

## ORDINANCE NO. 08-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82, PERSONNEL, ARTICLE III, RESOLUTION OF EMPLOYEE GRIEVANCES, OF THE TOWN CODE OF ORDINANCES AT SECTION 82.207, REVIEW BY ADMINISTRATIVE AND PERSONNEL COMMITTEE; FURTHER AMENDING SECTION 82.208, ROLE OF COMMITTEE; AMENDING SECTION 82.209, PROCEDURES; AMENDING SECTION 82.210, FINDINGS OF COMMITTEE; AMENDING SECTION 82.211, APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

**Section 1.** Chapter 82 of the Town Code of Ordinances titled Personnel is hereby amended at Section 82-207 of Article III, Review by administrative and personnel committee, as follows:

"Sec. 82-207. - Review by ~~special magistrate and town council~~~~administrative and personnel committee~~.

The town's ~~administrative and personnel committee~~ shall consider employee grievances properly filed pursuant to policies and procedures provided in the town's personnel manual. ~~The administrative and personnel committee~~ A special magistrate retained and paid by the Town shall hear conduct a de novo quasi-judicial hearing for appeals or grievances relating to suspensions, demotions or discharges which have been filed with the town's director of human resources in accordance with said policies and procedures and shall act as a neutral hearing officer in accord with the procedures set forth herein. The special magistrate must be a member of the Florida Bar in good standing."

**Section 2.** Chapter 82 of the Town Code of Ordinances titled Personnel is hereby amended at Section 82-208 of Article III, Role of committee:

"Sec. 82-208. - Role of ~~committee~~special magistrate.

The role of the ~~administrative and personnel committee~~special magistrate in regard to hearing employee grievances is to (1) determine whether ~~the facts elicited at the hearing support~~ the determination made by the employee's department head and/or town manager was supported by substantial competent evidence, whether the disciplinary action is in compliance with the town's personnel manual, and/or whether

the discipline imposed was warranted considering all relevant facts; and (2) to recommend to the town council to either sustain the decision of the department head and/or town manager, or overturn such decision. The special magistrate may also, or recommend less severe discipline if requested to do so by the grievant and if it is determined, on the basis of all relevantthe facts, that the discipline imposed is unreasonable and an abuse of discretion. In no event shall the administrative and personnel committee recommend nor shall the council impose discipline more severe than the discipline imposed by the department head and/or town manager. The town has the initial burden of proof in presenting substantial competent evidence to support the disciplinary action. The special magistrate shall not substitute his/her judgment for that of the department head and/or town manager so long as the decision was supported by substantial competent evidence, was not unreasonable, and there was no abuse of discretion on the part of the departmental head and/or town manager. In no event shall the special magistrate recommend nor shall the council impose discipline more severe than the discipline imposed by the department head and/or town manager."

**Section 3.** Chapter 82 of the Town Code of Ordinances titled Personnel is hereby amended at Section 82-209 of Article III, Procedures, as follows:

"Sec. 82-209. - Procedures.

(a) ~~—Rights of administrative and personnel committee~~Conduct at hearings. The town human resource director shall set the date for the hearing of any grievance on appeal. The town's human resource director shall establish reasonable time frames for submission of exhibit and witness lists and written position statements prior to the hearing date. Hearings before the administrative and personnel committee~~special magistrate~~ will involve hearing testimony of witnesses and considering documentary evidence submitted at the hearing. The ~~administrative and personnel committee~~special magistrate shall establish reasonable parameters relating to the length of time allowed for the presentation of a case and instruct the parties involved in regard to the order of the hearing, requirements of the parties relating to their submittals~~thereto~~, and any other ~~rules, regulations and~~ procedures relating to the hearing. The conduct of the hearing shall comport with due process generally afforded in quasi judicial hearings and strict rules of evidence shall not apply.

(b) Witness ~~attendances~~subpoenas. The ~~administrative and personnel committee~~ town will ~~require~~shall have the authority, by subpoena, to compel the attendance of town employees who may be required to be witnesses in the proceeding~~witnesses and exhibits for purposes of examination and investigation before the committee.~~ The grievant shall be responsible for coordinating attendances of other witnesses. Testimony by telephone is not allowed.

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(c) Order of presentation. The town will proceed first with the presentation of evidence. The grievant shall then present his/her evidence. The town will then have an opportunity to present rebuttal evidence."

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**Section 4.** Chapter 82 of the Town Code of Ordinances titled Personnel is hereby amended at Section 82-210 of Article III, Findings of committee, as follows:

"Sec. 82-210. - Findings of ~~committee~~the special magistrate and final determination by the town council.

Subsequent to the presentation of arguments, testimony and documentary evidence of the parties, the ~~administrative and personnel committee shall, in open session, discuss the case, and~~special magistrate shall make findings of fact and recommendations. These findings of fact and recommendations shall be incorporated in a written order. The ~~administrative and personnel committee~~special magistrate shall thereafter submit to the town council at the next regularly scheduled monthly meeting ~~its~~the findings and recommendations pertaining to the grievance. The grievant, the town manager and/or department director may submit any objections or argument in writing, no later than seven (7) days prior to the meeting. No further oral argument will be allowed unless requested by the town council. If the next regularly scheduled meeting is less than ten (10) days from the receipt of the findings and recommendations, the matter will be set before the town council at the following regularly scheduled meeting. Thereafter, the town council shall make a determination and its decision shall be final. The town council shall not conduct an additional evidentiary hearing, its responsibility being only to consider the factual findings, the recommendations and report of the ~~administrative and personnel committee~~special magistrate and to make a final determination regarding the applicable grievance at an open public meeting. The town council's review is to assure that adequate due process was provided, that the special magistrate's findings and recommendations are supported by substantial competent evidence, and that the disciplinary action taken is in compliance with applicable provisions of the town's personnel manual.

**Section 5.** Chapter 82 of the Town Code of Ordinances titled Personnel is hereby amended at Section 82-211 of Article III, Appeals, as follows:

"Sec. 82-211. ~~-- Appeals~~from town council decision.

In the event an aggrieved party wishes to appeal the decision of the town council, such review shall be by petition for writ of certiorari to the 15th Judicial Circuit Court, which must be filed within 30 days of the date of the town council's decision, where the petition shall be reviewed."

**Section 6. Repeal of Ordinances in Conflict.**

All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

**Section 7. Codification.**

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

**Section 8. Effective Date.**

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 8th day of May, 2018, and for second and final reading on this 12th day of June, 2018.

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Gail L. Coniglio, Mayor

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Danielle H. Moore, Town Council President

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Margaret A. Zeidman, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Lewis S. W. Crampton, Town Council Member

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Kathleen Dominguez, Town Clerk

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Bobbie Lindsay, Town Council Member