

RULES AND REGULATIONS
OF THE
BOARD OF FIRE AND POLICE COMMISSIONERS
CITY OF ELMHURST
STATE OF ILLINOIS

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As adopted by the Board of Fire and Police Commissioners of the City of Elmhurst, Illinois, effective October 6, 2014.

CHAPTER I - ADMINISTRATION

SECTION 1 - SOURCE OF AUTHORITY.

The Board of Fire and Police Commissioners of the City of Elmhurst, Illinois derives its power and authority from an Act of the General Assembly entitled, "Division 2.1 Board of Fire and Police Commissioners", of Chapter 65 of the Illinois Compiled Statutes and from ordinances enacted by the City of Elmhurst City Council through an exercise of the Council's home-rule authority..

SECTION 2 - DEFINITIONS.

The word "Commission" and/or "Board" wherever used shall mean the Board of Fire and Police Commissioners of the City of Elmhurst, Illinois. The word "Officer" shall mean any person holding a permanent office in the Police or Fire Department of the City of Elmhurst, Illinois. The masculine noun or pronoun includes the feminine. The singular includes the plural, and the plural the singular.

SECTION 3 - OFFICERS OF BOARD AND THEIR DUTIES.

The Board shall annually, on the first meeting in January elect a Chairman and a Secretary. They shall hold office until the end of the fiscal year of the municipality and until their successors are duly elected and qualified. The Chairman shall be the presiding officer at all meetings. The Secretary shall keep the Minutes of all 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.

SECTION 4 - MEETINGS.

- a) Regular meetings shall be held monthly, notice shall be posted and meetings shall be open to the public.

- b) Special meetings shall be open, notice thereof to be posted forty-eight (48) hours prior to convening, called by the filing of a notice in writing with the Secretary of the Board and signed either by the Chairman of the Board or any two members thereof. This notice shall contain a brief statement of the business to be submitted for the consideration of the Board at such special meetings, and shall set forth the time and place of such special meeting, and no other business shall be considered at such special meeting unless by unanimous consent of the Board.
- c) During any regular or special meeting a closed session may be held upon a proper motion made by any single member of the Board for the purpose of discussing personnel. Closed sessions may be limited to Board members and such invited persons as the Board may deem necessary. The secretary will record the motion to close the meeting, record the roll call vote of the members on said motion and keep minutes of the closed session. An audio or video record of each closed session will be maintained by the Secretary of the Board and, after a minimum of 18 months, shall be disposed of in accordance with the provisions of the Open Meetings Act.
- d) Public notice of any regularly scheduled or special meeting shall be held in accordance with the Open Meetings Act, Illinois Compiled Statutes, Chapter 5, "120/1-120/5.
- e) If a member is unable to be physically present at a meeting of the Board, whether it be for health related reasons, the need to conduct personal business or the business of the Board, or due to a personal or family emergency, that member may attend and participate at a Board meeting by telephonic or other electronic means provided that a quorum of the Board's members are physically present at the meeting and vote to approve the attendance of the missing member(s) by way of telephonic or other electronic means. The minutes of the meeting shall reflect, by name, those members of the Board who are physically present as well as those attending by telephonic or other electronic means. Notice that a board member will be in attendance and participating at a Board meeting, not in person but electronically, shall be provided to the Board's recording secretary or the municipal clerk at least 48 hours prior to the scheduled meeting.
- f) The agenda for a "Regular Meeting" shall allow for an "Open Forum" to permit individuals to appear before and address their concerns to the members of the Commission. The commission may limit those individuals appearing during the open forum to a presentation not to exceed three (3) minutes and may require an individual to be seated if the individual addresses those present in a disrespectful or discourteous manner or the subject matter being presented is not relevant to the duties and responsibilities of the Fire and Police Commission.

SECTION 5 - QUORUM.

A majority of the members of the Board shall constitute a quorum for the conduct of all business.

SECTION 6 - ORDER OF BUSINESS.

The order of business at any meeting shall be:

- a) Call to Order
- b) Roll Call
- c) Public Forum (Citizen Comments)
- d) Approval of Minutes
- e) Correspondence
- f) Old Business
- g) New Business
- h) Executive (Closed) Session
- i) Adjournment

SECTION 7 - PROCEDURE.

The parliamentary procedure prescribed in Robert's "Rules of Order" shall be followed as far as applicable.

SECTION 8 - AMENDMENTS.

Amendments to the rules of the Board may be made at any meeting of the Board. 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 published in a newspaper of general circulation in the Village. The notice shall specify the date, not less than 10 days subsequent to the date of such publication, when rules shall go into effect.

SECTION 9 - ANNUAL REPORT AND BUDGET REQUEST.

The Board shall submit an Annual Report of its activities as required by §5/10-2.1-19 of the Board of Fire and Police Commissioners Act, and a Budget Request for the ensuing year, as required by local ordinance and the aforementioned §5/10-2.1-19.

CHAPTER II - APPLICATIONS

SECTION 1 - RESIDENCE.

Applicants for examination must be citizens of the United States.

SECTION 2 - APPLICATION BLANKS.

Applications for a position shall be filed upon blank forms furnished by the Commission, and applicants must comply with the requirements of said form in every respect. The application must be filed with the Board prior to taking an examination.

Every applicant must be of good moral character, of temperate habits, of sound health and must be physically able to perform the duties of the position applied for. The burden of establishing these facts rests upon the applicant.

Police officer applicants must have earned a minimum of forty-five (45) semester hours of credit (100 level or above) from a regionally accredited college or university at the time of application.

At the time of application, applicants for a position as a firefighter must submit with their application a valid Illinois Department of Public Health EMT-BASIC (EMT-B) license as well as a Candidate Physical Ability Test (CPAT) card and approved Ladder Climb Card issued no more than 365 days prior the date scheduled for the written exam. Both the aforementioned license and CPAT certification must also be current at such time as a candidate may be appointed to the firefighter's position.

The applicant shall furnish with his application a copy of a valid driver's license, his Military Service Record, Discharge Papers, Social Security Card, Birth Certificate, High School Diploma or G.E.D. Certificate, a copy of his College or University Degree and, if requested, a copy of a certified transcript of his course work from an accredited College or University.

A false statement knowingly made by a person in an application for examination, connivance in any false statement made in any certificate which may accompany such application or complicity in any fraud touching the same, shall be regarded as good cause for exclusion from the examination.

SECTION 3 - DISQUALIFICATION.

The Board may refuse to examine an applicant or, after examination, to certify him as eligible:

- a) Who is found lacking in any of the established preliminary requirements for the service for which he or she applies.
- b) Who is physically unable to perform the duties of the position to which he or she seeks appointment.
- c) Who is addicted to the use of drugs or intoxicating beverages or is found to have taken or used drugs and/or narcotics illegally.
- d) Who has been convicted of a felony or any misdemeanor involving moral turpitude, as specified in §5/10-2.10-6 of the Board of Fire and Police Commissioners Act.

- e) Who has been dismissed from any public service for good cause.
- f) Who has attempted to practice any deception or fraud in his or her application.
- g) Who may be found disqualified in personal qualifications or health.
- h) Whose character and employment references are unsatisfactory.
- i) Who does not possess a high school education or its equivalent.
- j) Who has applied for a position as a police officer and is or has been classified by his or her Local Selective Service Draft Board as a conscientious objector.
- k) Who has received a bad conduct or dishonorable discharge from the armed forces of the United States of America.
- l) Who has submitted an incomplete or inaccurate application.

Any applicant, or eligible, deemed disqualified hereunder, shall be notified by the Board.

SECTION 4 - DEFECTIVE APPLICATIONS.

Defective applications shall be returned to the applicant for correction, provided the applicant is not otherwise disqualified for the position sought.

SECTION 5 - AGE REQUIREMENTS.

Applicants shall be under 35 years of age, at the time of application and at such time as the final eligibility list is posted, unless exempt from such age limitation as provided in Section 5/10-2.1-6 of the Fire and Police Commissioner's Act. Applicants, at such time as they file their application with this board, must be 21 years of age. Proof of birth date will be required at time of application.

SECTION 6 - NOTICE OF ACCEPTANCE.

The Secretary will notify all applicants whose applications have been accepted by the Board to be present for orientation and subsequent examination with an executed Physicians Certificate that they are physically capable of participating in a strenuous "Physical Aptitude Test."

SECTION 7 - RELEASE OF LIABILITY.

All applicants shall execute and deliver to the Board a release of all liability as the result of taking a "Physical Aptitude Test" in favor of the City of Elmhurst on a form to be prescribed by the Board.

CHAPTER III - EXAMINATIONS

ORIGINAL APPOINTMENTS

SECTION 1 - NOTICE OF EXAMINATIONS.

Examinations shall be held on the dates fixed by the Board and advertised in a local paper in accordance with the Statutes of the State of Illinois. Examinations may be postponed, however, by order of the Commission, which order shall state the reason for such postponement and shall designate a new date for said examination. Applicants shall be notified of the postponement of any examination and of the new date fixed for said examination.

SECTION 2 - EXAMINATIONS.

The Board shall call examinations to fill vacancies in the class of service in which vacancies are liable to occur. A call for such examination shall be entered in the Minutes of the Board and shall include a statement of:

- a) The time and place where such examination will be held.
- b) The location where applications may be obtained and the date by which applications must be returned to the Board.
- c) The position to be filled from the resulting eligibility list.

SECTION 3 - TYPE OF EXAMINATIONS.

Applicants must attend the orientation program sponsored by the Board. In addition, applicants may be required to participate in a physical aptitude test, written and oral examinations as determined by the Board and as more particularly set forth in 4 below. No examination shall contain questions regarding applicant's political or religious opinions or affiliations.

SECTION 4 - EXAMINATIONS - MINIMUM GRADE.

The following examinations may be conducted by the Board. The sequence of testing may vary at the discretion of the Board. Failure to achieve the minimum passing grade in any examination disqualifies the applicant from any further participation. Each weighted component of the examination process shall be based upon a scale of 1 to 100. The board, at its discretion, may employ a testing vendor(s) to conduct any of the examinations administered pursuant to these rules.

<u>Examinations</u>	<u>% of Total Grade</u>	<u>Minimum Passing</u>
Orientation	-	Attendance Mandatory
Physical Aptitude Test	-	**
Written Test	100 %	*
Polygraph Test	-	Pass or Fail
Background Investigation	-	Pass or Fail
Oral Interview		Pass or Fail

CONDITIONAL OFFER OF EMPLOYMENT

Psychological Examination	-	Pass or Fail
Medical Examination	-	Pass or Fail

*To be announced by the Board prior to conducting the examination and may vary based upon the examination or the testing agency used by the Board.

** Test may be given for demonstration purposes or on a pass/fail basis. Certification that a fire fighter candidate has successfully, within the twelve months immediately preceding the conduct of the written test, passed the Candidate Physical Ability Test (CPAT plus), as licensed and approved by the International Fire Chief’s Association and the International Association of Fire Fighters, satisfies the candidate’s obligation to complete the “physical aptitude test” component of this screening process.

Note: To any police applicant who is entitled to military, educational or law enforcement preference points whose name appears on the register of eligibles, the Board shall add five (5) points to the score of qualified military veterans and to the score of applicants who have successfully completed the Minimum Standard Basic Law Enforcement Training Course as provided within the Illinois Police Training Act and are currently serving as a full-time or part time law enforcement officer within the State of Illinois. Applicants for a police officer position may receive preference points for additional education as follows: 1) One (1) point for an associate’s degree in law enforcement or criminal justice; 2) Two (2) points for a bachelor’s degree in any field; 3) Three (3) points for a bachelor’s degree in criminal justice or law enforcement; 4) Four (4) points for a Master’s Degree in any field. Any of the foregoing degrees must have been obtained from a regionally accredited college or university. Such preference points referred to above shall not be cumulative.

Fire fighter preference points shall be awarded in accordance with Section 10 of this Chapter III.

SECTION 5 - ORIGINAL APPOINTMENT - PHYSICAL APTITUDE TEST.

All applicants may be required to submit themselves to a physical aptitude test. In the event a physical aptitude test is administered, only candidates who have successfully passed the “physical aptitude test” will be permitted to participate in the “written” test. Candidates applying for the position of a firefighter must provide proof of current CPAT plus certification at such time as they file their application with the Board.

SECTION 6 - ORIGINAL APPOINTMENT - WRITTEN EXAMINATIONS.

Information as to the type of written examination employed by the Board will be provided as part of the orientation program. All examination papers shall be and remain the property of the Board and the grading thereof by the Board shall be final and conclusive and not subject to review by any other board or tribunal of any kind or description. Candidates who fail to achieve a passing grade will be notified and eliminated from all further consideration.

SECTION 7 - ELIGIBILITY LIST – POLICE OFFICER

- a) The Commissioners will prepare an "Initial Eligibility Register" of the Candidates successfully completing the orientation, physical ability test (if any) and written test. Candidates shall be placed on the eligibility list in order of their relative excellence as determined by their test scores. The Candidates will be listed in order of excellence based on their final score.
- b) This register is subject to change with the addition of any claimed preference points as prescribed in Section 4 above. Preference points will not be added to any candidate's score if that candidate failed to obtain a minimum passing score. Candidates who are eligible for any preference points, shall make a claim in writing with proof thereof within ten (10) days after the date of the first posting of the initial eligibility list or such claim shall be deemed waived. In the event of a tie score, the placement of the tied candidates' names on the eligibility list shall be determined by lot, in the presence of a quorum of the Board, in whatever manner the Board deems appropriate.
- c) A dated copy of the Final Eligibility Register, duly adjusted with preference points awarded, shall be sent to each person appearing thereon.
- d) A candidate's name shall be stricken from the final eligibility register after the name has been on the final eligibility register for a period exceeding two (2) years.

SECTION 8 – POLICE OFFICER APPOINTMENT.

- a) Final appointment for the Police Department shall be from the names appearing on the “Final Eligibility Register.”

- b) The names of the applicants shall be placed upon the “Final Eligibility Register” in rank order, highest first. Rank order shall be based upon the applicant’s final score as adjusted with the addition of preference points.
- c) Applicants shall be appointed from the eligibility list in descending order. Notwithstanding anything to the contrary contained within these rules and regulations, the Board may, at its discretion, choose to appoint an applicant, for a police officer’s position, who has been awarded a certificate attesting to his or her successful completion of the Minimum Standards Basic Law Enforcement Training Course, as provided in the Illinois Police Training Act, ahead of non-certified applicants.
- d) Appointment from the Final Eligibility Register is subject to satisfactorily passing or completing an in-depth psychological examination, a polygraph test, background investigation, and a thorough medical examination (which may include a test of the applicant’s vision and hearing, a test for the presence of communicable diseases as well as a test to screen for the use of drugs and/or narcotics). A conditional offer of employment shall be made prior to an applicant submitting to the in-depth psychological examination and the medical exam.

SECTION 9 – INITIAL ELIGIBILITY LIST-FIREFIGHTERS

The Commissioners will prepare an "Initial Eligibility Register" of the Candidates who have attended the orientation, submitted a current CPAT plus certificate, and passed the written test. The passing point shall be as established by the Fire and Police Commissioners Act- i.e. the median of all applicants taking the written examination. Candidates shall be placed on the initial eligibility list in the order of their relative excellence as determined by their written test scores.

SECTION 10 – FINAL ELIGIBILITY LIST-FIREFIGHTERS.

- A. Within ten (10) days after the posting of the Initial Eligibility Register, applicants, Whose names appear thereon, shall make a claim for preference points. Failure to timely make a claim for preference points shall constitute a waiver thereof. Preference points shall be awarded as follows:
 - a-1) Military Preference – 5 points. Awarded to applicants who have served a minimum of 12 months on active duty in the service of the U. S. Military and who have either been honorably discharged or, in lieu of an honorable discharge, are still serving in an active or inactive reserve status.
 - a-2) Fire Cadet Training - none.

- a-3) Education Preference – 5 points. Candidates must have an Associate’s Degree in Fire Science from an accredited Community or Junior College or a Bachelor’s Degree in any field from an accredited College or University.
 - a-4) Paramedic Preference – none.
 - a-5) Experience Points – none.
 - a-6) Residency Points – none.
 - a-7) Additional Points – none.
- B. Applicants shall be appointed from the Final Eligibility Register in descending order. Notwithstanding anything to the contrary contained herein, the Commission, at its discretion, may bypass a higher ranking candidate and appoint a lower ranking candidate if, in the Commission’s opinion, the lower ranking candidate is more qualified for the position and that candidate’s name appears within the top 5% of the names remaining on the list or, if there is less than 100 names remaining on the list, the applicant’s name is within the top 5 names remaining on the list.
- C. Appointment from the Final Eligibility Register is subject to satisfactorily passing or completing an in-depth psychological examination, a polygraph test, background investigation, and a thorough medical examination (which may include a test of the applicant’s vision and hearing, a test for the presence of communicable diseases as well as a test to screen for the use of drugs and/or narcotics). A conditional offer of employment shall be made prior to an applicant submitting to the in-depth psychological examination and the medical exam.
- D. Names will be stricken from the “Final Eligibility List” after the names have appeared on the “Final Eligibility List” in excess of two years.

SECTION 11 - PROFESSIONAL EXAMINATIONS AND TESTS.

- A. Each applicant for original appointment shall submit to a Psychological Examination by such psychologist or psychiatrist as the Board may designate. Such examination shall be without expense to the applicant. Failure of the applicant to take or successfully complete such test shall eliminate him from further consideration.
- B. Any applicant for original appointment to the Police or Fire Department of the City of Elmhurst, Illinois, shall be required to submit to a Polygraph Device Deceptive Test, commonly known as a Lie Detector Test, at such time and place as the Board may designate. Such test shall be given without expense to the applicant. Failure of the

applicant to take or successfully complete such test shall disqualify him to enter upon the duties of the office for which the application for examination was filed.

- C. Medical Examinations shall be performed by a licensed physician.

SECTION 12 - PROBATIONARY APPOINTMENT.

- A. All original appointments to the police department shall be for a probationary basis commencing on the date that an officer first reports for duty and continuing for a period of fifteen (15) months. During an officer's probationary period, the officer must successfully complete the Basic Law Enforcement Training Course as prescribed by the Illinois Police Training Act and such field training program(s) as specified by the City of Elmhurst Police Department.

All original appointments to the fire department shall be for a probationary period of twelve (12) months. The probationary period of a newly appointed firefighter will commence when the firefighter first reports for work with the fire department. A firefighter's probationary period may exclude periods of training, or injury or illness leaves, including duty related leave, in excess of thirty (30) calendar days.

- B. Any person whose name appears on the Final Eligibility Register may decline appointment once. It shall be the option of the Board, should a candidate decline appointment a second time, to strike from or maintain upon the register the name of such candidate without otherwise altering the candidate's original position on the Final Eligibility Register.
- C. Probationary employees may be summarily dismissed by the Board and are not entitled to the protection afforded to other full-time officers or fire fighters by statute or these rules.

SECTION 13 - CERTIFICATION.

- a) Final certification of probationary Police Officers shall be subject to successful completion of the Basic Training Course, as mandated by the State of Illinois, as well as successfully completing all requirements of the departments field training program within the prescribed probationary period. Inability to successfully complete the course and the FTO program shall be grounds for dismissal.
- b) Final certification of probationary Fire Fighters shall be subject to successful completion of the Certified Fire Fighter Basic Training Course as prescribed by the Office of the State Fire Marshall.

CHAPTER IV - PROMOTIONAL EXAMINATIONS

SECTION 1 - GENERAL.

The Board, by its rules, shall provide for promotion in the Police and Fire Departments on the basis of ascertained merit and seniority in service and examination, and shall provide in all cases, where it is practicable, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of the next lower rank as desire to submit themselves to examination. Candidates for promotion must have completed their probationary period of service in order to test for promotion to the next higher rank. All promotions within the Police Department shall be made from the three (3) individuals having the highest rating, and where there are less than three (3) names on the promotional eligibility register, as originally posted, or remaining thereon after appointments have been made there from, appointments to fill existing vacancies shall be made from those names or the name remaining on the promotional register. Promotional vacancies within the Fire Department that are governed by the Fire Department Promotion Act shall be appointed in rank order from the promotional list in accordance with the Act. The method of examination and the rules governing examinations for promotion are specified below. The Board shall strike off the names of candidates for promotional appointment after they have remained thereon for more than three (3) years, provided there is no vacancy existing which can be filled from the promotional register. For the purpose of determining that a vacancy exists, the Board must have received notice from the appropriate corporate authorities to fill an existing vacancy prior to the date the name(s) are to be stricken from a promotional eligibility register. Each weighted component of the examination process shall be based upon a scale of 1 to 100.

- a) The final Promotional Examination score for the position of Police Sergeant shall be determined as follows:

<u>Examination</u>	<u>Weight</u>	<u>Passing Grade</u>
Written Test	40%	*
Oral Interview/Assessment Center	40%	*
Departmental Merit and Efficiency (based on scale of 1-100) maximum of 20 points	20%	n/a

Seniority

Seniority is to be determined as of the date the written examination is given and will be calculated as follows: 1) One (1) point per year for each full year of service as a full-time police officer with the Elmhurst Police Department up to a maximum of five (5) up to a points.

*To be announced by the Board prior to conducting the examination and may vary

based upon the examination or the testing agency used by the Board.

- b) In the event no candidate from the immediate next lower rank qualifies for promotion, the Board in determining next in order of rank in promotional examinations herewith determines a policy of extending the examination successively through all the orders of rank in the services in an endeavor to qualify suitable eligible or eligibles for the vacancy or vacancies existing before extending the examination to the general public.

SECTION 2 - TOTAL SCORE.

A Candidate's total score shall consist of the combined scores of the merit/efficiency rating, written examination and oral examination/assessment center plus seniority preference points. Candidates shall take rank upon a promotional eligibility register in the order of their relative excellence as determined by their total score. In the event of a tie score, the placement of the tied candidates' names on the eligibility list shall be determined by lot, in the presence of a quorum of the Board, in whatever manner the Board deems appropriate.

SECTION 3- PROMOTIONS WITHIN THE FIRE DEPARTMENT

Promotions to the ranks of Fire Lieutenant and Battalion Chief within the Elmhurst Fire Department shall be accomplished in accordance with the Fire Department Promotion Act and as further specified within Article XIV of the Collective Bargaining Agreement between the City of Elmhurst and the Elmhurst Professional Firefighter's Association, IAFF Local 3541, effective for the years 2010-2014, and subject to any amendments thereto.

SECTION 4 - PROMOTIONAL VACANCY,

Upon notice from the appropriate corporate authority that a promotional vacancy exists, the Board shall select the individual to be promoted in the manner specified in Section 1 or Section 3 of this Chapter IV

CHAPTER V - ORDER OF RANK, CLASSIFICATION AND OATH OF OFFICE

SECTION 1 - RANK.

The order of rank in the Police Department shall be as provided by ordinance and municipal budget.

The order of rank in the Fire Department shall be as provided by ordinance and municipal budget.

SECTION 2 - CLASSIFICATION.

The Board classifies such offices in the fire and police departments for the purpose of establishing and maintaining standards of examinations and promotions based upon job descriptions and departmental regulations.

SECTION 3 - OATH OF OFFICE.

Before entering duty, any person about to become a member of the Fire or Police Department, shall take the following oath, before any person authorized to administer oaths in the State of Illinois:

Oath

“I, _____, having been hired to the position of _____ in the City of Elmhurst, _____ County, and State of Illinois, aforesaid, DO SOLEMNLY SWEAR that I will support the Constitution of the United States of America and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of _____ to the best of my ability, so help me God.”

_____ (Signature)

Signed and Sworn To before me this
____ day of _____, 20__.

Village Clerk

He shall enter into such bond in such amount as prescribed by the Ordinance.

**CHAPTER VI - HEARING OF CHARGES, REMOVALS,
SUSPENSIONS AND DISCHARGES**

SECTION 1 - HEARING OF CHARGES.

- a) Hearings before the Board are not common law proceedings. The provisions of the "Code of Civil Procedure" do not apply to hearings before the Board.
- b) "Counsel" as used herein means: One who has been admitted to the bar as an attorney-at-law in this State.
- c) No rehearing, reconsideration, modification, vacation, or alteration of a decision of the Board shall be allowed.

- d) "Cause" is some substantial shortcoming which renders continuance in employment in some way detrimental to the discipline and efficiency of the public service and something which the law and sound public opinion recognize as cause for the officer or fire fighter no longer occupying his position. The right to determine what constitutes cause is in the Board.
- e) The complainant or appellant initiating any proceedings which call for a hearing before the Board shall have the burden of proof to establish by a preponderance of the evidence that cause for discipline exists or that a suspension, previously imposed by the Chief of a department, is unwarranted. Should the question of a crime be involved, the rule of "reasonable doubt" shall not control.
- f) The phrase "preponderance of evidence" is defined as the greater weight of the evidence, that is to say, it rests with that evidence which, when fairly considered produces the stronger impression, and has a greater weight, and is more convincing as to its truth when weighed against the evidence in opposition thereto.
- g) Probationary employees may be summarily dismissed by the Board and are not entitled to the protection afforded to other full-time officers or fire fighters by statute or these rules.
- h) All hearings shall be public, in accordance with the Open Meetings Act.
- i) At the time and place of hearing, both parties may be represented by counsel, if they so desire.
- j) All proceedings before the Board during the conduct of the hearing shall be recorded by a court reporter to be employed by the Board.
- k) The records of all hearings will not be transcribed by the court reporter unless requested to do so by the Board or any party of interest.
- l) All witnesses shall be sworn prior to testifying and the matter will be decided by the Board solely on evidence presented at the hearings.
- m) The Board will first hear the witnesses either substantiating the charges which have been made against the respondent or in support of an appeal brought by a suspended fire fighter or police officer. Thereafter the other party may present and examine those witnesses whom he desires the Board to hear. All parties shall have the right to cross-examine witnesses presented by the opposite party.

SECTION 2 - HEARING PROCEDURE.

- a) **Complaints:** In all cases, written complaints shall be filed in quintuple, setting forth a plain and concise statement of the facts upon which the complaint is based.
- b) **Probable Cause:** The Board shall have the right to determine whether there is or is not probable cause for hearing a complaint and may conduct such informal hearings as may be necessary for such purpose.
- c) **Notification of Hearing:** Upon the filing of a complaint in quintuple with the Secretary of the Board, and the determination by the Board of probable cause for entertaining said complaint, the Secretary of the Board shall notify both the complainant and the respondent, either by registered or certified mail, return receipt requested, or personally, of the time and place of the hearing of the charges contained in the Complaint. The respondent shall also be served with a copy of the Complaint, and if an Order of Suspension Pending a Hearing is entered by the Board, the respondent, the complainant, the Chief of the Department, the treasurer, comptroller, manager, or other finance officer of the municipality shall be notified of the entry of such Order of Suspension Pending a Hearing, and be served either personally or by registered or certified mail, return receipt requested, with a copy of such Order.
- d) **Continuances:** The matter of granting or refusing to grant a continuance of a hearing is within the discretion of the Board.
- e) **Stipulations:** Parties may, on their own behalf, or by Counsel, stipulate and agree in writing, or on the record, as to evidenced guilt. The facts so stipulated shall be considered as evidence in the proceeding.

In the event a respondent has been suspended pending a hearing and desires a continuance, it shall also be stipulated and agreed that in the event said respondent is to be retained in his position as a result of a decision of the Board following a hearing of the cause, then no compensation shall be paid to said respondent during the period of said continuance.
- f) **Sufficiency of Charges-Objections To:** Motions or objections to the sufficiency of written charges must be filed or made prior to or at the hearing before the Board.

SECTION 3 - SUBPOENAS.

- a) Any party to an administrative hearing may, at any time before the hearing, make application to the Board by filing with it a written request for subpoenas for any individual to appear for a hearing or have them produce books, papers, records, accounts and other documents as may be deemed by the Board to be relevant to the hearing. On the filing of such application, subpoenas will be issued for the named persons. Subpoenas may be served by any person 21 years of age or older designated by the party requesting the subpoenas. Application for subpoenas should contain the

names and addresses of the individuals to be subpoenaed, and the identity of any documents which they are to produce. Subpoenas will not be issued for anyone residing outside of the State of Illinois.

- b) Any request for continuance by reason of inability to serve subpoenas shall be filed in the office of the Board at least three (3) days before the date set for such hearing, provided, however, that the Board in its discretion may waive this rule.

SECTION 4 - SERVICE.

All papers required by these Rules and Regulations to be served shall be delivered personally to the party designated or mailed, by United States mail in an envelope properly addressed with postage prepaid, to the designated party at his last known residence as reflected by the complaint filed with the Board, except as herein otherwise provided. Proof of service of any paper may be made by the certification of any person so mailing the paper or delivering the same to the designated party personally, or by filing a return receipt showing that a paper was mailed, by either registered or certified mail, return receipt requested, to a party's address where it was received by a named party.

SECTION 5 - FILING.

All papers may be filed with the Board by mailing them or delivering them personally to the Secretary of the Board at the City of Elmhurst, Illinois. For the purpose of these Rules and Regulations, the filing date of any paper shall be the date it was received in the Board's Office, in the event the paper is delivered personally or by messenger. In the event a paper is forwarded by mail, then the filing date shall be the date which is postmarked on the envelope of such paper.

SECTION 6 - FORMS OF PAPER.

- a) All papers filed in any proceeding shall be typewritten or printed and shall be on one side of the paper only.
- b) If typewritten, the lines shall be double spaced, except that long quotations may be single spaced and indented.
- c) All papers shall be not larger than 8½" by 11" with inside margins of not less than one inch.
- d) The original of all papers filed shall be signed in ink by the party filing the paper or by an officer, agent, or attorney thereof and copies thereof provided the opposing party or his counsel.
- e) If papers are filed by an attorney, his name and address shall appear thereon.

SECTION 7 - COMPUTATION OF TIME.

The time within which any act under these Rules is to be done shall be computed by excluding the first day and including the last, unless the last day is Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in the State, and then it shall also be excluded. If the day succeeding such Sunday or holiday is also a holiday or a Sunday then such succeeding day shall also be excluded.

SECTION 8 - SUSPENSION.

- a) The Board may suspend any member of the Fire or Police Department against whom charges have been filed, pending a hearing of the charges by the Board, but not to exceed thirty (30) days, without pay, at any one time.
- b) The Chief of the Police or Fire Department shall have the right to suspend any officer or fire fighter under his command for a period not to exceed five (5) days, providing no charges on the same offense have been filed and are pending before the Board, and he shall notify the Board in writing within 24 hours of the time of such suspension. Any fire fighter or police officer so suspended may appeal to the Board for a review of the suspension within five (5) days after receiving notice of such suspension by filing notice of such appeal in writing with the Secretary of the Board of Fire and Police Commissioners. A hearing shall be had upon such appeal, and due notice given to the Chief of the Department who suspended such fire fighter or police officer, and to the employee so suspended. The burden of establishing that a suspension is unwarranted shall be upon the individual bringing the appeal.
- c) Upon such appeal, the Board may sustain the action of the Chief of the Department, may reverse it with instructions that the employee so suspended receive his pay for the period involved, may suspend the employee for a period of not more than thirty (30) days, or discharge him, depending on the evidence presented.

SECTION 9 - DISCHARGE OR SUSPENSION AFTER HEARING.

- a) Discharge from office, or suspension from service in the Police or Fire Department shall be in compliance with the Fire and Police Commissioners Act of the State of Illinois, being Division 2, Sections 5/10-2.1-1 through 5/10-2.1-30, inclusive, of Chapter 65 of the Illinois Compiled Statutes
- b) The Board shall, within a reasonable time after the hearing is completed, enter its findings on the records of the Board.

SECTION 10 - DATE OF HEARING.

The time for the hearing of charges shall be set by the Board, within thirty (30) days of the time of the filing of such charges. Continuances may be granted from time to time upon motion of any party to the proceeding by order of the Board. This time limitation is not applicable to hearings conducted to review suspensions of five (5) days or less imposed by a Chief of a department on one of its members.

SECTION 11 - FINDINGS AND DECISION

In case any member of the Fire or Police Department shall be found guilty of the charges filed against him after a hearing by the Board, he may be removed, discharged, demoted or suspended for a period not exceeding thirty (30) days, without pay. Upon an appeal, the Board may sustain the action of the Chief, may reverse it, in whole or in part, or may suspend the employee for an additional period of not more than thirty (30) days, demote or discharge him depending on the facts presented.

The findings and decision of the Board, following a hearing of charges, shall be preserved by the Secretary, and notice of said finding and decision sent to the officer or fire fighter involved and the department head for enforcement. If the finding or decision is that an officer or employee is guilty of charges investigated, and removal, demotion or discharge is ordered, such order of removal, demotion or discharge shall become effective forthwith. (See Section 9 of this Chapter VI).

SECTION 12 - RULES - CONFLICT.

The personnel of the Police and Fire Departments shall be governed by the Rules as adopted by the Board and the Regulations of the Fire and Police Departments as adopted by ordinance. In case of conflict, the Rules of the Board shall govern.

SECTION 13 - VIOLATION OF RULES.

All members of the Police and Fire Departments shall be subject to the regulations of such Department, and the Rules of the Board, and a violation of such rules or regulations may be cause for filing of charges before the Board, a subsequent hearing and action by the Board on such charges.

SECTION 14 - VIOLATION OF LAW.

Any violation of the laws of the municipality or state or federal law, by any member of the Police or Fire Department of such municipality may be cause for the filing of charges against said fire fighter or officer, except as herein otherwise provided.

CHAPTER VII - GENERAL

SECTION 1.

The Board shall have such other Powers and duties as are given it by the Statutes of the State of Illinois or by ordinance.

SECTION 2.

Any Chapters, Sections and/or Subsections of the foregoing Rules for the operation of the Board that are in conflict with the State Statute or with any amendments thereto that may hereafter be enacted are null and void. This, however, does not invalidate any other Chapters, Sections and/or Subsections of said Rules.

SECTION 3.

Amendments to the Rules of the Board may be made at any meeting of the Board. A notice shall be published, in a newspaper of general circulation in the municipality, specifying where such Rules are available for inspection. The notice shall specify the date, not less than ten (10) days subsequent to the date of such publication when said Rules shall become effective.

SECTION 4 - LEAVE OF ABSENCE.

Leaves of Absence shall be granted by reason of military service or duty-related disability as specified in Illinois Compiled Statutes, Chapter 65, Section 5/10-2.1-23. If a Leave of Absence is granted by the Board during a probationary period, such probationary period shall be tolled until the probationary employee returns from his leave of absence.

SECTION 5 - POLITICAL CONTRIBUTIONS.

No person in the Police or Fire Departments of the City of Elmhurst, Illinois, shall be under any obligation to contribute any funds to render any political service, and no such person shall do so or be removed or otherwise prejudiced for refusing to do so. No person in the Fire or Police Departments of the City of Elmhurst, Illinois, shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in such service, or promise or threaten so to do, for withholding or refusing to make any contribution of money or service or any other valuable thing for any political purpose, or in any other manner, directly or indirectly, use his official authority or influence to compel or induce any other person to pay or render any political assessment, subscription, contribution or service.