

BYLAWS OF THE  
BOARD OF POLICE AND FIRE COMMISSIONERS  
FOR THE CITY OF KENOSHA, WISCONSIN

[Adopted July 14, 2010; Amended June 20, 2017;  
Amended July 25, 2017]

ARTICLE I

NAME AND MEMBERSHIP; ORGANIZATION AND PURPOSE; QUALIFICATIONS AND TERM;  
VACANCIES; AUTHORITY AND POWERS; CODE OF ETHICS

1.1 Name and Membership. The Board shall be known as the Board of Police and Fire Commissioners for the City of Kenosha, Wisconsin (hereinafter "Board"). A list of Board Members is attached hereto as Exhibit "A". Exhibit "A" may be administratively updated from time to time by the Secretary without Board action.

1.2 Organization and Purpose. The Board is duly organized in accordance with Section 62.13, Wisconsin Statutes, entitled "Police and Fire Departments", for the purpose stated therein. Section (1) thereof provides:

(1) COMMISSIONERS. Except as provided in subs. (2g), (2m), (2s), and (8)(b) each city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of whom shall constitute a quorum. The mayor shall annually, between the last Monday of April and the first Monday of May, appoint in writing to be filed with the secretary of the board, one member for a term of 5 years. No appointment shall be made which will result in more than 3 members of the board belonging to the same political party. The board shall keep a record of its proceedings.

The Board does not have or exercise the Optional Powers referenced in Section 62.13(6), Wisconsin Statutes.

1.3 Qualifications and Term. Board Members shall have the following qualifications:

1.3.1 Be at least eighteen (18) years of age.

1.3.2 Be and remain residents of the City of Kenosha.

1.3.3 Be selected from various backgrounds. The overall composition of the Board shall endeavor to reflect the diversity of population of the City of Kenosha; including its racial, sexual, ethnic, cultural, educational and workforce segments, as well as other aspects of the community.

1.3.4 No more than three (3) Board Members may belong (be a card-carrying member) to the same political party.

1.3.5 The terms shall be for five (5) years and shall be staggered. (Section 1.06 L. of the Code of General Ordinances limits Board Members to one (1) full term. This section also provides that a citizen member whose term has expired may be appointed on an interim basis, not to exceed six (6) months, until such time as a qualified successor can be appointed.)

1.4 Vacancies. Vacancies on the Board shall exist:

- 1.4.1 Upon the death, resignation or removal of any member;
- 1.4.2 Whenever the number of authorized members is increased; and,
- 1.4.3 Whenever a member has had more than three (3) consecutive unexcused (as determined by the Board) member absences. After two (2) initial, consecutive unexcused absences, a member will receive a written notice from the Board that he/she must attend the next Board meeting or provide notice of their absence. For subsequent consecutive unexcused absences, the Board is not responsible for notifying the member. Where a member has had three (3) consecutive unexcused absences, the Board, at a duly notice and convened meeting, may declare the member's position on the Board as vacant, and will so notify the member. The member may, within ten (10) days of receipt of such notice, file with the City Clerk/Treasurer a notice of appeal, in which event this issue will be determined by the Common Council of the City under State law.
- 1.4.4 Any member may resign effective upon giving written notice to the Mayor of the City.
- 1.4.5 Members may be removed from office in accordance with the laws of this State and these By-Laws.
- 1.4.6 Vacancies on the Board will be filled by the Mayor of the City.
- 1.5 Authority and Powers. The Board, under Section 62.13, Wisconsin Statutes, has the following powers:
  - 1.5.1 Appoint the Chief of Police and Chief of the Fire Department. Establish a selection process. (Qualifications for these positions are the province of the Mayor and/or the Common Council.)
  - 1.5.2 Approve appointments of subordinates made by the Police and Fire Chiefs.
  - 1.5.3 Establish selection process and an eligibility list for entry level positions (Police Officer/Firefighter). For the establishing of such list, the Board shall adopt and may repeal or modify, rules calculated to secure the best service in the departments. (Qualifications for these positions are the province of the Mayor and/or the Common Council.)
  - 1.5.4 Establish a selection process and an eligibility list for other than entry level positions in the Police and Fire Departments only when said positions are not filled by promotion. (The Police and Fire Chiefs make the determination as to whether qualified individuals are eligible for promotion.) For the establishing of such list, the Board shall adopt, and may repeal or modify, rules calculated to secure the best service in the departments. (Qualifications for these positions are the province of the Mayor and/or Common Council.)
  - 1.5.5 Hear an appeal from a subordinate who has been suspended by the Police or Fire Chief, and who requests a hearing.
  - 1.5.6 Hear charges filed against the Chief or charges filed by the Chief against a subordinate. May also hear charges filed by a member of the Board, the Board as a body or any aggrieved person, and determine whether there shall be a penalty. If a penalty is appropriate, the Board is authorized to impose only one of the following four penalties: suspension, reduction in rank, suspension and reduction in rank, or removal. If the Board or a member of the Board is going to file charges, the Board or the member can conduct an investigation which may lead to the filing of charges. (Although this function does not appear to conflict with the power to file charges, it has constitutional implications. Should the Board or member conduct an investigation and make a finding of probable cause, it may be unable to act as an objective decision-maker.)
  - 1.5.7 Make rules for the administration of the disciplinary appeal review process.

1.6 Code of Ethics. Board Members are subject to the City of Kenosha Code of Ethics, Chapter 30 of the Code of General Ordinances, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference.

## ARTICLE II

### OFFICE AND ADMINISTRATION; SERVICE OF PROCESS, FILINGS AND RECORDS

2.1 Office and Administration. The City Human Resources Department will provide an office, and administrative services for the Board at:

Municipal Office Building,  
625 52<sup>nd</sup> Street, Room 205,  
Kenosha, Wisconsin 53140.

Contact Human Resources Assistant in the Human Resources Department at:

Phone: (262)653-4133

Fax No.: (262)653-4127

E-mail: [humanresources@kenosha.org](mailto:humanresources@kenosha.org)

2.2 Service of Process and Filings. Service of process and filings shall be at the office designated in Article 2.1. Any person in the Human Resources Department may accept service of process and filings on behalf of the Board.

2.3 Records. Records shall be maintained at said office and shall be subject to Wisconsin's Public Records Law.

## ARTICLE III

### MEETINGS AND OFFICERS

3.1 Place of Meetings. Board meetings shall be held at the Municipal Building, 625 - 52nd Street, Kenosha, Wisconsin 53140.

3.2 Regular Meetings. The Board shall endeavor to meet at least monthly at dates and times determined by the Board.

3.3 Open Meetings Law. Meetings shall be conducted in accordance with the State of Wisconsin's Open Meetings Law.

3.4 Special Meetings. Special meetings of the Board may be called by the President, by any two (2) officers, or by three (3) members.

3.5 Meeting Agendas. The following provisions shall govern the giving of notice for meetings of the Board:

The Secretary of the Board, or designee thereof, will distribute written agendas of its regular and special meetings to its members in accordance with the Wisconsin Open Meetings Law. The agenda may be delivered personally, by first class mail, equivalent private delivery service, by facsimile machine, and/or through electronic mail, and shall state the place, date and time of the meeting and the matters proposed to be considered or acted upon at the meeting. If a member cannot be found, the agenda may be delivered by leaving the agenda at the member's usual place of abode. The Board shall post agendas of its regular and special meetings on a bulletin board in the Municipal Building.

A copy of the agenda will be sent to the Chiefs, Mayor, City Administrator, Director of Personnel, City Attorney and to the news media as provided for by Wisconsin's Open Meetings Law.

3.6 Quorum For Meetings. A quorum of the Board shall consist of a majority of the Board Members.

For purposes of determining a quorum, an unfilled vacancy of the Board shall reduce the Board membership by one (1) until such vacancy is filled.

No business shall be considered by the Board at any meeting at which the required quorum is not present, and the only motion which the President shall entertain at a meeting without a quorum is a motion to adjourn.

3.7 Majority Action As Board Action. Every act or decision done or made by a majority of the members present at a meeting duly noticed and convened at which a quorum is present is the act of the Board, unless these Bylaws, or provisions of law, require a greater percentage or different voting rules for approval of a matter by the Board. There shall be no vote by proxy.

3.8 Conduct of Meetings. Meetings of the Board shall be presided over by the President; or, if no such person has been so designated, or in his or her absence, by the Vice President; or, in the absence of each of these persons, by a member chosen by a majority of the members present at the meeting. The Secretary of the Board shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the Meeting.

Except with respect to a hearing pursuant to Section 6.12 hereof and provided that the same is authorized by action of the majority of the members of the Board present in person, a Board member may attend a regular or special meeting of the Board by conference telephone call provided that in conducting such meeting all members of the Board participating in such meeting and the public attending such meeting can, continuously throughout the meeting, hear each other at the same time, using such equipment as the President of the Board, subject to majority vote of the Board, deems to be necessary to such participation and insuring that methods adopted by the Board are sufficient to permit members participating by conference call to seek recognition, obtain the floor, indicate their presence and make and verify their votes. Members, so acting telephonically shall be permitted, prior to the commencement of such meeting, to submit motions in writing or relevant written documents by fax or electronically in a form that can be printed and available at such hearing.

A member may execute any order, decision or other like document electronically by the electronic submission of his or her signature to such order, decision or other like document.

The rules contained in the current edition of Robert's Rules of Order shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Bylaws, provisions of law, and any special rules of order the board may adopt.

3.9 Election of Officers. At a Board meeting held in May of each year, the Board shall elect from among its members its officers: President, Vice President and Secretary. The most senior member of the Board shall serve as President, unless the most senior member of the Board declines to serve as President, in which event the following shall apply. Voting for the election of officers shall be by voice vote, unless there is more than one (1) candidate per office. In such circumstances, voting shall be by written ballot. Each member present shall cast one (1) vote per candidate, per office. The candidates receiving the highest number of votes shall service for one (1) year. Officers, except for the President, may be reelected to serve in subsequent terms.

3.10 Order of Business. The regular order of business of the Board, where applicable, shall be:

3.10.1 Roll call.

3.10.2 Minutes of preceding meeting(s).

- 3.10.3 Citizen comments on matters relative to the agenda and within the jurisdiction of the Board. (Limit: Five (5) minutes per citizen.)
- 3.10.4 Police and Fire Department monthly reports.
- 3.10.5 Communications received.
- 3.10.6 Appointments and promotions.
- 3.10.7 Whatever business the Board deems relevant.
- 3.10.8 Other regular business as authorized by law.
- 3.10.9 Closed session to review appointments and promotions.
- 3.10.10 Reconvene into open session.
- 3.10.11 Meeting dates and agenda items.
- 3.10.12 Adjournment.
- 3.10.13 Notice that those who required special accommodations in order to attend the meeting are to contact the Police Chief reasonably in advance so that reasonable accommodations can be made.
- 3.11 Floor Privilege. Except for the citizen comment portion of the agenda, only Board Members shall have the right to speak at Board meetings. The Board may, in its sole discretion, allow anyone else present to speak at the Board meeting, but only to the extent of, and subject to any parameters established by the Board.

ARTICLE IV  
OFFICERS OF THE BOARD  
AND THEIR DUTIES

4.1 Officers of the Board. The officers of the Board shall consist of a President, Vice President, and a Secretary.

4.2 Eligibility For Office. All members of the Board shall be eligible to hold office.

4.3 Election and Term of Office. The officers of the Board shall be elected annually at the first Board meeting in May, and the officers shall begin serving immediately upon election. Each officer shall hold office until he/she resigns or is removed, or is otherwise disqualified to serve, or until his/her successor shall be elected and qualified, whichever occurs first.

If one or all of the offices are permanently vacated before the terms of office are completed, the Board, at its next meeting, shall hold an election to fill all vacancies. The newly elected officer or officers shall continue to serve until the annual election held on the first Board meeting in May.

4.4 Duties of the President. The President of the Board shall prepare meeting agendas, notice all meetings in accordance with Wisconsin Public Records Law, preside at all meetings, appoint members to special committees of the Board, and shall have other powers and perform such other duties as may be prescribed by law, by these Bylaws, or as may be prescribed by the Board.

The President, in the event that the current serving Secretary is temporarily absent from a meeting, shall appoint a Board Member to temporarily service as Board Secretary.

4.5 Duties of the Vice President. The Vice President of the Board shall assume all powers and duties, and be subject to all of the restrictions of the Board President in the President's absence, inability or refusal to act, and shall have other powers and perform such other duties as may be prescribed by law, by these Bylaws, or as may be prescribed by the Board.

4.6 Duties of the Secretary. The Secretary of the Board shall keep the records of the Board at the office of the Board, in accordance with Wisconsin's Public Records Law, process all completed expense reimbursement claims, and shall have other powers and perform such other duties as may be prescribed by law, by these Bylaws, or as may be prescribed by the Board.

The Secretary shall keep a minute book, showing all important actions pertaining to each meeting and hearing. The minutes of each meeting and hearing shall be signed by the Secretary and approved by the Board. A copy of the unapproved minutes shall be provided each member, the Chiefs, the Mayor, City Administrator, Director of Personnel and City Attorney, as soon after each meeting as is possible.

After the minutes are approved by the Board, one (1) copy shall also be sent to the Chiefs, the Mayor, City Administrator, Director of Personnel and City Attorney, as soon after each meeting as is possible.

4.7 Clerical Assistance. The City may provide clerical assistance to the Board. Officers of the Board may delegate clerical duties to such City personnel.

## ARTICLE V

### COMMITTEES OF THE COMMISSION

Special Board committees may be created from time to time as necessity demands and in accordance with specified Board policies and these Bylaws.

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board and its members, except that the time for regular and special meetings of committees may be fixed by the Board or by the committee. The Board may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

## ARTICLE VI

### DISCIPLINARY ACTION AGAINST SUBORDINATES

6.1 Definition of "Subordinate". A "Subordinate" shall include any sworn member of the Police and Fire Departments other than the Chief.

6.2 Suspension of Subordinates.

6.2.1 A Subordinate may be suspended for just cause by the Chief or the Board as a penalty. Such suspension shall be without pay. The Chief shall file a report of such suspension with the Board immediately upon issuing the suspension. No hearing on such suspension shall be held unless requested by the suspended Subordinate.

6.2.2 A Subordinate may be suspended by the Board or the Chief pending the disposition of charges filed against him/her. No person shall be deprived of compensation while suspended pending disposition of charges.

6.3 Who May File Charges Against A Subordinate.

6.3.1 Charges may be filed against a Subordinate by the Chief, a member of the Board, the Board as a body, or by an aggrieved party. Such charges shall be in writing and filed with the President of the Board.

6.3.2 If the Subordinate suspended by the Chief requests a hearing before the Board, the Chief shall be required to file charges with the Board upon which such suspension was based.

6.3.3 When charges are filed by a Board Member, the Board Member filing charges shall remove themselves from the proceedings subject to the approval of the Board so as not to create a conflict of interest between the Board Member and the Board. The Board reserves the right to remove a Board Member who files charges and does not voluntarily remove themselves if good cause exists to believe that a conflict of interest may otherwise exist.

#### 6.4 Filing of Charges.

6.4.1 All charges shall be in writing in the form of a verified (notarized) complaint, shall be signed by the person filing charges and shall be filed with the President of the Board.

6.4.2 The written charges shall include: the name of the individual complained about; the nature of the alleged offense; the rule or law violated; and the date and place of the alleged violation. If any portion of the statement of charges is made upon information and belief, the source of such information and belief shall be identified, including any person's name and address.

6.4.3 Separate charges shall be made against each Subordinate involved in the alleged misconduct resulting from the same event. The charges may be consolidated for hearing, but if either party requests a separate hearing on one or more charges, the Board may allow the charges to be heard separately.

6.4.4 Motions by the parties as to the formal adequacy of the complaint and other procedural matters may be made and shall be considered by the Board.

6.4.5 Citizens Complaints shall be processed pursuant to the provisions of the Citizen Complaint Procedure under Article VII of these Bylaws.

6.5 Notification of Charges and Answer. Except with respect to Citizen Complaints, following the filing of charges in any case, a copy thereof shall be served upon the person charged. The accused shall file an Answer with the President of the Board, with a verified (notarized) copy to the Complainant within ten (10) days of service of the charges.

6.6 Prehearing Conference. The attorney for the Board shall conduct a Prehearing Conference, which may be conducted by telephone. The Prehearing Conference shall be conducted at least ten (10) days prior to hearing. The following matters will be addressed:

6.6.1 Whether the charges fall within the jurisdiction of the Board.

6.6.2 Procedural motions to be considered by the Board.

6.6.3 Stipulations as to matters about which the parties agree. Matters which are stipulated to need not be proven by the parties at the hearing.

6.6.4 A date for each party to provide the other party with a list of names and addresses of witnesses they intend to call.

6.6.5 Stipulations to changes in deadlines.

6.6.6 Hearing date.

6.7 Setting Date of Hearing. The Board, through its attorney, shall set a date for a hearing on the charges not less than ten (10) days, nor more than thirty (30) days following service of charges upon the person charged.

6.8 Marking, Exchange and Objections To Exhibits.

6.8.1 To expedite the hearing and the Board's consideration of the evidence, each party shall prepare a numbered list of exhibits which that party expects to offer into evidence, identifying each document by a reasonably descriptive short name or title. These lists shall be filed with the Board no less than ninety-six (96) hours prior to the scheduled commencement of the hearing. These lists and a copy of each document should be exchanged by the parties not less than ninety-six (96) hours prior to the scheduled commencement of evidentiary proceedings. A unified joint list of exhibits filed not less than ninety-six (96) hours prior to the commencement of evidentiary proceedings will fulfill the requirements of this rule if the parties can reach agreement on such a list.

6.8.2 Parties shall exchange and file notice of any objections to such proposed exhibits not less than twenty-four (24) hours prior to the schedule commencement of the hearing. This notice of objection shall state concisely the grounds for objection, but need not present argument or authority.

6.8.3 Unless excused by the Board, each party shall file with the Board the original and six (6) photocopies of each documentary exhibit offered into evidence. Each party offering a documentary exhibit into evidence shall provide at least one (1) photocopy to each party to the proceeding.

6.9 Discovery. Each party shall propose the form, general scope, and schedule for discovery, if any. The Board may allow or order discovery. All discovery shall be completed as provided by the Board's order. Discovery may be allowed by Board order using the procedures established by Wisconsin Statutes Chapter 804 as amended from time to time, consistent with the Prehearing Conference order and other orders of the Board. Where appropriate to the context, references in that statute to the court before which an action is pending shall be construed as referring to this Board. Upon motion of a party and for good cause shown, or upon its own motion, the Board may restrict discovery as justice requires.

6.10 Legal Representation. The accused and the Complainant may represent themselves, or may be represented by an attorney, or with the Board's permission may be represented by a lay advocate acting as the party's agent. The Board, in such proceedings, will be represented by an attorney.

6.11 Witnesses and Subpoenas. Either party to a hearing may compel the attendance of witnesses by subpoena. The form of the subpoena shall be prepared by the requesting party and shall be issued by the President of the Board, and be served as are subpoenas under Chapter 885, Wisconsin Statutes.

6.12 Hearing and Testimony.

6.12.1 All hearings on the charges will be public. The President of the Board will preside over the hearing. Generally, any witness may testify regarding matters about which that witness has personal knowledge and may be examined as to their credibility. The rules of evidence regarding the examination of witnesses and evidence obtained as customarily used in Circuit Court will be waived so as not to exclude possible relevant evidence. All evidence will be received and accorded whatever weight and credibility is appropriate. The Board will designate its attorney to act as a hearing examiner and rule on evidentiary issues. Any party may appeal any ruling by the Board's attorney to the Board, who shall rule thereon. Parties will not be prevented from calling rebuttal witnesses whose names are not included on the lists for good cause shown and accepted by the Board. The names of witnesses discovered after the lists are exchanged shall be provided to the opposing party within a reasonable time period. Neither party will be required to call all of the witnesses listed on their witness list.

6.12.2 The accused may be called adversely by the Complainant or the Board and subject to Section 62.13, Wis. Stats., examined by each Board Member as to the charges. If the accused refuses to testify upon the grounds of self-incrimination, the President or attorney for the Board shall advise the accused that the accused will be questioned on matters specifically, directly and narrowly relating to the performance of the accused's duties concerning the charges filed. Any failure to answer may result in disciplinary action, up to



and including termination being imposed upon the accused by the Board. However, any answers given and any fruits thereof cannot be used against the accused in any criminal proceedings. The accused will be further advised that failure to answer any of the questions may result in the Board's drawing of an adverse inference as to the accused's credibility and/or innocence of the charges filed against the accused.

6.12.3 Members of the Board may question any witness at any time, but generally shall adhere to the following procedure:

- (1) Commissioners may reserve their questions of the witness until the parties have completed all direct and cross examination.
- (2) Before the witness is excused, commissioners may briefly confer in order to identify areas of interest for further inquiry.
- (3) Questions on behalf of the Board may be posed by the Board's legal counsel or by the President.
- (4) The parties may state objections to the questions posed by or on behalf of the Board.
- (5) At the conclusion of such inquiry, the party who did not call the witness may conduct one round of cross-examination, limited in scope to the questions and responses of the Board's inquiry, following which the party who called the witness may conduct one round of re-direct examination also so limited.
- (6) The Board may initiate additional cycles of this process for a witness.
- (7) The witness shall be excused when the Board is satisfied that its inquiry of the witness has been completed.
- (8) The Board may defer its questioning of a witness until both parties have rested and for that purpose may continue a subpoena.
- (9) In any proceeding the Board may modify this process.

6.12.4 Upon motion of a party, the Board may order that objections or other discovery matters requiring decision or ruling shall be acted upon exclusively by the Board or by such other person or persons as the Board may designate.

6.12.5. The Board may deliberate in closed session as required during the course of its hearings to act on motions, objections or administrative matters.

6.12.6 The Board may modify the order of testimony or make such additional rules at each hearing as it deems necessary for the conduct of the hearing.

6.13 Decision.

6.13.1 After hearing all the evidence and the argument and summation statements of the parties, the Board may convene into closed session(s) to deliberate for as many days as necessary upon giving notice of convened dates. Within three (3) days of the close of the hearing, the Board shall produce and file with the Secretary of the Board a written decision including Findings of Fact, Conclusions of Law and an Order for penalties, if any, that shall be taken against the accused. If one (1) or more Board Members disagrees with the majority opinion, the member(s) may write and file a dissenting opinion.

6.13.2 No Subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Board based on charges filed by the Board, members of the Board, an aggrieved person or the Chief, unless the Board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the Board shall apply the following standards, to the extent applicable:

6.13.2.1 Whether the Subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.

6.13.2.2 Whether the rule or order that the Subordinate allegedly violated is reasonable.

6.13.2.3 Whether the Chief, before filing the charge against the Subordinate, made a reasonable effort to discover whether the Subordinate did in fact violate a rule or order.

6.13.2.4 Whether the effort described under Section 6.13.2.3 was fair and objective.

6.13.2.5 Whether the Chief discovered substantial evidence that the Subordinate violated the rule or order as described in the charges filed against the Subordinate.

6.13.2.6 Whether the Chief is applying the rule or order fairly and without discrimination against the Subordinate.

6.13.2.7 Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the Subordinate's record of service with the Chief's department.

6.13.3 If the Board determines that the charges are not sustained, the accused, if suspended, shall be immediately reinstated and all lost pay restored. If the Board determines the charges are sustained, the accused, by order of the Board, may be suspended, or reduced in rank, or suspended and reduced in rank, or removed, as the good of the service may require.

6.14 Hearing Procedure.

6.14.1 The Board will arrange for the proceedings to be recorded by a Court Reporter. The Board or any party may order a transcript at their expense. The Board will order a transcript at its expense in the event of an appeal. The original transcript will be filed with the Secretary of the Board.

6.14.2 The parties and/or their attorney will identify themselves for the record, beginning with the Complainant.

6.14.3 All witnesses will be sworn.

6.14.4 Each party, beginning with the Complainant, will have the opportunity to make a brief opening statement to the Board, stating what evidence they will introduce and what they intend to prove.

6.14.5 Complainant will introduce evidence/call witnesses first. Witnesses called by Complainant will be directly examined by Complainant or his/her attorney, followed by cross-examination by the accused or his/her attorney. Board Members may question the witness at any time. The parties will be entitled to redirect and recross-examination.

6.14.6 Following the close of Complainant's evidence, the accused will have the right to introduce evidence/call witnesses according to the same procedure as set forth in Section 6.14.5, above.

6.14.7 After all witnesses have testified, Complainant may make a closing statement to the Board, which will be followed by accused's closing statement. Complainant will have the opportunity to make a rebuttal argument following accused's closing statement. The Board may invite written briefs or memoranda following the conclusion of testimony in lieu of closing statements or oral argument, formally continuing the hearing for the receipt of the briefs or memoranda and for deliberations.

6.14.8 Failure of a Complainant to appear at the Prehearing Conference or the Hearing or to comply with these rules may be grounds in the discretion of the Board to dismiss the Complaint either with or without prejudice, that is, with or without the right to re-file the complaint.

6.15 Appeal of Decision. Any person suspended, reduced, suspended and reduced, or removed by the Board may appeal from the order of the Board to the Circuit Court by serving written notice of the appeal

on the Secretary of the Board within ten (10) days after the order is filed. Within five (5) days after receiving written notice of the appeal, the Board (through the Board President) shall certify to the Clerk of Circuit Court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall, upon application of the accused or of the Board, fix a date of trial, which shall not be later than fifteen (15) days after such application, except by agreement. The trial shall be by the court and upon the return of the Board, except that the court may require further return or the taking and return of further evidence by the Board. The question to be determined by the court shall be: Upon the evidence is there just cause under 6.13.2 to sustain the charges against the accused? No costs shall be allowed either party and the Clerk's fee shall be paid by the City. If the order of the Board is reversed, the accused shall be forthwith reinstated and entitled to pay as though in continuous service. If the order of the Board is sustained, it shall be final and conclusive.

6.16 Modification of Rules. The Board, on its own motion or on the motion of a party, may modify, extend, waive, or excuse performance of any of these rules and may promulgate additional rules or procedures as appropriate to a case before it.

## ARTICLE VII

### CITIZEN COMPLAINT PROCEDURE

7.1 Purpose. The citizen complaint procedure addresses misconduct alleged to have been committed by a Subordinate or Chief of the Police or Fire Department ("Employee"). The Board utilizes the Citizen Complaint Intake Investigation Guidelines to receive, evaluate and administer the complaint process.

7.2 Complaint. Prior to referral for resolution, the complainant must sign the complaint ("Complaint") and affirm that all information in the Complaint is true and correct to the best of complainant's knowledge and the Complaint shall otherwise meet the requirements of Sections 6.4.1 and 6.4.2 of these Bylaws.

7.3 Commission Assessment/Referral. The Complaint shall be received by the Board and considered in closed session pursuant to Section 19.85(1)(f) and/or 19.85(1)(b), Wis. Stats., as the same may apply. The Board shall determine if the Board has jurisdiction, if the Complainant has standing and if the Complaint meets the procedural requirements of these Bylaws. Board may either:

7.3.1 Dismiss the Complaint pursuant to the provisions of the Grounds for Dismissing Complaints section of the Citizen Complaint Intake Investigation Guidelines. ("CCIIG"); or

7.3.2 Refer the Complaint pursuant to Section 7.4 of this Article VII.

7.4 Referral/Investigation. Board may refer the Complaint as follows:

7.4.1 With respect to a Complaint against an Employee other than the Chief, Board may refer the Complaint to an Investigator to conduct an investigation in accordance with CCIIG and applicable Department standard operating procedure where appropriate. The Investigator may be the Chief of the Department of the Subordinate against whom the Complaint is brought, the Chief's designate or any other independent person that Board may designate in the exercise of its discretion.

7.4.2 With respect to a Complaint against a Chief, the Board may refer the Complaint for investigation to be conducted in accordance with CCIIG and applicable Department standard operating procedure where appropriate by any independent person that Board may designate in the exercise of its discretion.

7.5 Report and Resolution. Upon receipt of the Investigator's investigation report, the Board shall resolve the Complaint by one of the following methods:

7.5.1 Rapid Resolution Complaint Inquiry.

7.5.1.1 With Rapid Resolution Complaint Inquiry (RRCI), the Complaint filed with the Board is forwarded to the Department for quick resolution. The Complainant is questioning the action of a Subordinate concerning a matter that does not, on its face, appear to be a violation of a Department rule.

7.5.1.2 The Department that receives a RRCI referral will follow its applicable standard operating procedures to resolve the Complaint.

7.5.1.3 Board will review the completed RRCI.

7.5.2 Hearing. Board will cause the Complaint to be served upon the Employee. The proceedings and hearing will be conducted in accordance with Article VI of these Bylaws.

7.5.3 Dismissal. The Complainant will be advised in writing of the reason(s) for the dismissal.

7.5.4 Review of Completed Fire or Police Department Investigation. With Review of Completed Fire and Police Department Investigation (RCI), the Board reviews the Department's Investigation of a Complaint filed with a Department and determines whether further investigation is required.

## ARTICLE VIII

### DISCIPLINARY ACTION AGAINST THE CHIEFS

8.1 Procedure to File and Hear Charges. The procedure to file and hear charges provided for in Article VI shall apply to the Chiefs, where applicable.

8.2 Suspension of Chiefs. The Board may suspend a Chief pending disposition of charges filed by the Board or by the Mayor of the City of Kenosha.

## ARTICLE IX

### CONSTRUCTION OF BYLAWS

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

## ARTICLE X

### SEVERABILITY

In the event any portion of these Bylaws is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining portion shall remain in full force and effect.

## ARTICLE XI

### AMENDMENT OF BYLAWS

The Board, upon five (5) days advance notice to its members, may alter, amend or repeal any of these Bylaws, and adopt new Bylaws.

## ARTICLE XII

### ADOPTION

These Bylaws were adopted at a duly noticed and convened meeting of the Board held on the 20th day of July, 2010, amended at a duly noticed and convened meeting of the Board held on the 20<sup>th</sup> day of June, 2017, and further amended at a duly noticed and convened meeting of the Board held on the 25th day of July, 2017. These Bylaws supersede all other Bylaws previously adopted.

Exhibit A  
BOARD OF POLICE AND FIRE  
COMMISSIONERS

BY: \_\_\_\_\_  
Edward Kubicki, Commissioner

Date \_\_\_\_\_

BY: \_\_\_\_\_  
Pastor Lawrence Kirby, Commissioner

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Helen Schumacher, Commissioner

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Bruce McCurdy, Commissioner

Date \_\_\_\_\_

BY: \_\_\_\_\_  
Richard Schend, Commissioner

Date: \_\_\_\_\_