



**Village of Fishkill Police Department
4 Wood Place
Fishkill, New York 12524**

**GLENN R. SCOFIELD JR.
POLICE COMMISSIONER**

**FBINA – 214TH SESSION
MEMBER – IACP
MEMBER – NYSACOP**

HOW IT WORKS: COMPLAINTS ABOUT POLICE

The Village of Fishkill Police Department can receive personnel complaints through a number of sources. Formal complaints can be filed using the **Department's Civilian Complaint Form** which can be returned directly to the Department or turned in to the Village Hall. Additionally, complaints may be made directly in person, or by telephone to police Headquarters. Sometimes they are forwarded through third parties such as the Village Administration (ie: Mayor, Trustee or Village Clerk).

Anytime the Department's command staff is made aware of anything that may be construed as a personnel complaint (from any source) it is treated as a personnel complaint.

Often times people come to police headquarters or call the Department after an interaction with an Officer to seek an explanation of the interaction or of the Officer's actions. These types of matters are usually resolved with such an explanation but if the person is still unsatisfied or does not accept the explanation, they would also be handled as personnel complaints.

Once a personnel complaint is received it will be investigated by a member of the command staff in the same manner that any other police investigation would be conducted and a case report will be completed. All available means of collecting evidence such as interviews with the complainant, witness and officer involved, station and other surveillance cameras, etc. will be utilized when possible.

If the investigation indicates that the Officer did nothing wrong, the Officer will be exonerated. If there is insufficient evidence to substantiate the complaint, it will be considered unsubstantiated. If there is evidence substantiating the complaint and the Officer is determined to have violated policy or procedure, the case will be turned over to the Police Commissioner to make a determination as

to what, if any, discipline is appropriate. This can range from verbal counseling to dismissal. In any case, the complainant will be contacted and advised of the results of the investigation.

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Complainant information (may be filed anonymously)

Name: _____
Last First MI

Address: _____
Street (actual address, no PO box)

_____ City State Zip

Witnesses: _____
Name Address Phone Number

_____ Name Address Phone Number

Date of Incident: _____ **Time of Incident:** _____ AM/PM

Incident Location: _____

Number of Officers Involved: _____ **Badge Number(s), if known:** _____

Name(s) of Officer(s) if Known: _____

Supervisors Name, if Contacted: _____

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Description of Incident: _____

Were You Arrested: _____ Were You Injured: _____ Was Anyone Notified of Injury: _____

If So, Who Was notified: _____ Did You seek Medical Treatment: _____

Name of Hospital, Doctor (if known): _____

Complete if Applicable:

Describe Injury / Type of Force Used: _____

Describe Discourtesy: _____

Complainants Signature (optional) _____ Date _____

Supervisors Signature _____ Rank/Shield _____ Date _____

----- Official Use Only -----

Date: _____ Time: _____ Blotter/Case Number: _____

How Received: Referral _____ In Person _____ Us Mail _____ Telephone _____ Email _____

Forwarded To: _____
Name _____ Rank _____ Date _____

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Village of Fishkill Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Village of Fishkill Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other Village facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Police Commissioner or the authorized designee.

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1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Police Commissioner or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Shift Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Lieutenant or the Police Commissioner, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Supervisor.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor and Police Commissioner are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Office of the Police Commissioner and the Shift Supervisor for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Shift Supervisor, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

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- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW
Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to employees covered by Civil Service Law (Civil Service Law § 75):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Village of Fishkill Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

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- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - 1. The employee shall be informed in advance and in writing of the right to representation.
 - 2. If the employee is unable to find representation within a reasonable time, the interview will proceed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.3 ADMINISTRATIVE INVESTIGATION PROCEDURES OTHER EMPLOYEES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Village of Fishkill Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after

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2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
 - (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
 - (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - (j) All employees shall provide complete and truthful responses to questions posed during interviews.
 - (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.4 NOTICE OF CHARGES

Any charges brought against an employee shall be in writing and within the time frame prescribed by law (Civil Service Law § 75; Second Class Cities Law § 137; Town Law § 155; Village Law § 8-804).

1010.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

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Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.6 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.6.7 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

1010.6.8 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

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- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay for no more than 30 days (Civil Service Law § 75; Village Law § 8-804).

1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay pending the hearing of charges (Town Law § 155).

1010.10 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

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1010.11 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Police Commissioner shall be notified as soon as practicable when a member is accused of criminal conduct. The Police Commissioner may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Village of Fishkill Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.12 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Police Commissioner through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. The Police Commissioner may accept or modify any classification or recommendation for disciplinary action.

1010.12.1 LIEUTENANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Lieutenant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Lieutenant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Police Commissioner, the Lieutenant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Police Commissioner, the Lieutenant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.12.2 POLICE COMMISSIONER RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Police Commissioner shall review the recommendation and all accompanying materials. The Police Commissioner may modify any recommendation and/or may return the file to the Lieutenant for further investigation or action.

Once the Police Commissioner is satisfied that no further investigation or action is required by staff, the Police Commissioner shall determine the amount of discipline, if any, that should be

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imposed. In the event disciplinary action is proposed, the Police Commissioner shall provide the employee with a written notice that includes the reasons for the proposed disciplinary action and a copy of the charges (Civil Service Law § 75).

The employee shall be given an opportunity to respond in writing to the Police Commissioner within eight days of receiving the notice. Upon a showing of good cause by the employee, the Police Commissioner may grant a reasonable extension of time for the employee to respond.

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Police Commissioner shall consider all information received in regard to the recommended discipline. The Police Commissioner shall designate a hearing officer, in writing, when there is a recommendation for disciplinary action or termination of an employee. Upon completion of the hearing, the Police Commissioner shall review the record of the hearing and recommendations of the hearing officer and shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Police Commissioner has issued a written decision, the discipline shall become effective.

1010.12.3 POLICE COMMISSIONER RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Police Commissioner shall review the recommendation and all accompanying materials. The Police Commissioner may modify any recommendation and/or may return the file to the Lieutenant for further investigation or action.

Once the Police Commissioner is satisfied that no further investigation or action is required by staff, the Police Commissioner shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Police Commissioner shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Police Commissioner in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Police Commissioner within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Police Commissioner may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Police Commissioner shall consider all information received in regard to the recommended discipline. The Police Commissioner shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Police Commissioner has issued a written decision, the discipline shall become effective.

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1010.12.4 HEARING BY HEARING OFFICER

The hearing shall be conducted by the designated hearing officer as provided in Civil Service Law § 75 or as otherwise provided in the applicable collective bargaining agreement or personnel rules. The hearing officer shall make a record of the proceedings.

The employee, upon request, may be represented by counsel, or by a representative of a recognized or certified employee organization. The employee shall be allowed to summon witnesses on his/her behalf. Judicial rules of evidence do not apply.

The hearing officer shall consider all information received in regard to the recommended discipline and shall forward his/her recommendations to the Police Commissioner.

If the employee is found guilty, a copy of the charges, the employee's written response to the charges, a transcript of the hearing and the determination shall be retained by the Department. A copy shall be filed with the civil service commission having jurisdiction over the employee. A copy shall also be provided to the employee upon request without charge.

1010.12.5 HEARING BY COMMISSIONER

A hearing shall be conducted by the Commissioner as provided by Second Class Cities Law § 137.

The employee has the right to be present at the hearing and represented by counsel. The employee shall be allowed to furnish evidence in his/her defense. The hearing shall be open to the public (Second Class Cities Law § 137).

1010.12.6 HEARING BY TOWN BOARD

A hearing shall be conducted by the Town Board or as prescribed by the rules and regulations of the Town Board as provided in Town Law § 155.

The employee shall be entitled to five days' notice of the hearing and have an opportunity to be heard in his/her defense. The employee has the right to a public hearing and to be represented by counsel (Town Law § 155).

1010.12.7 HEARING BY BOARD OF TRUSTEES OR MUNICIPAL BOARD

A hearing shall be conducted as prescribed by the rules and regulations of the Board of Trustees or Municipal Board as provided in Village Law § 8-804.

The employee shall be entitled to five days' notice of the hearing and have an opportunity to be heard in his/her defense. The employee has the right to a public hearing and to be represented by counsel (Village Law § 8-804).

1010.12.8 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Police Commissioner or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.13 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Police Commissioner after having had an opportunity

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to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Police Commissioner to consider.
- (d) In the event that the Police Commissioner elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Police Commissioner on the limited issues of information raised in any subsequent materials.

1010.14 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.15 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

1010.16 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, suspension without pay, withholding of pay or termination from employment. The employee has the right to appeal using the procedures established by Second Class Cities Law § 138, collective bargaining agreement and/or personnel rules.

1010.17 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, withholding of salary, extra hours, suspension without pay or termination of employment. The employee has the right to appeal using the procedures established by Town Law § 155.

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1010.18 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, withholding of salary, suspension without pay or termination of employment. The employee has the right to appeal using the procedures established by Village Law § 8-806.

1010.19 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Police Commissioner or the authorized designee.

In cases where an individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate, the probationary period may be extended at the discretion of the Police Commissioner.

1010.20 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

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1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Village of Fishkill Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Village of Fishkill Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

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1010.3.1 COMPLAINT CLASSIFICATIONS

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Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other Village facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Police Commissioner or the authorized designee.

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1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Police Commissioner or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Shift Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Lieutenant or the Police Commissioner, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Supervisor.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor and Police Commissioner are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Office of the Police Commissioner and the Shift Supervisor for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Shift Supervisor, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

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- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW
Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to employees covered by Civil Service Law (Civil Service Law § 75):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Village of Fishkill Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

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- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - 1. The employee shall be informed in advance and in writing of the right to representation.
 - 2. If the employee is unable to find representation within a reasonable time, the interview will proceed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.3 ADMINISTRATIVE INVESTIGATION PROCEDURES OTHER EMPLOYEES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Village of Fishkill Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after

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the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
 - (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
 - (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - (j) All employees shall provide complete and truthful responses to questions posed during interviews.
 - (k) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

1010.6.4 NOTICE OF CHARGES

Any charges brought against an employee shall be in writing and within the time frame prescribed by law (Civil Service Law § 75; Second Class Cities Law § 137; Town Law § 155; Village Law § 8-804).

1010.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

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Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.6 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.6.7 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

1010.6.8 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

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- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay for no more than 30 days (Civil Service Law § 75; Village Law § 8-804).

1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay pending the hearing of charges (Town Law § 155).

1010.10 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Police Commissioner or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

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1010.11 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Police Commissioner shall be notified as soon as practicable when a member is accused of criminal conduct. The Police Commissioner may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Village of Fishkill Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.12 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Police Commissioner through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. The Police Commissioner may accept or modify any classification or recommendation for disciplinary action.

1010.12.1 LIEUTENANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Lieutenant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Lieutenant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Police Commissioner, the Lieutenant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Police Commissioner, the Lieutenant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.12.2 POLICE COMMISSIONER RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Police Commissioner shall review the recommendation and all accompanying materials. The Police Commissioner may modify any recommendation and/or may return the file to the Lieutenant for further investigation or action.

Once the Police Commissioner is satisfied that no further investigation or action is required by staff, the Police Commissioner shall determine the amount of discipline, if any, that should be

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imposed. In the event disciplinary action is proposed, the Police Commissioner shall provide the employee with a written notice that includes the reasons for the proposed disciplinary action and a copy of the charges (Civil Service Law § 75).

The employee shall be given an opportunity to respond in writing to the Police Commissioner within eight days of receiving the notice. Upon a showing of good cause by the employee, the Police Commissioner may grant a reasonable extension of time for the employee to respond.

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Police Commissioner shall consider all information received in regard to the recommended discipline. The Police Commissioner shall designate a hearing officer, in writing, when there is a recommendation for disciplinary action or termination of an employee. Upon completion of the hearing, the Police Commissioner shall review the record of the hearing and recommendations of the hearing officer and shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Police Commissioner has issued a written decision, the discipline shall become effective.

1010.12.3 POLICE COMMISSIONER RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Police Commissioner shall review the recommendation and all accompanying materials. The Police Commissioner may modify any recommendation and/or may return the file to the Lieutenant for further investigation or action.

Once the Police Commissioner is satisfied that no further investigation or action is required by staff, the Police Commissioner shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Police Commissioner shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Police Commissioner in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Police Commissioner within five days of receiving the notice.
 1. Upon a showing of good cause by the member, the Police Commissioner may grant a reasonable extension of time for the member to respond.
 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Police Commissioner shall consider all information received in regard to the recommended discipline. The Police Commissioner shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Police Commissioner has issued a written decision, the discipline shall become effective.

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1010.12.4 HEARING BY HEARING OFFICER

The hearing shall be conducted by the designated hearing officer as provided in Civil Service Law § 75 or as otherwise provided in the applicable collective bargaining agreement or personnel rules. The hearing officer shall make a record of the proceedings.

The employee, upon request, may be represented by counsel, or by a representative of a recognized or certified employee organization. The employee shall be allowed to summon witnesses on his/her behalf. Judicial rules of evidence do not apply.

The hearing officer shall consider all information received in regard to the recommended discipline and shall forward his/her recommendations to the Police Commissioner.

If the employee is found guilty, a copy of the charges, the employee's written response to the charges, a transcript of the hearing and the determination shall be retained by the Department. A copy shall be filed with the civil service commission having jurisdiction over the employee. A copy shall also be provided to the employee upon request without charge.

1010.12.5 HEARING BY COMMISSIONER

A hearing shall be conducted by the Commissioner as provided by Second Class Cities Law § 137.

The employee has the right to be present at the hearing and represented by counsel. The employee shall be allowed to furnish evidence in his/her defense. The hearing shall be open to the public (Second Class Cities Law § 137).

1010.12.6 HEARING BY TOWN BOARD

A hearing shall be conducted by the Town Board or as prescribed by the rules and regulations of the Town Board as provided in Town Law § 155.

The employee shall be entitled to five days' notice of the hearing and have an opportunity to be heard in his/her defense. The employee has the right to a public hearing and to be represented by counsel (Town Law § 155).

1010.12.7 HEARING BY BOARD OF TRUSTEES OR MUNICIPAL BOARD

A hearing shall be conducted as prescribed by the rules and regulations of the Board of Trustees or Municipal Board as provided in Village Law § 8-804.

The employee shall be entitled to five days' notice of the hearing and have an opportunity to be heard in his/her defense. The employee has the right to a public hearing and to be represented by counsel (Village Law § 8-804).

1010.12.8 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Police Commissioner or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1010.13 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Police Commissioner after having had an opportunity

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to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Police Commissioner to consider.
- (d) In the event that the Police Commissioner elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Police Commissioner on the limited issues of information raised in any subsequent materials.

1010.14 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.15 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

1010.16 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, suspension without pay, withholding of pay or termination from employment. The employee has the right to appeal using the procedures established by Second Class Cities Law § 138, collective bargaining agreement and/or personnel rules.

1010.17 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, withholding of salary, extra hours, suspension without pay or termination of employment. The employee has the right to appeal using the procedures established by Town Law § 155.

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1010.18 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a reprimand, withholding of salary, suspension without pay or termination of employment. The employee has the right to appeal using the procedures established by Village Law § 8-806.

1010.19 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Police Commissioner or the authorized designee.

In cases where an individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate, the probationary period may be extended at the discretion of the Police Commissioner.

1010.20 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.