

VILLAGE OF WALDEN
POLICE DEPARTMENT
ONE MUNICIPAL SQUARE
WALDEN, NEW YORK 12586

Jeffry Holmes
Chief of Police

GENERAL ORDER

NO: 09.06

Issue Date: 12/04/09	Effective Date: 12/28/09	
Revises: 315- 3/21/94, 8/14/2012, 2/01/2016	CALEA: 1.2.2 , 1.3.2, 1.3.3, 1.3.6, 1.3.8, 1.3.9, 1.3.10, 1.3.11,1.3.12	
Subject: Firearms Policy		
Distribution: All Police Officers	STATE: 6.2, 20.4, 20.5, 21.1	
Reevaluation Date: 01/01/2019		Page: 1 of 9
Issuing Authority: Chief Jeffry Holmes		

Purpose:

The purpose of this General Order is to establish a policy for the use of firearms that is within the limits established by Article 35 of the New York State Penal Law, and is consistent with the training given by this department. It is the responsibility of each member of this department to be aware of the requirements of Article 35 and to guide his or her actions based upon the law and department policy on the use of deadly physical force using a firearm.

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of care in an evidentiary sense with the respect to third party claims.

Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

The value of human life is immeasurable in our society. Police Officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders must at all times be subservient to the protection of life. The officer's responsibility for protecting life must include his own.

I. DEFINITIONS:

Definitions of terms in this order are consistent with the definitions as set forth in Article 10 and elsewhere in the New York State Penal Law when applicable.

II. DEPARTMENT APPROVED FIREARMS:

- A. Department issued primary handgun
- B. Secondary (back up) handgun "Acquired by Officer"
- C. Department owned Shotgun
- D. Department owned Tactical Patrol Rifle
- E. Tactical Patrol Rifle "Acquired by Officer"
- F. Hi-Power Tact Rifle

- G. Any other special use, department issued firearm with department issued ammunition
- H. The Chief of Police or his designee will list all ammunition approved for official use including on and off duty ammunition in this policy.

III. DUTY FIREARMS:

- A. All on duty officers shall ONLY be armed with a department approved firearm. Such weapons shall not be altered or modified from factory condition without the approval of the Chief of Police. All authorized firearms are to be kept clean and in good working order.
- B. The primary handgun for on duty officers is the department issued GLOCK 40 S&W handgun and will be loaded ONLY with department issued duty ammunition.
- C. A secondary (back-up) handgun is authorized but not required while on/off duty. The approved secondary handgun will be acquired by the officer. It may only be carried on/off duty after passing a yearly qualification and maintaining the yearly qualification. It will ONLY be loaded with ammunition listed in this policy that is approved by the firearms instructor. Such weapon shall be worn in a secure fashion and kept out of public view. All on/off duty secondary handguns must be approved by the Chief of Police or his designee and follow section VI of this order.
- D. Department owned shotguns will be stored in the department gun locker. They will be stored when not in use on the rack, chamber empty, magazine empty, action closed, safety engaged. Officers may be assigned to take a shotgun by their shift supervisor or they may be taken on a voluntarily basis. All shotguns will be signed out by the Officer before removing them from the gun locker. Shotguns will ONLY be loaded with department issued duty ammunition. Shotgun ammunition will be either rifled slug or OO Buck. Target loads (i.e.: #4 shot, #9 shot, etc.) will be allowed only for the destruction of small animals & rubber ball shotgun ammunition will only be used for use with bears and nuisance animals)
- E. Department owned Tactical Patrol Rifles will be stored in the department gun locker. They will be stored when not in use on the rack, chamber empty, magazine out of the weapon, action closed, trigger depressed. Officers may be assigned to take a Tactical Patrol Rifle on patrol with them by their shift supervisor or they may be taken on a voluntary basis. If the Officer takes a Tactical Patrol Rifle on patrol the Officer shall either put the Tactical Patrol Rifle back in the department gun locker or turn it over to the on-coming Officer at the end of the tour. Tactical Patrol Rifles will ONLY be loaded with department issued duty ammunition.
- F. Officer acquired Tactical Patrol Rifle is authorized but not required while on/off duty. The approved Tactical Patrol Rifle will be acquired by the officer. It may only be carried on/off duty after passing a yearly qualification and maintaining the yearly qualification. It will ONLY be loaded with ammunition issued by the firearms instructor. All on/off duty Tactical Patrol Rifles must be approved by the Chief of Police or his designee and follow section VIII of this order.
- G. All firearms used under the capacity of this department are subject to inspection at any time and will be inspected by a Certified Firearms Instructor or Armorer prior to carrying.
- H. Failure to properly maintain an assigned firearm may result in disciplinary action.
- I. Damage or mechanical failure of any kind to a department owned firearm/weapon will immediately be reported to a supervisor. The firearm/weapon will be taken out of service until such repair can be made. Officers needing a replacement firearm shall report to a Department Armorer or Firearms Instructor to be issued a replacement firearm.

- J. The Village of Walden shall have no responsibility for any damage of any kind or nature to any firearm that is described in Section VI (SECONDARY HANDGUNS ON C-FORMS) or Section VIII (ACQUIRED TACTICAL PATROL RIFLES).

IV. FIREARM POSSESSION:

- A. The acquisition of any handgun, by department personnel, will require prior permission from the Chief of Police or his designee, unless such acquisition is pursuant to a valid pistol permit.
- B. All firearms will be kept secured on the officer while the officer is on duty. For any reason the officer needs to remove his firearm such as dealing with prisoners in the detention area, the officer will secure the firearm in a gun locker.
- C. When the officer goes off duty and decides to keep his/her firearm in their locker the locker must be secured with a lock at all times.
- D. NO department firearm shall be placed unsecured in any other location except as described in this order or as approved by the Chief of Police.
- E. All firearms shall be in a secure and safe location when the officer is not carrying same.
- F. All officers authorized by the Chief of Police to retain their department issued handgun while off duty and officers who possess a firearm through department authorization shall secure the firearm as follows:
1. Upon reaching their residence or any other time the firearm is removed from the officer's person, the firearm shall be kept in a secured manner.
 2. The firearm shall be either locked in a secure cabinet or safe, or taken apart in such a manner as to make the firearm inoperable.
 3. Ammunition shall be stored separately and the keys to the cabinet or safe shall be secured from access by unauthorized persons.
- G. Officers are prohibited from surrendering their firearms to any individual not authorized to possess the firearm.
- H. All department issued handguns must be carried in a holster that has been approved by the Chief of Police and the officer must qualify with all firearms and holsters at the firing range before authorization will be given to carry them.
- I. **NO** department owned firearms will be used for off duty employment.
- J. All Shotguns and Tactical Patrol Rifles, while in a vehicle, will be secured in a locked rack or an agency approved locked security case that is constructed of hard plastic or metal. The only condition these weapons will be in while locked in a rack will be: chamber empty, magazine loaded in the weapon, action closed, and safety engaged. While in a locked case they may either be as stated for a rack or chamber empty, magazine empty (shotgun) or magazine out of the weapon (TPR), action closed and safety engaged.
- K. Officers interviewing a suspect in the detention facility shall ensure that their firearm is secured in a gun locker.
- L. A complete inventory of all department firearms, ammunition, and any other weapon authorized by the Chief of Police will be kept on file in the Armor's Office. New York State C forms shall be kept on file for each officer listing all personally owned firearms not on a pistol permit or which will be carried outside the scope of a pistol permit.
- M. Ammunition will be kept secure in either the ammunition closet or the Armor's Office.
- N. Officers' primary firearm and the ammunition magazines that are carried on their person will be kept loaded to capacity while on duty.

V. OFF DUTY FIREARMS

- A. Officers are encouraged, but not mandated, to carry a handgun while off duty.
- B. An officer who elects not to carry a handgun while off duty shall not be subject to disciplinary action if an occasion should arise in which he could have taken police action if he/she were armed.
- C. Off duty officers while, operating a marked department vehicle, shall be armed with a department approved handgun.
- D. Off duty officers should not carry a firearm if the officer anticipates consuming alcoholic beverages.

VI. SECONDARY HANGUNS ON C-FORMS

- A. If an Officer possess an acquired handgun outside the scope of his/her pistol permit and acquired handgun is on a C-Form attached to the department the following guidelines must be followed.
 - 1. The officer will only be allowed to acquire 10 handguns on a C-Form attached to this department at any given time.
 - 2. The Officer will have to qualify within 20 days after acquiring each handgun that is acquired on a C-Form and said qualification must be completed with the departments firearms instructor.
 - a. If the Officer does not qualify within the 20 days the Officer must turn the handgun into the department property custodian until said qualification is completed.
 - 3. Department approved ammunition must be used in any acquired handgun that will be used as a off duty/secondary weapon that is outside the scope of a pistol permit and/or acquired on C-Forms attached to this department.
 - 4. All modifications must be approved by the Chief of Police and/or the firearms instructor prior to modification being completed.
 - a. All modifications that are completed must be recorded by the firearms instructor and acknowledged by the officer.
 - 5. If an Officer's employment with the department ceases then the Officer must turn in all acquired handguns unless either the handguns are transferred to a pistol permit or to another police department.
 - a. If for some reason this can not be completed then the Officer must transfer or sell the handguns to an authorized individual.
 - b. If the handguns are in the possession of this department for longer than one year the handgun shall be considered a nuisance under NYS Penal Law 400.05 and then destroyed.
 - 6. Any firearm that is attached to a C-Form through this department is not authorized for any secondary employment.
 - 7. At the request of the Chief of Police or his designee the Officer must present any firearm attached to a C-form through this department for inspection or review.

VII. SECONDARY HANDGUN AUTHORIZED AMMUNITION

- A. All ammunition that is used in handguns that are being possessed on C-Forms attached to this department must be documented on the "Walden Police Department Off Duty Handgun Qualification Record" log. This also includes handguns being carried on this departments ID which is outside the scope of a pistol permit. If the ammunition is not recorded on the log by the firearms instructor then it is not authorized by the department.

VIII. ACQUIRED TACTICAL PATROL RIFLES

- A. An Officer is authorized to acquire a tactical patrol rifle as long as the following guidelines are followed. This section is a for law enforcement only rifles that the general public would be prohibited from possessing.
1. The officer will only be allowed to acquire 1 tactical patrol rifle which will be documented by completing a C-Form and will be attached to this department.
 2. The Officer will have to qualify within 20 days after acquiring the rifle and MUST qualify with the rifle before utilizing the rifle in a department function. Officer must complete qualification and pass qualification with the departments firearms instructor.
 - a. If the Officer does not qualify within the 20 days the Officer must turn the rifle into the department property custodian till said qualification is completed.
 - b. If Officer does not meet minimum qualification the rifle must be turned into the departments property custodian until the minimum qualification is met.
 3. The Officer must qualify and meet minimum standards that are set by this department which must be completed annually.
 4. Department issued ammunition must be used in rifle.
 5. All modifications must be approved by the Chief of Police and/or the firearms instructor prior to modification being completed.
 - a. All modifications that are completed must be recorded by the firearms instructor and acknowledged by the officer.
 6. The rifle will only be authorized for use while engaged in department functions.
 - a. This department does not permit the use of the rifle outside the scope of a police officer and Officer will be subjected to discipline and/or dismissal with this department if rifle is used outside this scope.
 7. Tactical Patrol Rifles acquired through this department are not authorized for any secondary employment.
 8. At the request of the Chief of Police or his designee the Officer must present any rifle attached to this department for inspection or review.
- B. When an Officer's employment with this department ceases then the Officer must follow the following guidelines.
1. The Officer shall transfer the rifle to another police department and supply a letter of transfer to this department if situation applies.
 - a. Failure to provide a letter of transfer to this department will make this department assume the rifle is being possessed illegally. This department will then have to act according to the NYS Penal Law.
 2. If the Officer does not continue a position in law enforcement and does not comply with the New York State Penal Law then the Officer must turn in acquired rifle to the departments property custodian or complete one of the following.
 - a. The Officer can transfer rifle to another authorized person under the NYS Penal Law.

- b. If for some reason this can not be completed then the Officer must transfer or sell the rifle to a authorized dealer.
 - c. The Officer can convert the rifle to a non-regulated rifle that can be possessed by a civilian under the NYS Penal Law.
 - d. If the rifle is in the possession of this department for longer than one year the rifle shall be considered a nuisance under NYS Penal Law 400.05 and then destroyed.
- C. Tactical Patrol Rifles that will be authorized by this department are as follows.
 - 1. Bushmaster
 - a. 11.5" Auto Entry
 - 2. Colt
 - a. LE 6943 11.5"
 - 3. Sig Sauer
 - a. M400 Swat 11.5"
 - 4. DPMS
 - a. RFA3-11 11.5"
 - 5. All other manufactures must have written permission from the Chief of Police before being purchased and/or used as a department approved acquired rifle.
- D. The following accessories for the tactical patrol rifle will be authorized by this department. The accessories subject to this section have to do with the operation and/or firing of the rifle.
 - 1. Suppressors
 - a. Sig Sauer SRD556 Rifle Suppressor
 - 2. All other accessories must have written permission from the Chief of Police before being attached to the acquired tactical patrol rifle.

IX. TRAINING AND QUALIFICATIONS

- A. All officers must be certified in the legal, moral, and ethical aspects of firearm use, and in the safe handling and proficiency of firearm use **before** they are authorized to possess or carry any firearm.
- B. Officers who have not qualified with a shotgun and/or a Tactical Patrol Rifle will not use or carry these firearms.
 - 1. All qualifications must be completed annually for these weapons.
- C. All officers will qualify at least twice annually by the standards set forth in the FBI Firearms Qualification Course, which will be posted 30 Days prior to the firearms qualifications, as well as, annually in the legal aspects of the use of deadly physical force.
- D. Officers who fail to meet firearms certification standards during the scheduled firearms training session will be granted a ten (10) day grace period. Within the 10-day grace

period, the officer must, on his own time, make arrangements with one of the Village's Certified Firearms Instructors for remedial training and recertification. The officer will be given 400 rounds of ammunition during this period.

- E. Officers who fail to achieve firearm certification after the remedial training shall be suspended for failure to maintain standards. This suspension without pay shall follow the procedures in the collective bargaining unit between the Walden PBA and the Village of Walden referring to "Article 24, Notice of Discipline- Formal Stage".
- F. If the officer fails all attempts to qualify during the grace period and is suspended, the officer will have his/her weapon checked for proper operation by a reputable certified firearms Gunsmith. The Village will form a list of three (3) reputable certified Gunsmith's for use in this situation. If none of the Gunsmith's on the chosen list are available, one will be chosen, and agreed upon by both parties.
- G. If the officer has failed to qualify more than three times in the last three years, the Village shall be entitled to commence an Article 75/76 or Arbitration proceeding immediately upon the conclusion of the ten (10) day grace period. An employee shall have the right to choose either Section 75 and/or 76 of the Civil Service Law or Arbitration as described herein, but not both alternative procedures to grieve such disciplinary action as described in "Procedure Rights- Formal Stage".
- H. If the officer has failed to qualify less than three (3) times within the prior three (3) year period, during the suspension period the Village will;
 - 1. Provide the officer with up to 40 hours of remedial training from a certified firearms instructor of the Village's choice.
 - 2. The officer will be given up to 1000 rounds of ammunition from the Village which the officer will use for remedial training. These 1000 rounds of ammunition will not be counted for any qualifications the officer attempts.
 - 3. The Village will wait 30 days from the date of the suspension before any Article 75/76 or Arbitration proceedings start. On the 31st day, the Village can start filing at their discretion with the proceedings.

I. Walden Police Range Safety Rules

- 1. All instructions on the range will be given by range staff regardless of rank or seniority.
- 2. Treat every weapon as if it is loaded.
- 3. Never point a weapon at anything you do not intend to shoot.
- 4. Keep your finger straight and off the trigger until you are ready to fire.
- 5. Keep your weapon on safe until you intend to fire.
- 6. Know your target and what is beyond it.

X. FIREARM USEAGE:

- A. The responsibility for any use of a firearm shall in all cases, is borne by the officer who fires the weapon.
- B. Any unauthorized or careless handling of a firearm by any member of this department is prohibited and may be cause for disciplinary action.
- C. Except for general maintenance, inspection or authorized training, officers shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with this order.
- D. The discharging of a firearm by a police officer is authorized only when permitted to use deadly physical force according to the provisions stated in SECTION IV, and/or V, of General Order #09.05; Use of Force.
- E. In the event of an unintentional discharge, the officer involved MUST undergo an immediate re-certification training session prior to returning to duty.
- F. Firearms shall be utilized solely for its intended purpose, the shooting of a projectile.
- G. Police Officers are **PROHIBITED** from discharging a firearm:
 - 1. When it appears that a reasonable danger exists of striking an innocent person,
 - a. As a warning shot to halt a fleeing subject,
 - b. At a fleeing subject, unless the officer reasonably believes that the fleeing subject poses an immediate threat of death or serious physical injury if not immediately halted,
 - 2. At or from a moving vehicle, except as the ultimate measure of self defense or defense of another when the subject is using deadly physical force by means other than the vehicle,
 - 3. By shooting blindly through doors or walls.
- H. Tactical Patrol Rifles will not be utilized to put down sick or injured animals.

XI. FIREARMS REVIEW BOARD

- A. The Firearms Review Board shall consist of the following: at least one certified Firearms Instructor, the Chief of Police of the employee(s) involved and a Supervisory Officer not involved in the incident. The Chief of Police shall be the Chairperson of the Review Board.
- B. With the exceptions of firearms qualifications and test firing or ballistic examinations, each time an officer discharges a firearm constitutes the USE OF DEADLY PHYSICAL FORCE, Regardless of the outcome of the use of such force, (injury, death or neither) the incident shall be investigated by this department, as follows:
 - 1. Whenever a firearm is discharged by an officer, either unintentionally or officially, on duty or off duty (except during training, or off duty practice) the officer discharging the firearm shall complete a written report of the incident.
 - 2. Whenever a firearm is discharged by an officer, either unintentionally or officially, on duty or off duty, (except during training, off duty practice, or to destroy an animal) the officer discharging the firearm shall immediately notify the shift supervisor, and the shift supervisor shall notify the Chief of Police.

3. The officer discharging the firearm shall protect his weapon for investigation, and not alter its condition. As soon as possible after the incident the officer shall complete a detailed report of the incident.
 4. The shift supervisor shall proceed immediately to the scene and begin a preliminary investigation. If the shift supervisor is below the rank of sergeant, he shall secure the scene and notify the Sergeant, who shall respond and start a preliminary investigation.
 5. If the discharge was unintentional and not caused by a criminal incident, the supervisor shall conduct an investigation into the circumstances of the firearms discharge and prepare a detailed report, determining the cause of the discharge and submit the report to the Chief of Police and the Firearms Review Board within twenty-four (24) hours of the incident.
 6. If the firearm was discharged while the officer was investigating a criminal incident, regardless whether anyone was injured or killed, the officer shall secure the weapon, not altering it, nor add/remove any ammunition. The shift supervisor shall immediately proceed to the scene and secure it. The shift supervisor shall immediately notify the Chief of Police and other investigative personnel needed.
 7. The Firearms Review Board shall have the responsibility of determining if the firearm discharge was within the provisions of department policy and New York State Penal Law and may choose to delay its investigation pending the completion of an investigation by another agency.
 8. The Firearms Review Board shall submit a report detailing its findings with a non-binding recommendation, as to whether the firearm was discharged within the provisions of department policy and New York State Penal Law.
- C. Any officer directly involved in a shooting incident in which death or injury occurs will be placed on administrative leave or duty for a period of time as determined by the Chief of Police. This assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.
- D. While on administrative leave the officer shall remain available at all times for official department interviews and statements regarding the shooting incident, and shall be subject to recall to duty at any time.
- E. Officers involved in a shooting incident shall not discuss the incident with anyone except; an investigating member of the District Attorneys Office, departmental personnel assigned to investigate the incident, the officers; attorney, psychologist, clergy or immediate family.
- F. In all cases where any person has been injured or killed as a result of firearm discharge by a police officer, the involved officer will be required to undergo an emotional debriefing with a department furnished psychologist within seven (7) days of the incident. The debriefing shall not be related to any departmental investigation of the incident and nothing discussed in the debriefing will be reported to the department.



Jeffrey Holmes,
Chief of Police