

The regular meeting of the Board of Trustees was held on 1/12/15 at 6:00 p.m. in the Council Room of Village Hall.

Present: Deputy Mayor Thomas VanAernem
 Trustee Robert Cook
 Trustee Michael Horrigan
 Trustee James Gallagher, Jr.
 Attorney William L. Nikas
 Absent: Mayor John Barton

The Deputy Mayor asked Trustee Cook to read the following proclamation aloud and presented it to the family of Arthur Havens. Several members of the Havens family were present and very appreciative.

RESOLUTION

In Honor of Arthur W. Havens

Upon motion made by Trustee Horrigan, seconded by Trustee Gallagher and carried

WHEREAS, the Village Board of Trustees wishes to express its sorrow over the passing of Arthur W. Havens; and

WHEREAS, Arthur W. Havens faithfully and conscientiously served the Village of Hudson Falls for 43 years as a member of the Department of Public Works until his retirement in 1997; and

WHEREAS, Arthur W. Havens was a life-long resident of the Village of Hudson Falls, and

WHEREAS, Art's commitment to his employment with the Village of Hudson Falls earned him respect, admiration and friendship.

NOW THEREFORE in recognition of Arthur W. Haven's service to the Village of Hudson Falls, the Village Board of Trustees hereby expresses our deep appreciation for his service to this community and extend to his family our sincere sympathy upon his passing.

The Deputy Mayor asked Trustee Horrigan to read the following proclamation aloud and asked that it be delivered to the family of Judith Johnson.

In Honor of Judith J. Johnson

Upon motion made by Trustee VanAernem, seconded by Trustee Cook and carried

WHEREAS, the Village Board of Trustees wishes to express its sincere condolences over the passing of Judith J. Johnson; and

WHEREAS, Judith Johnson faithfully and conscientiously served the people of the Village of Hudson Falls as a Trustee from February 14, 2000 to December 27, 2004; and

WHEREAS, Judith Johnson was an outstanding community leader who dedicated her life to the best interest of the community, and

WHEREAS, Judith Johnson participated in numerous civic organizations and projects; and

WHEREAS, Judith Johnson has earned the respect, admiration and friendship of all the citizens of our community through her leadership and dedication; and

NOW THEREFORE in recognition of Judith J. Johnson's many contributions to the community of the Village of Hudson Falls and its citizens, we hereby express our sincere appreciation for her dedication to the progress of this community and extend to her family and friends our deepest sympathy upon her passing.

At 6:00 p.m. time was set aside for a Public Hearing to consider proposed Local Law No. 1 of 2015 – Amend and Restate the Definition of Family in §215-8 of the Village Zoning Code.

The Deputy Mayor opened the public hearing up to public comment.

Board comments – the board members agreed that they have discussed the amendment to the definition of family over the last couple of months and are satisfied with the amendment as drafted.

Public comments – none.

Upon motion made by Trustee Horrigan, seconded by Trustee Cook and carried the public hearing was closed.

Attorney Nikas advised that the local law is being considered by the Washington County Planning Board and is a matter of local concern. Therefore a majority vote would override any determination of the County may have in any event. The Board agreed to move forward with the adoption of the local law.

**ADOPTION OF LOCAL LAW 1 OF 2015
AMEND AND RESTATE THE DEFINITION OF "FAMILY"
IN SECTION 215-8
OF ARTICLE II OF CHAPTER 215-ZONING**

Upon motion made by Trustee Cook, seconded by Trustee Gallagher and carried

WHEREAS, the Board of Trustees of the Village of Hudson Falls ("Board") is considering the adoption of Local Law No. 1 of 2015, which would, if adopted, amend and restate the definition of Family in §215-8 of Article II of Chapter 215 - Zoning.

WHEREAS, the Board finds that Zoning regulations applicable to residential districts rely on the definition of "Family" for their effectiveness; and

WHEREAS, the Board has determined that, in order to increase the effectiveness of the definition and thereby better preserve the character of the Village's residential neighborhoods, a clarification and more specific definition of "Family" is necessary; and

WHEREAS, the revised definition will provide for a rebuttable presumption that the existence of certain factors will result in a finding that occupants do not constitute the functional equivalent of a traditional "Family"; and

WHEREAS, the Board finds that the adoption of Local Law No. 1 of 2015 is a necessary and proper exercise of authority by the Board; and

WHEREAS, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law 5 of 2014 was duly conducted on January 12, 2015 at 6:00 p.m. at Village Hall; and

WHEREAS, the Board has considered the public comments made at the public hearing; and

WHEREAS, the Washington County Planning Board reviewed Local Law No. 1 of 2015 on January 12, 2015 and found the matter to be of local concern; and

WHEREAS, the Board has designated itself lead agency, has determined this to be an Unlisted Action, and, after reviewing a short form EAF and taking a hard look at all potential effects upon the environment, has determined that the action does not present any adverse environmental impacts;"

WHEREAS, after thorough review and deliberation, the Board proposes to adopt Local Law No. 1 of 2015; and

WHEREAS, the Attorney for the Village has prepared the necessary documents for filing this local law with the Secretary of State including the text of the law itself; and

NOW THEREFORE BE IT RESOLVED, that the Board adopts and authorizes the filing of a negative declaration; and

NOW THEREFORE, BE IT RESOLVED, that the Board hereby adopts Local Law No. 1 of 2015, annexed hereto; and

BE IT FURTHER RESOLVED, that the Board hereby authorizes the Village Clerk and the Attorney for the Village to make such minor modifications to the local law documents as they deem necessary and thereafter are directed to execute and file the said documents as required by law and to take all of the necessary actions for the promulgation thereof.

Roll Call:	Trustee Horrigan	Aye
	Trustee Cook	Aye
	Trustee Gallagher	Aye
	Trustee VanAernem	Aye

At 6:00 p.m. time was set aside to consider Local Law No. 2 of 2015 – Fire Council of the Village of Hudson Falls and Hudson Falls Fire Council Firefighter Code of Ethics and Conduct.

Board Comment – Trustee Cook thanked the Village Attorney for his hard work in drafting the local law. Chief FitzGerald advised that the documents looks good.

Public Comment – none.

**ADOPTION OF LOCAL LAW 2 OF 2015
CHAPTER 106
FIRE COUNCIL OF THE VILLAGE OF HUDSON FALLS**

Upon motion made by Trustee Cook, seconded by Trustee Horrigan and carried

WHEREAS, the Board of Trustees of the Village of Hudson Falls (“Board”) is considering the adoption of Local Law No. 2 of 2015, which would, if adopted, create and structure the Fire Council of the Village of Hudson Falls

WHEREAS, the Board finds that the ultimate responsibility to provide fire protection services to the members of the community of the Village of Hudson Falls lies with its Village Board of Trustees; and

WHEREAS, the Board has determined that, in order to meet its responsibility to maintain and upgrade its substantial asset inventory of trucks, equipment and facilities and to assure that its firematic assets are utilized by qualified, active Officers and Firefighters who are properly trained, physically fit and who have accepted the responsibility to abide by the “Firefighter Code of Ethics and Conduct”; and

WHEREAS, the Board finds that the adoption of Local Law No. 2 of 2015 is a necessary and proper exercise of authority by the Board; and

WHEREAS, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law 2 of 2015 was duly conducted on January 12, 2015 at 6:00 p.m. at Village Hall; and

WHEREAS, the Board has considered the public comments made at the public hearing; and

WHEREAS, the Board has designated itself lead agency, has determined this to be an Unlisted Action, and, after reviewing a short form EAF and taking a hard look at all potential effects upon the environment, has determined that the action does not present any adverse environmental impacts;"

WHEREAS, after thorough review and deliberation, the Board proposes to adopt Local Law No. 2 of 2015; and

WHEREAS, the Attorney for the Village has prepared the necessary documents for filing this local law with the Secretary of State including the text of the law itself; and

NOW THEREFORE BE IT RESOLVED, that the Board adopts and authorizes the filing of a negative declaration; and

NOW THEREFORE, BE IT RESOLVED, that the Board hereby adopts Local Law No. 2 of 2015, annexed hereto; and

BE IT FURTHER RESOLVED, that the Board hereby authorizes the Village Clerk and the Attorney for the Village to make such minor modifications to the local law documents as they deem necessary and thereafter are directed to execute and file the said documents as required by law and to take all of the necessary actions for the promulgation thereof.

Roll Call:	Trustee Horrigan	Aye
	Trustee Cook	Aye
	Trustee Gallagher	Aye
	Trustee VanAernem	Aye

The Deputy Mayor opened the meeting to General Public Comment.

Rick Doyle, advised that he is here in his capacity as a resident of the Town of Kingsbury not in his capacity as a member of the Board of Supervisors for the Town of Kingsbury. He read a passage from the Village's Study of Consolidation done in 2011 on Page 75. "The committee believes that the Village and Town Court should be consolidated. This is a trend that is happening across the State. Consolidation of the two courts would simplify operations by having all court sessions in one location. The current village court is the obvious place to house the court and backroom offices. Consolidating court time with one court the Justices may want to reduce the number of court time. Having it in one court makes it easier for the citizens to know where to go. Additional efficiencies will result from having the two court clerks cross trained to handle all cases. Lastly having a single court at Village Hall provides in-building security as long as the police department remains in the building and staffed with the current level of coverage.

Mr. Doyle's advised that it is now three (3) years later and the Town Office is preparing to move to a new location. The Town's new location does not have room for a court, consequently they will have to spend additional money to make room for their Court Room and offices. He understands that the Village Board is concerned with the added traffic in Village Hall if both courts were to use the Village's space. Mr. Doyle feels that he would just rather spend money on the making alterations to the Village's building to alleviate the disruption from the added traffic, than to spend it on building another building at their Michigan Avenue property. He is asking the Village Board to reconsider their objections or at least allow a discussion on what can be done to address the Village's concerns. The Town is moving forward. The hopes is to be in the new offices by August or September 1st. Barring any word from the Village Board they will proceed assuming that the Town will be building an addition for a Court. Mr. Doyle does not feel this is the best possible solution.

Trustee VanAernem reported that the Village did make a proposal to the Town. The Village offered the Village's John Street property to be converted into a Court and Court Offices. Mr. Doyle appreciated that offer but felt that rehabbing the building would only be viable if both courts were to occupy it. Deputy Mayor VanAernem indicated that the cost to renovate the John Street property would be a lot less than building a new court. The Town Board feels that security is an issue due to the fact the Town's Court Clerk would be there alone a good portion of the time. He advised that the Town Board was in unison that they were not in favor of this option.

Mr. Doyle suggested that the Town pay for the cost of building another entrance into the Village's Court Room to alleviate the traffic.

Deputy Mayor VanAernem indicated that he appreciates Mr. Doyle coming to the Board meeting in his personal capacity and noted that the Village Board has received little communication from the Town Board regarding the whole issue. Mr. Doyle reported that he has left numerous messages on the Mayor's voice mail but hasn't received a return call. Supervisor Lindsay and Mayor Barton may be in communications with one another. He wasn't sure who would reach out to who after the Village made their proposal.

Mr. Doyle respectfully requested that the Village Board reconsider and have a discussion with the Town regarding the court issue.

Brian Parsons, 45 King Avenue advised that his understanding that a 50' lot road frontage is what the building code requires for buildable lot at this time. It is his understanding in talking to the Planning Board that the requirement used to be 100' road frontage for a buildable lot. He and his neighbors would like the Board to consider reestablishing the 100' road frontage requirement for a buildable lot.

Trustee Horrigan reported that changing the road frontage to 50' was a time consuming process and he is trying to recall the background behind making the change. Trustee Cook advised that it was prior to his time which would have been more than five (5) years ago.

Mr. Parsons advised that the Planning Board members told him it was because there were some building lots left in the Village especially over in the King Avenue, Fourth Street neighborhood which were small. He was told that rather than folks applying for variances the Board chose to decrease the requirement to 50' road frontage for a buildable lot. Mr. Parsons feels that with the current requirement the result is lower valued homes, less land, etc...

Trustee Horrigan doesn't agree that a 50' road frontage gives you a lower valued home.

Trustee Cook understands Mr. Parsons's concern but advised that he should not confuse the size of the lot and the value of the property. We live in a community where the vast majority of the properties are on 40' or 50' lots. Even if down the road a change is made from 50' to 75', would that impact the current developer of the property he thinks Mr. Parsons is concerned with? Mr. Parsons realizes that current development proposals would not be impacted by any changes made now but is looking at future development.

Attorney Nikas advised that any currently existing 50' lots would remain a buildable lot regardless of any zoning change made – it would be grandfathered. With respect to the current application there is case law where if a code were to be changed midstream during a developer's application that it could go either way.

Mr. Parsons advised that this is not his intention. He is thinking of the future. For example, he has a one-half acre lot. What is to stop him from tearing his house down and building two houses? The person behind him has two acres – he doesn't want that lot to be turn into 5 houses and the lot next to him with 2.5 acres turn into seven or ten houses. The next thing you know he is surrounded be all these cookie cutter houses on postage stamp lots.

A discussion ensued with regards to non-conforming uses and the effects of changing the code.

The Board agreed they would look into this issue when reviewing the Zoning Code.

Mr. Parsons advised that Notre Dame Street and Martindale Avenue have 25 mph speed zones because of the school. He would like the board to consider reducing the speed limit on King Avenue – from First Street to Sixth or Seventh Street reduced to 25 mph. All the traffic cuts down King to avoid those two roads and the vehicles are going way more than 30 mph. In addition, all the kids walk to school on King Avenue to avoid the County roads. At least get the road posted whether it be a speed limit sign, slow children at play sign, etc...

Dr. Potvin, 50 Pearl Street concurred about the 50' lots. But what about stopping someone who has a 100' lot from making it two 50' lots. He feels this should be looking into. He has a lot across from him with one 100' lot and he would hate to see them slit it up to make two 50' lots. He inquired as to whether the Board would be conducting a meeting where the public could be involved with Zoning Amendments. Trustee Horrigan advised that the Board encourages input from the public. A workshop will be scheduled.

Dr. Potvin appreciates Rick Doyle coming in. He feels it is a shame that the Village and the Town cannot talk to each other and get something done about the Court.

Trustee Horrigan advised that the Village has a court room and the Village can't tell the Town what to do. The Village has offered its John Street building, basically for free.

Trustee VanAernem reported that the Village offered the John Street building to the Town a couple of months ago and tonight was the first the Village Board heard that the Town was not interested in the John Street property. Attorney Nikas advised, at the direction of the Mayor, he was asked to speak to the Supervisor at a Sewer District meeting to re-emphasize the Village Board offer regarding the Village's John Street property. And that there could be a movement perhaps to merge the Courts after Judge Mabb retires. At that point both facilities could be located at John Street. That information was given back in the early part of December. Security is an issue that can be addressed. There are plenty of places where there may only be one person in the building which has all sorts of security in place to alleviate any concerns. This is the first Attorney Nikas has heard that security was the Town's issue and that they had declined the Village's offer to give the John Street building to the Town for \$1 per year.

Trustee Horrigan advised that they have no security at Town Hall now. The Village offered the John Street property so that the Town could avoid spending \$300,000 to build a Town Court because Village residents will also be paying for it. Essentially, the Town wants the Village to accommodate them.

Trustee Cook advised that the Board was trying to be polite to Mr. Doyle because he was before the Board as a private citizen. The reality is that going back a number of years the Village has offered a number of proposals to the Town including moving all of the Town's offices into our Village Hall building. When it comes to the Court the Village Board had a workshop. The consensus of the Village Board was that they didn't like the idea of combining the two courts into Village Hall. Our taxpayers, when doing business at Village Hall on Court day, are subject to what he experiences when visiting the Clerk's Office - having to hold his breath through the blue smoke in the front of the building; listen to derelicts going up and down one side of their attorneys in the stairwell; heard the "f" word used as a noun, a verb and an adjective all in the same sentence - all before he was able to get through the door of the Village Clerk's Office. Now the Town is asking the Village to double that exposure and ask our employees and Village taxpayers to put up with it. In addition, our Chief and his staff have to be on call to come up stairs to attend to security issues.

Attorney Nikas advised that the Village Court is a nice facility but there are no conference rooms, consequently attorneys are forced to try to get privacy in the hallway. Meanwhile all the Village Officials, employees and residents have to endure all the difficulties discussed previously. If security is addressed, the John Street property, would be an ideal location for court. In addition, it could be a fine facility if both courts were to merge one day.

In deference to the Mayor, Attorney Nikas advised that the Mayor has been talking to Supervisor Lindsay.

Mark Gaulin, Third Street inquired as to the status of the engineering study for the stormwater issues in his neighborhood. Attorney Nikas reported that the Board is awaiting the completion of a survey which will be a

topographical mapping of the area. That survey will then go to the engineer who will design. Mr. Nikas will email the surveyor to determine the status of his work.

Deputy Mayor VanAernem reported that the Community Mapping Project associated with Creating Healthy Places to Live, Work and Play and funded by NYS Department of Health is moving forward but there is nothing new to report.

Trustee Cook reported that the Village Board discussed the issue of off-street parking at the last meeting. Trustee Cook suggested that the Village research what legislative action might be necessary to allow for all or part of the property immediately adjacent to Village Hall to be redeveloped for municipal parking and that as part of that study we ask Shelter Planning to explore what grant opportunities may be available to offset the cost of that redevelopment. Attorney Nikas reported that redesignating Paris Park will require Legislative Action. The Village could consider using Grace Park as an alternative/substitute park. To begin the process the Village Board should be designated as lead agent and would declare the action to be a Type 1 Action under SEQRA. It will also require a Full Environment Assessment Form. After a brief discussion the board adopted the following resolution.

Upon motion made by Trustee Horrigan, seconded by Trustee Cook and carried

WHEREAS, the Board of Trustees desires to consider designating the property adjacent to Village Hall and known as Paris Park for municipal parking.

NOW THEREFORE BE IT RESOLVED, that the Village designate itself lead agency, determine it a Type 1 Action Under SEQRA and prepare a Full Environmental Assessment Form.

Upon motion made by Trustee Cook, seconded by Trustee Horrigan and carried the minutes of the regular meeting and public hearing of 12/8/14 were approved as read.

Upon motion made by Trustee Horrigan, seconded by Trustee Gallagher and carried it is

RESOLVED, that the Mayor be authorize to sign the Grant Agreement associated Community Development Block Grant (NYS CDBG Project #559PW49-14) together with all necessary documentation and budget appropriations. The grant is in the amount of \$500,000 for improvements to water infrastructure in the Mechanic Street, Hudson Place, Cherry Street and Pearl Street neighborhood.

Upon motion made by Trustee Gallagher, seconded by Trustee Cook and carried it is

RESOLVED, that approval is granted of the Hudson Falls Fire Councils appointment of Joshua T. Hoy, 2105 Queens Drive, Hudson Falls and Thomas Noble, 24 Birchwood Avenue, Hudson Falls as Fire Fighters in the Hudson Falls Fire Council as submitted.

Upon motion made by Trustee Cook, seconded by Trustee Horrigan and carried it is

RESOLVED, that the resignation of Jacob Kearns as a PT Patrolman be accepted as submitted.

Upon motion made by Trustee Horrigan, seconded by Trustee Gallagher and carried, the following monthly reports were approved as read: Police Department, submitted by Chief Diamond; Justice Court submitted by Justice Matthew Mabb; Code Enforcement submitted by Francis Cortese; and Fire Department, submitted by Chief Michael Fitzgerald.

Upon motion made by Trustee Gallagher, seconded by Trustee Cook and carried the following abstracts were audited and ordered for payment:

General Fund	Check Nos.	28657 - 28738
Water Fund (General Fund)	Check Nos.	28657 -28738
Water Fund	Check Nos.	5479 – 545482

Federal Program Income	Check No.	190
Small Cities CDBG Grant Fund	Check No.	710
Drug Fund	Check No.	1301
Trust Fund	Check Nos.	6385 - 6400
Payroll Fund	Check Nos.	28579 - 28592

The Deputy Mayor asked the Board for their comments.

Trustee Horrigan thanked Superintendent Fiorillo, the Department of Public Works for their work on installing the new street lights downtown. The lights look great and their efforts are appreciated.

The Deputy Mayor opened the meeting up to General Public Comment.

Mrs. Gaulin, Fourth Street asked – if a place is condemned how long can it set before it has to be torn down. Attorney Nikas advised that it would have to be a public hazard. If you have a building that is condemned and is not affecting anything outside it does not necessarily have to be torn down. Mrs. Gaulin reported that the roof looks like it has started to deteriorate. Cats are also an issue at the property. It is the house that sits on the property on Third Street where the proposed development is being reviewed. Deputy Mayor VanAernem advised that they would ask the Code Enforcement Officer to take a look at the building.

Jim Burns, Mosher Street inquired as to what the status of the General Electric buildings are. He is asking because twenty years ago Ted Bigelow showed him the plans of what they planned on doing with that area after GE was gone. There were plans for a revitalized park.

General Electric is scheduled to discuss their plans at the next Planning Board meeting on January 26th. Trustee Horrigan advised that GE has removed one of the buildings and you will see the progression of additional removal of all their buildings. Members of the Board met with the head engineer of GE's water treatment facility. They plan to move the water treatment facility to the corner of John and Allen Street. They have assured the Village that they will clean up the property after the buildings are raised.

The Deputy Mayor reported that the next regular Board meeting will be held 2/9/15 at 6:00 p.m.

Upon motion made by Trustee Cook, seconded by Trustee Gallagher and carried the Board entered into Executive Session for the purpose of discussing matters leading to the appointment of a particular unnamed person or persons.

Mayor Barton joined the Board just prior to the Executive Session.

Upon motion made by Trustee VanAernem, seconded by Trustee Horrigan and carried executive session was closed and the regular session continued.

Upon motion made by Trustee Cook, seconded by Trustee Horrigan and carried Part Time Patrolman will make an hourly rate of \$18.00/hour effective immediately.

Upon motion made by Trustee Horrigan, seconded by Trustee Gallagher and carried the request of Chief Diamond to hire Anthony T. Casimano, Gansevort, NY and Gregory Girard, Queensbury, NY as Full Time Police Officers at a starting rate in accordance with the PBA Contract.

Upon motion made by Trustee Horrigan, seconded by Trustee Gallagher and there being no further business to come before the Board the meeting was adjourned at 7:45 p.m.


 Ellen M. Brayman, Clerk/Treasurer

**LOCAL LAW # 1 OF 2015 TO AMEND AND RESTATE THE DEFINITION
OF "FAMILY" IN §215-8
OF ARTICLE II OF CHAPTER 215 - ZONING**

1. **Legislative intent:** The Village Board of the Village of Hudson Falls finds that Zoning regulations applicable to residential districts rely on the definition of "Family" for their effectiveness. The Village Board has determined that, in order to increase the effectiveness of the definition and thereby better preserve the character of the Village's residential neighborhoods, a clarification and more specific definition is necessary. In this regard, the revised definition will provide for a rebuttable presumption that the existence of certain factors will result in a finding that the occupants do not constitute the functional equivalent of a traditional "FAMILY". The Village Board finds that the adoption of this local law is reasonable, necessary and in the best interests of the health, safety and welfare of the community.

2. **Revised definition: "FAMILY".** Section 215-8, "Definitions", of Article II of Chapter 215 "Zoning" is amended and restated, as follows:

FAMILY —

1. Two or more persons occupying the premises and living together as a single and bona-fide housekeeping unit with common use, care and access, and with shared cooking, eating and toilet facilities, as distinguished from a group of individuals occupying specified rooms and without common access, use, or care of the entire dwelling unit. Such persons shall together occupy and either own or rent the whole of a separate building or dwelling unit in a family-like living arrangement as the functional and factual equivalent of a natural family and use all rooms and housekeeping facilities in common.

2. In any separate building or dwelling unit occupied by a family of four or more persons, there may be added as an occupant no more than one individual boarder, roomer or lodger, and, in any family of three or fewer persons, there may be added no more than two individual boarders, roomers or lodgers; provided however, that as a condition of permitting such occupancy, the owner of the separate building or dwelling unit shall notify the Code Enforcement Officer in writing of the identity of each family member, and of each boarder, roomer or lodger, and, shall provide adequate off-street parking for all vehicles of the occupants. The Code Enforcement Officer shall determine the adequacy of the proposed parking areas, in his or her sole discretion.

3. Any such number of persons shall not be deemed to constitute a "FAMILY" if:

(a) Any one of such persons may not have lawful access to all parts of the separate building or dwelling unit, except in the case of one or two individual boarders, roomers or lodgers, as permitted by §2 above;

(b) Any one or more of such persons rent any separate portion of such separate building or dwelling unit from any other person, except in the case of one or two individual boarders, roomers or lodgers, as permitted by §2 above;

(c) Such persons shall occupy the separate building or dwelling unit as a boarding, rooming or lodging house, nursing or convalescent home, dormitory, fraternity or sorority house, hotel, motel or inn or other similar housing facility, except in the case of one or two individual boarders, roomers or lodgers, as permitted by §2 above;

4. It shall be presumed that a separate building or dwelling unit is occupied by more than one family if any two or more of the following features may be found to exist on the premises by the Code Enforcement Officer, unless it is otherwise rebutted by evidence presented to the Code Enforcement Officer by the owner or resident of the separate building or dwelling unit that it is occupied by one family, all as defined in this section:

(a) More than one mailbox, mail slot or post office address.

(b) More than one doorbell or doorway on the same side of the separate building or dwelling unit.

(c) More than one electric meter.

(d) More than one gas meter.

(e) More than one connecting line for cable or satellite television.

(f) Separate entrances for separate portions of the separate building or dwelling unit.

(g) Partitions or locked internal doors barring access between segregated portions of the separate building or dwelling unit, including bedrooms, except for the bedrooms of no more than one or two individual boarders, roomers or lodgers, as permitted by §2 above.

(h) Separate written or oral leases or rental agreements for the payment of rent for portions of the separate building or dwelling unit among its owner or occupants, except in the case of one or two individual boarders, roomers or lodgers, as permitted by §2 above;

(i) Two or more kitchens, each of which contain a range or oven and refrigerator and sink.

5. The Code Enforcement Officer shall make the determination as to the application of this definition of "FAMILY" for the purposes of compliance with any provisions of this Zoning chapter and the New York State Uniform Fire Prevention and Building Code, based upon his or her inspection of the premises, any information he or she may receive from the residents thereof or from any other persons or documentation, or based upon any other evidence as to the condition of the premises or the relationship and living arrangements of the residents, whether or not falling within the evidence set forth in §4 above, in consultation with the Village Attorney. The determination of the Code Enforcement Officer shall be final, subject to appeal to the Zoning Board of Appeals and judicial review as provided by law.

Chapter 106

FIRE COUNCIL OF THE VILLAGE OF HUDSON FALLS

I. Creation and Structure

- § 106-1. Legislative Intent; purpose.
- § 106-2. Definitions.
- § 106-3. Control of the Fire Council.
- § 106-4. Composition of the Fire Council.
- § 106-5. Duties of Fire Chief.
- § 106-6. Audit of Bills.
- § 106-7. Admission to the Fire Council.

II. Code of Ethics and Conduct

- § 106-8. Scope and Purpose.
- § 106-9. Minimum Standards.
- § 106-10. Terms of Code.

III. Disciplinary Actions and Procedure

- § 106-11. Application and Scope.
- § 106-12. General Principles.
- § 106-13. Informal Procedure.
- § 106-14. Formal Procedure.
- § 106-15. Investigation.
- § 106-16. Disciplinary Hearings.
- § 106-17. Formal Levels of Disciplinary Sanctions.
- § 106-18. Appeals.
- § 106-19. Severability.

I. Creation and Structure

- § 106-1. Legislative Intent; purpose.

The ultimate responsibility to provide fire protection services to the members of the community of the Village of Hudson Falls lies with its Village Board of Trustees. In order to meet its responsibility, the Village Board of Trustees has endeavored to maintain and upgrade its substantial asset inventory of trucks, equipment and facilities utilized for the purpose of providing such fire protection services. The corollary responsibility of the Village Board is to assure that its firematic assets are utilized by qualified, active Officers and firefighters who are properly trained, physically fit and who have

accepted the responsibility to abide by the " Firefighter Code of Ethics and Conduct". Therefore, in furtherance of its responsibilities to provide fire protection services to the community, the Village Board of Trustees hereby establishes a "Fire Council" to oversee the firematic duties of all active firefighters providing fire protection services to the community. By enacting this chapter, it is the intent of the Village Board of Hudson Falls, as an exercise of its police power, to promote the general health, safety and welfare of the residents of the Village.

§ 106-2. Definitions.

- A. "Fire Council": The administrative arm of the Village Board of Hudson Falls created for the oversight and supervision of the active firematic services to be provided for firefighting and fire protection within the community. All active firefighters and Officers shall comply with rules and regulations adopted by the Officers of said Fire Council and approved by the Village Board of Trustees, which rules and regulations shall govern the admission, suspension, removal, discipline, powers and duties of all active firefighters and Officers who have been admitted to the fire service of the Fire Council.
- B. "Firefighter": All non-Officer, active firefighting members duly admitted and serving the organization of the Hudson Falls Fire Council.
- C. "Freelancing": A dangerous situation at an incident where an individual carries out tasks alone or without being assigned; a violation of personnel accountability procedures.
- D. "Insubordination": The refusal or neglect, while on duty, to obey or execute any order from the Officer in charge at any fire, drill, inspection or review.
- E. "Officers": Those firefighters who are members of the Fire Council approved by the Village Board of Trustees in the grade of fire chief, assistant fire chief, captain and lieutenant.
- F. "Standard Operating Procedures": The administrative rules, policies and procedures promulgated by the Fire Council and approved by the Village Board of Trustees for the purpose of the efficient and safe provision of fire protection services within the Village of Hudson Falls.

§ 106-3. Control of the Fire Council.

The powers and duties connected with and incident to the control, government and discipline of the Fire Council of the Village of Hudson Falls, except as herein otherwise provided, shall be vested in the Village Board of Trustees.

§ 106-4. Composition of the Fire Council.

The Officers of the Fire Council of the Village of Hudson Falls shall consist of a fire chief and any assistant fire chiefs, captains, and lieutenants as the Village Board of Trustees may deem necessary.

§ 106-5. The Duties of Fire Chief.

The Fire Chief of the Fire Council shall be an active firefighter and shall, under the direction of the Village Board of Trustees, have the general superintendence and custody of the fire engines and other fire apparatus and conveniences for the prevention and extinguishment of fires. It shall be the duty of the Fire Chief or his or her assigned assistant chief's duty to see that the same are kept in proper order and to make periodic written reports to the Village Board of Trustees of the state of the Fire Council, and at such times as said Village Board of Trustees may require. It shall be the Fire Chief's further duty to be present at fires and to take command of the firefighters present, and to exercise a general supervision and control of the operations and proceedings of the firefighters present and to give directions concerning the same. The Fire Chief shall also have the power and discretion to suspend from duty any member of the Fire Council and report the same to the Village Board of Trustees for action, subject to the provision of disciplinary actions and procedures hereinafter provided.

§ 106-6. Audit of Bills.

All bills for expenditures and services connected with the Fire Council must be first authorized and audited by the Village Board of Trustees. The Fire Chief shall, on or before the first day of March in each year, present to the Village Board a report showing the complete inventory of all property under his or her charge, which report shall also exhibit a particularized statement of all fire alarms and fires which have occurred during the preceding calendar year, together with the cause of all fires, as far as the same have been ascertained.

§ 106-7. Admission to the Fire Council.

§ 106-7.1 Eligibility. Applicants for membership as Officers and firefighters serving the Fire Council must meet the following criteria:

- (a) The minimum age of eighteen;
- (b) A citizen of the United States;
- (c) Of good moral character;
- (d) Physically fit as demonstrated by a physician's certificate specifying that the applicant is physically able to perform the duties of a volunteer firefighter.

§ 106-7.2 **Application procedure.** The procedure for application for membership in the Fire Council shall be as follows:

- (a) The applicant shall submit a written application in the form provided by the Fire Chief who shall deliver the application to the Officers of the Fire Council for the purpose of investigating and verifying all information provided on the membership application. Applications may be rejected if information is unfavorable, false, incomplete or missing. If the application is disapproved by the Fire Chief, the applicant shall be denied admission to the Fire Council. The Fire Chief shall notify the Board of Trustees upon disapproval of an application. If the application is approved, the Fire Chief shall recommend appointment to the Board of Trustees which may approve or disapprove of the application.
- (b) A member's first year of membership beginning on the date of appointment by the Village Board of Trustees shall be designated as a "probationary period" and the member shall be designated as a "probationary member". Probationary members must complete all requirements for mandatory training as set forth by the Fire Council and satisfy the overall attendance requirements established by the Fire Council for its firefighters. Probationary members who do not receive the recommendation of the Fire Chief, or, who fail to satisfy attendance or training requirements, may be expelled without recourse by the Fire Chief at the end of their probationary period, unless the probationary period has been extended by the Fire Chief for good cause shown.

II. Code of Ethics and Conduct

§ 106-8. **Scope and Purpose.**

Fire protection and emergency services have a very proud tradition of serving communities across our nation that dates back to colonial times. Throughout our nation's history, firefighters have been looked upon with great respect and admiration for their courage and dedication to their profession. To preserve the public's trust, groups of fire service leaders have developed codes of ethics and conduct that call upon individual firefighters to pledge their support for maintaining the highest level of professionalism and behavior. The purpose of the code is to establish criteria that encourage firefighting personnel to promote a culture of ethical integrity and professional conduct.

§ 106-9. **Minimum Standards.**

All Fire Council personnel are expected to comply with all Federal, State and local laws, Fire Council rules and regulations, and standard operating procedures and policies. However, compliance with these requirements is the minimum standard of expected behavior. In an effort to reflect the highest level of ethical behavior and professionalism, and to guide Fire Council personnel toward the ethical execution of their daily lives within our chosen profession, the Village Board of Trustees and its Fire Council hereby enact the "Village of Hudson Falls Fire Council Code of Ethics and Conduct".

§ 106-10. Terms of Code.

Members of the Fire Council and all firefighters, as a condition of admission and continued membership, shall abide by the following Code of Ethics and Conduct and shall acknowledge their acceptance and understanding of the Code by signing the following form upon admission:

Hudson Falls Fire Council Firefighter Code of Ethics and Conduct

I understand that I have the responsibility to conduct myself in a manner that reflects proper ethical behavior and integrity. In so doing, I will foster a continuing positive perception of the fire service and the Village of Hudson Falls.

Therefore, I pledge to:

1. Always conduct myself, on and off duty, in a manner that reflects positively upon myself, the HFFC and the fire service in general.
2. Accept responsibility for my actions and for the consequences of my actions.
3. Support the concept of fairness and the value of diverse thoughts and opinions.
4. Avoid situations that would adversely affect the credibility or public perception of the HFFC and the fire service.
5. Be truthful and honest at all times and report instances of cheating and other dishonest acts that compromise the integrity of the HFFC and fire service.
6. Conduct my personal affairs in a manner that does not improperly influence the performance of my duties or bring discredit (real or perceived) to the HFFC.
7. Be respectful and conscious of each member's safety and welfare.
8. Recognize that I serve in a position of public trust that requires stewardship in the honest and efficient use of village owned resources, including uniforms, turn-out gear, facilities, vehicles and equipment, and that these are protected from loss, misuse and theft.
9. Exercise professionalism, competence, respect and loyalty in the performance of my duties and use information, confidential or otherwise, gained by virtue of my position, only to benefit those I am entrusted to serve.
10. Avoid financial investments, outside employment, outside business interests or activities that conflict with or are enhanced by my official position or have the potential to create the perception of impropriety.

11. Never propose or accept any form of personal rewards, favors, special privileges, benefits, advancements, honors or gifts that may create a conflict of interest, or the appearance thereof, in order to secure special privilege, benefit, advancement, honor, gifts, or any personal gain for myself, my family, acquaintances, or my business interests, and, never receive any fee or solicit, demand, or suggest from any person or persons, payment for services rendered in the performance of duty.
12. Never engage in activities while under the influence of alcohol or other substances that can impair my mental state or the performance of my firefighter duties and compromise safety while on duty.
13. Never discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual preference, medical condition or handicap.
14. Never harass, intimidate or threaten fellow members of the fire service or the public, and stop and report actions of other firefighters who engage in such behavior.
15. Responsibly use social networking, electronic communications or other media technology opportunities and in a manner that does not discredit, dishonor or embarrass the HFFC, the fire service and the public. I also understand that failure to resolve or report inappropriate use of this media equates to condoning this behavior.
16. Give my best effort to make decisions that are consistent with high moral principles and in the interest of protecting and enhancing the integrity, credibility, and the public's perception of the HFFC.
17. Not make any purchase or incur any liability in the name of HFFC without permission.
18. Treat as confidential the official business of the HFFC and not impart or discuss with anyone any matters concerning the HFFC or its members, except to the Officers of the HFFC or under process of law.
19. Keep myself physically fit.
20. Not knowingly falsify any HFFC records.
21. Not remove, damage or tamper with another member's personal property or the property of the HFFC.
22. Use my training and capabilities to protect the public at all times, both on and off duty.

I have read, understand, and agree to the above code of ethics and conduct.

Signature of HFFC Firefighter _____

Date: _____

III. Disciplinary Actions and Procedures.

§ 106-11. Application and Scope.

§ 106-11.1 The job functions of the members of the Fire Council necessarily include situations where there are threats to life and safety. It is therefore mandatory that all Fire Council personnel understand and comply with certain expected standards of discipline in the interest of all. The purpose of this section is to set standards for identification and correction of conduct prejudicial to the good order and discipline of the Hudson Falls Fire Council. The disciplinary procedures herein provide a frame work for dealing with instances where Fire Council members are alleged not to have met the required standards of conduct. The aim is to insure prompt, consistent and fair treatment for all Fire Council members and to assist in enabling both the Fire Council members and the Village Board of Hudson Falls to be clear about the expectations of all parties.

§ 106-11.2 The Village Board of Trustees has elected to adopt a process described as "progressive discipline" as the fundamental principle underlying these disciplinary procedures. This process allows for a series of phases which escalate the discipline in proportion to the escalation of the misconduct or infraction. The progressive discipline model is a five step process that consists of verbal warning, verbal reprimand, written reprimand, suspension, and termination.

§ 106-11.3 The policy underlying this section is that each Fire Council member and firefighter must be guaranteed fair and honest treatment in all aspects of Fire Council administration and operations. Officers shall treat each firefighter with respect, shall not demonstrate personal prejudice, or grant unfair advantage to one firefighter over another. Each firefighter has the right to express to the Village Board or Fire Council Officers their views concerning policies and procedures of the Fire Council. Each firefighter is responsible to express such views in a fair, professional, non-confrontational and honest manner. Every firefighter should be committed to making positive and constructive criticism of policies, procedures, practices and work performance of the Fire Council.

§ 106-11.4 Each firefighter is responsible for following the Fire Council policy and procedures without regard to personal opinion. In the event that the firefighter does not agree that their conduct constitutes a violation, or does not agree with the discipline given, they may appeal the actions of the Fire Council in accordance with the procedures set forth herein. In such cases, the following guidelines will be followed in the appeal of any disciplinary action:

- (a) The firefighter is entitled to fair discipline based on the facts;
- (b) The firefighter is entitled to question the facts presented by the Officer and to present a defense;

- (c) The firefighter may in any case appeal the disciplinary action in accordance with the procedures set forth herein. It is a matter of discretion on the part of the Fire Chief as to whether a stay of the disciplinary action will take place during the appeal period;
- (d) The firefighter is entitled to progressive discipline in appropriate circumstances and the opportunity to correct performance or behavior;
- (e) The firefighter has the right to be considered as an individual in their conduct and according to their personal circumstances. The Fire Council values its firefighters and their distinctive contributions and commitment; therefore, in any disciplinary case, the firefighter's prior service, performance, and disciplinary record shall be factors to be taken into account when executing any provision in this disciplinary code.

§ 106-12. General Principles.

§ 106-12.1 **Informal Resolution**- The Fire Council Officers are responsible for addressing conduct and behavior issues as early as possible and for taking appropriate action. Where appropriate, steps will be taken to resolve issues on an informal basis without recourse to the formal procedure.

§ 106-12.2 **Investigations** - Before disciplinary action is taken, an investigation shall be undertaken.

§ 106-12.3 **Nature of Allegations** - The firefighter against whom an allegation has been made shall be advised in writing of the nature of the allegations made against him or her, and will be given the opportunity to state his or her case before any decision is made to take disciplinary action.

§ 106-12.4 **Suspension** - At any stage in the procedure, if appropriate, a firefighter may be suspended. Suspension is not a penalty and is not an indication of culpability. The decision to suspend will be in the sole discretion of the Fire Chief.

§ 106-12.5 **Right to be Accompanied by Attorney** - All firefighters subject to disciplinary procedures have the right to be accompanied by an attorney at any formal meeting or disciplinary hearing held under the procedure.

§ 106-12.6 **Appeals against Sanctions including Dismissal** - Sanctions issued as a result of disciplinary procedures will remain in force pending the outcome of any appeal.

§ 106-12.7 **Time Scales** - While endeavor will be made to comply with time scales, due to the complexity and/or specific circumstances of cases, time scales may be extended. In such circumstances, the firefighter will be advised of the reasons for any delay in the proceedings.

§ 106-13. Informal Procedures.

§ 106-13.1 It is part of the normal supervisory process that the Fire Chief and Officers bring to the attention of all firefighters the standards required and any failure to meet those standards which may come to their attention.

§ 106-13.2 Cases of minor misconduct should be dealt with informally and without delay. The Fire Chief or Officers must speak to the firefighter in private and should encourage the firefighter to conduct himself or herself in accordance with the required standards.

§ 106-13.3 The purpose of these discussions is to ensure that the firefighter understands the nature of the concerns, expectations of improvements in conduct, and where appropriate, time frames for correction and the nature of any support available.

§ 106-13.4 The outcome of any discussions with the firefighter shall be confirmed in writing to the firefighter. Notes of any informal discussions or meetings shall be made and retained in the firefighter's file. Following a satisfactory outcome to the use of the informal procedure, the matter will be considered resolved.

§ 106-13.5 Where an issue has been discussed with a firefighter informally but the issue has not been resolved and the problem persists, or, the required improvements and conduct are not achieved, or, further information becomes available during discussions which make the matter sufficiently serious, then in such event, the formal procedure may be invoked.

§ 106.14. Formal Procedure.

§ 106-14.1 Where the informal procedure has not lead to improved conduct, or, where the alleged misconduct is of such seriousness that the Fire Chief considers informal action to be inappropriate, formal action will be initiated.

§ 106-14.2 An investigation of the facts will be conducted as outlined in §106.15 to determine whether there is a disciplinary case to answer. Where an investigation indicates that there may have been an act of misconduct, the firefighter will be required to attend a formal disciplinary hearing at which the firefighter shall be given the opportunity to respond and state his or her case.

§ 106-14.3 Depending upon the severity of the conduct in issue and the particular circumstances of the case, the following types of conduct are a non-exclusive list of misconduct which may be considered "just cause" for severe disciplinary action where appropriate:

- (a) Insubordination;
- (b) Deliberate falsification of records or reports;

- (c) Theft;
- (d) Use or possession of alcohol or illegal drugs on or in Fire Council property;
- (e) Reporting for duty while under the influence of alcohol or drugs;
- (f) Receipt of three or more verbal warnings as a result of minor misconduct within a one (1) year period;
- (g) Failure to meet the requirements of a written reprimand;
- (h) Endangering the life or property of another;
- (i) Conviction of a crime amounting to a felony;
- (j) Conviction of an offense of driving under the influence of alcohol or drugs;
- (k) Conviction of possession of a weapon on Village or Fire Council premises or in Fire Council vehicles (excluding firematic tools);
- (l) Chronic or habitual absenteeism at training or emergency calls;
- (m) Committing any act of sexual harassment;
- (n) Violation of any Fire Council rules, regulations, or standard operating procedures which endanger the life or safety of fellow firefighters or members of the public;
- (o) Freelancing;
- (p) Any violation of the Fire Council Code of Ethics and Conduct which directly endangers the health, safety and welfare of the firefighter, another firefighter, the Fire Council, or any member of the public, to the extent where the Fire Chief considers such conduct of such seriousness to warrant formal disciplinary action.

§ 106-15. Investigation.

§ 106-15.1 Before a disciplinary hearing is convened, there will normally be an investigation into the circumstances of the alleged misconduct. The purpose of the investigation is to establish the nature of the allegations and to gather evidence in order to enable a decision to be made on whether there is a disciplinary case to answer in a formal hearing.

§ 106-15.2 The firefighter will be informed promptly of any allegation and that an investigation to establish the facts will be undertaken. The investigation shall be concluded as soon as reasonably possible while allowing sufficient time to interview relevant parties. The firefighter subject to the investigation must be kept informed if there is any unexpected delay in the process.

§ 106-15.3 If there is no disagreement concerning the facts of the case by reason of the firefighter's admission of the alleged misconduct, an investigation may not be necessary before a disciplinary hearing is arranged. However, in cases where misconduct is not admitted or if there are conflicting views or evidence, further investigation will usually be appropriate before a decision is taken to proceed to a formal hearing.

§ 106-15.4 Investigatory interviews are part of the process to establish whether disciplinary action is warranted. As part of the investigation, the firefighter who is the subject of the allegation will be expected to attend an investigatory interview at which he or she may be accompanied by an attorney.

The firefighter who is the subject of the allegation shall be expected to inform the investigating body of any facts or witnesses that he or she feels are relevant to the case. Where appropriate, witnesses will also be interviewed.

§ 106-15.5 The outcome of an investigation may be any one of the following:

- (a) There is no case to answer and therefore no disciplinary action is taken;
- (b) The matter should be dealt with informally, if appropriate, with support and/or training to resolve the matter; or
- (c) A recommendation that there is a case to answer and a disciplinary hearing should be arranged.

§ 106-16. **Disciplinary Hearings.**

§ 106-16.1 **Disciplinary Hearing - Preparation and conduct** - If following an investigation there is a recommendation that there is a disciplinary case to answer, the firefighter will normally be given ten days notice and invited to attend a disciplinary hearing. The firefighter will be provided with details of the allegation(s) and an indication as to whether the alleged misconduct is considered as potentially a serious/gross misconduct case and therefore whether a sanction of suspension or dismissal may be considered. The firefighter will be invited to make any written submissions or bring forward witnesses. Prior to the hearing, any documentation that will be referred to in the hearing will be made available to the firefighter.

§ 106-16.2 The firefighter will be given an opportunity to present his or her case, question witnesses and raise any issues he or she wishes to have considered. The Fire Chief or designated Officer conducting and hearing the case will be able to question those involved in the case. The firefighter shall be entitled to be represented by an attorney during the hearing.

§ 106-16.3 The Fire Chief or designated Officer conducting and hearing the case will consider all representations and then decide if, on the preponderance of the evidence, the allegation(s) are proven and, if so, what level of disciplinary sanction is appropriate.

§ 106-16.4 The decision may be given verbally at the hearing and will in any event be conveyed or confirmed in writing within five working days of the hearing. The decision shall also notify the individual firefighter of his or her right to appeal against any sanction. In the event that the decision is to dismiss the firefighter, the letter will include the reasons for dismissal and the date that his or her firefighter membership will terminate, together with details of any notice arrangements.

§ 106-17. Formal Levels of Disciplinary Sanctions

§ 106-17.1 There are three levels in the formal disciplinary procedure with various sanctions dependent upon the gravity of the case and/or the on-going nature of the misconduct.

§ 106-17.2 Level One Formal - Written warning

§ 106-17.2.1 This is usually given if there has been either a minor breach of conduct which remains unresolved by informal action, or a first, more serious breach of discipline.

§ 106-17.2.2 The disciplinary sanction of a written warning given under level one will be retained in the firefighter's personal file, subject to satisfactory conduct and/or improvement for twelve months from the date the decision is confirmed.

§ 106-17.3 - Level Two Formal - Final written warning

§ 106-17.3.1 If the firefighter does not meet the required standard of conduct set out in level one or commits any other act of misconduct during the time scale of an existing warning, a further formal disciplinary hearing may be convened under level two of this procedure.

§ 106-17.3.2 In some circumstances, where an alleged misconduct is sufficiently serious, it may be appropriate to progress directly to level two of this procedure.

§ 106-17.3.3 The disciplinary hearing will be conducted following an investigation, if appropriate, and as described in § 106-16.

§ 106-17.3.4 The disciplinary sanction of a final written warning given under level two will be retained in the firefighter's personal file, subject to satisfactory conduct and or improvements for twenty-four months from the date the decision is confirmed.

§ 106-17.4 Level Three Formal - Dismissal

§ 106-17.4.1 If allegations are raised which are so serious as to constitute gross misconduct (such as those listed in § 106-14.3), it will be appropriate to consider taking formal action under level three of this procedure.

§ 106-17.4.2 It may also be appropriate to move directly to level three if a firefighter does not meet the required standard of conduct set out in the final written warning given under level two of this procedure, or commits any other act of misconduct during the time scale of an existing warning.

§ 106-17.4.3 If an investigation indicates that an act of further or gross misconduct may have occurred, the firefighter will be required to attend a formal disciplinary hearing.

§ 106-17.4.4 The letter requiring attendance at the formal disciplinary hearing shall include a statement of the alleged misconduct and warn the firefighter that a consequence of the hearing may be the termination of his or her appointment with or without notice.

§ 106-17.4.5 The Fire Chief or designated Officer conducting and hearing the case will consider all representations and then decide if, on the preponderance of the evidence, the allegation(s) are proved and, if so, what level of disciplinary sanction, including and up to dismissal, is appropriate. On the basis of the information presented, the Fire Chief or designated Officer may decide:

- (a) That there are sufficient ground to dismiss the firefighter under this procedure;
- (b) On the imposition, extension or renewal of a warning or final written warning issued under this procedure;
- (c) That matters should be considered under an alternative procedure.

The above list is not exhaustive and the outcome may be varied according to the circumstances of the case.

§106-18. Appeals

§ 106-18.1 Any Officer or firefighter member of the Hudson Falls Fire Council who has been removed from office or membership, as the case may be, for incompetence or misconduct may appeal such action to the Village Board of Trustees.

§ 106-18.2 Upon the issuance of disciplinary action removing an Officer or firefighter from the Fire Council, written findings supporting the disciplinary action shall be provided to the removed Officer or firefighter within seven (7) days of the finalization of the disciplinary hearing.

§ 106-18.3 In the event that the removed Officer or firefighter elects to appeal the decision of removal of the said Officer or firefighter, said removed Officer or firefighter shall submit a written notice of appeal stating his or her election to appeal said decision. Said written notice of appeal shall be filed with the Hudson Falls Village Clerk within five (5) days of receiving the written findings.

§ 106-18.4 Following the filing of a notice of appeal, the Village Board of Trustees shall schedule a hearing. Notice of said hearing shall specify the time and place of such hearing and shall state the body or persons before whom the hearing will be held. Such notice and a copy of the findings of the disciplinary action shall be served personally upon the accused Officer or firefighter no less than ten (10) days or more than thirty (30) days before the date of the hearing.

§ 106-18.5 The burden of proving incompetency or misconduct shall be upon the Fire Council. The accused Officer or firefighter shall be entitled to representation by an attorney and shall be allowed to cross examine any witnesses or evidence presented at the hearing, and to produce his or her own witnesses or evidence.

§ 106-18.6 The Officer or body having the power to remove the person charged with incompetence or misconduct may suspend such person after charges are filed and pending disposition of the charges, and after the hearing may remove such person or may suspend him or her for a period of time not to exceed one (1) year.

§106-19. Severability.

If any clause, sentence, paragraph, word, section or part of this provision shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved in the controversy in which said judgment shall have been rendered.

