Woodstock Police Department			# 107-1
Use of Firearms			
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PURPOSE:

To establish guidelines promoting the safe and lawful use of firearms by members as well as, reporting and notification requirements following the discharge of firearms in certain circumstances.

POLICY:

All on duty Officers shall be armed with a fully loaded Department approved firearm. The firearm carried while on duty shall conform to the specifications and approval procedures herein described.

I. USE OF FIREARMS

A. Police Officers to prevent or terminate felonies or effect arrests will be controlled by the following guidelines in spite of the provisions of Penal Law Article 35. Article 35 of the Penal Law provides the statutory authority of Police Officer's use of deadly physical force. Additionally, the Woodstock Police Department has established a policy for Police Officers on the use of their firearms. You will be held responsible for having a complete understanding of the Department's policy and by adhering to this policy your actions will be well within the requirements of the Penal Law.

B. The law states that deadly physical force can only be used WHEN NECESSARY. (This means more than merely meeting the criteria listed in the law.) However, there is a valid concern with more than just the fact that a particular crime has been committed. We must take into consideration our geographical surroundings

and the people within it. Each Police Officer must make the decision whether to use deadly physical force based on the facts presented to him/her at the particular moment. These facts must indicate that the use of deadly physical force is necessary under circumstances of the situation and that its use does not recklessly endanger innocent parties.

C. The Police Chief has established a policy which is designed to guide the individual Police Officer's action so as to reduce shooting incidents and consequently protect life and property.

D. The Woodstock Police Department realizes there must be a certain amount of discretion extended to the police officer in the use of his/her weapon. This is necessary because the facts of each case differ. This places a tremendous responsibility on the individual officer's shoulders. To help him/her make this all-important decision, the Woodstock Police has issued guidelines to which all Police Officers must adhere. These guidelines, established by this procedure, are as follows:

1) EVERY REASONABLE ALTERNATIVE MEANS WILL BE UTILIZED BEFORE A POLICE OFFICER RESORTS TO THE USE OF HIS/HER FIREAMRM.

   a. This is nothing more than a different way of saying, "Use only necessary force". This is the mandate contained in the Penal Law, as well as, the Woodstock Police Department's guidelines.
   b. In regarding the law, one is apt to glance quickly over the word "NECESSARY" but upon reflection it has very important meaning. It means that you are only justified in using

physical and deadly physical force when it is essential and then only the amount which is needed to accomplish the objective. SHOOTING SHOULD BE A LAST RESORT.

2) THE FIRING OF WARNING SHOTS IS PROHIBITED.

a. In a Town such as Woodstock with its many populated areas, a ricocheted bullet or poorly aimed shot may result in death or serious physical injury to innocent persons.

3) DISCHARGING A FIREARM TO SUMMON ASSISTANCE IS PROHIBITED, EXSCEPT WHERE SOMEONE'S SAFETY IS ENDANGERED.

a. If you need help, it would be far more effective to use a telephone or a portable radio than firing a shot in the air. Again, good judgement is the rule which should be followed. Only when your safety or another's is actually endangered is it permissible to fire a shot for the purpose of summoning assistance.

4) DISCHARGING A FIREARM FROM OR AT A MOVING VEHICLE IS PROHIBITED, UNLESS THE OCCUPANTS OF THE OTHER VEHICLES ARE USING DEADLY PHYSICAL FORCE AGAINST THE OFFICER OR ANOTHER BY MEANS OTHER THAN THE VEHICLE.

a. This statement has drawn much controversy but consider it in light of the following example:

A vehicle is bearing down on a Police Officer at the rate of 60 miles per hour. The driver of the vehicle is intent on killing the Officer. Take a look at what the Officer can do. He/She could

jump out of the path of the vehicle, or he/she could draw his/her pistol and fire at the oncoming vehicle. Either action is legally correct, but which is more sensible? Hopefully, you would choose the former, but let's assume you didn't. A car weighs approximately 3,500 pounds and according to the example, is travelling at 60 miles per hour. You decide to shoot. How many shots do you think are going to strike the driver? In all probability, the windshield will deflect all the bullets which could then strike and kill an innocent bystander. However, assume your bullet or bullets penetrate the windshield and kill the driver (though this is highly unlikely). What have you accomplished? Did your action stop the wheels from rolling? How much time did you spend drawing your pistol and firing? Two, three or four seconds? A car travelling at 60 miles per hour is moving at the rate of 88 feet per second. About one half a city block a second. You have lessened the time you have to get out of the way of the car. After you have finished firing and see that the car is still coming at you, what are you going to do? Chances are that you will be run over by a car with a dead man as its driver. The time that the police officer spent drawing and firing his/her pistol would have been better spent getting out of the way of the car. This may be a blow to his/her ego, but he/she would still be alive and would not have endangered the lives of innocent people.

5) THE DISCHARGE OF A FIREARM AT DOGS OR OTHER ANIMALS SHOULD BE AN ACTION EMPLOYEED ONLY WHEN NO OTHER MEANS TO BRING THE ANIMAL UNDER CONTROL EXISTS.

a. Again, you should look at the word "NECESSARY". If another means of controlling the animal were available, i.e. ASPCA, dog catcher/warden, dog noose, etc., then the use of deadly physical force would not be necessary.
b. This does not include the animals that are struck and injured by autos. The injured animals should be put out of it's misery as quickly and humanely as possible. In the event a domestic animal is struck and injured an attempt should be made to have the animal treated by a medical professional when possible.

6) IN ALL CASES, ONLY THE MINIMUM AMOUNT OF FORCE WILL BE USED WHICH IS CONSISTENT WITH THE ACCOMPLISHMENT OF A LAWFUL MISSION.

a. The law does not command that you use the maximum force. It says that the minimum amount of force which is consistent with the accomplishment of your mission should be used. The maximum amount should ONLY be used if it becomes absolutely necessary.

7) THE FIREARM SHALL BE VIEWED AS A DEFENSIVE WEAPON NOT A TOOL OF APPREHENSION.

a) As a law enforcement officer sworn to protect life and property and arrest offenders, we must be constantly aware of the sanctity of human life. Therefore, the firearm should be utilized primarily as a defensive weapon, NOT an offensive weapon. Accordingly, the firearm should be used to defend yourself or another from the eminent threat of deadly physical force.

8) DEADLY PHYSICAL FORCE SHALL NOT BE USED TO EFFECT AN ARREST OR PREVENT OR TERMINATE A FELONY UNLESS THE OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT HE OR THE VICTIM MAY BE KILLED OR SERIOUSLY INJURED AND THERE IS NO OTHER REASONABLE MEANS TO EFFECT THE ARREST OR PREVENT OR TERMINATE THE FELONY OTHER THAN BY DEADLY PHYSICAL FORCE.

   a. The police officer has reasonable cause to believe the fleeing person poses an immediate threat of serious physical injury to the officer or another, or has reasonable cause to believe that a failure to apprehend the fleeing felon poses a threat of serious physical injury to others.

   b. Consistent with our responsibility to protect life, a Police Officer should utilize other means of apprehending offenders or preventing or stopping a felony, (i.e., verbal challenge, appropriate pursuit, portable radio, etc.) and resort to the use of a firearm only when the victim may be killed or seriously injured and there are no other reasonable means available.

9) A POLICE OFFICER MAY USE DEADLY PHYSICAL FORCE UPON ANOTHER PERSON WHEN HE/SHE REASONABLY BELIEVES THAT SUCH OTHER PERSON IS USING OR ABOUT TO USE DEADLY PHYSICAL FORCE AGAINST THE OFFICER OR A THIRD PERSON.

E. The following chart may be helpful in remembering and understanding the Woodstock Police Department’s policy on using deadly physical force and your firearm.

SITUATION CAN YOU USE DEADLY PHYSICAL FORCE

1. Prevent/terminate or arrest for a felony	NO – Unless you have reasonable cause to believe that the victim may be killed or seriously injured.
2. Apprehend a fleeing felon	NO – Unless you have reasonable cause to believe that: 1) DPF was used or threatened, or 2) SPI was sustained, or 3) You have probable cause to believe that the suspect poses an immediate threat of SPI to others.
3. Immediate threat of deadly physical force	YES – When you reasonably believe that a person is using or about to use DPF against you or another person. NOTE: The firearm should be viewed as a DEFENSIVE weapon, not a tool for arrests.
4. Warning Shots	NO – Never allowed.
5. Need assistance	NO – Unless someone's safety is endangered. Life and death situation.
6. Moving vehicles	NO – Unless occupants of automobile are using DPF against you or another, and other reasonable means are not available.
7. Animals	NO – Only when no other means bring the animal under control exists.
8. Cocking of firearms	NO – NEVER—Should be fired double action only.
9. All situations	All other reasonable alternative means will be utilized before you resort to the use of a firearm.

II. DUTY WEAPON – Glock 40 Caliber Model 22 Pistol (#107-6)

A. Carry Condition: Magazine loaded, round chambered, slide forward. All authorized handguns when carried either on or off duty shall be secured at all times. The method of carry shall be within a holster for on duty weapon or by such other manner as to affix the handgun firmly to either the body or an article of clothing for off-duty.

1) It shall be the duty of Members authorized to do so to carry ONLY Department issued or approved firearms on duty. Such firearms will be kept clean and in working order at all times. It shall also be the duty of all Members to take proper care of such firearms. Negligence or carelessness in the use of or care of such firearms may be cause for disciplinary action and for holding such Members financially responsible for the loss, destruction, or damage resulting from his/her or their negligence, carelessness, or misuse of such firearms. Any such loss, destruction or damage shall be reported immediately to the Woodstock Police Department through channels by submission of a written report.
2) No modification, repair, equipment installation of any kind may be made to Department firearm except work performed by a Department or approved Glock armorer.
    a. Armorers are available for the repair of non-functional weapons.
    b. At no time will any member dismantle his/her issued weapon, beyond authorized breakdown.
    c. If any weapon becomes non-functional it will be repaired by a department or approved armorer.

3) Firearms shall not be visible to the public when attired in civilian clothes and in a public place, unless the members shield is worn in view.
4) Firearms shall not be drawn except for firing in the line of duty, or in anticipation or firing in the line of duty, for inspection, for cleaning or for supervised training or firearms practice.
5) An on-duty Woodstock Police Officer will be equipped with a Department issued and approved firearm at all times.
6) Qualification: A member may be issued or carry a Department handgun and will qualify with the handgun with a Firearms Instructor as soon as practicable.

B. Cleaning: Members who are issued a Glock Pistol will clean their weapon:

1) After Firing
   a. When cleaned, the weapon will be broken down as per instruction received AND NO FURTHER than instructed.
2) All members shall when lubricating their weapon, place one small drop of gun oil on the following components:
   a. Each slide rail
   b. The connector
   c. The barrel exterior

III. 12 GAUGE SHOTGUN

A. Carry Condition: The shotgun shall be loaded per current training. Magazine full, chamber empty, action closed, safety on. Secured in gun lock mount or in the trunk or rear storage area of patrol vehicle in its protective case.

B. All qualified officers are to carry a shotgun in their vehicle, the weapon must be checked prior to his/her tour of duty.
C. Qualification: No member may carry any Department Shotgun until he/she qualifies with the shotgun with a Firearms Instructor.
D. No modification, repair, equipment installation of any kind may be made to a Department firearm except work performed by a Department or approved armorer.
E. When Officers carry a shotgun for a secondary weapon the Officer is to sign the weapon out and in at the start and end of their shift from the gun safe at the Police Department, unless the weapon is already secured in the vehicle gun lock mount of the vehicle they are operating.
F. Officers are to secure the gun safe properly when removing or returning any shotgun.

IV. Emergency Response Rifle – 223 Caliber (#107-10)

A. Carry Condition: The rifle shall be loaded per current training, magazine full with a 20/30 round magazine locked in the magazine well with the bolt forward on an empty chamber with the safety engaged. Rifle will be secured at all times in the secured patrol vehicle the Officer is using in its protective case.
B. All qualified officers are to carry an emergency response rifle and are to sign such weapon in/out of the gun safe at the beginning and end of their tour of duty, the weapon must be checked prior to his/her tour of duty.
C. Qualification: No member may carry any department rifle until he/she qualifies with a firearms instructor.

D. No modification, repair, equipment installation of any kind may be made to a department firearm except work performed by a department or approved armorer.

V. AMMUNITION

A. Only issued or approved ammunition by the Chief is authorized for use in any Department weapon. Members will not load any department weapon with anything other than department issued ammunition whether on-duty or off-duty.

VI. PERSONALLY, OWNED BACK-UP WEAPONS – On-Duty

A. Personally owned back up weapons are not allowed to be carried on-duty.

VII. OFF-DUTY MEMBERS

A. The carrying of a firearm while off-duty is encouraged but shall be at the option of the Police Officer. A Police Officer shall not be subject to disciplinary action if an occasion should arise in which he/she could have taken action but did not do because he/she was unarmed.
B. If a Police Officer elects to carry a firearm off-duty, with the intent of acting in the capacity, and with the authority of the Police Department if necessary, he/she may do so in accordance with the following:

1) The option of carrying the issued department sidearm is strongly recommended.
2) If a sidearm other than the department issued sidearm is chosen, the weapon must be inspected and approved by a department firearms instructor.

3) The firearm must be functionally reliable and of modern manufacture.
4) The member must demonstrate a satisfactory level of safety and proficiency in the handling and firing of the weapon.

   a. Members are to provide their own ammunition for range purposes.

5) The firearms instructor will maintain the appropriate records of each firearm so approved.

   a. The firearms instructor will also maintain records or those members/weapons that were not satisfactory for the off-duty approval.

C. When a Police Officer anticipates that he/she will consume alcoholic beverages in an off-duty situation he is advised not to carry his/her firearm. If the need arises for police services while an off-duty Police Officer is visiting an establishment which serves liquor, the Police Officer shall call communications and request that an on-duty Officer respond.

D. If the department issued handgun is carried off-duty, the member's issued Department identification (ID card) must be carried.

VIII. RECRUITS

A. Police Officer Recruits shall not be authorized to carry or use any firearm in connection with the performance of their official duties, with the exception of authorized firearms training, unless they satisfactorily complete that portion of an approved

MPTC program that constituted the basic course of instruction in the use of in the use of deadly physical force and in the use of firearms.

IX. WEAPONS QUALIFICATIONS

A. Members MUST qualify annually with the weapons issued to them.
B. Members MUST qualify annually with any weapon available to that member, i.e., shotgun, emergency response rifle.
C. Members MUST qualify annually with any personally owned weapon that they choose to carry as an off-duty member.
D. Members who fail to qualify will not be authorized to carry a weapon after several attempts. Members who fail to qualify will be offered remedial training.
E. The Chief of Police or his designee will render a decision of remedial training, disciplinary action or dismissal from police service

X. FIREARMS DISCHARGE – REPORTING

A. A member of this Department who discharges a firearm, whether on or off duty, other than for training, legal hunting, or other sporting purposes, will adhere to the following:

1. Notify the immediate Supervisor regarding the circumstances surrounding the weapon discharge other than for an injured animal. (ie: Deer/Bear)
2. A firearms discharge report shall be completed on all firearms discharges, including the destruction of animals.

a. The submission of these reports is mandatory and shall, whenever possible, be completed immediately following the incident.

3. In the event the member who discharged the weapons is unable to supply the written report, his/her immediate supervisor shall be responsible for filing said report as soon as possible.

B. Supervisor's Responsibility

1. In every instance when a member of this Department has occasion to discharge a firearm, except when destroying an animal or training, it will be the responsibility of his/her supervisor to notify the Police Chief.
2. The Supervisor will respond to the scene of the weapon discharge.
3. Contact the Police Chief
4. Contact the Detective Unit
5. Responsible to ensuring the following:
   a. Protect the scene
   b. Preserve the evidence
   c. Immediately secure all firearms known to have been discharged - Note the condition of the weapon secure all unexpended rounds.
   d. Secure firearms of all other officers at the scene pending examination by crime scene investigators.
   e. Cause all required notifications to be made.
   f. Turn scene over to the Detective Unit or outside agency at the discretion of the Police Chief.
   g. Arrange for dispatch of the Critical Incident Stress Management Team as per Department policy.

6. Prepare and complete a Supervisor's Report containing all pertinent information regarding the

weapon discharge. This report must be completed prior to the end of the shift.

C. Department Head's Responsibility

1. All appropriate notifications must be made (Chain of Command)
2. Police Chief is to ensure an investigation is conducted.
3. Where an injury is sustained by any person through the use of a firearm, it will be the responsibility of the Supervisor or Senior Officer at the scene to ensure proper notifications are made.
4. Afford the member privacy from inquiries from the public and Departmental personnel not involved in the actual investigation of the incident.
5. Trauma Counseling: Confidential Trauma Counseling will be provided in ALL cases of employee-involved shootings as follows:

    a. On-Scene and/or at the medical facility as soon as possible;
    b. Immediate follow-up;
    c. Six-month follow-up;
    d. One-year follow-up;
    e. Other counseling as may be requested by the employee or directed by the Chief.

D. Detective Unit, conduct an investigation into the incident including, but not limited to the following:

1. Whether the officer was on or off duty;
2. Whether the officer was in uniform or plain clothes;

3. Witnesses listed should include those who may have only seen part of the entire incident;
4. Name of officers present at scene, with statement as to their involvement;
5. Description of weapon(s) used, including:
    a. Whether or not Town issue;
    b. Type (e.g. revolver, auto, shotgun etc)
    c. Caliber,
    d. Serial Number,
    e. Make,
    f. Permit Number,
    g. Number of Rounds.
6. Type of ammunition;
7. Whether officer was wearing a bullet resistant vest and type;
8. Type of holster and whether Town issue;
9. Number of rounds fired by officer and adversary;
10. Lighting and weather conditions;
11. Nature of incident when dispatched.
12. Prepare a comprehensive investigative report of all available facts.
    a. Except as directed by the Chief, the firearm, ammunition and related leather goods will be secured in the same condition as they were immediately following the last discharge (by a Supervisor or evidence technician) and turned over to the investigating detective who will secure same as evidence, until the termination of any internal or legal proceedings; or in the case of an accidental discharge until said firearm is examined by a Department armorer and found to be functioning properly. The Department will replace the weapon and equipment as directed by the Chief.

E. Assignment to Administrative Duty

1. When a member is involved in a shooting or use of force that results in serious physical injury, the Chief or his designee will assign that member to administrative duty. The assignment to administrative duty does not imply guilt or innocence of the officer involved.
2. The administrative duty will not place the officer in a position where the use of force may be necessary due to the nature of the assignment.
3. Administrative duty assignment will be made in the best interests of the Department and the Officer.
4. When a member is assigned to administrative duty, he/she will:

   a. Refrain from routine exercise of police arrest and intervention powers.
   b. Refrain from any public discussion of his administrative assignment or circumstances related to his/her use of force.
   c. Retain all rights, privileges and employee benefits.
   d. Retain responsibility for compliance with all laws, Department Rules and Regulations, General Orders, and Directives governing Department personnel not specifically exempted by this Procedure, except as in B-1 above.

F. Procedures for Internal Affairs Review

1. Internal Affairs will be notified of ALL shooting incidents excluding animals destroyed for humane purposes.
2. The Internal Affairs Investigation will be secondary to the criminal investigation.

a. Except as directed by the Chief, IA investigations shall not supersede the primary police investigation.

3. The IAU will prepare a thorough report of the incident for submission to the Chief. All pertinent reports, statements and training records shall be included in the IA report.
4. The Chief will review the investigation with the appropriate staff to determine:

a. Where the shooting was:

Within policy
Out of policy
Accidental
Policy failure

b. Evaluate training considerations:

Drawing and exhibiting weapons
Firing of the weapon
Tactics prior to drawing and discharging
Tactics during and after discharge

c. Quality of the Supervision prior to, during and after the shooting incident.

G. Disposition

1. Results of the investigation and evaluation of the circumstances surrounding the incident will be used to determine if further training or a change in

policy is needed. The Chief will direct the proper units to take corrective measures if necessary.