

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA THAT REPEALS ST. JOHNS COUNTY ORDINANCE 90-47 (THE SHERIFF'S CAREER SERVICE ACT). THIS ORDINANCE IN EFFECT AMMENDS ORDINANCE 90-47 BY MAKING FINDINGS; RECREATING A CAREER SERVICE ACT PERTAINING TO THE ST. JOHNS COUNTY SHERIFF'S OFFICE; PROVIDING FOR THE APPLICATION OF THE ACT TO ALL CERTIFIED AND NONCERTIFIED REGULAR STATUS FULL-TIME MEMBERS/APPOINTEES OF THE ST. JOHNS COUNTY SHERIFF'S OFFICE; PROVIDING FOR THE SUSPENSION OR DISMISSAL OF MEMBER/APPOINTEES; PROVIDING FOR THE TRANSITION OF MEMBERS/APPOINTEES; PROVIDING FOR APPEALS OF DISCIPLINARY ACTIONS; PROVIDING FOR CAREER SERVICE APPEALS BOARDS; PROVIDING FOR APPEAL BOARD PROCEDURES; PROVIDING FOR A PROMOTIONAL POLICY; PROVIDING FOR PROMOTIONAL TESTING; PROVIDING FOR NOTICE OF OPPORTUNITY; PROVIDING FOR APPLICATIONS FOR PROMOTIONS; PROVIDING FOR PROMOTIONAL ORAL REVIEW; PROVIDING FOR PROMOTIONAL ORAL REVIEW BOARD MEMBERSHIP SELECTION; PROVIDING FOR FINAL SELECTION FOR PROMOTION; PROVIDING FOR A PROMOTIONAL ELIGIBILITY LIST; PROVIDING MINIMUM REQUIREMENTS FOR PROMOTION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AS FOLLOWS:

Section 1. The Board of County Commissioners of St. Johns County, Florida (the "Board") hereby finds and determines that:

- (A) The Florida legislature, through passage of HB 3447 (Chapter 90-477 Laws of Florida), directed the Board of County Commissioners of St. Johns County to enact Sections 2 through 16 of HB 3447 as a county ordinance pursuant to 125.01(1)(u), Florida Statutes. The legislature also directed that the ordinance enacted be identical to sections 2 through 16 of HB 3447, and that it be enacted prior to October 01, 1990. And finally, the Legislature directed that once enacted as an ordinance the

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provision shall only be revised by the county commission if requested by the Sheriff, and pursuant to the Sheriff's recommendations. This ordinance shall sometimes hereinafter be referred to as an "act"; and

(B) In compliance with HB3447 the Board enacted St. Johns County ordinance 90-47. The Sheriff has now requested and recommended that this ordinance be enacted in its stead.

Section 2. Applicability

(1) The provision of this act, which shall be known as the "Career Service Act," shall apply to all certified and noncertified full-time members/appointees of the St. Johns County Sheriff's Office, including deputy sheriffs, except as provided in this act.

(a) The provisions of this act do not apply to the Sheriff, staff attorney, special deputies appointed pursuant to s. 30.09, Florida Statutes, part-time personnel or contracted labor.

(b) The provisions of this act do not apply to any certified or noncertified member of a reserve, auxiliary, posse, volunteer, or other public service assistant ("PSA") unit; neither do they apply to any regular status full-time member/appointee based on his activity or his performance in a reserve, auxiliary, posse, volunteer or other PSA unit which is not his regular status full-time assignment.

(2) Regular status members/appointees are defined as members/appointees who have served in a full-time status in the agency for a continuous period of one calendar year from the date of initial appointment, unless said member/appointee has been placed on an extended probation by the Sheriff, in which case, the regular status will be attained only

upon satisfactory completion of his extended probationary period, which in no case will be more than 2 years from the date of initial appointment.

(a) A member/appointee who terminates for any reason and is reappointed shall not be considered regular status until he has completed the required probationary period, commencing on the date of reappointment, with the exception of a reinstatement order from a career service appeals board.

(b) A member/appointee who is required to serve a probationary period attendant with promotion shall retain regular status, but may be demoted to his prior rank or position during such probationary status without the right of appeal. The probationary status is hereby limited to 180 days.

Section 3. Suspension or dismissal of member/appointee.--

(1) A member/appointee may only be suspended or terminated for just cause.

(a) Prior to such action the member/appointee must be furnished with written notice of the proposed action and offered the opportunity to respond to the allegations or charges in the suspension or dismissal.

(b) In emergency circumstances and for cause, a member/appointee may be suspended or dismissed immediately, providing notice thereof and the reasons therefore are given within 24 hours.

(2) Cause for suspension or termination shall be limited to: negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, misconduct, proof of alcohol or prescription drug abuse, use of illegal or illicit drugs, adjudication of guilt by a court of competent jurisdiction, a plea of nolo contendere, or a plea of guilty. The filing of any felony or misdemeanor charges against any member/appointee may constitute cause for suspension.

Section 4. Transition of members/appointees.--

(1) When a newly elected or appointed Sheriff lawfully assumes office, the new Sheriff shall continue appointment of current regular status full-time personnel, unless cause for termination exists and established methods of termination are followed.

(2) The incoming Sheriff shall have the option of retaining the current personnel assigned to the positions of Chief of Staff, Division Director, Sheriff's Administrative Assistant, Sheriff's Secretary, and media representative.

(a) If the incoming Sheriff fills the positions of Chief of Staff, Division Director, Sheriff's Administrative Assistant, Sheriff's Secretary, or media representative, the current personnel may be reduced in rank or pay grade not more than one rank or pay grade or not more than one position or pay grade for non-sworn personnel. Any transfer of these personnel shall be to a position in the agency for which they are qualified.

(b) Such new rank or position shall be regular status upon effect unless later reduced by disciplinary action. Any other regular status positional changes to a position outside of the current assigned unit shall have the right to appeal to a career service appeals board in accordance with the discipline and grievance policy as established by the Career Service Act.

(c) Actions taken under paragraphs (a) and (b) relating to Chief of Staff and all others identified under Section 4 (2) are not appealable to the career service appeals board.

Section 5. Appeals of disciplinary action.-- Members/appointees have the right to appeal disciplinary actions under this act.

(1) Appeals may be filed when disciplinary action results in: termination, suspension, reduction in rank or pay, positional change outside of the current career field of the member/appointee or indemnification ordered from any member/appointee due to damage of agency equipment which is greater than \$100. Appeal procedures are described in Section 7 of this act.

(2) Disciplinary actions resulting in anything other than as stated in subsection (1), are not appealable to the career service appeals board. Such other disciplinary actions may be appealed through the chain of command as defined in the policy of the agency.

Section 6. Career service appeals boards.--

(1) There are hereby created career service appeals boards. Each board shall meet as necessary.

(a) Each career service appeals board shall be an ad hoc board.

(b) A board shall be called upon the written filing of an appeal of disciplinary action by the aggrieved member/appointee .

(2) Membership of boards:

(a) The Director of Administration or his designee will serve as an ex-officio member of each board. This member shall assist the board in securing records and issuing subpoenas, but will have no voting power nor be present during the deliberation unless specifically requested by the chairman of the board. Each board shall be composed of five members and have the assistance of the Director

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of Administration or his designee as stated in paragraph (a). All members shall be members/appointees of the St. Johns County Sheriff's Office or another law enforcement agency.

1. The Sheriff and aggrieved member/appointee each shall select one other member/appointee covered by the Career Service Act.
 2. The Sheriff and aggrieved member/appointee each shall select one other member of the board who may be a member/appointee covered by the Career Service Act or who may be from another law enforcement agency having jurisdiction within St. Johns County.
 3. The fifth member, who will act as chairman of the board, shall be selected by the other four members and must be covered by this Career Service Act.
- (3) Any member/appointee shall have the right to serve as a member of the board if selected to serve.
- (4) Any member/appointee selected to serve on the board shall serve without additional compensation for such service. Such member/appointee shall serve on the board as a temporary duty type assignment and shall be relieved of other duties while such board is in session.
- (5) Board members shall serve until final action is taken by the board with respect to the purpose for which it was called.
- (6) Once final action is taken, the board shall be dissolved; however, any such board may also provide assistance and advice to the Sheriff on matters concerning the disciplinary actions. The board may also consult with the aggrieved member/appointee .

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Section 7. Career service appeal boards procedures.--

(1) APPEAL PROCEDURE.-- An appeal of actions specified as appealable in Section 5 of this act shall be made in writing to the Sheriff through the chain of command.

(a) The written appeal shall be directed to the Sheriff and shall be received by the first person in the chain of command not later than 10 days after the aggrieved member/appointee is notified of the action on which the appeal is based. The aggrieved member/appointee may request a time limitation waiver from the Sheriff within 5 days after the aggrieved member/appointee has filed the action on which the appeal is based. If the motion for a time limitation waiver is denied by the Sheriff, the 10 day time limitation will commence upon receipt of the denial by the member/appointee.

(b) If the member/appointee does not comply with the time provisions as specified in paragraph (a), it will be deemed that the member/appointee has waived his right to appeal.

(2) ESTABLISHMENT OF THE BOARD.--

(a) Upon receiving an appeal, the Sheriff shall notify the Director of Administration of the names of his selection to the board within 10 days.

(b) Concurrent with the written notice of appeal to the Sheriff, the member/appointee shall advise the Director of Administration of the names of his selection to the board. If not concurrent with the written notice of appeal to the

Sheriff, the Director of Administration or his designee shall receive notice of the names of his selections to the board, within 10 days of the filing of the appeal.

(c) The Director of Administration or his designee shall notify the selected personnel and verify their concurrence to serve. If the person selected declines to serve, the Director of Administration or his designee shall notify the selector and request an alternate selection. The Director of Administration or his designee shall notify the selected member's immediate supervisor so that the supervisor may assign that member/appointee a temporary duty status for the term of the board.

(d) The four members selected shall meet and select the fifth member no later than 10 days after being notified by the Director of Administration or his designee. Upon selection of the fifth member, who must be covered by this act, the Director of Administration or his designee shall verify that members' concurrence to serve. This member shall act as the chairman of the board.

(e) The chairman of the board shall receive the charge from the Sheriff or his designee and gather all supporting documentary evidence, or other items necessary or having bearing on the appeal, unless said items are to be subpoenaed along with the witnesses. The Director of Administration or his designee, at the chairmans request, shall assist in gathering or compiling said information or articles. The chairman shall convene the board and the board shall hold hearing's as soon as practical.

(3) BOARD HEARINGS.-- The authority of the board is granted by this act and:

(a) The board shall have in the conduct of said hearings, the power to administer oaths, issue subpoenas to compel the attendance of witnesses and their testimony, and require the production of books, records, accounts, papers, documents, and any other necessary items. In case of failure of any person to comply with an order of the board or a subpoena issued by the board or upon the refusal of a witness to testify on a matter regarding that which he may be lawfully questioned, the board chairman may apply to a judge of the county in which the witness is a resident and request that the judge initiate contempt of court proceedings.

(b) The member/appointee filing the appeal shall have the right to testify in his behalf before the board, to be counseled by a person of his choice, and to present any relevant facts in his behalf. The Sheriff or his designee shall also have the right to a counselor and to present testimony on his behalf during such proceedings. The Sheriff or his designee shall have the same rights as the member/appointee.

(c) Neither counselor shall have the right to address the board unless requested by the chairman. The only persons that shall have the right to address the board are the aggrieved member/appointee or the Sheriff or his designee.

(d) The aggrieved member/appointee shall be present during all allegations and when evidence is being presented against him. The counselor of either or both parties may be present if the respective parties wish.

(e) The technical rules of evidence in a court of law shall not apply.

(f) After all evidence has been presented and all testimony heard, the aggrieved member/appointee and all non-voting persons present shall adjourn during the deliberations of the board.

(g) Witnesses who appear in obedience to a subpoena before the board shall receive compensation for attendance and mileage, as provided for witnesses in civil cases in the courts of this state.

1. Witness payments shall be made by the party calling the witnesses.

2. Witness payments for witnesses called by this board shall be paid by the St. Johns County Sheriff's Office upon presentation of proper vouchers and approval by three board members.

3. Agency member/appointee serving as witnesses shall be paid according with agency policy regarding payment of witness fees.

(4) BOARD FINDINGS –

(a) The board shall dispose of the appeal by majority vote after deliberation of the facts in the matter for which it was called.

(b) The decision of the board shall be limited to either "sustain" or "not sustain" the Sheriff's action(s) that is being appealed.

1. If an action by the Sheriff is not sustained by the board, the board may include reinstatement with back pay or may modify the personnel action which was the subject of the appeal.

2. No board shall have the authority to impose on any member/appointee any penalty which is more severe than that which formed the basis of the appeal.

3. If any violation of law is uncovered by the board hearings, the board may refer the matter to the Sheriff or appropriate authority for further investigation of the charges.
- (c) Upon conclusion of deliberations by the board, the board shall make a verbal statement to the Sheriff or his designee and the aggrieved member/appointee as soon as practical.
 - (d) The board shall prepare and submit a written decision to the Sheriff and a copy to the member/appointee who initiated the appeal or his representative within 5 days upon conclusion of the testimony in such proceeding.
 - (e) The decision of the board shall be final and binding on the member/appointee and the Sheriff. This shall not limit or circumvent either the rights of the Sheriff or the member/appointee to further proceedings in an actual court of proper jurisdiction.
 - (f) It shall be the duty of the authorities having charge of the public buildings of St. Johns County to allow the reasonable use of a public building for the holding of meetings of the board and any investigations provided for by the act.

Section 8. Promotional Policy – The promotional policies of the St. Johns County Sheriff's Office will be consistent with the guidelines of the promotional policy structure established by the Career Service Act.

- (1) Any new ranks below that of Captain implemented by the Sheriff's office will be consistent with the structure, procedure, and policies governing the established promotional policies and guidelines enacted by the Career Service Act.
- (2) The position of Captain is hereby defined in accordance with the Career Service Act as the person normally assigned to supervise multiple units, functions, or special units or functions. Provisions of this act do not apply to the transfer or assignment for the rank of Captain or above.

This Career Service Act policy will apply to all promotions excepting the positions of Captain and above, Sheriff's Administrative Assistant and Sheriff's Secretary

Section 9. Minimum requirements for promotion – Minimum requirements for ranks currently established in accordance with the Career Service Act are as follows:

- (1) To be eligible for promotion to the rank of Sergeant, an applicant:
 - (a) Shall be certified by minimum state law requirements, if applicable, in the field in which the vacancy occurs.
 - (b) Shall meet departmental guidelines for specialized functions.
 - (c) Shall have completed a minimum 5 years service with the Sheriff's office prior to filing application for promotion.
 - (d) If the position is certified, the applicant shall have met qualification standards on the firearms range within the previous 12 months.

(e) In the event there are less than three eligible persons for the rank of Sergeant, persons with 4 years service to the department may apply.

(2) To be eligible for promotion to the rank of Lieutenant, an applicant:

(a) Shall have held the minimum rank of Sergeant for 12 months after probation.

(b) Shall be certified by minimum state law requirements, if applicable, in the field in which the vacancy occurs and shall meet agency guidelines for specialized functions.

(c) If the position is certified, the applicant shall have met qualification standards on the firearms range within the previous 12 months.

(d) In the event an insufficient number of eligible persons meet the guidelines set forth in paragraphs (a) - (c), the applications may be opened up to the next lower rank requirements.

Section 10 Promotional Testing – Promotional eligibility tests for Sergeants and Lieutenants will be held once every year.

(1) Notice of this test will be distributed throughout all divisions of the agency by bulletin board a minimum of 30 days in advance of the date of the test.

(2) Each member/appointee wishing to take the test must apply to his Division Director through the chain of command and must have been with this agency in a full-time capacity for a minimum of 4 years.

(3) Each member/appointee who has applied to go before an oral review board will be required to have taken a written examination and met the minimum passing score of 80 percent to be eligible for an interview.

- (4) Promotional examinations shall be given on an annual basis and the passing of such examination shall be valid for a period of 3 years.

Section 11 Notice of Opportunity – Whenever an opportunity for promotion is available within the Sheriff's office, a notice will be published by the Sheriff's office.

- (1) This notice will be distributed throughout all divisions of the agency by bulletin board a minimum of 15 days in advance of the date of the oral review board .
- (2) The responsibility of the publication and posting of said notice shall be initiated by the Sheriff through the Director of Administration or his designee.

Section 12. Applications for promotion. – Upon posting of a notice of opportunity, each member/appointee requesting consideration must apply by memorandum through the chain of command to the Director of Administration or his designee.

- (1) The Division Director of the applicant will either approve or disapprove the application based on the member/appointee's eligibility as specified in this act.
- (2) If the vacancy is in a division other than that of the applying member/appointee and the application is approved, that Division Director will submit the application to the Director of Administration or his designee. At the end of the 15 day notification period the Director of Administration or his designee will forward all applications to the Division Director in which the vacancy occurs.

Section 13. Promotional oral review board – When 4 or more eligible member/appointees are applying for a position, they shall have the right to attend an oral review board on the date and at the time selected by the board .

- (1) The oral review board shall have access to each applicant's personnel file.
- (2) The oral review board shall make a written recommendation to the Sheriff of the top three applicants chosen by majority vote of the board, within 3 days after the conclusion of the interviews.
- (3) The list will be in alphabetical order and signed by all five board members.
- (4) When more than two (2) positions for promotion are to be filled at the same time, the Sheriff may require additional boards to be seated, with a "Top Three" list provided from each board.

Section 14. Review board membership selection – Each oral review board shall be comprised of five members as follows:

- (1) Sergeant's Promotional Board --
 - (a) One Lieutenant selected by the Sheriff from the division in which the vacancy occurs.
 - (b) One Sergeant from any other division selected by the President of the Fraternal Order of Police, Lodge 113.
 - (c) These two members will select a non-ranking member/appointee from the division in which the vacancy occurs.

(d) These three members will select a member/appointee from any rank from any division.

(e) These four members will select an individual from a list of qualified persons furnished by the Sheriff.

(f) The board chairman is to be elected by a majority vote of the board members. All board members will have equal vote in all actions of the board.

(2) Lieutenant's Promotional Board –

(a) One individual with the rank of Captain or above is to be selected by the Sheriff.

(b) One Lieutenant to be selected from any other division by the President of the Fraternal Order of Police, Lodge 113.

(d) These two members will select a Sergeant from the division in which the vacancy occurs.

(e) These three members will select a member/appointee from any rank from any division.

(f) These four members will select an individual from a list of qualified persons furnished by the Sheriff.

(3) All new ranks, below the rank of captain, shall attend an oral review board as outlined in Section 13 of this act, with proper rank selections determined in the same manner as for Sergeant or Lieutenant.

Section 15 Final selection for promotion – The final selection for the promotion will be made by the Sheriff from the top three applicants recommended by the oral board .

Section 16. Promotional Eligibility List –

- (1) Individuals who have passed the written portion of the examination will remain on the promotional eligibility list for a period of 3 years. During this time, they will not be required to pass another written examination.
- (2) Individuals who have been placed on the “top three” list by an oral review board, but not selected for promotion, will remain eligible for similar promotion for a period of 90 days.

Section 17. Constitutionality –

- (1) Should any section of the Career Service Act be found unconstitutional, only that section or subsection found to be unconstitutional shall be deleted.

Section 18. Repeal of Ordinance 90-47,

- (1) St. Johns County ordinance 90-47 is hereby repealed.
- (2) The repeal of St. Johns County ordinance 90-47 shall not effect any actions or proceedings that occurred or took place prior to its repeal.
- (3) Any Boards that were created pursuant to ordinance 90-47 that are active on the effective date of this ordinance shall continue as Boards created pursuant to this ordinance and they shall conduct their affairs and continue their proceedings in the manner provided in this ordinance.

Section 19. Effective Date—This Ordinance shall take effect on the date that a certified copy of this Ordinance is filed with the Department of State.

Enacted and adopted this 26 day of October, 1999.

Board of County Commissioners of St.

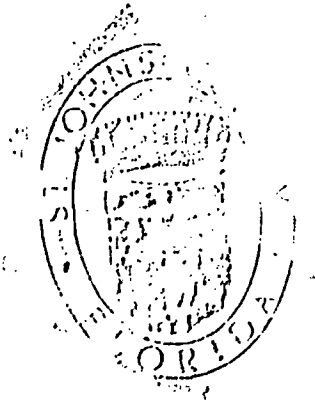
Johns County, Florida

BY: Marc A. Jealove
Its Chairman

ATTEST: Cheryl Strickland, Clerk of Court

BY: Cheryl Strickland
Clerk

EFFECTIVE DATE: November 2, 1999



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Office of the Secretary
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
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DIVISION OF ELECTIONS

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Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County
Preservation Board

RINGLING MUSEUM OF ART

November 2, 1999

Honorable Cheryl Strickland
Clerk to Board of Commissioners
St. Johns County
Post Office Drawer 300
St. Augustine, Florida 32085-0300

Attention: Patricia DeGrande, Deputy Clerk
Minutes and Records Division

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter dated October 28, 1999 and certified copy of St. Johns County Ordinance No. 99-61, which was filed in this office on November 2, 1999.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief
Bureau of Administrative Code

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BUREAU OF ADMINISTRATIVE CODE

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