

1 **DRAFT ORDINANCE 2018-46**
2 **TOWN OF LADY LAKE, FLORIDA**

3 **AN ORDINANCE OF THE TOWN OF LADY LAKE DELETING AND REPLACING ORDINANCE**
4 **2006-76 IN ITS ENTIRETY AND ESTABLISHING A DISCIPLINARY ARBITRATION PANEL**
5 **(DAP) TO ADJUDICATE GRIEVANCES IN LIEU OF AN ARBITRATOR; SETTING THE**
6 **CRITERIA FOR BOARD MEMBERSHIP; ESTABLISHING HEARING PROCEDURES;**
7 **REPEALING ALL CONFLICTING PROVISIONS, PROVIDING FOR SEVERABILITY, AND**
8 **ESTABLISHING AN EFFECTIVE DATE.**

9 **WHEREAS**, the Town of Lady Lake and the Florida Police Benevolent Association (PBA)
10 have worked diligently and in good faith to settle their differences,

11 **WHEREAS**, the Town of Lady Lake finds that it is in the best interest of the Town and will
12 promote the general health, safety, and welfare of the Town and its citizens to have an
13 appointed Disciplinary Arbitration Panel made up of Lady Lake Citizens to decide an
14 aggrieved party's request to hear disciplinary matters and to review all other disciplinary
15 matters as agreed to by the PBA and the Town of Lady Lake,

16 **WHEREAS**, the Town of Lady Lake Staff and the PBA have proposed a Disciplinary
17 Arbitration Panel to review such disciplinary matters for final adjudication,

18 **WHEREAS**, the Town Commission of the Town of Lady Lake held a public hearing to
19 consider establishing a Disciplinary Arbitration Panel (DAP) to review and adjudicate
20 disciplinary matters instead of an arbitrator and has determined that a DAP will serve the
21 Town and its citizens well.

22 **NOW THEREFORE**, be it ordained and enacted by the Town Commission of the Town of
23 Lady Lake, in Lake County, Florida:

24 **SECTION 1. Establishment of Disciplinary Arbitration Panel (DAP), Criteria for Board**
25 **Membership, and Hearing Procedures**

26 The Town of Lady Lake hereby establishes a Disciplinary Arbitration Panel (DAP) to decide an
27 aggrieved party's request to hear disciplinary matters and to review all other disciplinary
28 matters as agreed to by the PBA and the Town of Lady Lake under the terms and procedures
29 set forth in Exhibit "A" attached hereto and incorporated herein.

30 **SECTION 2. Conflicting Provisions Repealed**

31 Should a Court of competent jurisdiction determine that this Ordinance conflicts with any
32 prior Ordinance, this Ordinance shall control and supersede the conflicting provision, if any.

1 **SECTION 3. Severability**

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

7 **SECTION 4. Inclusion in the Town of Lady Lake Code**

8 The Town Commission of the Town of Lady Lake intends that the provisions of this Ordinance
9 shall become and be made a part of the Town of Lady Lake Code of Ordinances and that the
10 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may
11 be changed to "section" "article" or such other appropriate word or phrase to accomplish
12 such intentions.

13 **SECTION 5. Effective Date**

14 This ordinance shall become effective immediately upon final reading and adoption by the
15 Town Commission of Town of Lady Lake, Florida as provided by law.

16 **PASSED AND ORDAINED** by the Town Commission of the Town of Lady Lake, Florida, this
17 **19th day of November, 2018.**

18 Town of Lady Lake, Florida

19 _____
20 Jim Richards, Mayor

21 Attest:

22 _____
23 Kristen Kollgaard, Town Clerk

24 Approved as to form:

25 _____
26 Derek Schroth, Town Attorney

EXHIBIT A

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Membership

The Disciplinary Arbitration Panel will consist of five residents; three of which will be voting members and two will be alternates. Whenever possible, the applicants shall have had experience in labor relations, or human resources, or personnel management or similar related experience. A hearing shall not be held without three voting members present.

Criteria for membership on the volunteer DAP shall be as follows:

1. Applications will be advertised by the Town Clerk’s Office.
2. A DAP member must be and have been residents of the Town of Lady Lake for at least one full calendar year prior to their application for Panel membership and must maintain their Town residency during their term as a panel member.
3. A DAP member must be at least 21 years of age.
4. A DAP member must maintain residency within the Town limits throughout the duration of a three-year appointment term. In the event that a DAP member no longer resides within the Town limits of Lady Lake, an alternate member will replace them. The Town Clerk's Office will post a vacancy announcement for an alternate DAP position. The PBA will review applicants and select a new alternate DAP member with concurrence by the Town Commission.
5. A DAP member must have no criminal record (an arrest will not automatically exclude membership, but appointment will be dependent upon the circumstances of the arrest).
6. A DAP member must be able to pass the FDLE background check to include, but not limited to, criminal and in-house histories. Member must sign a Personal Inquiry Waiver for Background Check.
7. A DAP member cannot be a current or former paid employee of the Town of Lady Lake, or a current or past Commissioner of Lady Lake.
8. A DAP member cannot be related to a Town of Lady Lake employee as this term is defined in Article 27 of the existing contract between the PBA and the Town of Lady Lake.
9. A DAP member must be willing to attend training.
10. A DAP member must notify the Town Clerk's Office of any changes that may affect their membership qualifications or status. In the event, a DAP member has a conflict of interest in the grievance being heard, they must bring this to the attention of the Town Clerk's Office or at the beginning of the hearing proceedings in order for an alternate member to be

1 assigned. Not complying with the stated rule will immediately disqualify member
2 permanently from board.

3 11. The initial empanelment shall consist of a staggered appointment time of one, two,
4 and three-year terms. Thereafter, panel members shall be appointed for a three-year term
5 with the possibility of additional term renewals.

6 12. The PBA recommends candidates to the Town Manager for appointment and to the
7 Town Commission for approval.

8 13. The Disciplinary Arbitration Panel elects a chairperson and vice-chairperson from
9 among the citizen members to preside over its proceedings.

10 **Hearing Procedures**

11 If the matter has not been satisfactorily resolved at Step 3 of the grievance procedure, the
12 PBA (or grievant if not represented by the PBA) will notify in writing to the Town Manager
13 within twenty days after receipt of the Town's Manager's response to the grievant at Step 3,
14 to have the disciplinary matter heard by the Disciplinary Arbitration Panel (DAP). Upon
15 receipt of the notice the Town Manager or designee shall within seven days notify the Chair of
16 the DAP to schedule a hearing within 20 days of the Town Manager's notification. The Town
17 Clerk's Office will coordinate with the PBA or grievant and DAP to determine a date for the
18 hearing.

19 The notification shall include the grievance as well as any relevant documents the parties
20 may want to submit in advance to the Panel.

21 The hearing shall be conducted and decision rendered within 47 days of the written request
22 by the PBA or grievant for a hearing. Reasonable extensions of this period may be granted by
23 the Chair upon written request by either the Town or the PBA or grievant for good cause
24 shown. Natural disasters are extenuating circumstances that are an automatic reason for
25 extension beyond the 47-day timeline, and remains extended until normal operations are
26 resumed.

27 No later than seven days prior to the hearing, the Town and the PBA or grievant must file with
28 the Town Clerk's Office, and copy the other party, with a list of witnesses each party intends
29 on calling to testify at the hearing, and a copy of any and all exhibits that are to be introduced
30 at the hearing. The Board will entertain requests by the parties to have the Chair send out
31 certified letters to the witnesses urging their attendance upon application of either party to
32 the Chair. The failure to list a witness or an exhibit will result in the exclusion of the witness's
33 testimony or the exhibit, absent good cause shown as determined by the Chair.

1 All documentation provided by the Town and the PBA must be marked with a "T" for the
2 Town or an "P" for the PBA, or "G" for Grievant. Each is responsible for marking all of their
3 documentation prior to submitting to the Town Clerk Office.

4 Upon the hearing being convened, the Chair shall explain its purpose; identify him or herself,
5 the other board members, the parties, and the representatives of the parties. The Chair shall
6 ensure that the hearing is audiotaped in its entirety. The Chair or his designee shall swear in
7 witnesses providing live testimony.

8 Each party shall be afforded the opportunity to give the Board an opening statement. After
9 opening statements, the Town shall be afforded the opportunity to present its case through
10 testimony or documentary evidence. The grievant shall then be afforded the opportunity to
11 present his or her case through testimony and/or documentary evidence.

12 All witnesses shall be subject to cross-examination by the opposing party. At the conclusion
13 of each witness' testimony, the Chair shall afford each member of the Board the ability to
14 question the witness. Witnesses may appear by telephone only with express advanced
15 permission from the Chair.

16 At the conclusion of the parties' presentations, both the Town and the grievant shall be
17 afforded an opportunity to give closing statements to the Board.

18 The length of the hearing will not normally be more than one day in duration unless the
19 parties petition the Chairperson for additional time. The Chair has the authority to grant time
20 extensions.

21 The Rules of Evidence applicable to administrative proceedings pursuant to Florida Statute
22 120.57 shall be observed in this proceeding. The Chair shall make any rulings on evidentiary
23 questions. The Chair shall have wide latitude to exclude from consideration evidence that is
24 irrelevant. The Chair shall also exclude from consideration any evidence that was not used as
25 a basis for the discipline by the Town, or any evidence that was not presented by the grievant
26 in response to the discipline during the grievance procedure leading up to this proceeding.

27 The Chair shall have the latitude to run the proceedings in a manner that he or she deems
28 appropriate to support the Board's efficiency and effectiveness. The Chair may eject any
29 person who disrupts the proceedings.

30 Once the case is set for review by the three members, each must be present during all
31 portions of the proceedings.

32 At the conclusion of the closing statements, the Panel shall deliberate in public and
33 determine whether to agree to sustain or agree not to sustain or modify the disciplinary

1 action taken. The majority decision of the DAP shall be final and binding on all of the parties
2 and shall be the last step in an administrative remedy.

3 Both the hearing and the deliberations shall be open to the public pursuant to Florida's
4 Sunshine Law. A Panel member is prohibited from speaking with another Panel member
5 about the case in private.