

November 13, 2008

To: Board of Fire and Police Commissioners

From: Steven Fronk, FPC Research Services

Re: Proposed FPC rule changes

The proposed amendments outlined below do not affect current FPC procedures or the substance of existing FPC rules. They are nonetheless necessary to comply with changes in the law, delete language which is no longer applicable and more accurately reflect who we are and what we do.

Proposed Amendments

Rule 1, Sections 1(c) and 1(e). Rule I defines terms used in the FPC rules. Supervisor of Examinations and Public Relations Officer positions no longer exist and are not referenced elsewhere in rules. *Recommendation: Eliminate subsections 1(c) and 1(e) and renumber the remaining subsections.*

Rule III, Section 2. The existing rule defines the number of Board members needed to take action but fails to take into account recent changes in section 62.50(1h) Wis.Stats and the current makeup of the Board. *Recommendation: Rescind current FPC Rule III, Section 2 and adopt proposed new Rule III, Section 2 (see attached).*

Rule V, Section 2. This rule lists all positions in the Police and Fire Departments. There is no longer a Fire Cadet position. *Recommendation: Delete "Fire Cadet."*

Rule VI, Section 5(c). This section lists specific minimum qualifications for Fire Cadet. *Recommendation: Delete entire subsection 5(c).*

Rule VI, Sections 6(b) and 7. These sections list qualifications for all entry level positions. *Recommendation: Delete references to Fire Cadet.*

Rule X, Section 1(a). This section outlines FPC practice of having all eligible lists remain in effect for 2 years, but allows for flexibility if the Board so decides. There is no need for a separate reference to Police Aide or Fire Cadet eligible lists *Recommendation: Delete everything after first sentence and substitute following: Eligible lists remain in effect for two (2) years or as otherwise determined by the Board unless exhausted, rescinded, abolished or extended by formal action of the Board.*

Rule XI, Section 12. This section references those on promotional lists who are on military leave. The subject is already (better) covered in Rule X Section 2 re: Eligible Lists. *Recommendation: Delete Rule XI, Section 12 in its entirety.*

Rule XIV. This rule deals with residency requirements and extensions and repeatedly refers to a staff recommendation being required. Current FPC practice is for staff to collect information and submit a report, but the report does not necessarily include a recommendation by staff. *Recommendation: Delete all references to requiring a recommendation by staff. See attached proposed amended version.*

RULE I.

DEFINITION OF TERMS

- Section 1.
- (a) The word “Board” when used in these Rules means the Board of Fire and Police Commissioners. (Rev. 7/26/01)
 - (b) The “Executive Director” is the chief administrator for the Board. (Rev. 7/26/01)
 - (c) The “Supervisor of Examinations” is the supervisor of all testing and selection functions. (Rev. 7/26/01)
 - (d) The “Hearing Examiner” acts as presiding officer in disciplinary appeal and citizen complaint trials. At its discretion, the Board may designate one of its members or may appoint an attorney to act as Hearing Examiner. (Rev. 7/26/01)
 - (e) The “Public Relations Officer” is the supervisor of recruitment and the citizen complaint process and is responsible for community relations outreach activities for the Fire and Police Commission. (Rev. 7/26/01)
 - (f) The term “Exempt” in these Rules refers to positions not subject to competitive examination, unless the Board determines otherwise. (Rev. 7/26/01)
 - (g) The term “Non-Exempt” in these Rules refers to positions subject to competitive examination, unless the Board determines otherwise. (Rev. 7/26/01)

Current FPC Rule III, Section 2 reads as follows:

Section 2. Three members of the Board shall constitute a quorum to do business.

Given changes in section 62.50(1h) Wis.Stats and the current makeup of the Board, **this rule/section must be amended.**

Proposed Language

Section 2. A majority of the members-elect of the Board shall constitute a quorum necessary for the transaction of business. However, a 3-member panel of the Board may conduct and decide by majority vote a trial concerning a disciplinary appeal pursuant to section 62.50(12) Wis.Stats. and FPC Rule XV or XVI and may hear and decide by majority vote charges regarding a complaint filed by an aggrieved person pursuant to section 62.50(19) Wis.Stats. or Milwaukee City Charter section 22-10 and FPC Rule XVII.

RULE V.

CLASSIFICATIONS

Section 1. The following shall be classified as sworn personnel titles in the Fire Department:
(Rev. 11/1/07)

Administrative Captain – EMS (E)
Administrative Fire Captain (E)
Administrative Fire Lieutenant (E)
Assistant Fire Chief (E)
Battalion Chief, Fire (E)
Deputy Chief, Fire (E)
Fire Captain
Fire Captain – Incident Safety Officer (E)
Fire Chief (E)
Fire Lieutenant
Fire Paramedic
Fire Paramedic Field Lieutenant
Firefighter
Heavy Equipment Operator
Paramedic Field Lieutenant
Paramedic Field Lieutenant (E)
Vehicle Operations Instructor (E)
Vehicle Operations Training Coordinator (E)

Section 2. The following shall be classified as non-sworn (civilian) personnel titles in the Fire Department: (Rev. 11/1/07)

Accounting Assistant III
Administrative Assistant II, IV
Audiovisual Specialist I, II
Business Finance Manager
Carpenter
Custodial Worker II
Data Base Specialist
Fire Building and Equipment Maintenance Specialist
Fire Cadet
Fire Dispatch Manager (E)
Fire Dispatch Supervisor (E)
Fire Equipment Compressed Air Technician
Fire Equipment Dispatcher
Fire Equipment Machinist
Fire Equipment Mechanic
Fire Equipment Repairer I, II

RULE VI.

QUALIFICATIONS

Section 1. Requirements to compete in examinations in the Milwaukee Fire Department and Milwaukee Police Department will be job related and established by the Board for specific positions or job classes in accordance with professional testing standards and guidelines. (Rev. 7/26/01)

Section 2. Every applicant for positions in the Milwaukee Fire Department and Milwaukee Police Department shall be of good moral character as determined by a background investigation. Persons convicted of a felony, or the equivalent under Wisconsin law, or of a misdemeanor crime of domestic violence are ineligible for the position of Police Officer or Police Aide unless fully pardoned. (Rev. 7/26/01)

Section 3. Every applicant for either department shall meet job-related medical standards required for the position for which they are being considered, which shall be determined by qualified physicians designated by the Board. (Rev. 7/26/01)

Section 4. (a) Every applicant for the position of Firefighter and Police Officer must be a citizen of the United States. (Rev. 7/26/01)

(b) Every applicant for the position of Police Aide shall be a citizen of the United States or must have resided in the United States for a period of not less than five (5) years immediately prior to date of application. (Rev. 7/26/01)

A Police Aide applicant who is not a citizen of the United States and who has not yet reached the age of eighteen (18) may apply for the position of Police Aide, provided that such individual agrees in writing to file a Form N300 (Declaration of Intent to Apply for Naturalization) with the United States Department of Immigration and Naturalization within sixty (60) days of reaching eighteen (18) years of age. Failure to so agree shall result in denial of application. Failure to provide written proof of filing the requisite form within sixty (60) days of reaching the age of eighteen (18) shall result in removal from any testing process and/or eligible list, or termination of employment if already employed as a Police Aide. (Rev. 7/26/01)

A Police Aide applicant who is eighteen (18) years of age or older, and who is not a citizen of the United States, shall provide written proof of having filed either a Form N300 (Declaration of Intent to Apply for Naturalization) or a Form N400 (Application for Naturalization) or its equivalent with the United States Department of Immigration and Naturalization prior to applying for the position of Police Aide. Failure to

provide written proof of filing the requisite form at time of application shall result in denial of application. (Rev. 7/26/01)

- (c) Applicants for all other positions in either department must be eligible for employment in the United States in accordance with the Immigration and Reform Act of 1986. (Rev. 7/26/01)

Section 5. (a) Every applicant for Police Officer, Police Aide, and Firefighter must be a graduate of an accredited high school or possess a G.E.D. or a high school equivalency certificate which conforms to standards established by the State of Wisconsin for a high school equivalency certificate, by such time as determined by the Board. (Rev. 7/26/01)

- (b) Police Officer applicants must meet all educational requirements for Police Officer applicants established by the State of Wisconsin Law Enforcement Standards Board. (Rev. 7/26/01)

- (c) Every Fire Cadet applicant must be a graduate of either a Milwaukee public high school, a private high school located within the City of Milwaukee, or a public high school where the applicant attended as a Chapter 220 student or a student under Section 118.51 Wis. Stats. (open-enrollment). (Rev. 7/26/01)

Section 6. (a) Every applicant for Police Officer shall be twenty one (21) years of age by such date as determined by the Board. (Rev. 7/26/01)

- (b) Every applicant for Firefighter and Fire Cadet shall be eighteen (18) years of age by such date as determined by the Board. (Rev. 7/26/01)

- (c) Every applicant for Police Aide shall be at least seventeen (17) years of age and less than (20) twenty years of age at such time as determined by the Board. No person may be appointed to the position of Police Aide who has reached twenty (20) years of age. (Rev. 7/26/01)

Section 7. Every applicant for Police Officer, Police Aide, Firefighter, Fire Cadet, and other positions as determined by the Board shall possess a valid Wisconsin Motor Vehicle Operator's License at such time as determined by the Board. (Rev. 7/26/01)

Section 8. Members of either department, after actual service in a position in the next lower rank or in a position approved by the Board, shall be eligible to take a promotional examination provided they have served as regular and not acting, administrative, or temporary appointees and have met the qualifications and service requirements established by the Board and noticed on the examination announcement bulletin for the promotional position. Applicants for promotional

RULE X.

ELIGIBLE LISTS

- Section 1. (a) After an examination, an eligible list shall be prepared containing the names of the candidates in the order of their relative ranking. Eligible lists remain in effect for two (2) years, unless rescinded, abolished, or extended by the Board, except that eligible lists for Police Aide and Fire Cadet shall remain in effect until December 31st of the year in which they are established. (Rev. 7/26/01)
- (b) All eligible lists, consisting of name and ranking of each candidate, shall be presented for adoption. (Rev. 7/26/01)
- (c) If a tie occurs on an eligible list for an entrance position, candidates whose scores are identical will be ranked in alphabetical order by last name. If a tie occurs on a promotional eligible list, the candidate with the most seniority in the previous position held will be given first consideration for the position. (Rev. 7/26/01)
- (d) When an eligible list expires and candidates remain who have scores identical to a candidate already appointed, the eligible list will be automatically extended until the candidate(s) with identical scores have been appointed or other disposition is made by the Board. (Rev. 7/26/01)
- Section 2. Any candidate on any eligible list for appointment or promotion in either department who is on active military duty when his/her name is reached on that eligible list shall be held over and remain eligible for appointment or promotion for such period of time, and under such terms and conditions, as may be required by applicable law. (Rev. 2/6/03)

RULE XI.

APPOINTMENTS

- Section 1. Appointments to sworn, non-exempt positions in either department will be made from eligible lists established by the Board. Appointments to non-sworn positions in either department may be made from eligible lists established by the Board or from City Service Commission eligible lists or through other procedures established by the Board. (Rev. 7/26/01)
- Section 2. (a) A Police Aide shall be eligible for appointment to Police Officer upon meeting the following: United States citizenship, and; favorable recommendation of the Chief, and; reaching age 21, and; serving in the Police Aide program a minimum of two years, and; earning 24 college credits, and; satisfactorily completing a specified course of instruction approved by the Assistant Chief overseeing the Training Bureau or their designee, together with the concurrence of the FPC Director, and; successfully passing a Police Officer medical examination, psychological evaluation, drug screen test, and updated background investigation. (Rev. 7/10/08)
- (b) Any individual who was not a citizen of the United States at the time of appointment to Police Aide must provide written proof of United States citizenship prior to completing the Police Aide program or reaching twenty one (21) years of age, whichever is later. Failure to do so shall result in termination of employment. (Rev. 7/26/01)
- (c) Graduates of the Police Aide program will have precedence of appointment to the position of Police Officer in the Police Department. (Rev. 7/26/01)
- Section 3. (a) Whenever there is a vacancy in a sworn position in either department which is to be filled from an eligible list, the Board shall make the appointment in numerical order from the appropriate list. (Rev. 7/26/01)
- (b) Whenever there is a vacancy in a non-sworn position in either department which is to be filled from an eligible list, the Board will certify to the appointing department for each vacancy the names of the persons whose scores rank in the five top places on the eligible list. The Chief shall recommend the appointment of an individual from among the five certified names and report the selection to the Board for review and approval. (Rev. 7/26/01)
- Section 4. The Chief may object to a candidate on an eligible list for a sworn position by notifying the Board in writing of the reasons for such objection. The Board shall

then interview the candidate and determine whether the name of the candidate will remain on the eligible list. (Rev. 7/26/01)

- Section 5. Appointments or promotions to positions in either department require Board approval and are not effective until approved by a majority of the Board at a meeting of the Board. (Rev. 7/26/01)
- Section 6. Persons selected for appointment from eligible lists shall not be retained on the eligible list if they decline or are unable to accept appointment, at the time offered, unless they are unavailable due to circumstances beyond their control, or other valid reason approved by the Board. (Rev. 7/26/01)
- Section 7. (a) Original entrance appointees to Police Officer or Firefighter and persons not eligible for reinstatement to these positions who are re-employed in either department shall be on probation for an aggregate of 16 months of actual active service. All other appointees shall be on probation for one year unless otherwise specified by the Board, City Ordinance or a collective bargaining agreement. If during the probationary period, the appointee proves unfit for the position, the Chief may discharge the appointee. A full written statement of the reasons for the discharge must be filed with the Board within five (5) days of the discharge. There shall be no appeal from this discharge. If the probationary period is completed in a satisfactory manner, the appointee shall then be classified as a regular employee. (Rev. 7/26/01)
- (b) Promotional appointees shall be on probation for an aggregate of one (1) year of actual service unless the Board specifies a longer or shorter period for any position or class. If during the probationary period the appointee proves unfit for the position, the Chief may demote to the position held prior to promotion by filing with the Board and the affected individual a full written statement of the specific reason(s) for the demotion within five days of the demotion. Upon request of the affected individual, the Board shall interview the individual in closed session and thereafter, in open session, determine whether or not to affirm the demotion. (Rev. 5/1/08)
- Section 8. (a) For non-sworn positions, whenever an appointment can be made from a City Service eligible list, the Chief may appoint from the list to fill the existing vacancy, subject to the approval of the Board. (Rev. 7/26/01)
- (b) All requests for the filling of a vacancy from City Service Commission eligible lists shall be made to the Board in writing. (Rev. 7/26/01)
- Section 9. The Chief of Police, with the permission of the Board, shall have the power to appoint special Police Officers, as defined by Charter Ordinance, in a particular emergency for a period not to exceed thirty (30) days. (Rev. 7/26/01)

- Section 10. Where a vacancy exists in a non-sworn position, and it is shown to the satisfaction of the Board that there is a person who has been serving in a lower or different non-sworn position and whose familiarity with the work of the vacant position and whose qualifications make it desirable for the best interests of the service and the efficiency of the department, the Board may approve the promotion of such person either with or without examination, even if an eligible list for the position exists. (Rev. 7/26/01)
- Section 11. When there is no eligible list, the respective Chief may appoint individuals to act in the next higher capacity than that signified by their actual rank when such appointment is deemed advisable for the good of the service. Acting personnel shall have the same authority as regular or temporary appointees, but no provision shall be made for other benefits usually associated with the higher ranking position such as pay, seniority in rank or change in uniform. Such appointment shall be effective only until such time as a temporary or regular appointment is made from an eligible list. (Rev. 7/26/01)
- Section 12. If the name of an individual on a promotional eligible list is reached while the individual is on a leave of absence for active military duty, the name of the individual shall be bypassed and retained on the eligible list until the eligible list expires. (Rev. 7/26/01)
- Section 13. (a) When a vacancy occurs in an exempt position in either department, the Chief shall submit the name of an appointee to the Board at a meeting of the Board together with the request for the appointment. A written report from the Chief on the qualified candidate together with a copy of the appointee's service record shall be attached to the request. Appointment requests presented under this rule shall be laid over to a future meeting of the Board at which time the appointee shall be present. In the interim, the Board may elect to interview the appointee in executive session. If the appointment is not approved, the Board, upon request of the individual, shall make known the reason. In the event a nominee is rejected by the Board, the respective Chief shall submit a new nomination at the next meeting of the Board. (Rev. 3/6/03)
- (b) Any person appointed or promoted to an exempt position shall continue to serve in said exempt position only and shall not be transferred or assigned to similar non-exempt positions and shall not be allowed to qualify for higher level non-exempt positions, unless specifically approved by the Board. (Rev. 9/5/02)
- (c) If a vacancy exists in the office of Assistant Fire Chief, the Fire Chief shall nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the

appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Fire Department. (Rev. 9/5/02)

- (d) If a vacancy exists in the office of Assistant Chief of Police, the Chief of Police shall, pursuant to Section 62.50 (7) Wis. Stats., nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Police Department. (Rev. 9/5/02)

Section 14. A Chief shall immediately notify the Board in writing of any department member performing in an acting capacity in any of the following positions: Assistant Chief of Police, Deputy Chief of Police, Police Commander, Deputy Inspector of Police, Captain of Police, First Assistant Chief Engineer, and Deputy Chief, Fire. No department member shall serve in an acting capacity in any of the aforementioned positions for a period in excess of thirty (30) calendar days without approval of the Board. Upon date of adoption of this Rule, the Chiefs of the respective departments shall immediately file with the Board a written report setting forth the name of each department member presently serving in an acting capacity in any of the aforementioned positions. For each such position filled on an acting basis, the thirty (30) calendar day period for serving in such position in an acting capacity shall commence upon date of approval of this Rule. (Rev. 2/7/02)

RULE XIV.

RESIDENCY

- Section 1. All employees of the City of Milwaukee, including all members of the Fire Department and Police Department, are bound by City of Milwaukee Charter provisions regarding residency and are required to establish and maintain their actual and bona fide residence within the boundaries of the city throughout the period of employment by the city. It is strongly presumed that adequate housing, transportation, educational opportunities, health care and other amenities exist within the City of Milwaukee so as to permit all employees to establish and maintain a bona fide residence within the boundaries of the city as required. (Rev. 10/3/02)
- Section 2. Unless an extension of time to establish residency or a temporary exemption from the residency requirement has been granted by the Board, failure of any employee of the Milwaukee Fire Department or Milwaukee Police Department to reside within the boundaries of the City of Milwaukee shall render that employee ineligible for continued employment and shall result in termination of that employee. (Rev. 10/3/02)
- Section 3. All new employees of the Fire Department or Police Department who are not already employees of the City of Milwaukee shall be granted a period of time not to exceed six (6) months from the date of hire to establish a residence within the boundaries of the City of Milwaukee. All individuals who are hired as members of the Fire Department or Police Department are expected, upon being hired, to immediately begin taking all steps necessary to meet the residency requirement within six (6) months of the date of hire. Extensions of the six (6) month time period for establishing a bona fide residence within the City of Milwaukee are not favored and will not be granted absent extraordinary circumstances. (Rev. 10/3/02)
- Section 4. Any newly hired member of the Fire Department or Police Department who believes it may be necessary to request an extension of the time period for establishing residency, or any other member who believes it may be necessary to request a temporary exemption from the residency requirement, shall file such request in writing with the Fire and Police Commission, together with copies of all supporting documentation, at least thirty (30) calendar days prior to the date on which the extension or temporary exemption is anticipated to begin. Failure to file the request on a timely basis, absent extraordinary circumstances, shall be grounds for denial. The requestor shall forward a copy of the request to the Chief of the respective department. (Rev. 10/3/02)
- Section 5. Any request for an extension or temporary exemption shall specify, in detail, the reason(s) for the request and shall be accompanied by copies of

Deleted: The request shall be addressed to Fire and Police Commission, 809 North Broadway, Room 104, Milwaukee, Wisconsin, 53202.

all documentary evidence in support thereof including, but not limited to, real estate listing contracts, apartment leases, medical reports, educational reports, etc. Failure to supply appropriate supporting documentation together with the request shall be grounds for denial of the request. The burden of proof regarding whether or not a request for an extension or temporary exemption should be granted shall at all times be on the requestor. There is a strong presumption against the granting of all such requests absent extraordinary circumstances. (Rev. 10/3/02)

Section 6. Any request for an extension or temporary exemption or supporting documentation, which contains medical information, shall be treated and maintained as confidential by the Fire and Police Commission, the Fire and Police Departments, and their respective staffs. Such information shall be utilized solely for the purpose of evaluating the request for extension or temporary exemption, and no further release of such information may be made other than to individuals, entities, corporations or health care providers referred to therein for the purpose of verifying and/or clarifying information contained in the request. (Rev. 10/3/02)

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Section 7. Upon receipt of a request and appropriate supporting documentation, the request shall be referred to Fire and Police Commission staff for investigation and preparation of a report to be submitted to the Board. Any employee making a request shall, upon request, immediately provide any and all releases necessary for Commission staff to obtain additional information, including medical information that may have a bearing upon the request. Failure by the employee to immediately supply the necessary releases shall be deemed a failure to cooperate and shall result in denial of the request for extension. (Rev. 10/3/02)

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Section 8. The Board shall not be limited to information supplied by the requestor. Staff may seek and obtain additional information, which is relevant to the request. Upon completion of its investigation, staff shall prepare a written report. Copies of any additional information obtained by staff, along with a copy of the recommendation to the Board, shall be supplied to the requestor. (Rev. 10/3/02)

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Section 9. The Board shall review the request, supporting documentation, and the report of staff prior to making its decision at a public meeting with the understanding that the report is conclusive and should be adopted unless good cause to the contrary is shown. The employee requesting the extension or temporary exemption shall be notified of the meeting and invited to address the Board. Board members may pose questions to the employee. A roll call vote will be taken on the request. The decision of the Board may be to grant the request as made, or grant the request with modifications, or deny the request in whole or in part. The decision of the Board will be reduced to writing and a copy forwarded to the employee

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and the respective Department within ten (10) calendar days of the vote by the Board. (Rev. 10/3/02)