

1 **DRAFT ORDINANCE 2018-45**  
2 **TOWN OF LADY LAKE, FLORIDA**

3 **AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, LAKE**  
4 **COUNTY, FLORIDA AMENDING CHAPTER 10.5, PENSIONS AND RETIREMENT, ARTICLE**  
5 **III, POLICE OFFICERS’ RETIREMENT TRUST FUND OF THE CODE OF ORDINANCES OF**  
6 **THE TOWN OF LADY LAKE; CREATING SECTION 10.5-59 ADOPTING A DEFINED**  
7 **CONTRIBUTION COMPONENT FOR THE PENSION IN THE FORM OF A “SHARE PLAN”;**  
8 **PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY in ABILITY OF**  
9 **PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING**  
10 **AN EFFECTIVE DATE.**

11 **WHEREAS**, the Town of Lady Lake police officers are presently provided pension benefits  
12 pursuant to Article III, Chapter 10.5, Lady Lake Code of Ordinances, which establishes a plan  
13 intended to meet or exceed the minimum benefits and minimum standards set out in Chapter  
14 185, Florida Statutes; and

15 **WHEREAS**, the Town of Lady Lake and the members’ collective bargaining representative  
16 have reached mutual consent, as described in Section 285.35(g), Florida Statutes, in an  
17 agreement dated October 1, 2017 regarding the use of certain premium tax revenues; and

18 **WHEREAS**, the Town Commission desires to amend its “local-law” pension plan to  
19 maintain benefits for police officers, and to establish a defined contribution component for  
20 the plan as required by Sec. 185.35(6), Florida Statutes, which component will be funded in  
21 accordance with the collective bargaining agreement; and

22 **WHEREAS**, the proposed changes have been approved and recommended by the Board of  
23 Trustees of the plan.

24 **NOW, THEREFORE, BE IT ORDAINED** by the Town Commission of the Town of Lady Lake,  
25 Lake County, Florida:

26 **SECTION 1:**

27 CHAPTER 10.5, PENSIONS AND RETIREMENT, ARTICLE III, POLICE OFFICERS’ RETIREMENT  
28 TRUST FUND is hereby amended to append Section 10.5, entitled “Supplemental benefit  
29 component for special benefits; Chapter 185 share accounts”, as set forth hereinafter

30 **SECTION 2:**

31 Section 10.5-59 as set forth below is hereby appended to Article III, Section 10.5, and made a  
32 part thereof:

1 **Sec. 10.5-59. Excess Premium Tax Revenues; Supplemental Share Account Benefit.**

2 There is hereby established an additional plan component to provide special benefits in the  
3 form of a supplemental retirement, termination, death and disability benefits to be in  
4 addition to the benefits provided for in the previous Sections of this Plan, such benefit to be  
5 funded solely and entirely by F.S. Chapter 185, premium tax monies for each plan year which  
6 are allocated to this supplemental defined contribution component for special benefits as  
7 provided for in F.S. §185.35. As of October 1, 2017, there is mutual consent of the members'  
8 collective bargaining representative and the municipality to use premium tax revenues in the  
9 manner described herein. Of the additional premium tax revenues received that are in excess  
10 of the amount received for the 2012 calendar year, 50 percent must be used to reduce any  
11 unfunded liabilities of the Plan and 50 percent must be placed in a defined contribution plan  
12 component. If there is no Unfunded Actuarial Accrued Liability as of the most recent actuarial  
13 valuation report, then the 50% that was to be used to reduce any unfunded liabilities of the  
14 Plan will be used to reduce the Town's funding requirement for that year. Amounts allocated  
15 to this supplemental component ("Share Plan"), if any, shall be further allocated to the  
16 members as set forth herein.

17 (a) Individual Member Share Accounts. The board shall create individual "member share  
18 accounts" for all persons who were actively employed plan members as of October 1, 2017  
19 and maintain appropriate books and records showing the respective interest of each member  
20 hereunder. Each member shall have a member share account for his share of the F.S. Chapter  
21 185 tax revenues described above, forfeitures and income and expense adjustments relating  
22 thereto. The board shall maintain separate member share accounts; however, the  
23 maintenance of separate accounts is for accounting purposes only and a segregation of the  
24 assets of the trust fund to each account shall not be required or permitted.

25 (b) Share Account Funding.

26 (1) Individual member share accounts shall be established as of September 30, 2017  
27 for all members who were actively employed as of October 1, 2017 and for each member who  
28 becomes employed thereafter. Individual member share accounts shall be credited with an  
29 allocation as provided for in the following subsection (c) of any premium tax monies, which  
30 have been allocated to the share plan for that plan year, beginning with the plan year ending  
31 September 30, 2018.

32 (2) Any forfeitures as provided in subsection (d), shall be used as part of future  
33 allocations to the individual member share accounts in accordance with the formula set forth  
34 in subsection (c)(1).

35

1 (c) Allocation of Monies to Share Accounts.

2 (1) Allocation of Chapter 185 Contributions.

3 a. Effective as of October 1, 2017, the amount of any premium tax monies  
4 allocated to the share plan shall be allocated to individual member share accounts as  
5 provided for in this subsection. Members retiring on or after October 1, 2017 and prior to  
6 September 30, 2018 shall receive an allocation. In addition, all premium tax monies allocated  
7 to the share plan in any subsequent plan year shall also be allocated as provided for in this  
8 subsection. Available premium tax monies shall be allocated to individual member share  
9 accounts at the end of each plan year on September 30 (a “valuation date”).

10 b. On each valuation date, each current actively employed member of the plan  
11 with a minimum of one year of credited service and each retiree with at least one year of  
12 credited service who retires in the plan year ending on the valuation date (including each  
13 disability retiree), or beneficiary of a vested member who died during the plan year ending on  
14 the valuation date (not including terminated persons) and is otherwise eligible shall receive a  
15 share allocation as follows:

16 c. The total funds subject to allocation on each valuation date shall be allocated to  
17 each member share account of those eligible for an allocation in an amount equal to the total  
18 funds divided by the number of all individuals to whom allocations are being made.

19 d. For the purposes of establishing and maintaining share accounts, re-employed  
20 retirees shall be deemed new employees and shall receive an allocation based solely on the  
21 credited service in the reemployment period.

22 (2) Allocation of Investment Gains and Losses. On each valuation date, each individual  
23 member share account shall be adjusted to reflect the net earnings or losses resulting from  
24 investments during the year. The net earnings or losses allocated to the individual member  
25 share accounts shall be the same percentage, which is earned or lost by the total plan  
26 investments, including realized and unrealized gains or losses, net of brokerage commissions,  
27 transaction costs and management fees. Net earnings or losses are determined as of the last  
28 business day of the fiscal year, which is the valuation date, and are debited or credited as of  
29 such date. For purposes of calculating net earnings or losses on a member's share account  
30 pursuant to this subsection, brokerage commissions, transaction costs, and management  
31 fees for the immediately preceding fiscal year shall be determined for each year by the  
32 investment consultant pursuant to contracts with fund managers as reported in the custodial  
33 statement. The investment consultant shall report these annual contractual fees to the  
34 board. The investment consultant shall also report the net investment return for each  
35 manager and the net investment return for the total plan assets.

1 (3) Allocation of Costs, Fees and Expenses. On each valuation date, each individual  
2 member share account shall be adjusted to allocate its pro rata share of the costs, fees and  
3 expenses of administration of the share plan. These fees shall be allocated to each individual  
4 member share account on a proportionate basis taking the costs, fees and expenses of  
5 administration of the share plan as a whole multiplied by a fraction, the numerator of which  
6 is the total assets in each individual member share account (after adding the annual  
7 investment gain or loss) and the denominator of which is the total assets of the fund as a  
8 whole as of the same date.

9 (4) No Right to Allocation. The fact of allocation or credit of an allocation to a  
10 member's share account by the board shall not vest in any member, any right, title, or  
11 interest in the assets of the trust or in the Chapter 185 tax revenues except at the time or  
12 times, to the extent, and subject to the terms and conditions provided in this Section.

13 (5) Members shall be provided annual statements setting forth their share account  
14 balance as of the end of the plan year.

15 (d) Eligibility for Benefits. Any member (or his beneficiary) who terminates employment as  
16 a police officer with the Town or who dies, upon application filed with the board, shall be  
17 entitled to be paid the value of his individual member share account, subject to the following  
18 criteria:

19 (1) Retirement Benefit.

20 a. A member shall be entitled to one hundred percent (100%) of the value of his  
21 share account upon normal or early retirement pursuant to Section 10.5-36.

22 b. Such payment shall be made as provided in subsection (e).

23 (2) Termination Benefit.

24 a. In the event that a Share Member's employment as a police officer is terminated  
25 before attaining ten (10) years of credited service or separates from the Town employment  
26 after attaining ten (10) years of credited service but elects to receive a refund of member  
27 contributions in lieu of any benefit from the Share Program, the member shall forfeit his/her  
28 share account balance, and the account balance shall be added to the available funds for the  
29 next following, and reallocated to other Share Program member accounts.

30 b. Such payment shall be made as provided in subsection (e).

31 (3) Disability Benefit.

32 a. In the event that a member is determined to be eligible for a disability benefit  
33 pursuant to Section 10.5-38, he shall be entitled to one hundred percent (100%) of the value  
34 of his share account.

1           b. Such payment shall be made as provided in subsection (e).

2           (4) Death Benefit.

3           a. In the event that a member dies while actively employed as a police officer, one  
4 hundred percent (100%) of the value of his member share account shall be paid to his  
5 designated Beneficiary as provided in Section 10.5-37.

6           b. Such payment shall be made as provided in subsection (e).

7           (e) Payment of Benefits. If a member terminates employment and is eligible under  
8 Termination Benefit (2) (a) or dies and he or his beneficiary is otherwise entitled to receive the  
9 balance in the member's share account, the member's share account if eligible shall be  
10 valued by the plan's actuary on the next valuation date as provided for in subsection (c)  
11 above, following termination of employment. Payment of the calculated share account  
12 balance shall be payable as soon as administratively practicable following the valuation date,  
13 but not later than one hundred fifty (150) days following the valuation date and shall be paid  
14 in one lump sum payment. No optional forms of payments shall be permitted.

15           (f) Benefits Not Guaranteed. All benefits payable under this Section 10.5-59 shall be paid  
16 only from the assets accounted for in individual member share accounts. Neither the Town  
17 nor the board shall have any duty or liability to furnish any additional funds, securities or  
18 other assets to fund share account benefits. Neither the board nor any trustee shall be liable  
19 for the making, retention, or sale of any investment or reinvestment made as herein provided,  
20 nor for any loss or diminishment of the member share account balances, except due to his or  
21 its own negligence, willful misconduct or lack of good faith. All investments shall be made by  
22 the board subject to the restrictions otherwise applicable to fund investments.

23           (g) Notional account. The member share account is a notional account, used only for the  
24 purpose of calculation of the share distribution amount. It is not a separate account in the  
25 system. There is no change in the system's assets, and there is no distribution available to the  
26 member until the member's termination from employment. The member has no control over  
27 the investment of the share account.

28           (h) No employer discretion. The share account benefit is determined pursuant to a  
29 specific formula, which does not involve employer discretion.

30           (i) Maximum Additions. Notwithstanding any other provision of this Section, annual  
31 additions under this Section shall not exceed the limitations of Section 415(c) of the Code

32           (j) IRC limit. The share account distribution, along with other benefits payable from the  
33 system, is subject to limitation under Internal Revenue Code Section 415(b).

34           **SECTION 3:**

1 All ordinances, resolutions, or parts of ordinances or resolutions in conflict with the  
2 provisions of this ordinance are hereby repealed to the extent of such conflict.

3 **SECTION 4:**

4 The provisions of this Ordinance are declared to be severable and if any section, sentence,  
5 clause or phrase of this Ordinance shall for any reason be held to be invalid or  
6 unconstitutional, such decision shall not affect the validity of the remaining sections,  
7 sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the  
8 legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

9 **SECTION 5:**

10 It is the intention of the Town Commission of the Town of Lady Lake that the provisions of  
11 this Ordinance shall become and be made a part of the Town of Lady Lake Code of  
12 Ordinances and that the sections of this Ordinance may be renumbered or relettered and the  
13 word "Ordinance" may be changed to "Section", "Article" or such other appropriate word or  
14 phrase to accomplish such intentions.

15 **SECTION 6:**

16 This ordinance shall become effective immediately upon final passage by the Town  
17 Commission

18 **SECTION 7:**

19 This ordinance shall be published in accordance with the requirements of law.

20 **PASSED AND ADOPTED** this 5<sup>th</sup> day of **November 2018**, in the regular session of the Town  
21 Commission of the Town of Lady Lake, Lake County, Florida, upon the second and final  
22 reading.

23 Town of Lady Lake, Florida

24 \_\_\_\_\_  
25 Jim Richards, Mayor

26 Attest:

27 \_\_\_\_\_  
28 Kristen Kollgaard, Town Clerk

29 Approved as to form:

30 \_\_\_\_\_  
31 Derek Schroth, Town Attorney