to an element of an examination will not be considered as evidence that he or she is qualified or eligible for the position.

Section 4.7 Correction of Application.

A defective application will be returned to the applicant for correction, if the applicant otherwise is qualified for the position he or she seeks. A returned application must be resubmitted within the time period established by the Commission or its designated representative.

**CHAPTER 5. EXAMINATIONS AND APPOINTMENTS
FOR RANK OF POLICE OFFICER**

Section 5.1 Entry-Level Police Officer Examination Elements; Grading.

A. Examination Elements. All applicants (except for current Village employees who apply for the Village Employee Lateral Hire Register of Eligibles and candidates who apply for inclusion on the Police Lateral Hire Pool of Eligibles) must submit themselves for each element of an examination for the rank of police officer at the times and places established by the Commission. An examination will consist of the following elements, sequenced as listed below:

| <u>Examination Element</u> | <u>Minimum Passing Grade</u> |
|---|------------------------------|
| Element 1. Orientation. | Attendance Mandatory |
| Element 2. Written Test (entry-level applicants only): | 70 percent |
| Element 3. Physical Ability Test: | Pass |
| Element 4. Preliminary Screening: | Pass |
| Element 5. Oral Exam: | Pass |
| Element 6. Polygraph Test: | Pass |
| Element 7. Character and Background Check: | Pass |
| Element 8. Psychological Test: | Pass |

Element 9. Medical Test:

Pass

The failure to achieve the minimum passing grade in any examination element disqualifies the applicant from any further participation.

- B. Grading Generally. The tests will be graded by the Secretary of the Board or the testing agency and the results of the graded examinations will be submitted to the Board. No information concerning grades and no test scores will be disclosed or provided to any applicant until after the posting of an Initial Eligibility List or at another time designated specifically by the Commission. The names of persons failing the examination need not be posted, published, or disclosed by the Commission except to that person. Each applicant will be notified within a reasonable time of the result of his or her examination. All examination files and materials, if they are retained, will be maintained as files of the Board.

A minimum passing grade shall be that grade established by the Board or according to the test standards recommended by the testing agency. Those applicants eligible for preference points as outlined in Section 3.3 will receive such benefits as may be designated and effective at the time of examination.

Section 5.2 Police Officer Examination Element Descriptions and Procedures; Deferral.

- A. Element One—Orientation. All applicants must attend an orientation scheduled by the Police Chief and conducted by persons designated by the Commission. The failure to attend the orientation will constitute failure of this examination element.
- B. Element Two—Written Test. All applicants who have successfully completed the orientation and application must submit themselves for a written test.
1. Procedure. The written test will be conducted and graded by two or more Commissioners or by a testing agency or service designated by the Commission, in a room or rooms designated by the Commission for that purpose, which rooms may be at a testing agency's facility. A time limit for the examination or any session thereof shall be fixed by the Board. Applicants shall be notified of such time limit when assembled for the examination, and before the commencement thereof.
 2. Finality. All test papers are the property of the Commission and any entity assisting the Commission with the test, and the grading thereof by the Commission will be final and conclusive and not subject to review by any other board or tribunal of any kind or description.
- C. Element Three—Physical Ability Test. All applicants shall be required to demonstrate their physical ability by taking a Physical Ability Test. The Physical Ability Test shall be specific to the position of police officer and shall be graded on a pass or fail basis. No application shall be accepted unless it is accompanied by

proof that the applicant passed the appropriate Physical Ability Test within no more than six (6) months before the date of application. All candidates on the Eligibility List shall also be required to demonstrate their physical ability as a condition of employment by providing proof that they have passed the appropriate Physical Ability Test within no more than six (6) months before date of hire. An applicant who fails to take or pass the Physical Ability Test as required by this Section shall be removed from further consideration.

- E. Element Four—Preliminary Screening. At the request of the Commission, the Police Department shall conduct a preliminary character and background screening of those candidates selected from the Entry Level Register of Eligibles pursuant to Section 3.4 of these Rules after they have successfully passed all prior elements of the examination. The investigation must review available data and information related to the applicant's compliance with the general qualifications and criteria for the rank of police officer set out in these Rules and Regulations and such other data and information as are pertinent to a proper review and analyses of the applicant.
- F. Element Five—Oral Exam. At the request of the Commission, an oral exam will be conducted of those candidates who were selected from the Entry Level Register of Eligibles pursuant to Section 3.4 of these Rules and who successfully completed Element 4. Candidates who fail to successfully complete the oral exam will be notified and eliminated from all further consideration.
1. Procedure. The oral exam of each applicant will be conducted by two or more Commissioners and, if desired by the Commission, an exam facilitator. At the end of the exam of each applicant, the examiners may discuss the merits of that applicant. Each examiner must individually pass or fail each applicant. The applicant's final grade, which will be computed only after the test has been administered to all applicants, will be the majority of pass or fail grades.
 2. Subjects of Oral Exam. The same questions will be asked of each candidate. Applicants will be asked questions that will enable the examiners to properly evaluate and grade them on maturity, communication skills, judgment, leadership ability, managerial ability, appearance, demeanor, emotional stability, self-confidence, friendliness, interest in the position, personal fitness for the position, and such other matters as are pertinent to the proper review and analysis of an applicant.
 3. Removal. Failure of the applicant to take or pass the Oral Exam shall result in the removal of the candidate from further consideration.
- G. Element Six—Polygraph Test. When directed by the Commission, applicants who successfully complete Elements 4 and 5 described above must submit to a polygraph device deceptive test, commonly known as a lie detector test, at a time and place designated by the Commission. An applicant will be considered to have achieved an adverse result on the polygraph test if the Commission finds the

applicant has been deceptive by (1) admitting to wrongdoing that was not admitted in the applicant's application or in the course of the applicant's oral exam before the Commission, or (2) answering questions during the course of the polygraph test in a manner which the Commission determines to be indicative of deception. Results of the polygraph test must be submitted to the Commission for its evaluation. An unsatisfactory result on the polygraph test may subject the applicant to disqualification or to additional testing, at the discretion of the Commission, including but not limited to an additional background and character check, an additional oral exam, an additional polygraph test, or any combination of these tests.

- H. Element Seven—Character and Background Check. At the request of the Commission, the Police Department shall conduct a character and background check of an applicant who has successfully passed all prior elements of the examination. The check must review the applicant's employment history, references, educational background, credit history, litigation history, military record, driving record, neighborhood and community standing, and service, and such other data and information pertinent to a proper review and analyses of the applicants.
- I. Element Eight—Psychological Test. When directed by the Commission and after a conditional offer of employment has been made, the applicant to whom the conditional offer has been made must submit to a psychological test to be given by a qualified examiner selected by the Commission. The test must be designed and administered solely to determine an applicant's ability to perform the position's essential job duties, with or without reasonable accommodation. The examiner shall prepare and submit a report of the examination to the Commission for its evaluation. The Commission shall determine, based on such report, whether the applicant passed the test, whether additional psychological testing is necessary, or whether the applicant failed the test.
- J. Element Nine—Medical Test. When directed by the Commission and after a conditional offer of employment has been made, the applicant to whom the conditional offer has been made must submit to a medical test, including without limitation a vision test and drug and alcohol screening, by a licensed physician designated by the Commission. The test must be designed and administered for the purpose of determining the applicant's physical ability to perform the essential duties of the position sought, with or without reasonable accommodation. A medical test must be completed not earlier than sixty (60) days prior to the date of appointment. A positive result on a confirmatory drug screening test will be a sufficient basis for a determination by the Commission that an applicant has failed the medical test. At any point after a conditional offer of employment has been made, an applicant may be requested to submit evidence of vision sufficient to meet the standards of the Department to which he or she is applying or to submit to a vision examination to determine if his or her vision meets such standards. Each applicant shall be responsible for advising the Commission of any changes in his or her ability to perform the essential functions of the applied-for position, with or without a reasonable accommodation. The Commission may, at its

discretion, require an applicant to submit to a follow-up medical test prior to appointment to a position.

- K. Deferral Based on Existence of Vacancies. All examination elements after the physical abilities test, including the polygraph test, character and background check, psychological test, and medical test, may be deferred by the Commission for all applicants until the Commission receives notice from the Police Chief that a vacancy exists in the rank of police officer. This vacancy must have been approved by the Village Manager or his designee. When the Commission receives notice of a vacancy from the Police Chief, the Commission shall administer the deferred examination elements to applicants who still qualify to remain on the Register of Eligibles and who have not been so previously examined.

Section 5.3 Appointments of Police Officers.

- A. Candidates for Appointment to the Police Department. Appointments to the position of police officer may be at the Commission's discretion from any one of the following three hiring sources: Entry-Level Register of Eligibles, the Police Lateral Hire Pool of Eligibles and/or the Village Employee Lateral Hire Register of Eligibles.
- B. Basis of Appointment. Promptly after notification by the Police Chief that a vacancy exists in the rank of police officer that has been approved by the Village Manager, the Commission shall appoint to fill the vacancy from either the Entry-Level Register of Eligibles, the Police Lateral Hire Pool of Eligibles and/or the Village Employee Lateral Hire Register of Eligibles.
- C. Waiver of Appointment. If a candidate fails to accept a position within three (3) days after receiving notification of his or her appointment, the Board may strike the candidate's name from consideration.
- D. Updating Interest in Appointment. The Board may direct the Secretary to notify all candidates who are eligible for appointment that the Board requests that each candidate notify the Secretary as to whether the candidate desires to remain under consideration. Failure of a candidate to respond to such notice within seven (7) days after its receipt shall be deemed evidence of the candidate's desire to withdraw his or her name from consideration. The candidate's name shall thereupon be stricken from the list, without further notice to the candidate.
- E. Certificate of Appointment. After appointment to the rank of police officer, the new police officer will receive a Certificate of Appointment signed by the Chairperson and Secretary of the Commission.
- F. Oath of Office and Bond. Before entering into duty, a new police officer must take an oath and enter into a bond as provided by the Illinois law and Village ordinances.

Section 5.4 Police Department Probation.

The probationary period shall be twenty-four (24) months in duration for newly hired police officers from the date of employment. The probationary period may be extended by the mutual agreement of the Village and the employee. Time absent from duty in excess of thirty (30) calendar days annually shall not apply towards satisfaction of the probationary period. During the probationary period, an officer is subject to discipline, including discharge, without cause and with no recourse to the hearing process described in Chapter 14 of these Rules. The Board of Fire and Police Commissioners has no authority over the discipline or termination of probationary members of the Police Department.

CHAPTER 6. POLICE DEPARTMENT PROMOTIONAL HIRING

Section 6.1. Establishment of Police Department Registers of Eligibles.

The Commission shall establish and maintain a Register of Eligibles for each rank within the Police Department, except for the positions of Police Chief, Deputy Police Chief, and Police Commander.

Section 6.2 Initial Eligibility List.

Within 60 days after all applicants for a promotional rank have completed all applicable elements of an examination (*see* Section 7.1), the Secretary shall prepare and post an Initial Eligibility List of the applicants who passed all of those elements, ranking those applicants in order of their relative excellence.

Section 6.3 Promotional Registers.

The Secretary shall strike from the Register of Eligibles for a promotional rank the name of:

1. any applicant who may be disqualified pursuant to any provision of these Rules and Regulations; and
2. any applicant who ceases to meet the qualifications for the rank to be filled from that Register of Eligibles; and
3. any applicant who does not, or cannot, accept the position within three (3) days after receiving notice of his or her appointment, except as otherwise provided in Subsection 7.3B of these Rules and Regulations.

Section 6.4 Filing of Application.

An application for a promotional position in the Police Department must be filed with the Commission on an approved form. No application will be accepted until notice

of an examination for a position has been given. The recipient, on behalf of the Commission, shall note each application with the date and time it was received.

Section 6.5 Special Standards.

The Commission may set particular standards for eligibility for a promotional position if the Commission determines that the position requires special qualifications.

Section 6.6 Disqualification.

A. Grounds. The Commission may refuse to examine, or after examination refuse to certify as eligible, or after certification as eligible refuse to retain on the Register of Eligibles, any applicant:

1. who is on probationary status; or
2. who is found lacking in any of the established general requirements stated in this Chapter or established by the Commission; or
3. who has been shown to have attempted to practice any dishonesty, deception, or fraud in his or her application, examination, or other submissions to or dealings with the Commission, the Police Department, or the Village; or
4. who has failed to abide by the rules and procedures governing any aspect of the application process; or
5. who is physically or mentally unable to perform the duties of the position to which he or she seeks appointment; or
6. whose character or employment references are unsatisfactory; or
7. who does not satisfy the requirements of the job description published by the Village for the position for which he or she is applying.

B. Notification; Hearing. Whenever the Commission makes a preliminary finding that an applicant is disqualified under Subsection A of this Section, the Secretary shall notify the applicant of that finding by a letter stating the reasons for the finding. The applicant then, within five days after the date of such notice, may request an opportunity to be heard by the Commission. The Commission shall set a hearing as soon as practical after receiving such a request. At the hearing, the applicant shall have an opportunity to explain the facts relating to the reasons given by the Commission for the finding of disqualification. At the conclusion of the hearing, the Commission shall confirm or vacate the preliminary finding of disqualification and shall notify the applicant of its determination. If no written request is made by the applicant, then the preliminary finding of disqualification shall be deemed confirmed five days after the date of notice. No applicant shall be precluded from continuing in the application and testing process so long as his or

her right to review under this Subsection has not been exhausted by either the passage of time or a decision of the Commission.

Section 6.7 Release of Liability.

In consideration of being admitted to the examination process, all applicants shall execute and deliver to the Commission or its designated representative a release of all liability as a result of participating in the examinations, and all waivers and releases of information necessary to allow the Commission to complete all elements of the examinations, on forms approved by the Commission.

Section 6.8 Eligibility Requirements.

Candidates must have successfully passed their probationary period with the Winnetka Police Department and possess at least five (5) combined years of full-time sworn police officer experience with the Winnetka Police Department and/or another Police Department by the date they are appointed to the rank of Sergeant. Notwithstanding the foregoing, candidates may participate in the Sergeants' promotional process and be added to the Sergeants' promotional Register of Eligibles during their probationary period and/or without the aforementioned five (5) combined years of full-time sworn police officer experience. If a Sergeant vacancy occurs while a candidate is on the Sergeants' promotional Register of Eligibles and the candidate has yet to successfully pass his probationary period and achieve five (5) combined years of full-time sworn police officer experience, the candidate will be skipped while maintaining his or her position on the Register of Eligibles.

Section 6.9 No Creation of Applicant Right or Interest.

Neither the filing of an application, nor the acceptance of an application, nor an applicant's satisfaction of the general or special qualifications for filing an application or being admitted to an examination, nor any provision of these Rules and Regulations shall be construed as creating any vested, property, or other right or interest in any person to apply for, be examined for, or be appointed to any position in the Departments.

Section 6.10 Correction of Applications.

A defective application will be returned to the applicant for correction, if the applicant otherwise is qualified for the position he or she seeks. All returned applications must be resubmitted within the time period established by the Commission or its designated representative.

Section 6.11 Appeals.

A candidate may appeal any phase of the promotion process within ten (10) days of completion of the particular phase. If an appeal is filed prior to the completion of the entire testing process, the testing process will continue and the appellant must complete all phases, at the standard required herein, to remain eligible for promotion.

Failure to file an appeal within the specified time will cause the candidate to become ineligible to participate in an appeal process.

The written appeal must be delivered to the Secretary of the Board or his designated representative and must plainly state:

- (a) The phase of the promotional process which is being appealed; and
- (b) The reason(s) for the appeal.

On any appeal by a candidate, the Board shall issue a written response or may conduct such further investigations as it deems appropriate. However, the Board is not required to conduct any evidentiary hearing when the potential exam or the results of the exam are challenged or appealed. All appeals shall be disposed of within ninety (90) days of the original date of appeal. Promotions shall not be made from the promotion list until there is a disposition of the appeal by the Board.

CHAPTER 7. POLICE DEPARTMENT PROMOTIONAL EXAMINATIONS AND APPOINTMENTS

Section 7.1 Police Department Promotional Examination Elements; Grading.

- A. Examination Elements. All applicants must submit themselves for each element of a promotional examination at the times and places established by the Commission. An examination for a promotional position will consist of the following elements and will require the indicated minimum passing grade:

| <u>Examination Element</u> | <u>Percent of Total Score</u> |
|--|-------------------------------|
| Element 1. Written Test: | 40 percent |
| Element 2. Oral Exam: | 30 percent |
| Element 3. Merit & Efficiency Rating: | 25 percent |
| Element 4. Seniority: | 5 percent |
| <u>Total Possible Score:</u> | 100 percent |

Veterans' preference shall be applied as prescribed by statute. In addition, two (2) preference points will be added for a Master's Degree.

| | |
|--------------------------------|------------|
| <u>Minimum Required Score:</u> | 70 percent |
|--------------------------------|------------|

The examination elements may be administered in any order determined by the Commission.

- B. Grading. Each applicant's score will be calculated based on the percentages attributed to examination elements.

No information concerning grades and no test scores will be disclosed or provided to any applicant until after the posting of an Initial Eligibility List or such other time as may be designated specifically by the Commission. The names of persons failing the examination need not be posted, published, or disclosed by the Commission except to such person. Each applicant will be notified within a reasonable time of the result of his or her examination.

- C. Method of Filling Vacancies. A vacancy in a promotional rank will be filled by promotion when practical. An examination for a promotional position will be competitive among the qualified members of the next lower rank who desire to submit themselves to the examination.

Section 7.2 Police Department Promotional Examination Element Descriptions and Procedures.

- A. Element One—Written Test. All applicants for a promotional position shall submit themselves for a written test.

1. Procedure. The written test for a promotional position shall be conducted and graded by two or more Commissioners or by a testing agency or service designated by the Commission, in a room or rooms designated by the Commission for that purpose at a Village facility or a testing agency's facility.
2. Finality. All test papers are the property of the Commission and any testing entity assisting the Commission, and the grading thereof by the Commission shall be final and conclusive and not subject to review except only as provided by the Commission or the testing entity with the approval of the Commission.

- B. Element Two—Oral Exam. All applicants for a promotional position shall submit themselves for an oral exam.

1. Written Statement. Each applicant shall submit, prior to the deadline established by the Commission, a written statement containing the reasons he or she should be selected for the promotional position for which he or she has applied. The statement should describe the applicant's qualifications for the position, including any items which he or she feels have prepared him or her for the position, any pertinent community service he or she has performed, and any other matters reflecting a commitment to Village community and to the Police Department.
2. Oral Exam. The Commission shall conduct the oral exam and may use examiners to assist it. This may take the form of an assessment center. The

examiners shall discuss the merits of each applicant tested and shall grade the applicant.

3. Subjects of Oral Exam. Applicants shall be asked questions that will enable the examiners to properly evaluate and grade them on maturity, communication skills, judgment, leadership ability, managerial ability, appearance, demeanor, emotional stability, self-confidence, friendliness, interest in the position, personal fitness for the position, and such other matters as are pertinent to the proper review and analysis of an applicant. Each applicant for a particular examination shall be asked questions in similar areas of inquiry so that the examiners can satisfactorily compare the merits of the applicants.

- C. Element Three—Merit & Efficiency Rating. The Police Chief shall provide the Commission with his or her rating score of each applicant for the promotional position based on the previous twenty-four (24) months of service or last two (2) performance ratings. Such rating shall be in a form determined by the Chief to be appropriate to judge the qualifications of the applicant individually and relative to the other applicants. The Commission shall add the Chief's rating score to each applicant's scores on the other elements of the examination.

- D. Element Four—Seniority. The Commission shall award to each applicant for a promotional position one percentage point for every full year of service within the Police Department to a maximum of five (5) points. Years of service will be calculated as of the date of the written examination.

Section 7.3 Police Department Promotional Appointments.

- A. Basis of Appointment. Appointments to a promotional position for which a Register of Eligibles has been established shall be made in accordance with the Act. Promptly after notification by the Police Chief that a vacancy exists in a promotional rank as approved by the Village Manager, the Commission shall appoint to fill the vacancy from among the three highest ranking applicants on the Register of Eligibles for that rank who in the opinion of a majority of the Commissioners is best suited to and qualified for the position to be filled, except that when a Register of Eligibles for a promotional rank contains fewer than three applicants, the choice shall be from such fewer applicants. Notwithstanding the foregoing, candidates who do not satisfy the eligibility criteria in Section 6.8 of these Rules will be skipped for any Sergeant's vacancy while maintaining their position on the Register of Eligibles.

- B. Waiver of Appointment. An applicant, within three (3) days after the date of notice from the Commission of his or her appointment, may request a waiver of the right to appointment. That request must be made in writing, signed by the applicant. That request must include a statement of the reasons for the request and may ask that the Commission retain the applicant's name on the Register of Eligibles. The Commission may determine to strike the applicant's name from the Register of Eligibles or, if the Commission determines that the applicant's statement of

reasons constitutes good and sufficient grounds for a waiver, then the Commission may approve the waiver. If the Commission approves the waiver, then the Commission shall retain the name of the applicant on the Register of Eligibles and shall fill the vacancy pursuant to the procedures of Subsection A of this Section. If the waiver is not approved, or if no request for waiver or response to the notice of appointment is received within the prescribed time, then the Commission shall strike the applicant's name from the Register of Eligibles pursuant to Section 3.5 of these Rules and Regulations and shall fill the vacancy pursuant to Subsection A of this Section. The Commission may approve no more than one waiver for an applicant.

- C. Certificate of Appointment. After appointment to a promotional position in the Police Department, an applicant shall receive a Certificate of Appointment signed by the Chairperson and Secretary of the Commission.

CHAPTER 8. POLICE DEPARTMENT TEMPORARY APPOINTMENTS AND VOLUNTARY DEMOTIONS

Section 8.1 Police Department Temporary Appointments.

The Board may make temporary appointments to prevent a stoppage of public business, to meet extraordinary situations or to prevent the material impairment of the Department. Such temporary appointments shall not be made to exceed sixty (60) days.

Section 8.2 Police Department Voluntary Demotions.

A member may be demoted for cause or by agreement between the member and the Chief. A member may request a demotion to allow continued employment when a lay off is imminent. Members who have been demoted retain the ability to participate in promotional examinations while serving in any eligible rank.

ARTICLE III: FIRE DEPARTMENT HIRING

CHAPTER 9. FIRE DEPARTMENT ENTRY-LEVEL HIRING

Section 9.1 Establishment of Fire Department Registers of Eligibles.

The Commission shall establish and maintain a Register of Eligibles for each rank within the Fire Department, except for the position of Fire Chief and Deputy Fire Chief. A Register of Eligibles shall rank all applicants who have passed all elements of an examination for the stated rank in order of their relative excellence as determined by the examination and preferences, but without reference to priority of time of examination.

Section 9.2 Initial Fire Department Eligibility List.

Upon completion of the examinations, the Board shall from time to time establish a list of candidates eligible for appointment from the entry-level eligibility list. Vacancies shall be filled by candidates who meet the requirements of the position. The Board will prepare, post, and keep an eligibility list of entry-level candidates who successfully pass the Written Examination and the Physical Ability Test. Candidates shall take rank upon the eligibility list in order of their relative excellence as determined by the Written Examination, including point for preference in accordance with the Board's Rules and Regulations. The official date of the eligibility list will be the date of the posting. Persons will remain on the eligibility list for two years from the date their name is first listed.

- A. Initial Eligibility List. The initial eligibility list will be posted within sixty (60) days after the scoring of the Written Examination and the Physical Ability Test are completed.
- B. Final Eligibility List. The final eligibility list will be posted after the addition of preference points to the written examination score, the addition of which may not allow a candidate to be placed on the list before a veteran as set forth in Section 9.3B of the Board's Rules and Regulations.

Section 9.3 Fire Department Preference Points.

- A. Maximum Possible Fire Department Entry-Level Points. An applicant for an entry-level position in the Fire Department may receive preference points if that applicant qualifies for such points under this Section 9.3. The Commission may prescribe the total number of preference points awarded under this Section, but the total number of preference points may not be less than 10 points or more than 30 points. Points may be given only if a proper and valid claim for preference points has been made and only if the standards for such preference points have been met under the Act and these Rules and Regulations.
- B. Available Fire Department Entry-Level Points. Entry-level preference points in the Fire Department may be awarded for veteran service, education, and experience as follows:

1. Veteran Service Points. An applicant will be awarded 5 points if (a) the applicant was engaged in the active military or naval service of the United States for a total cumulative period of at least one year and was honorably discharged or (b) the applicant is currently or has been on inactive or reserve duty in such military or naval service for a total cumulative period of at least one year, except as provided in Subsection 9.3C1 of these Rules and Regulations.
2. Education Points. An applicant will be awarded five (5) points if the applicant has obtained a bachelor's degree from an accredited college or university in any field. An applicant will be awarded two (2) points if the applicant has obtained an associate's degree or 60 college credits from an accredited college or university in the field of fire service or emergency medical services. Note there is no pyramiding of educational preference points awarded under this section. An applicant will be awarded ten (10) points if the applicant is a licensed paramedic in the State of Illinois.
3. Experience Points. An applicant will be awarded five (5) points if the applicant was employed as a full-time firemedic or firefighter at a municipal department or fire protection district for at least two (2) years.

C. Time and Proof of Claiming Fire Department Entry-Level Preference Points.

1. Time and Proof of Preference. Within ten (10) days after the posting of an Initial Eligibility List, each applicant on that list who may claim preference points must submit proof of eligibility by providing a copy of the following: DD214 form; transcripts as evidence of a Bachelor's degree; proof of work experience and/or copy of paramedic license. Claims not made within that 10-day period will be deemed waived.
2. Limitation of Award of Preference Points. An applicant may not receive an amount of experience preference points under this Section 9.3 that would move the applicant ahead of any veteran on the Initial Eligibility List. Instead, the applicant may receive that number of experience preference points that will not move the applicant ahead of any veteran. If two or more candidates are prevented from receiving all of their experience points because they cannot move ahead of a veteran, then those candidates will be placed on the Initial Eligibility List below the veteran and in rank order based on the total experience points they would have received except for the prohibition of moving ahead of a veteran. In the event of tied scores, the tie will be broken by lot in the presence of at least two Commissioners, at a regular or special meeting of the Commission, in a manner the Commission determines is appropriate under the circumstances.

Section 9.4 Final Fire Department Register of Eligibles.

After the process of adding preference points has been completed, the Secretary or the Commission's designee shall re-rank the applicants on each Initial Eligibility List according to their scores including preference points. Each candidate's order of eligibility as thereupon determined will be the basis for placement of the candidates on the Register of Eligibles. In the event of tied scores, the tie will be broken based on the date and time of application, with the earlier application receiving the higher list rank. To qualify for placement on the final Register of Eligibles, an applicant's total score, before the award of any preference points, must be at or above the minimum provided by the Act.

Section 9.5 Removal of Names from Fire Department Entry-Level Registers of Eligibles.

- A. Entry-Level Registers. The Secretary shall strike from the Register of Eligibles for the rank of firemedic the name of:
1. any applicant who may be disqualified pursuant to any provision of these Rules and Regulations;
 2. any applicant who ceases to meet the qualifications for the rank of firemedic;
 3. any applicant who does not, or cannot, accept the position within three (3) days after receiving notice of his or her appointment, except as otherwise provided in Subsection 11.3B of these Rules and Regulations; and
 4. any applicant who fails to respond to a notice to update interest in appointment within seven (7) days after receipt, as provided in Section 11.3C of these Rules and Regulations.

CHAPTER 10. APPLICATIONS FOR POSITION OF FIREMEDIC

Section 10.1 Minimum Qualifications and Requirements for Entry-level Firemedic Applicants.

- A. Proof of Legal Authorization to Work. At date of hire, an applicant for a position in the Fire Department must submit proof of legal authorization to work in the United States.
- B. Age. Each applicant must provide proof of his or her birth date at time of filing an application.
1. Maximum Age for Firemedic Position. No person who is 35 years of age or older is eligible to take an examination for the position of firemedic. This age limitation does not apply to (a) any person previously employed as a

full-time firefighter in a regularly constituted fire department of (i) any municipality or fire protection district located in Illinois, (ii) a fire protection district whose obligations were assumed by a municipality under Section 21 of the Illinois Fire Protection District Act, or (iii) a municipality whose obligations were taken over by a fire protection district; (b) any person who has served a municipality or as a regularly enrolled volunteer, paid-on-call, or part-time firefighter; or (c) any person who turned 35 while serving as a member of the active or reserve components of any of the branches of the Armed Forces for the United States or the National Guard of any state, whose service was characterized as honorable or under honorable conditions, if separated from the military, and is currently under the age of 40.

2. Minimum Age for Firemedic Position. No person who is younger than 21 years of age is eligible for employment as a firemedic. A person who will reach the age of 21 within six (6) months of the date of examination stated in a notice of examination issued under Section 2.2 of these Rules and Regulations is eligible to take the examination but may not be employed until reaching the age of 21 years.
- C. Fingerprinting. Each applicant will be fingerprinted as part of the Character and Background Check. A classified set of the fingerprints of every applicant who is offered employment as a firemedic will be filed by the Commission with the Illinois Department of State Police and with the Federal Bureau of Investigation.
- D. Fire Department Minimum Education Standards. No person will be eligible to apply for a position in the Fire Department unless he or she possesses a high school diploma or equivalent.
- E. Vision. Corrected far vision 20/40 or better, with normal peripheral vision and ability to distinguish colors.
- F. Valid Driver's License.
- G. Special Qualifications. If the application for examination for a position requires special qualifications, the Board may require evidence of special training or practical experience.
- H. Candidate Physical Ability Test (CPAT) and Ladder Test. Applicants for the Fire Department may present valid CPAT cards (with the ladder climb endorsement) at the time of application, which have been issued no more than one (1) year prior to the anticipated issuance date of the final Firemedic Register of Eligibles.

Section 10.2 Fire Department Application Form, Basic Standards.

- A. Application Form; Completion. The Commission or its designated representative shall furnish the application form, which form must be completed in its entirety by any applicant, including all supplementary information and documentation.

B. Supplementary Information. At the time of filing an application, the applicant must furnish the following:

1. a certified copy of his or her birth certificate;
2. a copy of his or her high school diploma or its equivalent;
3. a copy of his or her transcripts of post-high school study, if applicable;
4. a copy of his or her State of Illinois certifications as Emergency Medical Technician/Paramedic or Firefighter II, if applicable;
5. a copy of his or her military service record, discharge papers, and U.S. Government Form DD214, if applicable;
6. a copy of his or her driver's license;
7. valid CPAT card with the ladder climb endorsement that has been issued no more than one (1) year prior to the anticipated issuance date of the final Firemedic Register of Eligibles.

C. General Character & Health. An applicant must be of good moral character, of temperate habits, and must be physically and psychologically able to perform the essential duties of the position for which he or she is applying, with or without reasonable accommodation. The burden of establishing compliance with these standards rests on the applicant.

D. Exclusion for False Statements. A false statement made by a person in an application, or connivance in any false statement made in any supplementary information that may accompany the application, or complicity in any fraud related to an application or supplementary information shall be regarded as good cause for exclusion from the examination.

Section 10.3 Filing of Fire Department Application.

The application for the position of firemedic must be filed, prior to taking an examination, with the Secretary of the Commission or with an agency or representative designated by the Commission. No application will be accepted until notice of an examination for a position has been given in accordance with Section 2.3 of these Rules and Regulations, and applications will be accepted only during the period designated by the Commission pursuant to Section 2.3.

The recipient of the application on behalf of the Commission shall note on the application the date it was received. Each applicant shall be responsible for advising the Commission of any changes in his or her address or telephone number. The failure of an applicant to provide the Board with timely notice of any change in the address or

telephone number provided in the application form, shall result in the removal of the applicant's name from consideration.

Section 10.4 Disqualification.

A. Grounds. The Commission may refuse to examine, or after examination refuse to certify as eligible, or after certification as eligible refuse to retain on the Register of Eligibles, any applicant:

1. who is found lacking in any of the established general requirements set forth in Section 10.1, including but not limited to any special standards established pursuant to Subsection 10.1E of these Rules and Regulations, for an entry-level position stated in these Rules and Regulations or in the Act; or
2. who illegally uses or has illegally used drugs; is a gambler; or is not a person of good character; or
3. who has been convicted of a felony, a crime of moral turpitude, or a misdemeanor specifically listed in 65 ILCS 5/10-2.1-6.3 as amended from time to time; or
4. who, in the judgment of the Commission, has practiced or attempted to practice any dishonesty, deception, or fraud in his or her application, examination, or other submissions to or dealings with the Commission, the Fire Department, or the Village; or
5. who has failed to abide by the rules and procedures governing any aspect of the application process; or
6. who is physically or psychologically unable to perform the essential duties of the position to which he or she seeks appointment, with or without reasonable accommodation; or
7. who has been dismissed from any public service for good cause; or
8. whose character or employment references are unsatisfactory; or
9. who has failed to appear for, or failed, any element of the examination or otherwise has not successfully completed any portion of the examination process; or
10. who is unable to speak and understand the English language to the satisfaction of the Commissioners of the Board; or
11. who knowingly divulges or receives questions or answers before any examination, or who is the knowing recipient of test information in advance of the examination.

- B. Notification; Hearing. Whenever the Commission makes a preliminary finding that an applicant is disqualified under Subsection A of this Section, the Secretary shall notify the applicant of that finding by a letter stating the reasons for the finding. The applicant then, within five days after the date of that notice, may request an opportunity to be heard by the Commission. The Commission shall set a hearing as soon as practical after receiving such a request. At the hearing, the applicant will have an opportunity to explain the facts relating to the reasons given by the Commission for the finding of disqualification. At the conclusion of the hearing, the Commission must confirm or vacate the preliminary finding of disqualification and must notify the applicant of its determination. If no written request for a hearing is made by the applicant, then the preliminary finding of disqualification will be deemed confirmed five days after the date of notice. No applicant will be precluded from continuing in the application and testing process so long as his or her right to review under this Subsection has not been exhausted by either the passage of time or a decision of the Commission.

Section 10.5 Release of Liability.

In consideration of being admitted to the examination process, all applicants must execute and deliver to the Commission or its designated representative a release of all liability as a result of participating in the examinations, and all waivers and releases of information necessary to allow the Commission to complete all elements of the examination, on forms approved by the Commission.

Section 10.6 Admission to Examination.

No person shall knowingly be admitted to any element of any examination who does not meet the minimum qualifications established for the position of firemedic. The fact that a person is admitted to an element of an examination will not be considered as evidence that he or she is qualified or eligible for the position.

Section 10.7 Correction of Application.

A defective application will be returned to the applicant for correction, if the applicant otherwise is qualified for the position he or she seeks. A returned application must be resubmitted within the time period established by the Commission or its designated representative.

CHAPTER 11. EXAMINATIONS AND APPOINTMENTS FOR POSITION OF FIREMEDIC

Section 11.1 Firemedic Examination Elements; Grading.

- A. Examination Elements. All applicants must submit themselves for each element of an examination at the times and places established by the Commission. An

examination for the Firemedic position will consist of the following elements sequenced as listed below will require the indicated minimum passing grade:

| <u>Examination Element</u> | <u>Minimum Passing Grade</u> |
|--|------------------------------|
| Element 1. Physical Ability Test: | Pass |
| Element 2. Written Test: | 70 percent |
| Element 3. Character and Background Check: | Pass |
| Element 4. Oral Exam: | Pass |
| Element 5. Polygraph Test: | Pass |
| Element 6. Psychological Test: | Pass |
| Element 7. Medical Test: | Pass |

The failure to achieve the minimum passing grade in any examination element disqualifies the applicant from any further participation.

- B. Grading Generally. The tests will be graded by the Secretary of the Board or the testing agency and the results of the graded examinations will be submitted to the Board. No information concerning grades and no test scores shall be disclosed or provided to any applicant until after the posting of an Initial Eligibility List or such other time as may be designated specifically by the Commission. The names of persons failing the examination need not be posted, published, or disclosed by the Commission except to such person. Each applicant shall be notified within a reasonable time of the result of his or her examination. All examination files and materials, if they are retained, shall be maintained as files of the Commission.

The minimum passing grade shall be that grade established by the Board or according to the test standards recommended by the testing agency and shall meet all requirements of Illinois statutes.

Section 11.2 Firemedic Element Descriptions and Procedures; Deferral.

- A. Element One—Physical Ability Test. All applicants who attended the orientation must take a physical ability test. Only applicants who have participated and passed the designated test will be allowed to continue the process. Applicants who fail to achieve a passing grade on the physical ability test will be so notified.

The “Fire Fighter Candidate Physical Ability Test” (CPAT), developed and endorsed by the International Association of Fire Fighters and the International Association of Fire Chiefs, may be used for the physical ability test, as determined by the Commission. The Commission may make changes to the elements of the C.P.A.T. and supplement those elements with additional job-related elements.

The Board may also accept the results of ladder tests conducted by the Northeastern Illinois Public Safety Training Academy (NIPSTA) or other agencies approved by the Board.

See Subsection I of this Section below for re-administration of physical ability test.

- B. Element Two—Written Test. All applicants must submit themselves for a written test.
1. Proof of Valid Driver’s License. Immediately before taking the written test, each applicant must present a copy of his or her valid driver’s license.
 2. Procedure. The written test will be conducted and graded by two or more Commissioners or by a testing agency or service designated by the Commission at a facility designated by the Commission for that purpose.
 3. Finality. All test papers are the property of the Commission and any entity assisting the Commission with the test, and the grading thereof by the Commission shall be final and conclusive and not subject to review except only as provided by the Commission or the testing entity with the approval of the Commission.
- C. Element Three—Character and Background Check. At the request of the Commission, the Fire Department shall conduct a detailed character and background check of an applicant who has successfully passed all prior elements of the examination. The check shall review the applicant’s employment history, references, educational background, credit history, litigation history, military record, driving record, neighborhood and community standing and service, and such other data and information pertinent to a proper review and analyses of the applicants.
- D. Element Four—Oral Exam. All applicants who have successfully passed all prior elements of the examination must submit themselves for an initial hire background review oral exam. Candidates who fail to successfully complete the initial hire background review oral exam will be notified and eliminated from all further consideration.
1. Procedure. The oral exam of each applicant must be conducted by two or more Commissioners and, if desired by the Commission, a test facilitator. At the end of the test of each applicant, the examiners may discuss the merits of that applicant. Each examiner must individually grade the applicant as pass or fail. The Commission’s final determination of whether the applicant has passed or failed may be computed only after the exam has been administered to all applicants then being considered for appointment.
 2. Subjects of Oral Exam. The same questions will be asked of each candidate. Applicants will be asked questions that will enable the examiners to properly evaluate them on maturity, communication skills, judgment,

leadership ability, managerial ability, appearance, demeanor, emotional stability, self-confidence, friendliness, interest in the position, personal fitness for the position, and such other matters as are pertinent to the proper review and analysis of an applicant.

- E. Element Five—Polygraph Test. When directed by the Commission, an applicant who has successfully passed all prior elements of the examination must submit to a polygraph device deceptive test, commonly known as a lie detector test, at a time and place designated by the Commission. An applicant will be considered to have achieved an adverse result on the polygraph test if the Commission finds the applicant has been deceptive by (1) admitting to wrongdoing that was not admitted in the applicant's application or in the course of the applicant's oral exam before the Commission, or (2) answering questions during the course of the polygraph test in a manner which the Commission determines to be indicative of deception. Results of the polygraph test must be submitted to the Commission for its evaluation. An unsatisfactory result on the polygraph test may subject the applicant to disqualification or to additional testing, at the discretion of the Commission, including but not limited to an additional background and character check, an additional oral exam, an additional polygraph test, or any combination of these test.
- F. Element Six—Psychological Test. When directed by the Commission and after a conditional offer of employment has been made, an applicant who has successfully passed all prior elements of the examination must submit to a psychological test to be given by a qualified examiner selected by the Commission. The test must be designed and administered solely to determine an applicant's ability to perform the position's essential job duties, with or without reasonable accommodation. The examiner shall prepare and submit a report of the examination to the Commission for its evaluation. The Commission shall determine, based on such report, whether the applicant passed the test, whether additional psychological testing is necessary, or whether the applicant failed the test.
- G. Element Seven—Medical Test. When directed by the Commission and after a conditional offer of employment has been made, an applicant who has successfully passed all prior elements of the examination must submit to a medical test, including without limitation a vision test and drug and alcohol screening, by a licensed physician designated by the Commission. The test must be designed and administered for the purpose of determining the applicant's physical ability to perform the essential duties of the position sought, with or without reasonable accommodation. A medical test must be completed not earlier than sixty (60) days prior to the date of appointment. A positive result on a confirmatory drug screening test will be a sufficient basis for a determination by the Commission that an applicant has failed the medical test. At any point after a conditional offer of employment has been made, an applicant may be requested to submit evidence of vision sufficient to meet the standards of the Department to which he or she is applying or to submit to a vision examination to determine if his or her vision meets such standards. Each applicant shall be responsible for advising the Commission of any changes in his or her ability to perform the essential functions

of the applied-for position, with or without reasonable accommodation. The Commission may, at its discretion, require an applicant to submit to a follow-up medical test prior to appointment to a position.

- H. Deferral of Examination Elements. Examination elements 4, 5, 6, and 7 will not be administered until after the Initial Eligibility List is created, preference points are awarded and a Register of Eligibles has been created.
- I. Re-administration of Physical Ability Test. If an applicant has been on the Register of Eligibles for more than one year after the date of his or her physical ability test and the applicant becomes eligible for a conditional offer of employment as a firemedic, then the Commission may require that applicant to take a second physical ability test prior to being employed. If that applicant does not pass that second physical ability test, then the applicant may not be appointed and the applicant's name must be stricken from the Register of Eligibles.

Section 11.3 Appointments of Firemedics.

- A. Basis of Appointment. Appointments to the rank of firemedic will be made in accordance with the Act. Promptly after notification by the Fire Chief that a vacancy exists in the rank of firemedic that has been approved by the Village Manager, the Commission shall undertake the process of appointing the highest-ranked, qualified applicant on the Register of Eligibles to fill that vacancy. For each appointment, however, the Commission may take one of the following additional two actions:

If the Commission determines that the highest ranked applicant fails to meet the minimum standard for firemedic, or if the Commission believes an alternate candidate would better serve the needs of the Fire Department, then the Commission may pass over the highest ranked applicant and may appoint either:

(a) any applicant who is ranked in the top five percent of all applicants on the Register of Eligibles; or

(b) any person who is among the top five highest ranked applicants on the Register of Eligibles if the number of applicants who have a ranking in the top five percent of all applicants on the Register of Eligibles is fewer than five people.

- B. Waiver of Appointment. An applicant, within three (3) days after the date of notice from the Commission of a conditional offer of appointment or an appointment, may waive the right to that appointment. That request must be made in writing, signed by the applicant. If the Commission receives a proper notice of waiver, then the Commission shall retain the name of the applicant on the Register of Eligibles until the next opportunity for an appointment and shall fill the current vacancy (or vacancies, if more than one appointment is being made at that time) pursuant to the procedures of Subsection A of this Section. If no notice of waiver or response to the notice of appointment is received within the prescribed time, then the Commission shall strike the applicant's name from the Register of

Eligibles pursuant to Subsection 9.6A of these Rules and Regulations and shall fill the vacancy pursuant to Subsection A of this Section. No applicant may be allowed more than one waiver.

- C. Updating Interest in Appointment. The Board may direct the Secretary to notify all candidates who are eligible for appointment that the Board requests that each candidate notify the Secretary as to whether the candidate desires to remain under consideration. Failure of a candidate to respond to such notice within seven (7) days after its receipt shall be deemed evidence of the candidate's desire to withdraw his or her name from consideration. The candidate's name shall thereupon be stricken from the list, without further notice to the candidate.
- D. Certificate of Appointment. After appointment to an entry-level position in the Fire Department, the new firemedic will receive a Certificate of Appointment signed by the Chairperson and Secretary of the Commission.
- E. Oath of Office and Bond. Before entering into duty, the new firemedic must take such oath and enter into such bond as provided by the Illinois law and Village ordinances.

Section 11.4 Fire Department Probation.

All appointments to the Fire department shall be for a period of twelve (12) months from the date of hire, which may exclude periods of training, or injury or illness leaves, including duty related leave, in excess of 30 calendar days as provided in 65 ILCS 5/10-2.1-6.3(c). If a firemedic's probationary period is extended beyond one year, because he/she is required as a condition of employment to be a certified paramedic, then the sole reason that the employee may be discharged without a hearing, during the extended probationary period, is for failing to meet the requirements for paramedic certification. The Board of Fire and Police Commissioners has no authority over the discipline or termination of probationary members of the Fire Department.

CHAPTER 12. FIRE DEPARTMENT PROMOTIONAL EXAMINATIONS

The Village will follow any promotional process that has been negotiated with the International Association of Firefighters (IAFF) Local 2077. The Village Fire Chief or the appointing authority as designated in writing by the Village Manager shall administer the aforementioned promotional process. The Board is not responsible for establishing or maintaining Registers of Eligibles for the positions of Fire Chief and Deputy Fire Chief.

CHAPTER 13. FIRE DEPARTMENT TEMPORARY APPOINTMENTS AND VOLUNTARY DEMOTIONS

Section 13.1 Fire Department Temporary Appointments.

The Board may make temporary appointments to prevent a stoppage of public business, to meet extraordinary situations or to prevent the material impairment of the Department. Such temporary appointments shall not be made to exceed sixty (60) days.

Section 13.2 Fire Department Voluntary Demotions.

A member may be demoted for cause or by agreement between the member and the Chief. A member may request a demotion to allow continued employment when a lay off is imminent. Members who have been demoted retain the ability to participate in promotional examinations while serving in any eligible rank.

ARTICLE IV: DISCIPLINE

CHAPTER 14. SUSPENSIONS, REMOVALS, DEMOTIONS, AND DISMISSALS

Section 14.1 **Applicability; Just Cause Required.**

- A. Applicability. The provisions of Chapter 14 of these rules and regulations do not apply to sworn members of the Police and Fire Departments who are not subject to the jurisdiction of the Board of Fire and Police Commissioners by collective bargaining agreement or applicable law.
- B. Just Cause Required. Except as provided in Section 14.8 of this Chapter, no member of the Fire Department or Police Department shall be suspended, removed, discharged, or demoted except for just cause.

Section 14.2 **Suspensions; Appeals.**

- A. Suspensions. The Fire Chief or Police Chief shall have the right to suspend any member of the Fire Department or Police Department for a period not exceeding five days without pay by serving a written notice of suspension on such member that sets out the facts constituting just cause for suspension. Any member so suspended may appeal the suspension to the Commission by filing notice of appeal within five days after service of written notice of such suspension, regardless of when the suspension is to be served. A hearing shall be held on appeal, in accordance with the provisions of Sections 14.4, 14.5, and 14.6 of this Chapter, except that the member so suspended shall have the burden of establishing by clear and convincing evidence that just cause for the suspension does not exist.
- B. Appeal. On such appeal, the Commission shall review the action of the Fire Chief or Police Chief to determine if just cause exists in light of all the evidence presented. The Commission may sustain the action of the Fire Chief or Police Chief, may reverse the action of the Fire Chief or Police Chief with instructions that the member so suspended shall receive his or her pay for the period involved, may suspend the member for a period of not more than 30 days, or may discharge the member, depending on the evidence presented.

Section 14.3 **Charges.**

- A. Complainant. Charges may be brought against a member by the Fire Chief, the Police Chief, or the Village Manager.
- B. Charges. Charges shall be in writing, shall be signed by the complainant, and shall state with specificity the facts alleged to constitute just cause for suspension, removal, discharge, or demotion. Such charges shall be filed with the Commission and shall be served upon the respondent.

Section 14.4 Pre-Hearing Procedures.

- A. Hearing Date. Upon the filing of a charge, the Commission shall set the date, time, and place for hearing, which hearing date shall be within 30 days after the filing date.
- B. Notice of Hearing. The Commission shall cause notice of hearing to be served on the parties promptly and not less than five days prior to the hearing date.
- C. Answer. The respondent may file a written answer to the charges. Such written answer shall be signed by the respondent, shall be filed with the Commission, and shall be served on the complainant not less than 48 hours prior to the hearing.
- D. Reply. The complainant may reply to any affirmative matter contained in such answer by signing, filing, and serving such reply not less than eight hours prior to the hearing.
- E. Continuance. Motions for continuance of the hearing made by either party shall be in writing and shall be filed with the Commission and served on the opposing party not less than 48 hours prior to the time set for hearing. The Commission may waive said requirements upon good cause being shown and a finding that no prejudice will result to any party from any such waiver. The Commission may grant or deny a continuance on the motion of either party or on its own motion, but no continuance that extends the commencement of the hearing beyond 30 days from the filing date shall be granted. If a continuance is granted on the motion of a respondent who has been suspended by the Commission, with or without pay, pursuant to Subsection I of this Section and said continuance causes postponement of the conclusion of the hearing to a date more than 30 days after the date on which charges were filed, a waiver of pay shall be required for the period beginning with the 31st day after such filing and continuing to the date of the conclusion of the hearing.
- F. Attendance of Witnesses. Either party, at any time prior to the hearing, may file applications with the Commission for the issuance of subpoenas for any person or persons to appear at the hearing, or to have any such person produce books, papers, records, accounts, and other documents at the hearing. Such application shall be in writing and shall adequately identify such person, persons, or documents sought to be subpoenaed. The Commission, or any Commissioner, shall issue such subpoenas if the Commission deems the testimony of such person or such documents to be relevant to the hearing. Such subpoenas may be authorized either by resolution at a Commission meeting or by the signature of any two Commissioners without a meeting. Subpoenas may be served by any person of the age of 21 years or more.
- G. Evidence Depositions. Evidence depositions may be taken and utilized in the manner and under the conditions prescribed therefore in courts of general jurisdiction in the State of Illinois.

- H. Stipulations. The parties may stipulate and agree in writing, or on the record, as to evidentiary facts or other matters. Any facts so stipulated shall be considered as evidence in the proceeding.
- I. Suspension Before Hearing. The Commission may suspend the respondent pending hearing, with pay or without pay, for not more than 30 days. In the event that the Commission, after hearing, determines that the charges are not sustained, the respondent shall receive any pay withheld during the suspension period.

Section 14.5 Hearing.

- A. Commencement and Adjournment. A hearing shall be commenced within 30 days after the filing of the charges and may be adjourned from time to time thereafter for lack of a quorum or in order to complete the hearing at a later date.
- B. Quorum to Conduct Hearing. Two Commissioners shall constitute a quorum of the Commission for the conducting of a hearing.
- C. Public Hearings and Closed Hearings. All disciplinary hearings of the Commission shall be held in accordance with the Illinois Open Meetings Act. The hearing shall be public, but at any time before or during such hearing the Commission may determine that such hearing, or any portion of such hearing (except for final action), shall be closed.
- D. Counsel. The respondent (or an appellant) may, at his or her election, be represented by any attorney at law licensed to practice law in the State of Illinois. Such attorney shall file and serve his or her appearance with the Commission. The complainant and the Board may also be represented by attorneys.
- E. Oath. All witnesses shall be sworn under oath prior to testifying. The oath may be administered by any member of the Commission or an Illinois notary public.
- F. Order of Proceedings; Cross Examination. After disposition of any preliminary motions for continuance, motions directed to the charges, or other motions, the complainant (or appellant) shall present and examine witnesses and offer other evidence substantiating the charges that have been made against the respondent (or, in the case of an appellant, evidence proving a lack of just cause for a suspension). Thereafter the respondent may present and examine witnesses and offer other evidence refuting the charges. Complainant (or the appellant) may then present evidence in rebuttal. Subsequent rounds of evidence presentation will be allowed at the discretion of the Board. All parties shall have the right to cross examine witnesses presented by the opposite party.
- G. Rules of Evidence.
 - 1. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence, as applied in civil cases in Illinois, shall be followed; provided, however, that when necessary to ascertain facts not reasonably

susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Commission shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made by either party and must be ruled on by the Commission. Such objections and rulings shall be noted in the record. Subject to these requirements, when a hearing is expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.
 3. The Commission may take notice of judicially cognizable facts.
- H. Burden of Proof. The complainant shall have the burden of proving the charges brought by the preponderance of the evidence.
- I. Argument. The Commission shall permit opening statements and closing arguments, first on behalf of complainant, next on behalf of respondent, and finally on behalf of complainant, within time limits to be established by the Commission in each case. Alternatively, the Board in its discretion may allow the parties to submit written post-hearing briefs in lieu of oral closing arguments.
- J. Record of Proceedings. The Commission shall make an audio recording of the hearing. That recording must be made available to any party for review or transcription at that party's expense. The Commission or any party may provide, in addition, for a transcript of the hearing to be taken by a reporter, in which event the Commission's audio recording will not be required. The transcript may be written at the request of the Commission or any party, at the expense of the requester.

Section 14.6 Findings and Decision.

- A. Vote; Deliberations. To reach a finding of guilty on charges brought, at least two Commissioners must vote guilty. A vote of guilty as to a charge by less than two Commissioners constitutes a finding of not guilty. To reverse a suspension appealed to the Commission, at least two Commissioners must vote to reverse. The Commission may deliberate in public or in closed session, provided that final action shall be taken only in public session.
- B. Finding of Not Guilty. If the respondent is found not guilty as to each and every charge, or if a suspension is reversed, then the Commission shall make a finding that the charges or suspension are not sustained and shall enter an order terminating immediately any suspension and requiring the Fire Department or Police Department to reimburse respondent for all wages not paid to the respondent during such suspension period.

- C. Finding of Guilty. If the Commission finds that charges have been proved by a preponderance of the evidence and that just cause exists, and the Commission thus finds the respondent guilty of any one or more charges, or if the Commission denies the appeal of a suspension, then the Commission shall adopt findings of fact in support of such determination. The Commission may order the discharge and removal of the respondent from office immediately; may order the suspension of the respondent from office, with or without pay, for a period of not more than 30 days, including any period of suspension, with or without pay, by the Fire Chief, Police Chief, or the Commission prior to such finding; may demote the respondent previously promoted from a lower rank with immediate reduction in compensation to a rate not exceeding the maximum rate of such lower rank; or any combination of the above.

- D. Notice of Findings and Decisions. The Commission shall promptly serve notice on the parties of its findings and decision.

- E. Rehearing. Such findings and decision of the Commission shall be final and not subject to rehearing.

Section 14.7 Administrative Review.

Either party may file a complaint for review of a final decision by the Commission in accordance with the provisions governing administrative review in Article III of the Illinois Code of Civil Procedure, 735 ILCS 5/3-101 *et seq.* Such complaint shall be filed within 35 days after the date of service of a copy of said decision on the parties affected thereby.

Section 14.8 No Applicability.

The provisions of this Chapter 14 do not apply to the Police Chief, Fire Chief, and Department personnel who are on probation pursuant to Sections 5.4 or 11.4 of these Rules and Regulations.