

**Police Commission**  
*Meeting Notice and Agenda*

Village of Cross Plains  
2417 Brewery Road, PO Box 97  
Cross Plains, WI 53528  
(608) 798-3241

**Tuesday, August 16, 2016**  
**6:00 pm**

- I. Call to Order, Roll Call, and Pledge of Allegiance
  
- II. Public Comment – This is an opportunity for anyone to address the commission on any issue NOT on the current agenda. Please observe the time limit of 3 minutes. While the commission encourages input from residents, it may not discuss or act on any issue that is not duly noticed on the agenda.
  
- III. General Business
  1. Discussion and action to approve the minutes of the regular meeting held May 23, 2016.
  
  2. Approve engagement of services of for Attorney Herrick.
  
  3. Discussion and action to consider current correspondence.
  
  4. During the course of the meeting the Commission may convene in closed session for the purpose of conferring with legal counsel with respect to litigation, WS 19.85(1)(g). The Commission may thereafter reconvene into open session to continue its proper business.
  
- IV. Adjournment

This meeting notice constitutes an official meeting of the above referenced group and was posted in accordance with all applicable laws related Open Meetings Law. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals. For additional information or to request this service, contact the Village Hall at (608) 798-3241 or [maxon@cross-plains.wi.us](mailto:maxon@cross-plains.wi.us)

# CROSS PLAINS POLICE COMMISSION

## Rules and By-Laws

Purpose: The following rules and by-laws of the Cross Plains Police Commission are published to comply with the intent of all local, state and federal requirements. They will be reviewed on a yearly basis and revised as necessary to comply with any changes required by law.

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**Section 1.00 Scope of Authority and Definitions**

- 1.01 The rules herein provided shall be applicable to all positions of the Police Department of the Village of Cross Plains over which the Commission has jurisdiction under § 62.13, 66.0501(2) and 61.65 of the Wisconsin Statutes and Village Ordinance 14-2012, revised from time to time.
- 1.02 The following definitions shall apply to these rules:
- A. The word "Commission" when used herein shall mean the Police Commission of the Village of Cross Plains.
  - B. The word "Police Department" as used herein shall mean all positions (including the Chief) of the Cross Plains department over which the Commission has jurisdiction under § 62.13 of the Wisconsin Statutes, as revised from time to time.
  - C. The word "Chief" as used herein shall mean the chief of the Cross Plains Police Department.
  - D. The word "Charge" or "Charges" as used herein shall mean any written accusation or accusations filed with the Commission of misconduct committed by a member of the Police Department.

**Section 2.00 Administration**

- 2.01 The Commission shall hold regular meetings as the Commission shall determine from time to time. In addition, the President may call special meetings of the Commission in his or her discretion when the circumstances arise.
- 2.02 All Regular and Special meetings of the Commission shall be held in accordance with the Wisconsin Open Meetings Law. Three (3) members of the Commission shall constitute a quorum in order to transact business. The act of the majority of the members of the Commission at which a quorum is present shall be the act of the Commission.
- 2.03 The Commission shall have a President, Vice President and ex-officio Secretary. The President and Vice President shall be elected by the Commission at the first meeting of the Commission after the first Monday of May of each year ("Election Meeting") and shall serve until the next Election Meeting or until their respective replacements are duly elected by the Commission. The Secretary of the Commission shall be the Village Administrator/Clerk-Treasurer or a designee of the Village Administrator/Clerk-Treasurer.

2.04 The duties of the President, Vice President, and Secretary are as follows:

A. *President* – The President shall:

- i. Preside over all meetings and hearings and ensure there is orderly conduct.
- ii. Accept the filing of written charges against the Chief and subordinates.
- iii. Issue subpoenas for the attendance of witnesses at hearings pursuant to Section 62.13(5)(d), Stats.
- iv. Administer oaths to witnesses appearing before the Commission.
- v. Formally read the charges to the accused at any hearing including the provisions alleged to have been violated.
- vi. Ask questions and control questions asked by other Commission members during any hearing.
- vii. Ensure that standards for procedural due process are afforded the accused at any hearing.
- viii. Adjourn Commission proceedings.
- ix. Take other such action as is necessary to insure that the duties of the Commission are discharged as provided by law.

B. *Vice President* – The Vice President shall act in the capacity of President whenever the President is unavailable to act for any reason.

C. *Secretary* – The Ex-Officio Secretary shall:

- i. Conduct all correspondence of the Commission, send all notices required by law, ordinance or these rules, or as otherwise requested by the Commission.
- ii. Cause to be published such official notices as are required.
- iii. Attend and keep a record of all Commission proceedings including the preservation of testimony and any evidence received by the Commission at any hearings in a permanent record and to certify such record to the Circuit Court when required by law.

- iv. Maintain the minutes of each meeting and hearing with said minutes being signed by the Secretary and President upon approval by the Commission. Provide copies of all Commission minutes to each Commission member as soon as possible and file a copy of said minutes with the Village Clerk.
- v. Be the custodian of all records of the Commission.
- vi. Accept the filing of all appointments under Section 1 above.
- vii. Accept for filing all findings and determinations of the Commission relative to disciplinary actions and Commission orders, all of which shall be filed within three days after their adoption pursuant to Section 62.13(5)(f), Stats.
- viii. Other such duties as are assigned from time to time by the President or Commission.

### Section 3.00 Hiring for the Police Department

- 3.01 Every applicant for appointment to the Police Department should be considered in accordance with all applicable Federal, State, County and Local laws and ordinances. The Commission reserves the right to review, amend, approve, or disapprove application requirements upon initiation of each eligibility process.
- 3.02 Qualification for Recruitment – The Commission shall determine the qualifications for a position in the Police Department. Current qualifications for the Police Department are set forth at Exhibit A. The Commission may change the qualifications for employment with the Police Department. A current copy of the qualifications shall be kept with the Secretary.
- 3.03 Application Process – The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for the issuance of forms may be given by publication in a newspaper of general circulation in the Greater Madison Metropolitan area, in the official newspaper of the Village of Cross Plains and such other manner as the Commission from time to time deems reasonable. Any misrepresentation by an applicant with respect to material fact in the application or in any aspect of the hiring process shall be sufficient cause for excluding the applicant from the examination, or for removing his or her name from the eligibility list, or for his or her discharge from the department, if the misrepresentation is discovered after said person is hired.

- 3.04 Nature of Selection Process – The Commission shall from time to time establish criteria for selecting among applicants for positions in the Police Department. The Commission may require applicants to take examinations as part of the selection process. All examinations, if any, shall be conducted under the supervision of the Commission, which may designate suitable organizations or persons to conduct or assist in conducting the examinations.

**Section 4.00 Appointment of Members of the Police Department**

- 4.01 After all appropriate pre-screening and examinations for a position have been conducted; a list of final candidates shall be prepared by the Commission. The list shall be kept in the files of the Commission and copies thereof shall be furnished to the Chief. A copy shall also remain on file with the Secretary.
- 4.02 The Chief shall make appointments to Police Department from the eligibility list so provided. The appointments so made shall be subject to approval by the Commission. The Commission may require additional background investigations and drug and alcohol abuse testing prior to approving the hiring of a member of the Police Department.
- 4.03 The eligibility lists shall be reviewed by the Commission every six months, unless continued in force for a longer period or discontinued prior thereto by the Commission.
- 4.04 The Commission may establish a period of probationary status for positions or classes of positions, consistent with applicable collective bargaining contracts between the Department and the Village of Cross Plains. The Chief may terminate the employment of an employee of his or her Service at any time while the employee is in probationary status if the Chief determines the member is unsatisfactory or undesirable for the position. An employee so terminated while on probationary status shall have no right to appeal his or her termination to the Commission.

**Section 5.00 Promotions**

- 5.01 All promotions within the department shall be approved by the Commission. The process used to determine eligibility for any promotion within the Police Department shall be determined from time to time by the Commission.
- 5.02 A competitive process determined by the Commission shall be used whenever more than one person is deemed eligible for the proposed promotion within the Department.

- 5.03 The Commission may make temporary interim appointments within the Police Department to fill positions vacated due to retirement, resignation or death of a member of the Department or should a member of the Department become temporarily unavailable to fulfill his or her duties. In addition, the Chief may designate subordinates within his Department to carry out the duties of a member of the Department who has retired, resigned, died or become temporarily unavailable to fulfill his or her duties, such appointment to be effective until the next meeting of the Commission. The Commission shall be notified of such an appointment by the Chief at the next meeting of the Commission.

#### Section 6.00 **Discipline, Discharge & Suspension**

- 6.01 The discipline, discharge or suspension of a member of the Police Department shall be conducted in the manner prescribed by Section 62.13(5), Wis. Stats. The Commission may hire legal counsel or investigative support to assist it in discipline, discharge or suspension cases.
- 6.02 Upon the filing of charges and prior to the Initial Hearing, the Commission may conduct, or the President may direct, a preliminary investigation as to the jurisdiction of the Commission, the standing of the complainant, or such other preliminary issues as the Commission may identify. In the course of such an investigation the Commission or its agent may require the cooperation of the parties, and may compel such cooperation by subpoena. If in the judgment of the Commission following such investigation the charges do not appear to come within the jurisdiction of the Commission, the complainant lacks standing, or other formal defects bar the complaint, the charges may be dismissed at the Initial Hearing without evidentiary hearing.
- 6.03 If there are members of the Village Board serving as members of the Commission, they shall recuse themselves from any matters, investigations, hearings, or all other issues involving discipline. The remaining non-Village Board members of the Commission may enter into closed session, as allowed under Wis. Stats 19.85, without their presence and will function as a sub-commission for disciplinary proceedings.

#### Section 7.00 **Complaints**

- 7.01 The Commission may in the normal course of its duties receive complaints from the Chief, the Village Administrator/Clerk-Treasurer, members of the public, or public sources. These issues should be shared with the members, and if they are of a routine or minor issue, be passed to the Chief for resolution as prescribed by Cross Plains Police Department Policy Chapter 3.2 regarding Operation Complaints. If the complaint might result in a disciplinary action, the Commission

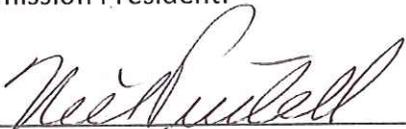
may wish to follow the investigation or begin its own action acting as a body to bring charges.

**Section 8.00 Repeal or Modification of Rules**

8.01 These rules shall not be repealed, amended, or modified except by majority action of the Commission at a regular or special meeting.

These rules have been adopted on the 18 day of MARCH, 2013 by a majority of the Police Commission.

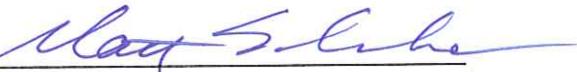
Commission President:

By:   
Neil Purtell

Commission Vice-President:

By:   
Dick Greffin

Attest:

By:   
Matthew G. Schuenke  
Commission Secretary  
Village Administrator/Clerk-Treasurer

# VILLAGE OF CROSS PLAINS

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## **Village of Cross Plains Police Officer Employment Standards – Minimum Requirements**

In order to be considered for a position as a Police Officer, candidates must meet the following minimum requirements as outlined by the State of Wisconsin Law Enforcement Standards board (LESB).

- United States Citizen.
- Possess a valid Wisconsin driver's license or its equivalent from another state.
- Be at least 18 years of age.
- Have no felony convictions.
- Possess a high school diploma or GED. In addition, law enforcement officers first employed after February 1, 1993, must obtain at least 60 college credits or an associate degree within five years of initial law enforcement employment.
- Be of good moral character, as determined from the results of a thorough background investigation.
- Be free of any physical, emotional, or mental condition, which might adversely affect law enforcement performance.
- Complete a satisfactory oral interview with the employing agency.
- Pass a pre-employment drug test.
- Certification is granted by the Law Enforcement Standards Board only upon employment (full or part time), upon meeting all employment standards outlined above, and after successfully completing the 400 hour basic law enforcement course or other training contingency specified by the Board.

Under 165.85(4)(e), Wis. Stats., any law enforcement or tribal law enforcement agency or sheriff may set recruit training and standards that are higher than the minimum standards set by the Board. In addition to the Law Enforcement Standards Board (LESB) requirements listed above, candidates must also meet the following Department requirements:

- Participate in the Written Examination, attaining a minimum score as determined by the Police Commission.
- Successfully complete a pre-employment medical exam, administered by a Physician selected by the Village, and be recommended for employment by the attending Physician.
- Successfully complete a pre-employment psychological exam, administered by a Psychologist selected by the Village, and be recommended for employment by the attending Psychologist.

**CROSS PLAINS POLICE  
DEPARTMENT  
POLICY**

**PUBLISH DATE: 04-01-2010**

**REVISED DATE:**

**CHAPTER: 3.2**

**TITLE: OPERATION COMPLAINTS**

**TOTAL PAGES: 6**

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              B. POLICY  
              C. DISCUSSION  
              D. DEFINITIONS  
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**MANDATORY POLICY**

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**CHIEF OF POLICE**

**A. PURPOSE**

The purpose of this policy is to inform all employees of departmental procedures for addressing operation complaints.

**B. POLICY**

It is the policy of this department to investigate all operation complaints, to equitably determine whether the allegations are valid or invalid and to take appropriate actions.

**C. DISCUSSION**

The ability of the public to bring complaints forward in regards to operational procedures of the police agency can not be understated. This policy allows the ability to point out possible errors or misconduct in order to better enhance the professionalism of the Cross Plains Police Department and to ensure the ability to bring forward ethical standards and public confidence in this agency. All citizen complaints pertaining to department policies or procedures or that allege officer misconduct shall be documented and investigated by the department. WI Statute 66.0511(3) specifically state that all police agencies must have a policy in place to deal with citizen complaint procedures. One of the requirements of that policy also is to make mention of State Statute 946.66 in regards to false complaints of police misconduct, where it states whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a prosecutable offense. The intent of this organization is to ensure that all of our employees present themselves in a professional and ethical manner when dealing with the public, and to ensure all department procedures are updated. This is balanced against the possibility that a citizen may make a false complaint in order to serve their own interest and with the proper investigation of all operational complaints, these types of situations should be identified and dealt with accordingly.

**D. DEFINITIONS**

***Operation Complaints*** – The ability to bring notice or make a grievance about an employee’s conduct, or procedural complaint of the police department.

***Procedural Complaints*** – The ability to make a complaint about a department procedure or a possible operational error. Does not include a complaint of an employee’s conduct or allegation of criminal and/or department policy violations.

***Employee Conduct Complaint*** – The ability to report or make a complaint about any employee of the police department. This includes any information about possible criminal and/or department policy violations.

***Internal Investigation Authority*** – The designated employees ultimately responsible for conducting investigations into complaints:

1. Procedural complaints = Chief of Police or designee
2. Employee conduct complaints = Chief of Police
3. Chief complaint = Police Committee

## E. PROCEDURES

### 1. Procedural Complaints

- a. All procedural complaints shall be documented on Cross Plains Police Department Operations complaint form. Forms can be found in the administrative office department forms drawer.
- b. Procedural complaints may be taken over the phone, through the mail, or in person by any employee.
- c. If the complainant wishes the complaint to be formal, the complaint must be in writing and notarized.
- d. Complaints may not be anonymous. Proper identification is necessary to provide notification of investigative results and legitimizes the complaint.
- e. Procedural complaints will be forwarded the Chief of Police or designee for review and disposition. Disposition shall be determined within ten (10) business days of receiving the complaint and written notice provided to the complainant.

### 2. Employee Conduct

- a. All employee conduct complaints shall be documented on Cross Plains Police Department Operations Complaint form. Forms can be found in the administrative office department forms drawer
- b. All employees that do not possess the internal investigation authority who receive a complaint of employee conduct shall notify the citizen of the proper protocol to report the complaint to the Chief of Police or designee. The Chief of Police or designee shall be notified as soon as possible of the complaint.
- c. All employee conduct complaints may be taken over the phone, through the mail, or in person by the Chief of Police or designee.

- d. Complaints may not be anonymous. Proper identification is necessary to provide notification of investigative results and legitimizes the complaint. Information provided by an anonymous complainant shall not be used against an employee in any disciplinary procedure if collaborating evidence does not support the information.
  - e. The citizen complaint policy shall include a conspicuously posted notification of the prohibition and penalty under Wisconsin State Statutes 946.66 on the external police department bulletin board.
3. Chief of Police and/or designee role
    - a. Upon receipt of a citizen's complaint, the Chief of Police or designee shall contact the complainant and advise that the matter is under investigation and that the complainant shall receive notice of the final disposition of the case. The Chief of Police or designee shall advise the complainant of the department procedures for processing an investigation of citizen complaints.
    - b. Investigations of complaints shall be completed within 30 days and regular status reports shall be filed. If the 30 day time limit is not possible, justification must be provided as to the need for an extension.
  4. Supervisor and Chief of Police Investigations
    - a. Upon becoming aware of or receiving notification of a procedural complaint or employee conduct complaint, the Chief of Police shall begin an immediate investigation of such allegations.
    - b. The Chief of Police's investigation shall be limited to questioning the officer, witnesses, and complainants, and securing all relevant evidence.
    - c. Upon completing the investigation, the Chief of Police shall;
      - 1) Complete a report of alleged violation
      - 2) Complete documents and evidence related to the investigation
      - 3) Make final disposition on alleged violation or make recommendation for further investigation.
  5. Responsibilities of the Chief of Police
    - a. The Chief of Police shall have primary supervisory responsibility for reviewing and investigating all operations complaints.
    - b. Upon receipt of a complaint, an initial determination whether to assume primary investigative responsibility for the case, or to request assistance from another outside agency shall be made.
      - 1) Allegations of misconduct that could result in disciplinary actions including discharge, suspension, demotion or criminal charges, will be

investigated by the Chief of Police; his/her designee; or an outside agency.

- c. The Chief of Police shall maintain complaints in a secure area, kept in conformity with State law and conduct a regular audit of complaints to ascertain the need for changes in training or policy.
  - d. The Chief of Police may recommend that a case be referred to the prosecutor for criminal charges.
6. Duties and Rights During Investigation
- a. Interrogation
    - 1) If a law enforcement officer is under investigation and is subject to interrogation for any reason that could lead to disciplinary action, demotion, dismissal, or criminal charges, the interrogation shall comply with the following requirements.
      - a) Law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
      - b) At the request of any law enforcement officer under interrogation, he or she may be represented by a representative of his or her choice, who at the discretion of the officer may be present at all times during the interrogation.
    - 2). Evidence obtained during the course of any interrogation, not conducted in accordance with subject of section (1), may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer. (§164.02 Law Enforcement Officer Bill of Rights)
  - b. Recrimination. No law enforcement officer may be discharged, disciplined, demoted or denied promotion, transfer or reassignment, or otherwise discriminated against in regard to employment, or threatened with such treatment by reason of the exercise of the rights under this chapter. (§164.03 Recrimination, Law Enforcement Officer Bill of Rights).
  - c. Scope of Questioning During Interview
    - 1) Prior to an internal interview concerning an alleged criminal misconduct, the employee under investigation shall be read their Miranda rights. Provisions of Miranda will be adhered to throughout the interview.
    - 2) Prior to an internal interview concerning allegations of administrative allegations, the officer under investigation shall be advised as follows:
      - a) The officer can be required to answer all questions specifically, narrowly, and directly related to the performance of his official duties.
      - b) Refusal to comply with an order to answer such questions is a violation of department rules, which may subject the employee to further discipline up to and including dismissal.

- c) Any required self-incriminatory admission made during the interview may be used only in subsequent administrative proceedings, and shall not be used against an employee in subsequent criminal proceedings.
- d. Counsel at Interview
  - 1) Employees will be permitted to have an attorney, union representative, supervisor, or other personal representative with them in the room during any interview concerning the allegations of misconduct by the employee.
  - 2) The employee's representative is limited to acting as an observer of the interview, except where the interview focuses on, or leads to, evidence of potential criminal activity by the officer. In that case, an employee's legal representative may advise and confer with the employee during the interview.
- e. Special Examinations
  - 1) An employee under investigation may request an intoximeter, blood, urine, psychological, polygraph, or medical examination if it is believed that such an examination would be beneficial to his or her defense. Also, the department may require such an examination under the direction of the designated departmental official.
  - 2) An on-duty supervisor is required to direct an officer to submit to a breath, blood, or urine test when a level of inebriation or drug usage is suspected as a factor directly related to the duty performance or operating a department vehicle.
  - 3) If an identification lineup is solely for administrative purposes and criminal prosecution is not anticipated, an employee can be required to participate in a lineup.
  - 4) Property belonging to the Village of Cross Plains or the Cross Plains Police Department is subject to inspection where the employer has a reasonable suspicion that evidence of work-related misconduct will be found therein. Property includes, but is not limited to, vehicles, desks, files, lockers, clothing, or briefcase/duty bags brought into the police department or in a department vehicle.
  - 5) If a polygraph is ordered by the department for an employee, the complainant must also agree to submit to a polygraph.
- f. Rights During an Internal Investigation
  - 1) Prior to any interview or special examination, the employee under investigation will receive confidential written notification of the complaint. This notification will include a copy of the original complaint or summary adequately listing the relevant facts, and the employee's rights and responsibilities during the investigation.
  - 2) All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
  - 3) The interview will be held at the employee's work area or at a location agreeable to both parties.

- 4) During interviews conducted by the Chief of Police, there will be one member designated as an interviewer; only the interviewer will ask questions of the employee.
- 5) Employees under investigation shall not be subjected to offensive language, nor threatened with transfer, dismissal, or disciplinary action during an interview. No promise or reward shall be made by the Chief of Police as an inducement to answer any questions.
- 6) The Chief of Police has the discretion as to whether an interview will be recorded. If there is any recording of the interview, any interruptions will be noted and any relevant discussions transpiring during breaks will be summarized on the recording and verified for accuracy by the employee. If the employee requests the interview to be recorded, that request will be honored.
- 7) Accused employees may contact the Chief of Police to ascertain the status of the investigation of a complaint filed against them.
- 8) The accused employee will be given an opportunity to explain their actions to the Chief prior to the imposition of any disciplinary action.

#### 7. Chief's Action

- a. The Chief of Police shall review all reports and supporting documents, and shall give final determination of the disposition of the case as follows:
  - 1) **Sustained:** Evidence sufficient to prove allegations.
  - 2) **Not sustained:** Insufficient evidence to either prove or disprove allegations.
  - 3) **Exonerated:** Incident occurred but was lawful and proper.
  - 4) **Unfounded:** Allegation is false or not factual.
  - 5) **Policy failure:** Flaw in policy caused incident.
- b. Upon final determination, the Chief shall return the disciplinary recommendation to the officer.

#### 8. Use of Complaint Reports

- a. Operation complaint reports shall not be used in any performance evaluations, unless the final disposition is **sustained**.
- b. Operation complaint reports shall remain separate of all personnel files, unless the final disposition is **sustained**.
- c. The Chief of Police shall maintain an operations complaint file, and the records are subject to be destroyed according to policy.
- d. Except for statistical data, operation complaints shall be protected files similar to employee records.