

# GENERAL ORDER No. 01.02



## CODE OF CONDUCT

EFFECTIVE DATE: 05/04/2021

PAGE: 1 OF 25

REEVALUATION: ANNUAL

LAST REVIEW: 2024

DISTRIBUTION: ALL MEMBERS

LAST REVISION: 2024

ISSUING AUTHORITY: WILLIAM M. RICE, CHIEF OF POLICE

### I. PURPOSE:

The purpose of this policy is to set forth the rules of conduct for all department personnel while on and off-duty.

### II. POLICY:

Actions of officers or civilian employees that are inconsistent, incompatible or in conflict with the values established by the Waterlvliet Police Department negatively affect its reputation and that of its officers. This policy establishes the foundation and expectations of conduct, as well as the rules of behavior that all personnel shall follow.

It is the policy of the Waterlvliet Police Department that its members always conduct themselves in a manner that reflects ethical standards consistent with the rules and regulations contained in this policy.

### III. DEFINITIONS:

These definitions shall apply to the use of such terms herein as well as to the use of such terms in all other department contexts, unless a different definition is specifically set forth in another document.

**ACTING:** Serving temporarily in a position to which the employee is not ordinarily assigned, usually in a position of higher authority. All the authorities, responsibilities and duties of the higher position become applicable to the acting employee.

**ADMINISTRATIVE ORDER:** Written order issued by the Chief of Police as a guiding source of reference to procedural matters involving administration of department or city policies.

**APPOINTMENT:** The designation of a person by the appointing authority to any position within the police department.

**ASSIGNMENT:** Any personnel placement made by an established authority.

**AUTHORITY:** Power to require and receive submission; the right to expect obedience. Superiority derived from a status that carries with it the right to command and give final decisions.

**AUTHORITATIVE INSTRUCTION:** Any verbally issued order, electronically, or in written form that governs policy, procedures, rules or regulations.

**CHAIN OF COMMAND:** Ascending or descending order of rank.

**CONFIDENTIAL:** Secret, not to be divulged to unauthorized persons. Members shall consult with their immediate supervisor if unsure as to the category of an intended recipient.

Work-related information received from a member superior in rank shall also be considered confidential. Such information shall not be copied or transmitted in any manner whatsoever to persons other than identified recipients without permission of the originating superior. Use of transmission category *BCC* in department communications is prohibited unless specifically authorized by the Chief of Police.

**CONTROLLED SUBSTANCE:** As defined by the New York State Public Health Law.

**CURRENT DIRECTIVE:** Any authoritative instruction or order which governs policy, procedures, rules or regulations, whether issued verbally, electronically or in written form.

**DEPARTMENT:** The Watervliet Police Department.

**DISMISSAL:** Separation from employment with the Watervliet Police Department for cause.

**DUTY:** Includes those tasks required by law, authoritative instruction, one's assignment, rank or status.

**EMPLOYEE:** All sworn and non-sworn personnel employed by the Watervliet Police Department.

**ESTABLISHED AUTHORITY:** Legal or rightful power to command or have command over, this includes supervisory and administrative authority.

**GENERAL ORDER:** Written orders issued by the Chief of Police outlining policy or procedure on matters that affect the entire department. A General Order is the most authoritative current directive issued by the Department and may be issued to amend, supersede or cancel any other rule, regulation, or order. General Orders are permanent department policy and remain in effect until amended, superseded, or cancelled by the Chief of Police.

**INCOMPETENCE:** Lack of physical, intellectual, or moral ability. Lack of legal qualifications or fitness.

**IMMEDIATELY:** As soon as possible without unnecessary delay.

**INSUBORDINATION:** The willful disobedience of a lawful order issued by any commanding officer or disrespectful, rebellious, insolent, or abusive language or action toward any commanding officer.

**CRIMINAL INVESTIGATIONS UNIT:** Functions under the authority of the Lieutenant and is comprised of all investigative processes within the police department. Administrative and support functions may also be assigned to this division at the discretion of the Chief of Police.

**LAWFUL ORDER:** Any written or oral directive issued by any commanding officer to any subordinate or group of subordinates during police duty which is not in violation of any law or ordinance or any department rule, procedure or instruction.

**MALFEASANCE:** The doing of an unlawful act in office.

**MEMBER:** Any person duly appointed to the Watervliet Police Department as a sworn police officer as defined in the New York State Criminal Procedure Law. Police recruits are included in this definition.

MISFEASANCE: The wrongful doing of a lawful act in office.

NEGLECT OF DUTY: Failure to give suitable attention to the performance of duty. Failure to take appropriate action regarding a crime, disorder, or other act or condition requiring police attention. Failure to perform required duties.

NONFEASANCE: The omission of an act which should have been done while in office.

OFF DUTY: That period which excludes the assigned work period. The period which an employee would not normally be required to actively engage in the performance of his assigned duties.

OFFICER IN CHARGE (OIC): The member having the highest rank. When members of equal rank are present, the OIC shall be defined as:

- Operations Division, the senior road sergeant or police officer designated by the Chief of Police.
- Criminal investigations, except as specifically addressed to the contrary in a General Order, when two or more officers of the same rank are present and one of them is assigned to the Criminal Investigations Unit, the ranking officer assigned to the Criminal Investigations Unit will be in charge.

ON DUTY: That period when an employee is actively engaged in the performance of his/her assigned duties.

ORDER: An order is a command, a directive (either oral or written) given by one in authority and directed to a subordinate.

ORDER OF RANK: The order of rank is as follows:

1. Chief of Police
2. Lieutenant
3. Sergeant Designated by the Chief of Police
4. Patrol (Road) Sergeant
5. Police Officer

OPERATIONS DIVISION: Functions under the authority of the Lieutenant and is comprised primarily of units who render services in either the uniform of the day or a uniform specifically authorized for a particular function. School Crossing Guards and other civilian members may be assigned to this division at the discretion of the Chief of Police.

PERSONALLY RESPONSIBLE: A duty or responsibility that falls upon an individual himself/herself. The responsibility cannot be conveyed or assigned to another. The failure to accomplish any required task is a failure by the principal and not the intermediary.

PLATOON: An eight (8) hour working period to which members are assigned.

POLICY: Any governing principle, broad plan, or course of action, either oral or written, designed to accomplish the department's goals.

PRIVILEGE: A condition which is not a basic right, but which is granted at the discretion of the department.

**PROCEDURE:** The official method of dealing with any given situation as prescribed by General Orders, Special Orders, Administrative Orders, procedural manuals, training communications, Inter-Office Memorandum, or other directives.

**RANKING OFFICER:** Any member who is higher in rank than any other member with whom he may be working.

**RELIEF FROM DUTY:** An administrative action whereby a subordinate officer is temporarily relieved from performing the duties of his/her position, remains on the payroll and retains his/her identification card, badge and issued duty weapon, unless otherwise directed by a superior officer.

**REPORT:** A written communication unless otherwise specified.

**RIGHT:** A condition specifically outlined by law, administrative directive, or contractual agreement.

**RULES AND REGULATIONS:** The terms “rules and regulations” as used herein are interchangeable since both indicate basic internal department directives. They refer to broad precepts of authority, responsibility, or conduct. They carry the full effect of a direct order from the Chief of Police and remain until cancelled, amended, or superseded by a direct written order of the Chief of Police.

**SECTION:** A subdivision of a division.

**SHALL/WILL:** The words “shall” and “will” as used herein shall indicate that action specified is mandatory.

**SHOULD:** The action indicated is recommended or preferred.

**SICK LEAVE:** That period during which an employee is excused from duty for illness or injury under the applicable provisions of current General Orders or prevailing union contract.

**SPECIAL ORDER:** A written directive issued by established authority outlining instructions covering specific situations.

**SUPERVISOR:** Any person designated to act in a supervisory capacity, whether permanent or “acting” in a temporary appointment.

**SUSPENSION:** An administrative action whereby a subordinate officer is denied the privilege of performing his/her duties and is relieved of his/her identification card, badge, and duty weapon.

**THROUGH OFFICIAL CHANNELS:** In descending or ascending order of rank (Chain of Command).

**ZONE:** A geographical subdivision of the city delineated for the purpose of assignment and/or record keeping.

## SECTION II

### **I. ORDERS AND DISCIPLINE**

#### **1.1 OBEDIENCE TO LAWS, ORDINANCES AND RULES:**

- a. No member or employee shall violate or attempt to violate a law of the United States of America, or of this state, or any of the laws, local laws or ordinances of the jurisdiction in which he may be present, or violate or attempt to violate any authoritative instruction, current directive, rule or regulation, policy or procedure, general or special order, or any other lawful order.
- b. Employees shall not knowingly aid, abet, or assist another person in the violation of any of the above.
- c. To constitute a violation of this rule it is not necessary that a complaint be filed with the department or a criminal court, but only that the facts exist which would constitute such a violation.
- d. A conviction for violation of any law or ordinance shall automatically constitute a violation of this rule.

#### **1.2 FAMILIARITY WITH LAWS, ORDINANCES AND RULES:**

Employees are responsible for knowing and adhering to the Rules and Regulations, orders, current directives, procedures and policies of the department, City Ordinances, and State and Federal Laws affecting their duties.

##### **a. Returning from Absence:**

Employees returning from absence shall acquaint themselves with all directives or amendments of the department that have been issued in their absence.

##### **b. Unfamiliarity no Defense:**

Unfamiliarity with or ignorance of laws, ordinances, rules and regulations, current directives, procedures, policies, or General Orders shall not constitute a defense.

#### **1.3 OBEDIENCE TO ORDERS:**

- a. Employees shall comply with all lawful orders. The failure or deliberate refusal of any member or employee to obey a lawful order given by a supervisor is insubordination.

NOTE: Any order, which may appear to conflict with current policy or labor agreements must be obeyed. The employee may respectfully inform the supervisor issuing the order of the conflict. If the supervisor does not alter or retract the order, it shall be obeyed.

- b. When officially assigned outside of the geographic limits of the City of Watervliet, employees shall carry out lawful orders and directives as may be given them by established authority.

#### **1.4 ISSUANCE OF ORDERS:**

- a. Orders should be in clear understandable language, civil in tongue and issued in the pursuit of department business in accordance with all legal requirements.
- b. No member or employee shall knowingly issue any order which is in violation of any law, ordinance, or departmental standard. No member or employee shall be required to obey any order which is in violation of any law, ordinance, or departmental standard. Obedience to an unlawful order is never a defense. The duty to refuse to obey any such order rests with the member or employee who will be required to justify his or her action.
- b. Members or employees given orders which they feel to be lawful but unjust or contrary to sound policy or procedure must first obey the order to the best of their ability. Thereafter, they may proceed to appeal the order by reporting in writing to the Chief of Police through channels. The report shall contain the facts of the incident and the action taken. Appeals for relief from such orders may be made at the same time.
- c. At every level within this department, personnel must be given the authority to make decisions necessary for the effective execution of their responsibilities.
- d. Each departmental employee will be held accountable for the use of, or failure to use, delegated authority. Any employee who has any questions concerning his delegated authority should bring such questions to the attention of his supervisor for prompt clarification. Questions that cannot be resolved at this level will be referred to the next level of authority. The Chief of Police may refer legal questions to the Corporation Counsel's Office.

#### **1.5 CONFLICT OF ORDERS:**

- a. Employees who are given any instruction or order which conflicts with any previously received instruction or order shall call this fact to the attention of the person issuing the second order. If so directed, the latter order shall be obeyed. The supervisor issuing the countermanding instructions or order shall be held responsible for that action.
- b. Any order issued by a supervisor and conveyed by a subordinate to another subordinate shall have the same force and effect as though it was issued directly. The intermediary conveying the order shall inform the other from whom the authority came.

#### **1.6 INSUBORDINATION:**

Employees shall not be insubordinate.

## **II. PERFORMANCE OF AND ATTENTION TO DUTY**

#### **2.1 GENERAL DUTIES:**

- a. Members shall protect life and property, preserve the peace, prevent violations of the law, detect and arrest violators of the law and enforce those laws of the United States, the State of New York and the local laws and ordinances of the City of Watervliet over which the department has jurisdiction.
- b. Employees shall perform their duties in a competent manner.

- c. Personnel shall not engage in any activity or personal business which would cause them to be inattentive or neglect to duty.
- d. Members are always subject to duty although periodically relieved of its routine performance. They shall respond to the lawful orders of supervisors and command officers and that of any duly authorized agent of that superior, regardless of rank. They shall respond without delay to citizens' requests for police assistance. The administrative delegation of the enforcement of certain laws and ordinances to units of the department does not relieve any member from the responsibility of taking prompt action within the scope of such laws and ordinances when the occasion requires.
- e. Members assigned to special duties are not relieved from taking proper police action outside the scope of their specialized assignment, particularly when a person's physical well being is in jeopardy from criminal or accidental means. This mandate applies to members whether on duty or off duty.

## **2.2 IDENTIFICATION:**

- a. Officers shall verbally furnish their name and badge number in a respectful manner to any person requesting such information when they are on duty or presenting themselves as police officers. Exceptions may be made for persons on special duties and assignments (e.g., undercover assignments) with permission of their supervisor.
- b. Non-sworn employees shall verbally furnish their names in a respectful manner to any person requesting such information when they are on duty or presenting themselves as City of Watervliet or Watervliet Police Department employees.
- c. Members shall verbally identify themselves by their name and rank when answering a department telephone.
- d. Sworn personnel shall carry their badges and official department photo identification while on-duty, except when impractical or dangerous to their safety or to an investigation. Non-sworn personnel, interns, and volunteers shall be issued and carry their official department photo identification at all times when performing department duties.

## **2.3 RESPOND WHEN DIRECTED:**

Employees shall respond to their duties as directed by established authority.

## **2.4 REPORTING FOR DUTY:**

- a. Diligence of police effort is the responsibility of all members and employees. While on duty, all members and employees shall continuously maintain effort in the prevention of crime, enforcement of law and service to the public. Members and employees shall not purposefully remove themselves from immediate service, secrete themselves from public view for personal or non-police related activities, or conduct personal business while on duty. Through proper conduct and appearance, all members and employees shall always present a professional image.

- b. Employees shall report for duty on routine assignment, upon notification, or callback. Employees shall present themselves for duty at the time and place specified by established authority and in the manner established by current directives. Daily schedules, personnel orders and notices to report have the force and effect of orders.
- c. Every member or employee who fails to report for duty at the time and place specified without the consent of proper authority is absent without leave and not entitled to regular compensation for each hour or part thereof of such absence. All such absences must be reported to the Chief of Police in writing before the completion of the regular tour of duty.
- d. Members of the Department shall be punctual in attending roll calls, reporting to assignments and other scheduled appearances. Members shall not leave their post or assignment unless authorized by competent authority.
- e. Judicial subpoenas, hearing notices, court notices, or any other notification at the direction of the Chief of Police or their designee, shall constitute as an order to report for duty under this section.

**2.5 ABSENCE FROM DUTY:**

- a. Employees shall not be absent from duty or place of duty assignment without permission from their supervisor.
- b. Employees shall not feign illness or injury or falsely report themselves ill or injured (sick leave), or otherwise deceive or attempt to deceive any official of the department as to the condition of their health.

**2.6 COOPERATION/COORDINATION:**

- a. Employees shall coordinate their efforts with other employees of the department, other city employees and other agency representatives so that teamwork may ensure maximum achievement and continuity of purpose in attaining the objectives of the department. All employees are charged with the responsibility of fostering and maintaining a high degree of cooperation.
- b. Effective law enforcement depends upon the highest degree of cooperation between and among members and employees of the department. Each member and each employee are charged with the duty to establish and to maintain a sound, cooperative working relationship with all other members and employees.
- c. The willful failure or refusal of a member or employee to take appropriate action toward aiding a fellow officer or employee exposed to danger or in a situation where danger might occur represents gross misconduct.
- d. Each member or employee shall treat all other members or employees with respect. They shall always be civil and courteous in their relationships with one another. When on duty, and particularly in the presence of others, members and employees shall be addressed by rank or title.



**2.7 SEEKING INFORMATION REGARDING DUTIES:**

Employees who are in doubt as to the nature or detail of their assignment shall immediately seek clarification from their supervisor.

**2.8 INSPECTING AREA(S) OF ASSIGNMENT:**

Employees will inspect their areas of assignment as soon as possible after beginning their tour of duty and as often as possible during their tour of duty. Members will report any condition requiring police attention or any other city department or agency.

**2.9 LEAVING AREA OF ASSIGNMENT:**

- a. Employees shall not leave their area of assignment unless:
  - 1. On assignment from dispatcher
  - 2. Authorized by a supervisor
  - 3. An incident outside their immediate area requires police attention
  - 4. In close pursuit of a violator of the law
  
- b. Employees shall not travel beyond city limits unless:
  - 1. On assignment from the dispatcher
  - 2. In close pursuit of a violator of the law, AND
  - 3. A supervisor is notified and authorizes such pursuit

**2.10 ATTITUDE AND IMPARTIALITY:**

Employees must exhibit and maintain an impartial attitude toward complainants, violators, witnesses, suspects, or any other persons.

**2.11 ASSISTANCE TO FELLOW EMPLOYEES:**

Employees, whether on or off duty, shall assist and protect their fellow employees in the performance of their duties.

**2.12 ASSISTANCE TO CITIZENS:**

When any person applies for assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information shall be obtained in an official and courteous manner and shall be judiciously acted upon, consistent with established departmental procedures.

**2.13 MEDICAL ATTENTION FOR ILL PERSONS:**

Employees shall ensure that any injured or ill person is given the opportunity for medical attention.

**2.14 ARREST SEARCH AND SEIZURE:**

- a. Members shall make arrests, search persons and places, recover and process property and evidence in full compliance and conformity with all laws and department procedures. Members shall not make any arrest, search, or seizure that they know or should know is not in accordance with the law or departmental guidelines.
- b. Every Watervliet Police Officer must comply with all constitutional requirements during criminal investigations.

**2.15 INVESTIGATIONS:**

- a. Employees shall not undertake any investigation or other official action, which is not a part of their regular duties, without obtaining permission from their supervisor, unless exigent circumstances require immediate action. An employee taking such action must notify his supervisor as soon as possible after the incident.
- b. Employees shall not initiate an investigation into a complaint involving any current or former family member, in-law, close personal friend, business associate, or any other person or entity that presents a potential conflict of interest without first obtaining the permission of a superior, absent exigent circumstances. If such exigencies are present, then a superior shall be notified as soon as practical. The responsibility for assigning a neutral officer to the incident or event rests with the superior to whom the incident was first reported. Superiors shall make every effort to assign a neutral officer to the incident or event representing a potential conflict of interest.
- c. Members are prohibited from involvement in or influencing in any manner whatsoever the continuing investigation involving any of the parties previously defined.

**2.16 CONCEALMENT:**

Employees shall not conceal themselves while on duty except for police purposes.

**2.17 PERFORMANCE OF DUTIES:**

- a. Employees shall not:
  - 1. Neglect their duty.
  - 2. Commit an act of misfeasance.
  - 3. Commit an act of malfeasance.
- b. Nonfeasance is prohibited.
- c. Personnel receiving requests for assistance from the public shall obtain all essential information available to determine the proper assignment or referral required to meet the citizens' needs. Under no circumstances will any member or employee deny or delay the delivery of proper department response except when matters of greater urgency require such. Personnel shall not require the citizen to provide personal identification unless such information is essential to the delivery of police service.

- d. Personnel receiving information that indicates the necessity for police action shall make an immediate written record of such information. Such information shall be transmitted to the appropriate office or unit without delay.

**2.18 UNSATISFACTORY PERFORMANCE:**

- a. Unsatisfactory performance may be demonstrated by a lack of knowledge, unwillingness, inability, or failure to perform assigned tasks, or failure to take appropriate action. Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.
- b. Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.
- c. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the department.
- d. In addition to other indicators of unsatisfactory performance, the following shall be considered prima facie evidence of unsatisfactory performance:
  - 1. Repeated poor evaluations; or
  - 2. A written record or counseling of repeated infractions of rules, regulations, directives, or orders of the department.

**III. USE OF OFFICIAL POSITION**

**3.1 ETHICAL STANDARDS:**

- a. No city of Watervliet police officer or civilian employee shall have any employment, or engage in any business or commercial transaction, engage in any professional activity, or incur any obligation as a result of which, directly or indirectly, he would have an interest that would impair his/her independence of judgment or action in the performance of his/her official duties or that would be in conflict with the performance of his/her official duties.
- b. No city of Watervliet police officer or civilian employee shall have or enter any contract with any person who has or enters a contract with the city unless:
  - 1. The contract between the person and the city is awarded pursuant to the competitive bidding procedures of the General Municipal Law; or
  - 2. The contract between the person and the city is one with respect to which the city officer or employee:
    - (i) has no interest.
    - (ii) has no duties or responsibilities, or, if the contract with the person is one in which the Watervliet Police Officer or employee entered prior to becoming a police officer or employee, he abstains from any performance of duties or responsibilities; and

(iii) exercises or attempts to exercise no influence.

- e. No city of Watervliet police officer or civilian employee shall discuss, vote on, decide, or take part in, formally or informally, any matter proposed or pending before any agency or other city police officer or employee in which he/she has an interest. This provision shall not apply to any city police officer or employee whose interest in the proposed or pending matter is minimal, provided that these procedures are strictly followed:
  - 1. The city of Watervliet police officer or civilian employee shall specifically describe and disclose his/her interest and its underlying basis, if any, in writing to the Chief of Police in advance of his/her participation in the matter.
  - 2. If the city of Watervliet police officer or civilian employee, or Chief of Police thinks that the disclosure reasonably raises a question whether the interest is minimal, the question shall be submitted to Corporation Counsel for an opinion. The police officer or employee shall not participate in the matter until an opinion is rendered by Corporation Counsel.
- f. No city of Watervliet police officer or civilian employee, acting in the performance of his/her official duties, shall treat, whether by action or omission to act, any person more favorably than is the custom and practice to treat the public.
- g. No city of Watervliet police officer or civilian employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself/herself or any other person.
- h. No city of Watervliet police officer or civilian employee shall solicit any gift, nor shall any city officer or employee accept or receive any gift having a value of \$25.00 or more, regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before any city agency. The provisions of this subsection shall not apply to any contributions solicited or received in accordance with the Election Law of the State of New York.
- i. No city of Watervliet police officer or civilian employee shall disclose without proper authorization non-public information or records concerning any aspect of the government of the city, nor shall he/she use such information to the advantage or benefit of himself or any other person.
- j. No city of Watervliet police officer or civilian employee privy to non-public information regarding the allocation of city funds or having direct influence or control over the allocation of city funds shall be a director, officer or trustee of any organization which receives, from or through the city, funds that constitute ten percent (10%) or more of the organization's annual operating and capital budget, except where appointment to such position is approved by a duly adopted resolution of the City Council.
- k. No city of Watervliet police officer or civilian employee shall own, in person or through an agent or broker, or be in the principal in any corporation, partnership or other business entity which owns any real property in the City of Watervliet that is in violation of City or State laws or regulations. Property shall be deemed to be in violation when a reasonable and proper notice and order to correct violations duly issued has not been obeyed in a timely manner.

- l. No city of Watervliet police officer or civilian employee compensated by the city for his/her service shall represent any person in any action or proceeding, whether judicial or administrative, to which the city is a party, or before any city agency or other city officer or employee. This provision shall not apply to the Corporation Counsel when representing persons within the scope of his/her official duties.
- m. No city of Watervliet police officer or civilian employee who serves the city without compensation shall represent any person before the agency he serves, or before any other city officer or employee who regularly serves the agency he serves, or before any other agency on matters directly involving the agency he serves.
- n. No former city of Watervliet police officer or civilian employee shall at any time after he leaves the agency he served represent a person before any agency on a specific matter with which he was directly involved or of which he has special knowledge, if the representation would be adverse to the position of the city on the matter. Corporation Counsel may seek an injunction to enforce the provisions of this subdivision.
- o. Members shall not have any interest, either directly or indirectly, in the manufacture or sale of alcoholic beverages or to offer for sale, or recommend to any licensee, any alcoholic beverage. Additionally, no member shall be employed in any retail licensed establishment where the consumption of alcoholic beverages is permitted on premise except when authorized by the State Liquor Authority and the Chief of Police. NOTE: employment in a licensed establishment for off premise consumption (deli, etc.) is not prohibited under this procedure.
- p. Members of the department shall not hold, directly or indirectly, any proprietary interest, stock, office, or employment with any firm, association, or corporation which is licensed by the Wagering and Breeding Board to conduct pari-mutual racing, conducts its occupation, trade or business at racetracks at which pari-mutual race meets are conducted, owns or leases to any enfranchised or licensed association or corporation a racetrack at which pari-mutual racing is conducted, participates in the management of any franchised holder or licensee conducting pari-mutual racing.
- q. Members are restricted in accordance with provisions of the Public Officers Law, Article 4 and the General Municipal Law, Article 18. These sections impose restrictions on officers relative to the following:
  1. Officers are forbidden to disclose any confidential information learned in the course of their employment.
  2. Officers, due to a conflict of interest, are restricted relating to services they may provide to the employing government.
  3. These sections of law also impose several affirmative duties:
    - Officers must disclose any interest in any contract the City of Watervliet may enter.
    - Officers must disclose any interest in any real property for which a variance is made.
    - Effective 01/01/1991, annual filing of financial disclosure forms is required of certain employees.

NOTE: It is the responsibility of the individual officer to become familiar with sections of these laws that may apply to their specific circumstances if conflicts of interest develop.

**3.2 CONDUCTING PRIVATE BUSINESS OR ASSOCIATION ON DUTY:**

Employees shall not utilize their on-duty time to the pursuit of any private business, private enterprise or personal association.

**3.3 USE OF BADGE OR POSITION FOR PERSONAL GAIN:**

Employees shall not use or attempt to use their official position, badge, or credentials for any personal gain.

**3.4 PREFERMENT:**

Employees shall not seek or accept the influence or intervention of any person outside the department for the purpose of personal preferment, assignment, promotion, transfer, or advancement. This shall not preclude the submission of written requests for assignments in accordance with current directives.

**3.5 SALE OF TICKETS OR DONATIONS:**

Employees shall not engage or authorize any others to engage in, on their behalf, the sale of tickets nor the solicitation of any form of donation or contribution in a manner which indicates or implies any connection with the department without the written permission of the Chief of Police. (This rule shall not apply to activity which is performed strictly among department employees). When such written permission is granted, employees shall not sell nor solicit, in any manner, which implies that a special treatment will be received from the police department.

**3.6 GIFTS, GRATUITIES, REWARDS:**

- a. Employees shall not, under any circumstances, solicit or accept gifts, gratuities, loans, or fees when there is any direct or indirect connection between the solicitations or acceptance and their departmental employment or when such connection would reasonably be inferred.
- b. Employees shall not accept any reward offered because of any services rendered in the line of duty without first obtaining the permission of the Chief of Police.
- c. Employees shall report in writing to the Chief of Police any offer, or attempt to offer, a gift, loan, fee, or gratuity in violation of this section.

**3.7 RECOMMENDING ATTORNEYS:**

Employees shall not solicit, suggest, recommend, advise, or counsel the engagement or retention of any specific attorney, legal firm, bail bondsman, company or of another person or firm for any person because of police business. This prohibition shall not apply to employees making such recommendation to their relatives.

**3.8 GIVING SURETY FOR PERSONS IN CUSTODY (BAIL):**

Employees shall not offer or give surety for any person in custody except with the permission of the Chief of Police. This prohibition shall not apply to employees giving surety for their relatives.

**3.9 WITHDRAWING CHARGES:**

Employees shall not (except as provided by the Criminal Procedure Law and current directives):

- Withdraw arrest charges once filed or solicit their withdrawal without approval of the Chief of Police; or
- Traffic charges shall not be voided unless approved by the Office of the Chief.

**3.10 COMMUNICATING INFORMATION TO AID EVASION:**

Employees shall not communicate any information, which may enable persons to evade arrest and punishment or enable them to dispose of or secrete any evidence or contraband.

**3.11 CIVIL CASES:**

Employees shall not use the powers of their office to render assistance in the pursuit of matters which are strictly private or civil in nature except in those matters where they are required by law to exercise their powers or where a breach of the peace has occurred or is imminent.

**3.12 IMMUNITY FROM PROSECUTION:**

No member is authorized to offer or to grant any person immunity from criminal prosecution without the prior written authorization of the Chief of Police, his/her designee, or prosecuting attorney with jurisdiction over the matter.

**IV. GENERAL CONDUCT**

**4.1 CONDUCT:**

- a. Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the department.
- b. Employees shall not engage in conduct on or off-duty which adversely affects the efficiency of the department or engage in conduct on or off-duty which has a tendency to impair public respect for the employee and/or the department and/or impair confidence in the operation of the department.

**4.2 COURTESY:**

- a. Employees shall be courteous, civil, and tactful in the performance of their duties.
- b. Employees shall not express or otherwise manifest any prejudice concerning age, marital status, handicap, disability, race, creed, color, religion, national or ethnic origin, sex, sexual preference or other personal characteristics.

- c. Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or person.

**4.3 PERSONAL ASSOCIATIONS:**

- a. Employees shall not consort or knowingly associate with persons generally known to have a reputation of criminal conduct or association or frequent places where they are known to congregate, except in the performance of their assigned duties and in accordance with current directives. Employee questions relative to associations will be resolved by the Chief of Police.
- b. Employees shall not knowingly associate with any person or organization which advocates hatred, prejudice, or oppression of any racial, ethnic, or religious group, or which disseminates defamatory material.

**4.4 FREQUENTING UNLAWFUL ESTABLISHMENTS:**

Employees shall not knowingly enter or remain in any premise wherein the laws of the United States, New York State or the local jurisdiction are violated.

**4.5 TRUTHFULNESS:**

Employees are required to be truthful in speech and writing whether or not under oath.

**4.6 DIVULGING POLICE INFORMATION:**

Employees shall not divulge police information to which they have access, or which may come to their attention, nor shall they make available any information contained in police records, radio communications, photographs, computers, teletypes, electronic mail, or other files of information in any form whatsoever to anyone except as provided by law or approved by established authority.

For purposes of this section, all department information is to be considered confidential unless otherwise provided by current directives or directed by a supervisor. This section does not apply to information that is of such a nature that they must be communicated to others.

**4.7 SPEECHES, STATEMENTS ETC.:**

- a. Employees shall not, in matters relative to the department, address public gatherings, appear on radio or television, prepare any articles for publication, lecture on police related subjects, or act as correspondents to a newspaper or a periodical, except as authorized by current directives or the Chief of Police.
- b. Employees shall not publicly criticize or ridicule the department, its policies, or other employees by speech, writing, or other expressions which are defamatory, false, obscene, unlawful, or which undermine the effectiveness of the department or interfere with the maintenance of discipline.



**4.8 MEMBERSHIP AND ORGANIZATIONS:**

- a. Employees shall not join or be a member of any organization or society whose object or purpose, either directly or indirectly, would adversely affect the discipline or conduct of the employee.
- b. Employees shall not knowingly relate to or be a member of any subversive organization except in the line of duty and with the knowledge and consent of the Chief of Police.

**4.9 POLITICAL ACTIVITY:**

Members shall not:

- a. Use or threaten or attempt to use their power of authority in any manner directly or indirectly, in aid of or against any political party, organization, association, or society or control, affect, influence, reward, or punish the political adherence, affiliation, action, expression, or opinion of any citizen.
- b. Appoint, promote, transfer, retire or punish an officer or member of the department or ask for or aid in the promotion, transfer, retirement, or punishment of an officer or member of the department because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of a committee, or representative, official, or otherwise of any political party, organization, association, or society.
- c. Solicit, collect, or receive any money for any political fund, club association, society, or committee.

**4.10 SEEKING/ACCEPTING COMPENSATION FOR DAMAGES:**

Employees shall not seek, claim, litigate, or solicit, nor shall they accept from any person or agency any money or other compensation for damages or expenses incurred by them in the line of duty without prior written consent of the Chief of Police.

**4.11 DEBTS:**

Employees shall pay all debts and satisfy legal liabilities incurred by them.

**4.12 EXPENDITURES OF DEPARTMENT FUNDS:**

Employees shall not spend any monies or incur any financial obligations in the name of the department without prior knowledge and permission of the Chief of Police.

#### **4.13 CORRESPONDENCE, LETTERHEADS, REPRESENTATIONS, POSTAGE:**

- a. All official correspondence leaving the department shall be issued only with the signature of the Chief of Police or as authorized by the Chief of Police.
- b. The department letterhead, uniform patch, badge, uniform clothing, or replication of such or similar items, that indicate the authorization or affiliation of the police department shall not be used for correspondence or activities without written permission of the Chief of Police.
- c. Department postage and envelopes shall not be used for personal purposes.

#### **4.14 PERSONAL CARDS:**

Employees shall not possess or use business cards bearing departmental affiliation and/or rank except as authorized by the Chief of Police and then only in the furtherance of official business.

#### **4.15 DEPARTMENT PROPERTY AND EQUIPMENT:**

Employees shall be held responsible for the proper care and use of property and equipment assigned to or used by them. When obtaining any equipment and again upon its return it is the employee's responsibility to inspect the equipment.

Upon discovery, employees shall immediately report in writing all damage to vehicles and equipment. Such report shall contain all known facts surrounding the cause and nature of the damage.

#### **4.16 DEPARTMENT FACILITIES AND PROPERTY:**

- a. Employees may be assigned department-owned or controlled facilities or property (including but not limited to offices, vehicles, lockers, desks, cabinets, equipment and cases) for the mutual convenience of both the department and employees. Such facilities or property and the contents therein (including any personally owned property) shall be subject to inspection without notice upon the direction of the Chief of Police, even if an employee has placed a personal lock on the facilities or property.
- b. The retention of personal items such as briefcases, purses, etc. in such facilities or property shall be at the risk of the employee. The department shall not be liable for any losses.
- c. Members and employees shall report, in writing, to their immediate supervisor any condition of any facility or equipment, which represents either a hazard to the safety of any person or an apparent need for repair, maintenance, or replacement. Any supervisor receiving such report shall take immediate steps to bring the need for remedial action to the attention of the Chief of Police or their designee and proper corrective action shall be taken or ordered without delay.
- d. Members and employees shall not mark or deface any surface in any public building. No material may be affixed in any way to any wall in any department facility without the specific permission from a commanding officer and then only in a place designated by the officer approving such request.

- e. Members and employees shall not mark, alter, or deface any posted notice of the department. Notices or announcements shall be posted on bulletin boards only with the permission of a commanding officer or of the association responsible for a particular bulletin board. Notices which are derogatory in any way towards any person are prohibited.
- f. Members and employees are responsible for the proper use and care of city property and equipment assigned to them.
- g. Members and employees are required to surrender firearms, badges, shields, equipment, manuals, identification documents and any other materials issued to them by the city when ordered to do so by the Chief of Police or his designee. Regular or final compensation shall be withheld pending receipt of such city property.
- h. Every member who has been issued a departmental firearm shall carry such firearm while on duty unless otherwise authorized by the Chief of Police. Members are not required to carry a firearm when not on duty, but they may do so at their discretion.
- i. Members shall comply with all existing laws regulating the registration and licensing of any firearms which they own or possess.
- j. Each member shall maintain in good order a regulation uniform of his or her rank. Non-uniform clothing items shall not be worn with the regulation uniform while the member is on duty. Uniform items may be worn only while the member is on duty or when traveling to or from work. No unauthorized uniform wear will be permitted.
- k. Extra badges and/or cap shields may be purchased by members only with written authorization of the Chief of Police. Every member shall wear or carry the badge issued to him or to her while on duty. The badge shall always be worn on the outer uniform garment while on duty, except for personnel assigned to non-uniformed duties. No member shall wear or display the badge of another except in an emergency.
- l. Members and employees shall refrain from using department telephones for personal business.
- m. No member or employee shall sleep or otherwise engage in such activities as to deprive the public of his/her immediate availability for service during duty hours.
- n. Every member and those employees authorized to operate city-owned motor vehicles shall possess a current, valid license to operate such motor vehicles as required by New York State Department of Motor Vehicles.
- o. Members of the department who take any police action at any place, whether such members are on duty or off duty, shall notify the on-duty supervisor of all the facts as soon as practical.
- p. The attire of non-uniformed members and employees shall conform to standards normally worn by office personnel in private business, unless otherwise directed. As representatives of the city, personnel are required to attire themselves in a manner consistent with their duties and their status.

- q. Uniforms shall be kept neat, clean and well pressed at all times. While wearing the uniform, members shall maintain a military bearing.
- r. Members shall wear the regulation duty uniform except when the on-duty supervisor prescribes other clothing as required by a particular assignment.

**4.17 USE OF ALCOHOLIC BEVERAGES:**

- a. Employees shall report for duty in a rested and detoxified condition. Employees who appear for duty under the influence of alcohol or drugs shall be relieved of duty immediately.
- b. Employees shall not drink, possess, or purchase any alcoholic beverage while on duty, except in the performance of their official duty.
- c. Employees who are off duty in uniform or in any recognizable part of their uniform shall not drink alcoholic beverages in public view.
- d. Employees shall not appear for duty, or be on duty, while under the influence of intoxicants or with the odor of intoxicants on their breath.
- e. While off-duty, personnel shall refrain from consuming intoxicating beverages to the extent that it discredits them or the department or renders the employee unfit to report for duty for their next regular tour of duty.

**4.18 GAMBLING:**

Employees shall not engage or participate in any form of illegal gambling except in the performance of duty and acting under proper and specific orders.

**4.19 USE OF TOBACCO:**

Employees shall not chew or smoke tobacco or use any electronic device that simulates tobacco smoking (e-cigarette or “vaping”) in such a manner as to adversely affect the professional image of the department. They shall not use tobacco in any form while in direct contact with the public, in a department vehicle, while engaged in traffic direction, or where use of tobacco is in violation of the law.

**4.20 CONTROLLED SUBSTANCES:**

- a. Employees shall not possess or use any non-prescribed controlled substance except for that possession occurring in the line of official duty.
- b. Employees who are using prescribed controlled substances under the direction of a physician shall not abuse said controlled substances. The employee is responsible to discuss his job duties with the physician prescribing the medication to determine if it will adversely affect his/her work performance. If it may have an adverse effect, the employee shall report the use of the drug to his supervisor.

- c. No member of the department shall initiate any investigation on or off duty relative to trafficking controlled substances without permission of his/her supervisor or the Criminal Investigations Unit supervisor.

**4.21 APPLICATION FOR PISTOL PERMITS:**

Members shall not endorse applications for pistol permits as character references, except that members may act as character references for other members of this or other law enforcement agencies if they so choose.

**4.22 HARASSMENT:**

Harassment due to age, marital status, handicap, disability, race, creed, color, religion, national or ethnic origin, sex, gender, sexual preference or other personal characteristics is prohibited.

**4.23 NOTICES-POSTING/CIRCULATION/DESTRUCTING/DEFACING:**

- a. Employees shall not destroy or deface any official written notice relating to police business.
- b. The posting or circulation of any notices on Watervliet Police Department property without prior approval of the Chief of Police/designee is prohibited.

**4.24 COOPERATION WITH INTERNAL INVESTIGATIONS:**

Employees shall answer questions, respond to lawful orders and render material and relevant statements in an internal investigation when such orders, questions and statements are related to the performance of official duties or fitness for office. Employees shall not interfere with internal investigations by attempting to influence victims, complainants, witnesses, or department members under investigation. Upon the order of the Chief of Police, personnel shall submit financial disclosure statements when such disclosure is necessary to correctly investigate a complaint which is specifically directed and narrowly related to a particular internal investigation being conducted by the department. These statements shall be maintained by the Chief of Police and shall not be available for public disclosure.

**4.25 FULL HONORS FOR COLORS AND ANTHEM:**

Uniformed members shall render full honors to the national colors and anthem at appropriate times. Members and employees in civilian attire shall render proper civilian honors to the national colors and anthem.

**4.26 USE OF WEAPONS:**

Members shall not use or handle weapons in a careless or imprudent manner. Use of weapons shall be in accordance with applicable law(s) and/or established policy/guidelines.

#### **4.27 OPERATION OF DEPARTMENT VEHICLES:**

- a. Employees shall operate department vehicles in a careful and prudent manner, and shall obey all laws and all department orders pertaining to such operations
- b. Absent an emergency, personnel shall not leave a department vehicle's engine running, without first stopping the engine, locking the ignition, removing the key from the vehicle, an effectively setting the brake.
- c. Employees shall not permit any person not on official business to ride in a department vehicle unless specifically authorized by the on-duty supervisor.

### **V. REPORTING**

#### **5.1 ALTERING, DELAYING, OR FALSIFYING REPORTS:**

- a. Employees shall not steal, alter, delay, falsify, tamper with, withdraw, or request that any other person do the same to any report, letter, request, or other communication that is being forwarded through the chain of command. The removal of any record, card, report, letter, document, or other official file from the department or the permitting of inspection of the same, except by the process of law or as directed by the Chief of Police or a superior is prohibited. Additionally, the obtaining/duplicating or the attempt to do so of any information from department files, sources, or reports other than that to which one is properly entitled in accordance with one's duties/assignments is prohibited. This shall not apply to the correction of errors.
- b. Employees shall not dissuade any other employee from originating and submitting any lawful or proper report, whether on criminal or disciplinary matters.
- c. Employees shall not falsely make or submit any type of official report or knowingly enter or cause to be entered any inaccurate, false, or improper information on the records of the department.
- d. Members and employees shall not reveal police information outside the department except as provided elsewhere in these General Orders or as required by law. Information contained in arrest records, other information ordinarily accessible only to members and employees and the details of any crime not yet solved as well as the names of informants used by the police are considered confidential under the State Freedom of Information Law. The revelation of such information may be made only by direction of the Chief of Police.
- e. Employees shall submit all necessary reports without unnecessary delay, in accordance with established departmental guidelines.
- f. Property or evidence which has been discovered, gathered, or received in connection with departmental responsibilities shall be processed in accordance with department guidelines. Members shall not use, manufacture, conceal, falsify, destroy, remove, tamper with, or without any property or evidence, except in accordance with established department guidelines.

## **5.2 REPORTING VIOLATIONS:**

Employees shall report in accordance with current directives, all violations of the law, rules and regulations, General Orders, and current directives of the department. All such violations shall be reported in writing to a supervisor in the department.

## **5.3 AUDIO RECORDING:**

- a. Under no circumstances, is any department employee, sworn or non-sworn, to engage in the surreptitious audio recording of a conversation of any employee whether the conversation takes place on or off duty, in the employee's presence or over the telephone, without the specific authorization from the Chief of Police or his/her designee.
- b. In the event an employee advises another employee that he or she plans to record a conversation with that employee (e.g., a request by subordinate to record a counseling session with a superior) and both employees are aware that the audio recording is being made, that recording is permissible and cannot be denied.
- c. A department employee, sworn or non-sworn, shall not participate in the installation of a microphone or any other technical or mechanical device or system for use or capable of being used to intercept telephone messages, or for the purpose of overhearing conversations, without authorization from the Chief of Police or his/her designee.

## **5.4 COURT APPEARANCE:**

- a. Attendance at a court or quasi-judicial hearing as required by subpoena or notice is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent court official. When appearing in court, members shall wear the official uniform of the day or clothing, which conforms to standards imposed upon members working in plainclothes assignments. Weapons will not be displayed unless the member is wearing the official uniform. Members shall present a neat and clean appearance, avoiding any mannerism which might imply disrespect to the court, such as smoking or chewing gum.
- b. Members or employees are always required to be truthful whether under oath or not. The exception to this regulation is when members are engaged in undercover assignments and their safety, or the mission would be endangered by revelation of their actual purpose.
- c. Members or employees shall not testify in civil action cases unless legally subpoenaed. A member or employee subpoenaed in a matter relating to his or her employment shall notify immediately his or her commanding officer and the Corporation Counsel. Members and employees shall not enter any financial understanding for appearance as a witness prior to any trial except in accordance with current directives.

- d. Members or employees shall confer with their supervisor before giving a deposition or affidavit in a civil case. If the supervisor determines that the case is of importance to the city, he or she shall inform the Chief of Police before the deposition or affidavit is given.
- e. Employees that are requested or subpoenaed to testify or give evidence or who intend to testify or give evidence on behalf of the defense in any criminal action shall immediately notify their supervisor of such request, subpoena, or intention to testify prior to testifying.
- f. Employees who are requested or subpoenaed to testify or give evidence against the department or the City of Watervliet in any civil action shall immediately notify their supervisor of such request or subpoena.

#### **5.4 INFORMATION REGARDING CRIME:**

Employees, whether on or off duty, shall communicate promptly to their supervisors, in accordance with current directives, all information on crimes, criminal activity or important events, which may involve the department or its employees of which they have knowledge.

#### **5.5 ACTIONS AGAINST EMPLOYEES:**

- a. Employees shall be personally responsible for reporting immediately to their supervisors any arrests including traffic violations or court actions instituted against them except for divorce proceedings or child support. However, any contempt of court arising from divorce or support proceedings must be reported immediately as required above.
- b. Employees, upon receipt of a notice of claim or lawsuit arising out of their employment with the department, shall note on the document(s) served: the time, date, location, and how and by whom served; and shall immediately forward the original to the Chief of Police. Failure to forward immediately may result in one's own liability for the action.

#### **5.6 REPORTING OF PERSONAL INFORMATION:**

- a. All employees must:
  1. Have an active telephone number on file with the department.
  2. Shall report any changes in the residence address or telephone number within three (3) business days of the effective date of the change. A post office box is not acceptable.
  3. Report any changes to matters which would affect the administration of the department (i.e. change in military orders, change in injury status, etc.)



**VI. RESPONSIBILITIES OF COMMANDING OFFICERS AND SUPERVISORS**

**6.1 COMMAND:**

- a. Supervisors shall ensure that employees under their command perform their duty. Supervisors shall provide efficient, effective, and meaningful direction to subordinates.
- b. Supervisors or acting supervisors, must provide a good example in both conduct and appearance, have a thorough understanding of the rules and procedures of the department, and other applicable laws, and shall assist and instruct subordinates in the proper performance of their duties.
- c. Supervisors who overlook, condone, or fail to act on incompetence or misconduct on the part of their subordinates shall be guilty of neglect of duty.
- d. Supervisors shall treat employees with courtesy and establish an atmosphere of mutual respect.