

## **CHAPTER 29 A POLICE DEPARTMENT DISCIPLINARY HEARING PROCEDURES**

### **§ 29A – 1 LEGISLATIVE INTENT.**

Pursuant to § 154 and 155 of the New York State Town Law, the Town Board of the Town of Goshen is empowered to adopt and make rules and regulations for the examination, hearing investigation and determination of the charges made or preferred against any member or members of the Town of Goshen Police Department. The New York Court of Appeals recent determination in Matter of Patrolmen's Benevolent Association of New York v. New York State PERB declared that local Village and Town Boards may not relinquish or "bargain away" to members or their collective bargaining representatives, the Statutorily delegated power of municipal boards to impose disciplinary measures on members of the local police department. This local law is enacted in order to comply with and conform to the provisions of § 154 and 155 of the Town Law, the public policy of the State of New York, and Court of Appeals case law, and provides that the Town Board, not the Town Supervisor or any other third party shall make all final determinations concerning the investigation of complaints and imposition of disciplinary penalties with respect to members of the Town of Goshen Police Department.

### **§ 29A – 2 INVESTIGATORY PROCEDURE.**

The investigation of complaints concerning allegations of misconduct against any member of the Town of Goshen Police Department shall continue to be investigated pursuant to the procedures currently in effect and as stated in the Town of Goshen Police Department Rules and Regulations.

### **§ 29A – 3 SUBSTANTIATED COMPLAINTS.**

The Chief of Police, the Deputy Chief of Police, or the chief's designee shall, upon a determination that a complaint against a member of the Town of Goshen Police Department is substantiated, prepare and serve notice upon the member of the Town of Goshen Police Department.

### **§29A – 4 DISCIPLINARY INTERVIEW.**

Within 14 days of the service of notice of discipline upon a member of the Town of Goshen Police Department, the Chief of Police, the Deputy Chief of Police, or the Chief's designee shall conduct a meeting with the member to discuss the charges alleged in the notice, as well as to discuss a proposed resolution of the charges. If, after the disciplinary interview, the Chief determines that the imposition of a disciplinary penalty is required, the Chief shall issue and serve a written Chief's decision upon the member informing them of the Chief's determination. The Chief shall provide a copy of the Chief's decision to the Town Board. Upon the issuance of the Chief's decision, the Chief shall refer the notice of discipline to the Town Board for a determination of the charges. proposed resolution of the charges.

### **§29A – 5 HEARING; DETERMINATION OF SUBSTANTIATED COMPLAINTS.**

Within 14 days of the member receiving the Chief's decision that imposition of a disciplinary penalty is required, the member may request a hearing on the charges by having a written demand for a

hearing served upon the Town Supervisor. Within 45 days of the Town supervisor's receipt of a member's written demand for a hearing, the Town Board shall do one of the following:

- A. Designate a Town board member to sit as a trier of fact to determine the charges filed against the member of the Town of Goshen Police Department; or
- B. Select a hearing officer to sit as a trier of fact to determine the charges filed against the member of the Town of Goshen Police Department.

**§29A – 6 RECOMMENDED DECISION AND FINAL DETERMINATION**

The hearing officer or Town Board member selected to hear and determine the charges shall conduct a hearing and shall issue a decision containing recommended findings of fact and a recommended disciplinary penalty, if applicable to the Town Board. Said decision shall be reviewed by the Town Board, and after its review, the Town Board may accept or reject, in whole or in part, the recommended findings of fact and/or the recommended disciplinary penalty, if applicable. The Town Board shall make a final determination of the charges alleged in the notice of discipline and, where applicable, shall impose any penalty consistent with the provisions of the New York State Town Law, or any other penalty agreed to between the Town Board and the respondent member.

**§29A – 7 APPEAL.**

In accord with Town Law §155, the determination of the Town Board shall be subject to review by the Supreme Court in the judicial district in which the Town is located in the manner provided for by Article 78 of the Civil Practice Law and rules, provided that the proceeding is commenced with 30 days from the date of the Town Board's determination.

**§29A – 8 DUE PROCESS; REPRESENTATION.**

Any member that is served with a notice of discipline may have a representative or legal counsel represent him or her in connection with any proceedings provided for by this article. The hearing of the charges alleged in the notice of discipline shall be conducted in accordance with the provisions of Town Law §155, and such hearing shall be transcribed by a stenographer. A copy of the transcript of the proceedings shall be provided to the member free of charge.

**§29A – 9 IMPLEMENTATION.**

The chief of Police is hereby directed to take all necessary steps to implement the provision of this article, and to provide notice of the same to the members of the Town of Goshen Police Department.