


Kenosha



County

BOARD OF SUPERVISORS


ORDINANCE NO. _____

Subject: Amendment of MCKC 4.01, the Civil Service Ordinance			
Original <input type="checkbox"/>	Corrected <input type="checkbox"/>	2nd Correction <input type="checkbox"/>	Resubmitted <input type="checkbox"/>
Date Submitted: April 28, 2022	Date Resubmitted:		
Submitted By: Director of Human Resources			
Fiscal Note Attached <input type="checkbox"/>	Legal Note Attached <input type="checkbox"/>		
Prepared By: Clara-lin Tappa, Director of Human Resources	Signature: 		

THE KENOSHA COUNTY BOARD OF SUPERVISORS DOES HEREBY ORDAIN,
that Municipal Code of Kenosha County Chapter 4.01, the Civil Service Ordinance, is hereby amended as follows as represented in Exhibit A (attached):

Approved by:

JUDICIARY & LAW
COMMITTEE

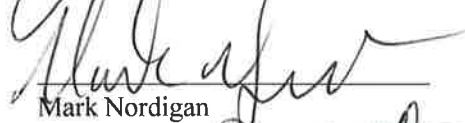

Zach Rodriguez, Chairman

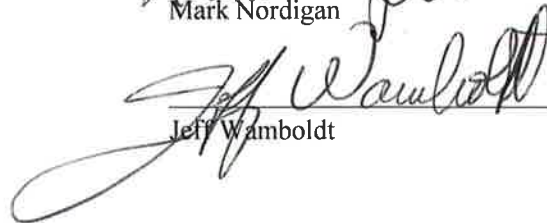

Brian Bashaw, Vice Chair

Laura Belsky


Erin Decker


John Franco


Mark Nordigan


Jeff Wamboldt

FINANCE/ADMINISTRATION
COMMITTEE

Terry Rose, Chairman

Dave Geertsen, Vice Chair

Brian Bashaw

_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Erin Decker				
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Grady				
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John Poole				
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Tim Stocker				

CHAPTER 4
KENOSHA COUNTY SHERIFF'S DEPARTMENT

4.01 CIVIL SERVICE ORDINANCE (8/5/03)

(1) Purpose. It is the intention and purpose of this ordinance to provide an equitable system of recruitment, selection, promotion, and retention for Kenosha County Sheriff's Department Deputies. It is further intended to provide the necessary guidance for the operation of the Kenosha County Sheriff's Department in the areas that are applicable.

(a) There is established a County Civil Service Commission for the Sheriff's Department, hereinafter referred to as the "Commission", with duties, functions, and authorities as herein set forth, pursuant to Wisconsin Statutes.

(b) The Commission shall consist of five (5) members, all legal residents of Kenosha County. Appointments shall be made on the basis of recognized and demonstrated interest in, and knowledge of, problems of civil service. No person holding any elective or appointive public position or office of any sort in said Kenosha County government shall be appointed thereon. No present or former employee of the Kenosha County Sheriff's Department shall be eligible for membership on the Commission.

(c) The County Executive shall appoint members of the Commission subject to confirmation by the Board of Supervisors. Of the persons appointed, one shall hold office for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, and one for five (5) years, from January 1 next following such appointment, and until his successor is appointed and qualifies. In December immediately preceding the expiration of the term of office of any such Commissioner, the County Executive shall appoint, subject to confirmation by the Board of Supervisors, one (1) member of such Commission to hold office for five (5) years from January 1 next succeeding his appointment and until his successor is appointed and qualifies. The Office of the Commissioner shall become vacant upon the happening of any of the following:

1. The death of the incumbent.
2. The person's resignation, whether oral or written.
3. The person's removal.
4. The person's ceasing to be a resident of Kenosha County.
5. The person's neglect or refusal to take the official oath and/or file the official bond within thirty (30) days after appointment.

Such vacancy shall be filled by appointment of the County Executive at the first meeting of the County Board thirty (30) days after the vacancy occurs, confirmed by a majority of the County Board of Supervisors present.

(d) The membership and terms of the members of the present Commission shall continue on the same manner as though this section had never been adopted.

- (e) Every person appointed a member of such Commission shall take and file the official oath.
- (f) The members of the Commission shall be entitled to receive compensation from the County for services actually rendered in conducting the authorized business of the Commission, which compensation shall be determined by the Board of Supervisors, plus mileage at the prevailing rate when such services are rendered.
- (g) The Commission shall promptly organize and elect a Chairman whose term of office shall be one year and a Secretary whose term of office shall be one year, each to serve for one year from the date of election until a successor has been duly elected. The Secretary shall approve the minutes of the proceedings of the Commission and said minutes shall be preserved and kept on file. All meetings of the Commission shall be at the call of the Chairperson, or upon written request of any two (2) members directing the Secretary to hold such meeting, and three (3) Commissioners shall constitute a quorum. The Commission shall make such rules and regulations as may be required for the ordinary conduct of its business.

~~Members of the Commission may participate in any meeting of the Commission, with the exception of deputy sheriff candidate interviews, by means of conference telephone/videoconference or similar communication equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this method shall constitute presence in person at such meeting and the person appearing through these means shall be entitled to vote and take all actions allowed by the Commission.~~

- (h) The Board of Supervisors shall provide offices, furniture, stationery, light, heat, telephone, secretary, and other necessary supplies and conveniences to enable the Commission to perform its duties.

(2) Rules of the Kenosha County Civil Service Commission.

- (a) The Civil Service Commission shall appoint the Director of Human Resources to act as chief examiner under its direction. As such, the Director of Human Resources shall supervise all examinations. The chief examiner shall be ex-officio secretary to the Commission and shall keep the minutes of its proceedings, preserve all reports made to it, keep a record (for a five-year period) of all examinations held under its direction, and perform such other duties as the Commission shall prescribe.
- (b) The chief examiner shall certify eligible candidates to the Sheriff or, in the absence or incapacitation of the Sheriff, to the Chief Deputy Sheriff for the positions of Deputy Sheriff, Detective, Sergeant, Lieutenant, Captain, and Chief Deputy Sheriff.

(3) Candidates for Deputy Sheriff.

- (a) Publication. In order to make all segments of Kenosha County aware of the fact that applications for the position of Deputy Sheriff are being accepted, notice shall be given in various

media no less than two weeks prior to the date set for the written test.

- (b) Applications. Every candidate for the position of Deputy Sheriff shall submit all application materials required by Human Resources. Applications are filed exclusively through the Kenosha County website. No paper applications are accepted.
- (c) Eligibility. No person shall be eligible to apply for or be appointed to the position of Deputy Sheriff unless:
1. The applicant is a citizen of the United States.
 2. The applicant possesses certification by the Wisconsin Law Enforcement Training and Standards Board, a 2-year Associate Degree from an accredited institution, or a minimum of 60 fully accredited college level credits; or meets any more stringent standard set in the future by the Wisconsin Law Enforcement Training and Standards Board. Proof of meeting the established standards must be provided at the time of hire.
 3. The applicant is not less than ~~twenty-one (21)~~ **twenty and a half (20.5)** years of age **and will be not less than twenty-one (21) years of age** upon date of hire as evidenced by a certified copy of a birth or naturalization certificate provided with the application.
 4. The applicant has not been convicted at any time of a felony, unless the judgment or conviction has been reversed. The applicant must provide proof of such reversal at the time application is made.
 5. The applicant possesses a valid driver's license recognized by the State of Wisconsin. Further, from a date three (3) years immediately preceding the date of the examination and continuing to the date of appointment, the applicant has not been convicted of any single violation equivalent to more than four (4) points and has accumulated no more than the equivalent of six (6) points as assessed by the State of Wisconsin demerit point system.
 6. The applicant has furnished all the information required by the Commission at the time the application is submitted.
 7. Applications will be reviewed and applicants who are not ~~21~~ **20.5** years of age **and will be 21 years of age upon date of hire** or have a felony on their record or are not U.S. citizens will be eliminated from consideration. All others will be invited to participate in the exam.
- (d) Examinations. The Commission shall select and oversee a battery of examinations for the position of Deputy Sheriff. Examinations may include an evaluation of such facets as education, training, capacity, knowledge, manual dexterity, character, and physical and psychological fitness. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experience. Examinations may consist of one or more tests in any combination. Applicants shall not be questioned in any

manner regarding matters of race, religion, political affiliation, or any other area protected by E.E.O.C. rules.

The chief examiner shall recommend to the Commission the testing/selection procedure to be used for the position of Deputy Sheriff. The Commission shall act on the recommendation of the chief examiner on changes to the procedure prior to the posting of any examination announcement.

1. Notification. The chief examiner shall post the job on the Kenosha County website and other job sites deemed appropriate. The posting shall provide all applicants with a notice stating the date, of the written exam.
2. Following the written exam, test scores will be ranked in descending order.
3. Veterans and other preference points. Pursuant to Wisconsin Statutes, preference points shall be given in the certification of eligible veterans. The applicant shall submit any evidence necessary to prove Veteran status.

Any individual employed as a sworn law enforcement officer from another jurisdiction in the State of Wisconsin shall be awarded five (5) points and any individual employed as a Kenosha County Corrections Professional shall be awarded three (3) points. The applicant shall provide proof of employment. Candidates will then be re-ranked.

Eligibility List. The chief examiner shall report the final examination results and eligibility lists to the Commission for approval. Candidates shall be placed on the list in order of their relative excellence. The eligibility list shall be valid for twelve months (12) from the date it is established, unless exhausted earlier. The Commission may in its discretion cancel, replace or consolidate any list.

After approving the eligibility list, the Commission shall direct the chief examiner to proceed with the qualifying portions of the examination process. Eligible candidates shall be taken in manageable groups through the qualifying portions. The following shall constitute the qualifying portions of the examination.

Multiple Interview Assessment (MIA). The chief examiner shall schedule MIA's for groups of seven candidates each invited in rank order, before a panel consisting of sworn officers holding the rank of Sergeant or higher, a Human Resources representative, and/or other persons trained and competent in this procedure. Candidates who fail the MIA will be eliminated from consideration. Candidates who pass the MIA will be eligible to move on in the selection process.

4. Background Investigation. The Commission shall cause to be conducted a thorough background investigation of all Deputy Sheriff candidates on the eligibility list. The Sheriff's Department shall conduct such investigation to assist the Commission in determining the character,

reputation, morality, and general fitness of all candidates.

5. Oral Interviews/Evaluations. Upon successful completion of all scored portions of the Deputy Sheriff examination, the Commission shall conduct oral interviews/evaluations. These evaluations will consider the applicant's written test results, Multiple Interview Assessment results, background investigation results, and oral interview. These interviews shall determine the candidate's final eligibility. The Commission may conduct interviews as a whole body or in teams. If the Commission conducts interviews as a whole body, two Sheriff's Department representatives shall also be members of the interview panel. If the Commission selects the option of team interviews, each team shall consist of two Sheriff's Department representatives and at least two Commissioners. In both cases, one representative of the Sheriff's Department shall hold the rank of Lieutenant or above and the other shall hold the rank of Sergeant or above. The final decision shall be made solely by the Commission. Any Commissioner who was not present for a candidate's oral interview shall abstain from voting on that candidate.
 6. Physical Readiness Test. To enter the law enforcement academy, candidates must pass a battery of physical readiness tests. Candidates must successfully achieve the required performance standards in order to continue in the selection process.
 7. Job Trait Assessment. After a conditional offer of employment is made by the Sheriff, the Deputy Sheriff candidate must submit to a job trait assessment to determine such factors as personality integration, relationship to authority, impulse control, control of aggression.
 8. Medical Examinations. If the results of the job trait assessment are deemed satisfactory, the Deputy Sheriff candidate must submit to a medical and physical examination, conducted by such physician or physicians as designated by the County, at County expense. Such physician or physicians must submit to Human Resources a complete examination record and statement that the candidate is able to immediately assume, with no conditional releases, the physical duties of Deputy Sheriff. Any candidate receiving a conditional release shall be passed over for certification for appointment until the candidate supplies evidence from two (2) physicians of the condition being eliminated or controlled.
- (e) Reasons for Disqualification; Notice of Disqualification. The Commission shall refuse to examine a candidate or, after examination, to certify a candidate as eligible, who:
1. Lacks any of the established preliminary requirements for the position for which applied.
 2. Is physically handicapped or otherwise so disabled as to unsatisfactorily perform the essential duties of the position sought.

3. Has been convicted of a felony.
4. Has a pending criminal or civil action that is substantially related to the job.
5. Has used or attempted to use any personal or political influence to further his/her eligibility or appointment.
6. Has intentionally made a false statement of any fact.
7. Has practiced or attempted to practice any deception or fraud in the application or examination, or in securing the eligibility of appointment.
8. Has a prior unsatisfactory work record, such as, but not limited to, excessive absenteeism, tardiness, discipline or discharge for cause, negligence, or violation of work or safety rules.
9. In the opinion of the Civil Service Commission, after considering the materials in the application file, the results of each of the scored portions of the examination procedure, the background investigation, and the oral interview, displays shortcomings which make disqualification necessary.

If information is received by the Commission concerning an applicant that would preclude the person from consideration as an appointee, the Commission shall forewarn the applicant of such knowledge in its possession and the applicant may withdraw the application without prejudice.

The Commission shall send a written notice, by certified mail, to all disqualified candidates informing them of the reason for their disqualification. Any candidate receiving such notice may apply in writing to the chief examiner within ten (10) days of receipt of said notice for a review and reconsideration of his/her qualifications.

(f) Appointments.

1. Appointments to the position of Deputy Sheriff shall be made by the Sheriff whenever a vacancy occurs. Each appointment shall be made from the list of applicants who are certified as eligible by the Commission. The chief examiner shall certify to the Sheriff the names of all persons with the three (3) highest scores on the examination, and shall provide to the Sheriff a copy of each certified candidate's file, to include application forms and the results of the examinations, M.I.A., and background investigation. The Sheriff shall make his selection from these names.
2. Pursuant to Wisconsin Statute § 59.26(10), and notwithstanding the provisions in 401 (3)(a) through (d), if law enforcement services are provided to a city or village and if the Sheriff appoints additional Deputies to provide the services, the Sheriff shall, to the greatest extent possible, fill the additional Deputy positions from the ranks of the former police officers who lost their positions when the department was abolished.

3. Upon notification from the Sheriff of the name of the selected candidate, the chief examiner shall extend a contingent offer of employment, conditional upon the candidate submitting to a job trait assessment and a pre-employment medical examination. If the results of the job trait assessment and medical examination are deemed satisfactory by Human Resources, the candidate shall be appointed. If the results of the job trait assessment or medical examination are deemed unsatisfactory by Human Resources, the candidate shall not be appointed.
4. If the Sheriff's Department has valid, job-related objections to the eligibility of a candidate, the Sheriff shall bring such to the attention of the Commission and request that the Commission reconsider the certification of the candidate.
5. For each candidate the Sheriff has appointed, or for each candidate that the Commission has reconsidered and determined to be unsatisfactory, the chief examiner shall certify the names of all persons with the next highest score on the examination.
6. Any candidate who has been decertified from an eligibility list and failed to progress in the recruitment process at any point may not sit again for the examination until one year has passed from the date of the previous examination.
7. The Sheriff, in appointing Deputies under this section, shall require a uniform bond of not less than \$25,000.00. The premium on the bond shall be paid by Kenosha County.
8. All Deputies under this section shall be on probation during the first full year next succeeding their appointment, and may be discharged with cause by the Sheriff at any time before the termination of such probationary period.
9. Except for unit members assigned a vehicle that may be brought home and for whom residency in Kenosha County is required, the established residency boundary for all other unit members is ~~fifteen (15)~~ **twenty (20)** miles in any direction from the borders of Kenosha County. Any unit member who does not reside within ~~fifteen (15)~~ **twenty (20)** miles of the borders of Kenosha County within nine months of hire shall be deemed to have resigned.
10. Deputy Sheriffs appointed in conformity with the provisions of this chapter shall hold office on good behavior and efficiency and shall not be dismissed from such office or suspended except as provided in this section.

(4) Chief Deputy Sheriff.

- (a) There is created the position of Chief Deputy Sheriff within the Sheriff's Department. Selection of a person to fill such a position shall be made on the basis of competitive examination; and he shall have civil service status in the same manner as

other Deputy Sheriffs in the department except as otherwise set forth herein.

- (b) Publication. Notice of the date, time, and place for examination for such promotion shall be made in writing and posted on the bulletin board of the Sheriff's Department not less than 30 days prior to the date set for such examination. All interested personnel possessing the necessary qualifications must sign their intent to participate in such examination prior to the date the notice is scheduled to be taken down.
- (c) Eligibility. Every candidate for the position of Chief Deputy Sheriff shall have not less than ten (10) years of service on the Kenosha County Sheriff's Department, the last four (4) of which have been at a rank above that of Detective, and the current classification of Lieutenant or Captain, having held that rank for at least one (1) year prior to the opening. Further, candidates must possess a Bachelor of Science degree or a Bachelor of Arts degree from an educational program or institution accredited by one of the organizations recognized by the United States Department of Education as accrediting agencies. Candidates for promotion must provide to the Chief Examiner proof of meeting the educational requirement prior to signing the examination notice for the position of Chief Deputy Sheriff.
- (d) Examinations. The Commission shall oversee an examination process which is to be supplied and graded by an independent testing firm with a recognized expertise in such police and administration examinations. Examinations may include an evaluation of such facets as education, training, capacity, knowledge, manual dexterity, character, and physical and psychological fitness. Tests may be written, oral, physical demonstration of skill, job trait assessment, or an evaluation of training and experience. Examinations may consist of one or more tests in any combination that serves to objectively evaluate the relative skills of the candidates.

The Commission shall also oversee an oral examination to be conducted by a panel of Police and Sheriff's Department officials from outside Kenosha County holding a rank equal or superior to that of Chief Deputy Sheriff. Such a panel is to be mutually agreed upon by the Sheriff and the Commission.

If the number of candidates to be interviewed does not exceed three (3), the oral examination is waived and the three (3) or fewer names successfully completing the balance of the examination process shall be certified to the Sheriff.

1. Within fifteen (15) working days after receipt of the examination grades, the chief examiner shall certify to the Sheriff the names of all persons passing the promotional examination in the order of their final grade.
2. Within fifteen (15) working days after receiving the certified list of eligible candidates for promotion to Chief Deputy Sheriff, the Sheriff shall promote a candidate who places within the first three (3) highest candidates from the eligibility list, provided an opening exists.
3. The certified list shall be valid for one (1) year from the date of certification.

- (e) The Chief Deputy Sheriff shall hold office in the same manner as other Deputy Sheriffs in the department.
- (f) The Chief Deputy Sheriff shall outrank all other personnel of the department except the Sheriff. In addition to performing other duties of Deputy Sheriff, he shall be head administrative officer.
- (g) The duties and authorities of the Chief Deputy Sheriff shall include, but not be limited to, the following:
 - 1. Act for the Sheriff in the absence or incapacitation of the Sheriff.
 - 2. Make complaints for disciplinary purposes to the Grievance Committee as established by the County Board against any Deputy believed to have conducted himself in a manner meriting suspension, demotion, or dismissal under the rules of the department or the provisions of Civil Service Ordinance pertaining to the Sheriff's Department.
 - 3. Perform such duties and exercise such authorities not specifically enumerated herein which are usually performed or exercised by an undersheriff as set forth in the Wisconsin Statutes.
 - 4. Provide continuity in law enforcement as it relates to the Sheriff's Department and provide each incoming Sheriff a well organized department and relieve the Sheriff of the details in connection with the responsibilities of the office of Sheriff. All general policy-making authority and final authority shall remain with the Sheriff; and the Chief Deputy Sheriff, under the duties and authorities herein set forth, will furnish the necessary continuity of leadership and administration so as to eliminate problems of morale and provide for a more efficient operation of the department.
 - 5. The Chief Deputy, or his designee, shall be the law enforcement advisor to the Commission.
- (h) The Chief Deputy Sheriff may be disciplined, suspended, dismissed, or demoted for all causes specified in the Civil Service Ordinance and the Wisconsin Statutes, and good cause shall also include inefficiency in administrative ability. However, good cause shall not include the fact that the Chief Deputy has made complaint against any other Deputy under the Chief Deputy in cases where the Chief Deputy has good reason to believe that the complaint so made is well founded, even though such complaint is not processed or may later be proven untrue. The procedures for discipline contained in Section 6 of this ordinance shall apply to the employee of the rank of Chief Deputy.
- (i) The salary of this position shall be such as may from time to time be fixed by the County Board.

(5) Promotions and Appointments.

- (a) Publication. Notice of the date, time, and place for examination for such promotion shall be made in writing and posted on the bulletin board of the Sheriff's Department not less than 30

days prior to the date set for such examination. All eligible Deputy Sheriffs must sign their intent to participate in such examination prior to the date the notice is scheduled to be taken down.

- (b) Eligibility. A Deputy Sheriff must have at least four (4) years of service as a Deputy Sheriff with the Kenosha County Sheriff's Department in order to be eligible to take any promotional examination for the position of Sergeant or Detective. To be eligible to take any promotional examination for the position of Lieutenant, a Deputy Sheriff must have at least five (5) years of service with the Kenosha County Sheriff's Department and the current classification of Sergeant. For Detectives appointed after July 1, 2003, if there are not at least three (3) applicants from the rank of Sergeant, then Deputy Sheriffs having at least five (5) years of service with the Kenosha County Sheriff's Department and the current classification of Detective may apply. Detectives appointed prior to July 1, 2003 may apply for a Lieutenant's position provided they have at least five (5) years of service with the Kenosha County Sheriff's Department and the current classification of Detective. To be eligible to take any promotional examination for the position of Captain, a Deputy Sheriff must have at least seven (7) years of service with the Kenosha County Sheriff's Department and the current classification of Lieutenant. To be eligible to take any promotional examination for the position of Captain, the Deputy Sheriff must have successfully completed the probationary period as a Lieutenant. To be eligible to take any promotional examination for the position of Lieutenant, the Deputy Sheriff must have successfully completed the probationary period as a Sergeant or Detective.

Further, candidates must meet the following educational requirements to be eligible to take a promotional examination: for the position of Captain, a Bachelor of Science degree or Bachelor of Arts degree **or at least four years of service with the Kenosha County Sheriff's department in the rank of Lieutenant**; for the positions of Lieutenant and Sergeant, an Associate Degree; and for the position of Detective, a minimum of 60 fully accredited college level credits. The required degrees and/or credits for all promotional ranks addressed above must be obtained from an educational program or institution accredited by one of the organizations recognized by the United States Department of Education as accrediting agencies. Candidates for promotion must provide proof of meeting the educational requirement prior to signing the examination notice for the promotional position. An Education Sub-Committee shall be established with responsibility for approving and certifying that the degrees and/or credits provided meet the educational requirement for the promotional position. The Education Sub-Committee, which shall report to the Civil Service Commission, shall consist of five (5) members, as follows:

1. Sheriff
2. Chief Deputy Sheriff
3. Chief Examiner
4. Chairman of Civil Service Commission
5. Secretary of Civil Service Commission

- (c) Examinations. The Commission shall select and oversee a battery of examinations for the promotion of Deputy Sheriffs within the Sheriff's Department to a rank above that of a

Deputy Sheriff. Examinations may include an evaluation of such facets as education, training, capacity, knowledge, manual dexterity, character, and physical and psychological fitness. Tests may be written, oral, physical demonstration of skill, or an evaluation of training and experience. Examinations may consist of one or more tests in any combination. Deputy Sheriffs shall not be questioned in any manner regarding matters of race, religion, political affiliation, or any other area protected by E.E.O.C. rules.

The chief examiner shall recommend to the Commission the testing/selection procedure to be used for each promotional rank in the Sheriff's Department. The Commission shall act on the recommendation of the chief examiner prior to the posting of any examination announcement.

1. Within fifteen (15) working days after receipt of the examination grades, the Chief Examiner of the Commission shall certify to the Sheriff or, in the absence or incapacitation of the Sheriff, to the Chief Deputy Sheriff, the names of all persons passing any promotional examination in the order of their final grade.
 2. Within fifteen (15) working days after receiving the certified list of eligible candidates for promotion, the Sheriff or Chief Deputy Sheriff shall promote a candidate who places within the first three (3) highest candidates from the eligibility list to the position for which the examination is given, provided an opening exists; unless the Sheriff for good cause (budgetary considerations or department reorganization) requests that the position not be filled.
 3. The certified list shall be valid for one (1) year from the date of certification.
 4. All persons promoted shall hold such position in an "probationary capacity" for a period of one (1) year. At the end of the year, his/her continued service in that rank or classification shall be dependent upon a satisfactory rating by the existing senior administrative staff. If at any time during the year the "probationary appointee" shall be deemed not suited for the classification, the appointment may be terminated with cause by the Sheriff and the appointee shall be returned to the rank previously held.
 5. Pursuant to Wisconsin Statutes, present classified personnel at the time of the enactment of this section shall be "grandfathered" to such position, and subject to all provisions of this section.
- (d) Voluntary Reduction in Rank. Any civil service officer ranking higher than a Deputy Sheriff in the Sheriff's Department may exercise departmental seniority and return to a lower rank previously held by the officer, and upon so doing, that person shall relinquish his/her present rank. Any officer displaced as a result of an officer returning to a lower rank may compete for the opening created by such action provided he/she was eligible to compete for the position prior to his/her displacement.
- (6) Suspension, Dismissal, or Other Disciplinary Provisions.

- (a) Any member of the Sheriff's department may be suspended, demoted, or dismissed in accordance with Wisconsin Statutes when charged with any of the following offenses or with any violation of the Kenosha County Uniform Work Rules or Sheriff's Department Work Rules:
1. Commission of a crime under any law.
 2. Reporting for duty under the influence of an intoxicant, intoxication, or the use of an intoxicating liquor or any controlled substance while on duty.
 3. Refusal to submit to a chemical test to determine drug or alcohol content in the blood when there is reason to believe there has been a violation of 4.01(6)(a)2.
 4. Insubordination.
 5. Neglect or dereliction of duty.
 6. Willful neglect or disobedience of any legal order of superior officers or legal departmental rule.
 7. Absence from duty without leave.
 8. Conduct that adversely affects the morale or efficiency of the Sheriff's Department.
 9. Conduct that has a tendency to destroy public respect for law enforcement and/or confidence in the operations of the Sheriff's Department.
 10. Conduct that has a tendency to destroy, or distract from the officer's credibility as a witness in court.
 11. Failure to maintain established levels of performance.
 12. Communicating information on criminal cases outside of the department without permission.
 13. Making a false official statement or entry in official records.
 14. Willful maltreatment of a prisoner.
 15. Sleeping while on active duty.
 16. Uncleanliness in person or dress while on active duty.
 17. Destructive criticism of departmental orders, except in the course of a political discussion or a political campaign for a declared candidate.
 18. Refusing to give name and employee number when requested.
 19. Failure to report any person known to be engaged in felonious activities.
 20. During the hours while on duty, engaging in any form of political activity calculated to favor or improve the chance of any political party or any person seeking or attempting to hold political office; or engaging in any

political activity when not on duty to an extent that results in impaired efficiency during working hours or tardiness or absence from work. Any violation of this paragraph shall be sufficient grounds for dismissal.

21. Any other act or omission contrary to good order and discipline, or constituting a violation of any of the rules and regulations of the department.
 22. Failure to maintain residency within the **required** boundaries ~~of Kenosha County~~.
- (b) In addition to the reasons listed in (a) of this section, the Sheriff and/or Chief Deputy Sheriff shall have the right to discipline, demote, suspend, or discharge any employee for just cause.
1. Any supervisor may be dismissed or demoted for all causes specified in the Civil Service Ordinance and the Wisconsin Statutes, and good cause shall also include inefficiency in administrative ability. However, good cause shall not include the fact that the supervisor has made a complaint against any other Deputy under the supervisor in cases where the supervisor has good reason to believe that the complaint so made is well founded, even though such complaint is not processed or may later be proven untrue.
 2. Notice of discipline, demotion, suspension, or discharge shall be given by personal delivery of the written complaint, if the employee is available at the Sheriff's Department; if, however, the employee is not at once available at the Sheriff's Department, then such report shall be mailed by certified mail to the employee's last known post office address. Such notice shall contain information on the employee's appeal rights.
- (c) Appeal.
1. Any Deputy Sheriff who belongs to a bargaining unit covered by a collective bargaining agreement and who has been disciplined under this section shall appeal that discipline under the terms and conditions of the labor agreement in force at the time of the incident.
 2. If the Deputy Sheriff being disciplined holds the rank of Sergeant or above and is not covered by a collective bargaining agreement, such Deputy Sheriff may appeal such discipline to the Grievance Committee in writing for a formal hearing. Such appeal shall be made within 48 hours exclusive of Saturdays, Sundays, and legal holidays from the effective time of receipt of notice of such discipline by the employee or the right to appeal is waived. If timely appeal is made, the Sheriff and/or Chief Deputy Sheriff shall file written charges with the Grievance Committee and the procedure shall then follow as set forth herein.
 3. Whenever the Sheriff and/or Chief Deputy Sheriff or a majority of the members of the Commission believes that a Deputy Sheriff who holds the rank of Sergeant or above has acted in a manner showing incompetence to perform the duties of Deputy Sheriff or to have merited suspension, demotion, or dismissal, the Sheriff or Chief Deputy

Sheriff or the Commission shall report in writing to the Grievance Committee setting forth specifically their complaint, and if the party making the complaint is the Sheriff or the Chief Deputy Sheriff, they may suspend, demote, or discharge the Deputy Sheriff at the time such complaint is filed.

4. The Grievance Committee shall be the Administration Committee of the County Board.
5. The Grievance Committee shall, if the Deputy Sheriff who holds the rank of Sergeant or above requests a hearing, within five (5) days of such request, appoint a time and place for the hearing of the charges; the time to be within three (3) weeks after filing of such request for a hearing. The Committee shall notify the Sheriff and/or Chief Deputy Sheriff or the Commission, whichever filed the complaint with the Committee, and the accused of the time and place of such hearing. If the accused Deputy Sheriff makes no request to the Committee, the Committee may take whatever action it deems justifiable on the basis of the charges filed and shall issue an order in writing as provided in section 4.01(6)(c)9 of this ordinance. If a hearing is requested, any testimony taken shall be recorded and transcribed. The Chairman of the Committee shall issue subpoenas for the attendance of witnesses as may be requested by the accused. Subpoenas shall be served in the same manner as in a court of record.
6. The employee shall have the right to be present at the hearing of the Grievance Committee personally and by a representative of his choice, who may be an attorney. The employee shall have the right to cross-examine any witness and to testify himself and present other witnesses and evidence on his behalf. The burden of proof shall be on the party filing charges and requesting discipline and the burden shall be proof by a preponderance of the credible evidence adduced at the hearing.
7. The first order of business upon convening the hearing shall be the election of a Chairman and Secretary to preside over the hearing. The hearing will then proceed with the case against the accused officer by the Department Advocate. The accused may personally or through his/her representative cross-examine all witnesses. After each witness has been examined and cross-examined, any member of the Committee may question the witness.

At the conclusion of the department's case, the accused may present witnesses on his/her behalf subject to cross-examination by the Department Advocate and the Committee. All evidence presented must be relevant to the charges as specified. Prior work records shall be admitted to be considered in deciding the appropriateness of the penalty recommended by the Department Advocate.

8. At such hearing, the Chairman of the Committee shall maintain order and enforce obedience, and if any person at the hearing conducts himself in a disorderly manner, and after notice from the Chairman persists therein, the Chairman may order the person to withdraw from the hearing, and on the person's refusal may order the Sher-

iff, Chief Deputy Sheriff, or other person to take the person into custody until the hearing is adjourned for that day.

9. At the termination of the hearing, the Committee shall issue an order in writing, including their reasons whether or not the charge is well-founded, and shall take such action by way of discipline, suspension, demotion, discharge, or reinstatement as it may deem proper under the circumstances, and file same with the Secretary of the Commission. The Committee shall make a determination as to the loss or reinstatement of back wages when applicable to individual cases. The Committee shall send notice of its determination to the employee along with notice of his appeal rights by certified mail or by personal service.
10. The Deputy Sheriff may appeal from the order to the Circuit Court by serving written notice thereof on the Secretary of the Committee within ten (10) days after notice of the order of the Committee is served on him. Within five (5) days thereafter, the Committee shall certify to the Clerk of Circuit Court the record of the proceedings, including all documents, testimony, and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the Court, which shall always be open to the trial thereof, pursuant to Wisconsin Statutes.

The Court shall, upon application of the Deputy Sheriff or the Grievance Committee, fix a date of trial which shall not be later than fifteen (15) days after such application, except by agreement.

The trial shall be by the Court and upon the return of the Committee, except that the Court may require further return of the taking and return of further evidence by the Committee. The question to be determined by the Court shall be "Upon the evidence, was the order of the Committee reasonable?"

No costs shall be allowed either party and the Clerk's fees shall be paid by the County. If the order of the Committee is reversed, the Deputy Sheriff shall be reinstated and entitled to such pay as though in continuous service. If the order of the Committee is sustained, it shall be final and conclusive.

(7) General Provisions.

- (a) The Board of Supervisors shall fix the number of Deputy Sheriffs to be appointed and the salaries to be paid, but the number of Deputy Sheriffs shall not be less than required by the Wisconsin Statutes.
- (b) Should it be determined by the Board of Supervisors, at any time, that the staff of the Sheriff's Department is too large and that a reduction in the number of Deputy Sheriffs is necessary, Deputy Sheriffs may and shall be terminated to bring about such reduction.

The Deputy Sheriff or Deputy Sheriffs so terminated shall be the youngest in point of service, and shall be reappointed without examination if the number of personnel is increased or

any vacancy occurs within two (2) years after their termination, providing they meet the physical requirements of this ordinance.

- (c) Temporary vacancies in the department, whether a result of sickness, leave of absence, or any other cause, shall be filled by appointment by the Sheriff of one of the three (3) persons having the highest rating certified as eligible for a position during the year next preceding the occurrence of the vacancy. Temporary increase of the Sheriff's force shall be made in the same manner. Such appointments shall be subject to dismissal without cause at the end of the term for which appointed.
- (c) The Sheriff and/or Chief Deputy Sheriff shall prepare department rules for the general administration and efficient operation of the Sheriff's Department. Such rules are the department rules and Deputy Sheriffs shall conduct themselves in accordance with such.

(8) Classifications and Ranks.

- (a) The following classifications and ranks are presently created within the Sheriff's Department and shall be the chain of command of the Sheriff's Department.
 - 1. Sheriff
 - 2. Chief Deputy Sheriff
 - 3. Captains
 - 4. Lieutenants
 - 5. Sergeants
 - 6. Detectives
 - 7. Deputy Sheriffs
- (b) The duties, responsibilities, and authority of the personnel on the Sheriff's Department shall include but not be limited to the following:
 - 1. Sheriff. The Sheriff is the chief executive officer of the Kenosha County Sheriff's Department pursuant to the constitution and laws of the State of Wisconsin.
 - 2. Chief Deputy Sheriff. The Chief Deputy Sheriff shall outrank all members of the Kenosha County Sheriff's Department except the Sheriff.
 - 3. Captains. The Captains shall outrank all other members of the Kenosha County Sheriff's Department except the Sheriff and the Chief Deputy Sheriff. They shall be division commanders with all authority necessary to administer their assigned areas of responsibility. The Captains shall also act for the Sheriff in the absence of the Sheriff and Chief Deputy Sheriff.
 - 4. Lieutenants. The Lieutenants shall have that authority necessary to fulfill their responsibility to provide the maximum efficiency and productivity of the personnel and operations under their control consistent with the

policies set forth by the Sheriff and the administrative staff of the Sheriff's Department.

5. Sergeants. The Sergeants shall supervise and control their respective shifts or divisions in order to direct the work of the department in accordance with the policies of the Sheriff and the administrative staff.

Sergeants shall exercise that authority necessary to insure compliance with the established rules and regulations of the department.

Sergeants shall maintain performance records of the personnel assigned to them, to be used as a consideration in making promotions or assignments, or in resolving grievances or disciplinary actions affecting department personnel.

6. Detectives. Detectives shall conduct investigations of criminal offenses within Kenosha County, including but not limited to the detection and arrest of criminal offenders, the location of missing persons, the recovery of stolen and lost property, the handling of juvenile matters, the prevention of crime, the proper conduct of fugitive requisition proceedings, and any other matters requiring their attention as ordered by the commanding officers of the Sheriff's Department.
7. Deputy Sheriffs. Deputy Sheriffs of the Kenosha County Sheriff's Department shall interchangeably carry out all lawful orders and directives issued by or on behalf of the Sheriff.
8. Any member of the Sheriff's Department may be called upon to perform the duties of another or a lower rank when necessary to fulfill the missions of the Sheriff's Department.

(9) Temporary Duty Assignments.

- (a) The Sheriff and/or Chief Deputy Sheriff may announce and request applications for temporary duty assignments from the ranks of Deputy Sheriff, Detective, Sergeant, Lieutenant, and Captain. Selections for temporary duty assignments shall be made by the Sheriff and/or Chief Deputy Sheriff from among the people filing applications and shall be based upon the qualifications of those applying.

- (b) Examples of temporary duty assignments include, but are not limited to, the following:

Community Relations Officer	Acting Sergeant
Special Investigative Unit	Acting Lieutenant
Process Server	Acting Captain
Court Officer	Acting Chief Deputy Sheriff
Property Officer	
Drug Unit Investigator	
School Resource Officer	

- (c) Temporary duty assignments shall not be part of the standard Civil Service rank/classification structure; however, employees assigned to temporary duty assignments shall not forfeit their Civil Service standing in their current rank/classification.

Deputy Sheriffs assigned to temporary duty assignments may be utilized to perform other duties as needed.

- (d) Temporary duty assignments may be for an initial period of twelve (12) months or less duration with unlimited renewal, and may be terminated at any time or may not be renewed by the Sheriff and/or Chief Deputy. Temporary duty assignments to the positions of Acting Sergeant, Acting Lieutenant, Acting Captain, or Acting Chief Deputy Sheriff may be for a period of twelve (12) months or less duration with no renewal. Employees whose temporary duty assignments have ended shall be returned to their regular work assignments. All temporary duty assignments will be reviewed by the Sheriff and/or Chief Deputy Sheriff every twelve (12) months or sooner to determine the continued need for the assignment.

(10) Rights.

- (a) No person in the Sheriff's Department, nor any person seeking admission thereto, shall be appointed, reduced in pay, removed, demoted, nor in any way favored or discriminated against because of political or religious affiliations, race, sex, or minority classification.
- (b) Rights of a Deputy Sheriff in military service shall be governed by applicable federal and state laws.
- (c) The Board of Supervisors may repeal this chapter at any time in conformity with Wisconsin Statutes.

(11) Standards of Efficiency.

- (a) The Sheriff and/or Chief Deputy Sheriff shall maintain a system of efficiency records for Deputy Sheriffs to be based, among other things, upon the quantity and quality of the work performed and the regularity and punctuality of attendance.
- (b) The personnel records of an individual shall be reviewed with the individual upon request, at any time, and at the convenience of the Sheriff and/or Chief Deputy Sheriff.

(12) Leaves of Absence.

- (a) Sheriff Candidates.
 - 1. If a Deputy Sheriff is the Sheriff-Elect, his tenure as a Deputy Sheriff shall terminate upon his executing and filing the official bond and oath as Sheriff unless prior thereto he requests, in writing, to the County Board, a leave of absence for the period he holds the office of Sheriff.
 - 2. The County Board shall grant such request.
 - 3. Such Deputy Sheriff shall be reinstated with the same rank and position that he held at the time of his written request upon completion of duties as Sheriff. The time spent as Sheriff shall count as tenure as though such Deputy Sheriff had not been on such leave of absence; provided his tenure of the office of Sheriff is not terminated for reasons of conduct unbecoming an officer, or for improperly performing duties as an officer of the law. If

his tenure of the office of Sheriff is terminated for such reason, he shall be granted a hearing in the manner provided by the Wisconsin Statutes and shall not be reinstated as a Deputy Sheriff unless so ordered after such hearing.

- (b) Deputy Sheriffs with the Rank of Sergeant or Above.
 - 1. Request shall be made in writing to the Sheriff and/or Chief Deputy Sheriff, and shall set forth the reasons and desired length of time for such leave of absence.
 - 2. If the Sheriff and/or Chief Deputy Sheriff approves such request, it shall be referred to the Administration Committee, which Committee may recommend, approve or disapprove.
 - 3. The Administration Committee shall file its written approval with the County Board of Supervisors for action.
 - 4. No leaves of absence shall be granted so as to permit the Deputy Sheriff to seek other employment.
 - 5. The Sheriff may grant a leave of absence without further authority of the County Board for fourteen (14) calendar days or less.

(13) Duty Assignments.

- (a) The duties of personnel on each shift shall be left to the discretion of the Sheriff and/or Chief Deputy Sheriff without regard to seniority.
- (b) Any Deputy Sheriff or commanding officer wishing to change shifts temporarily, not to exceed 90 days within any twelve (12) month period, may do so with the permission of the Sheriff and/or Chief Deputy Sheriff. The Deputy Sheriff or commanding officer having the greatest seniority shall move into the vacancy left by such change, if they are agreeable thereto.
- (c) Any Deputy Sheriff may be temporarily assigned to another shift for periods not to exceed 120 days during any twelve (12) month period. Such reassignments shall be made only to fill an articulable need of the department or to facilitate the fulfillment of a demonstrable training need.
- (d) In reducing the number of personnel in any classification or rank, the last person promoted shall be the first person reduced in rank, and the last person reduced in rank shall be the first person restored to the rank previously held, should a vacancy occur within two (2) years.
- (e) Any person reduced in rank or classification as the result of a personnel cutback shall return to the rank or classification held prior to his/her last promotion.
- (f) Time in grade, for the purposes of this section, shall be defined as the length of time in rank or classification presently held by the employee. Time in grade for persons reduced in rank or classification because of a personnel reduction shall be computed from the date of promotion to the rank now held, including the length of service in the higher rank.

(14) Wages and Fringe Benefits.

- (a) Wages and fringe benefits shall be determined by labor negotiations between the Kenosha County Deputy Sheriff's Association and Kenosha County, and shall be approved by the Kenosha County Board of Supervisors.
- (b) The salary and fringe benefits of any civil service officer holding a supervisory rank not represented by the Kenosha County Deputy Sheriff's Association shall be determined by the Kenosha County Board. Such salary and fringe benefits, with the exception of unused vacation cash out (Section 15.5 Cash Out and/or Carry Over of Unused Vacation, Collective Bargaining Agreement, County of Kenosha, Wisconsin and the Kenosha County Deputy Sheriff's Association) shall not be less than those granted to the Kenosha County Deputy Sheriff's Association. Unused vacation cash out shall not be a benefit of civil service officers not represented by the Kenosha County Deputy Sheriff's Association, effective December 31, 2010. (11/10/10)

(15) Rewards, Gifts, and Gratuities.

- (a) Other than their lawful salary, or payment for approved special off-duty or private employment, employees of the Sheriff's Department shall not accept any gifts, gratuities, or rewards in money or other consideration for services rendered in the line of duty to the community or to any person, business or agency.
- (b) Should any gift, gratuity, or reward come into the possession of any employee, the employee shall not accept, but shall immediately forward same to the office of the Sheriff and/or Chief Deputy Sheriff, together with a written report explaining all the circumstances connected therewith. The Sheriff and/or Chief Deputy Sheriff shall thereupon deposit the gift, gratuity, or reward with the President and Treasurer of the Deputy Sheriff's Association for deposit in their Benevolent Fund for the benefit of all the members of the Kenosha County Sheriff's Department.

(16) Coverage.

This civil service chapter shall apply only to such Deputy Sheriffs that are regularly employed full time in the Sheriff's Department.

(17) Interpretation.

The provisions of this chapter are hereby declared severable. All provisions or sections which may hereinafter be declared to be illegal or unconstitutional shall be declared repealed and the remainder shall not be affected thereby. This ordinance shall be liberally construed to give full effect to its terms and purposes.

(18) Conflicts.

All ordinances or parts of ordinances in conflict with any provision of this chapter are hereby repealed. If any valid terms of a collective bargaining agreement are in conflict with any of the provisions of this ordinance, such valid collective bargaining agreement shall control for the employees who are subject to such agreement.

4.40 JAIL INMATE MAINTENANCE COSTS.

- (1) The cost per day for the maintenance of the inmates in the County Jail shall be as follows:
 - (a) The charge for confinement of prisoners from municipalities or towns in Kenosha County shall be as follows:
 - 2011 - \$21
 - 2012 - \$28
 - 2013 - \$36
 - 2014 - \$44

For years 2015 and beyond, the rate will be adjusted annually using the CPI. (11/9/10)
 - (b) The charge for Huber Law commitments shall be \$16.00 per day plus meals provided in the County Jail. Said charge shall be reviewed at budget time every year. (11/19/96)
 - (c) The charge for confinement of prisoners from municipalities, counties or towns outside of Kenosha County shall be \$60.00 per day.
 - (d) The meals served in the County Jail charged to Huber commitments shall be as follows:
 - Breakfast: \$2.00 Dinner: \$3.50 Supper: \$2.50
 - (e) The charge for electronic monitoring shall be \$16 per day. (2/4/14)
- (2) Charges for actual confinements shall be charged back to the municipalities or towns detaining such prisoners in the County Jail and charges for Huber Law or work release commitments shall be deducted from the earnings of the private employment of such inmates.
- (3) Municipalities, counties and towns are responsible for the cost of medical services provided to an inmate placed upon their behalf in the Kenosha County Jail. In addition, municipalities, counties and towns are solely responsible for any salary expenses incurred in maintaining an inmate at a hospital who was initially placed in the Kenosha County Jail on their behalf.

4.50 COUNTY LIABILITY FOR ACTS OF SHERIFF AND/OR NON-CIVIL SERVICE APPOINTEES OF THE SHERIFF.

- (1) Criminal Actions Against the Sheriff.
 - (a) Fines. The county shall not assume any liability for the payment of any fines imposed upon the sheriff as a result of any criminal action filed against him.
 - (b) Attorney fees, costs and disbursements. In any criminal action filed against the sheriff of Kenosha County, the county shall pay for reasonable attorney fees and reasonable and necessary costs and disbursements in the defense of the sheriff if the action is dismissed outright or the sheriff is found innocent in that action, and only when the criminal charges stem from acts performed in the official course of his duties as sheriff of Kenosha County. The county shall pay the aforementioned attorney fees, costs and disbursements only if within ten days of service of the complaint counsel for the sheriff gives written notice to the Finance Committee of the Kenosha County Board of Supervisors by delivery to the County Clerk indicating this method of billing and hourly rate for his services

(including appeals) and an estimate or approximation of his fees, costs and disbursements. In the event that the finance committee deems such legal fee or rate to be unreasonable, it may limit the county's potential liability for attorney fees to a given rate by giving written notice to counsel for the sheriff within sixty days after having received the aforementioned notice from counsel for the sheriff. The county shall in no event pay for any costs and disbursements arising out of such action unless evidence is presented to the finance committee substantiating the indebtedness for such costs and disbursements.

(2) Civil Actions Against the Sheriff.

- (a) Damages. Pursuant to Article VI section 4 of the Wisconsin Constitution, the county shall not be liable for payment of any judgment damages incurred by the sheriff as a result of civil litigation commenced against him.
- (b) Attorney fees, costs and disbursements.

- 1. In those instances in which the sheriff of Kenosha County has obtained the benefit of a policy of liability insurance in full force and effect covering acts or omissions arising out of the scope of his employment and has filed a copy of said insurance policy with the Kenosha County Clerk, legal representation of the sheriff shall be by the insurer in the first instance. In the event that the insurer refuses to provide such legal representation, or in the event the sheriff has elected not to procure such insurance, the corporation counsel's office shall offer to provide counsel to the sheriff for the purpose of challenging the decision of the insurer and/or representing the sheriff in the principal cause of action commenced against him for acts or omissions of the sheriff arising out of the scope of his employment.

Should the sheriff decline the offer of representation by the corporation counsel's office, the county shall assume no liability for legal fees incurred by the sheriff. In the event of representation by the corporation counsel's office, it shall be understood that the sheriff retains his right to seek outside counsel at his own expense, and furthermore, in so representing the sheriff, he shall hold harmless the county for providing his legal defense. Legal fees incurred by the sheriff in defending an action shall only be paid by the county should the corporation counsel's office refuse or be unable to defend the sheriff. Notice of such expenses shall be given to the Finance Committee as provided in section (1)(b). Reasonable and necessary costs and expenses (excluding attorney fees) not covered by a policy of insurance and incurred in the defense of civil actions commenced against the sheriff in his official capacity shall be paid by the county pursuant to the guidelines set forth in section 895.35 of the Wisconsin Statutes regardless of representation by the corporation counsel's office, provided, however, that the county shall in no event pay for any costs and disbursements arising out of such action unless evidence is presented to the finance committee substantiating the indebtedness for such costs and disbursements.

- (3) Actions Against Non-Civil Service Appointees of the Sheriff.
If a non-civil service appointee of the sheriff is a defendant in any action or special proceeding and is proceeded against in an official capacity or is proceeded against as an individual because of acts committed while carrying out duties as a non-civil service appointee of the sheriff and the jury or the court finds that the defendant was acting within the scope of employment, the judgment as to damages and costs entered against the non-civil service appointee of the sheriff in excess of any insurance applicable to the officer or employee shall be paid by Kenosha County. Regardless of the results of the litigation, the county, if it does not provide legal counsel to the non-civil service appointee of the sheriff, shall pay reasonable attorney fees and costs of defending the action, unless it is found by the court or jury that the defendant non-civil service appointee of the sheriff did not act within the scope of employment. Failure by the non-civil service appointee of the sheriff to give notice to the sheriff of an action or special proceeding commenced against the defendant non-civil service appointee of the sheriff as soon as reasonably possible is a bar to recovery by the non-civil service appointee of the sheriff from the county of reasonable attorney fees and costs of defending the action. The attorney fees and expenses shall not be recoverable if the county offers the non-civil service appointee of the sheriff legal counsel and the offer is refused by the non-civil service appointee of the sheriff. If the non-civil service appointee of the sheriff refuses to cooperate in the defense of the litigation, the non-civil service appointee of the sheriff is not eligible for any indemnification or for the provision of legal counsel by the County under this ordinance.

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