

ORDINANCE NO. 5272

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING MESA CITY CODE SECTION 2, CHAPTER 18, REGARDING THE PERSONNEL APPEALS BOARD.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Mesa, Arizona, as follows:

SECTION 1: That Title 2, Chapter 18 of the Mesa City Code is hereby amended as follows:

ADDITIONS TO THE TEXT ARE SHOWN IN BOLD, ALL CAPITAL LETTERS AND UNDERLINED:
ABC

DELETIONS TO THE TEXT ARE SHOWN AS STRIKE-OUTS: ~~Abe~~
SECTION:

2-18-1: MEMBERS OF BOARD, ALTERNATE MEMBERS
2-18-2: BOARD HEARINGS AND PROCEDURAL RULES
2-18-3: CITY MANAGER DECISION

2-18-1: MEMBERS OF BOARD, ALTERNATE MEMBERS:

The Personnel Appeals Board created by Section 404 of the Mesa City Charter shall consist of ~~three~~**FIVE (5)** members and shall have the qualifications set forth in the Charter. The members of the Personnel Appeals Board shall serve staggered terms of three (3) years each. Continued absence of any member from meetings of the Board shall, at the discretion of the City Council, render any such member liable for immediate removal from office by the Council. Any member absent from three (3) consecutive meetings without being excused shall be considered as having vacated his appointment. ~~In order to insure that a quorum can be obtained, there shall be two (2) alternate members of the Personnel Appeals Board appointed by the Mayor with the approval of the Council to serve for a three (3) year term. The alternate members of the Personnel Appeals Board shall sit as members of the Board and shall have all of the powers of a member of the Board during the absence or inability for any reason of any of the other members of the Board to serve. The Personnel Director shall determine when an alternate member shall be called to sit as a member of the Personnel Appeals Board.~~

2-18-2: BOARD HEARINGS AND PROCEDURAL RULES:

- (A) The Board shall conduct a hearing upon receiving notice from the Human Resources Department concerning a review of a grievance or appeal of a dismissal brought pursuant to the Personnel Rules. The Board shall make every effort to schedule the hearing at the earliest possible mutually convenient time. The Board shall provide the parties a written notice of the time, date, and place of hearing not less than ten (10) business days before the first date of such hearing. **AT LEAST THREE (3) BOARD MEMBERS MUST BE PRESENT TO PROCEED WITH A HEARING AND FOR DELIBERATIONS AND VOTING. THE EXECUTIVE SESSION MUST BE ATTENDED BY AT LEAST THREE (3) BOARD MEMBERS THAT WERE PRESENT FOR THE ENTIRE HEARING. IF FIVE (5) BOARD MEMBERS WERE PRESENT FOR THE ENTIRE HEARING, ALL FIVE BOARD MEMBERS MAY DELIBERATE AND VOTE ON THE RECOMMENDATION TO THE CITY MANAGER. IF ONLY FOUR (4) BOARD MEMBERS ARE PRESENT FOR THE HEARING, THE LAST APPOINTED BOARD MEMBER MAY PARTICIPATE IN THE DELIBERATIONS BUT MAY NOT VOTE.**
- (B) All Board hearings shall comply with the Arizona Open Meeting Law (A.R.S. §§38-431 *et seq.*) and Public Records Law (A.R.S. §§39-121 *et seq.*), as amended. All Board hearings shall further be conducted in accordance with the Personnel Appeals Board Hearing Procedural Rules for Classified Employees (Excluding Sworn Law Enforcement) or the Personnel Appeals Board Hearing Procedural Rules for Sworn Law Enforcement Employees, which were declared to be public records by resolution adopted on September 22, 2014, and to which reference is hereby made and which are incorporated herein, three copies of which are on file and available for public use and inspection in the office of the City Clerk.

- (C) The City Clerk's Office shall ensure that proper public notice, including an agenda, is provided for all Board hearings. The Personnel Office shall act as secretary to the Board in sending information packets to members and fulfilling other clerical responsibilities of the Board.

2-18-3: CITY MANAGER DECISION:

- (A) After receiving the written advisory opinion, the City Manager may contact the Board to seek additional advice or information concerning the matter.
- (B) The City Manager may accept or reject the Board's advisory opinion. Within a reasonable period of time, not to exceed thirty (30) days, from receipt of the Board's advisory opinion, the City Manager shall notify the appellant, affected department head, and Personnel Director of the City Manager's decision. The thirty- (30-) day period may be extended should circumstances arise that preclude the City Manager from completing a review in a timely manner. Such decision shall be in writing and final for purposes of judicial review.

SECTION 2: That the City hereby adopts by reference and without amendment the Personnel Appeals Board Hearing Procedural Rules for Classified Employees (Excluding Sworn Law Enforcement) and Personnel Appeals Board Hearing Procedural Rules for Sworn Law Enforcement Employees, which were declared to be public records of the City of Mesa by Resolution adopted on January 26, 2015, three copies of which are on file and available for public use and inspection in the office of the City Clerk.

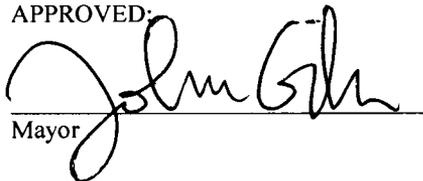
SECTION 3: That the Mesa City Code, as amended, will remain in full force and effect, save and except as amended by this Ordinance.

SECTION 4: That the terms and provisions of this Ordinance are severable and if any section, subsection, sentence, clause, phrase or portion of this Ordinance, or any part of the Mesa City Code adopted herein by reference, is for any reason held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in effect.

SECTION 5: The effective date of this Ordinance shall be 30 days following adoption by the Mesa City Council.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 9th day of February, 2015.

APPROVED:



Mayor

ATTEST:



City Clerk

