

## CITY OF SOUTH TUCSON ORDINANCE NO: 12-03

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**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA RELATING TO PERSONNEL AND APPEALS TO THE MERIT SYSTEM COMMISSION; AMENDING CHAPTER 17, DIVISION 2, SECTIONS 17-45(e) and 17-45(g).**

**WHEREAS**, the City of South Tucson has established a merit system commission to hear appeals of employees that have been demoted, suspended or dismissed; and

**WHEREAS**, the City of South Tucson wishes to establish a new standard of "just cause" for the merit system commission to use in conducting appeals by employees and also desires to amend the process and time limit for appeals of the merit system commission's findings;

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, AS FOLLOWS:**

**SECTION 1.** The South Tucson City Code, Chapter 17, Division 2, Section 17-45(e) and Section 17-45(g) are hereby amended by as follows:

**Sec. 17-45 (e)**The commission shall not be bound by the technical rules of evidence prevailing in courts. If, after the hearing, the Commission determines that there was just cause for the action imposed, then the order shall be affirmed. If the Commission determines that there was not just cause for the action taken either: (1) because some or all of the charges were not proven to the satisfaction of the Commission; and/or (2) whether or not all of the charges were proven, the action imposed was, in the sole discretion of the Commission, too severe, then the order shall be revoked or modified. The Commission shall have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the employee in the best interest of the City and the public. (Ord. No. 12-2, 6-26-12, Ord. No. 83-6, § XII, 1-9-84)

**Sec. 17-45 (g)** Findings and decisions of the commission shall be final and shall be subject only to judicial review by special action to the Superior Court. The time limit for judicial review shall be thirty-five (35) days from the date of final decision by the merit system commission. (Ord. No. 12-2, 6-26-12, Ord. No. 83-6, § XII, 1-9-84)

**SECTION 2:** That Ordinance 12-02 of the City of South Tucson entitled "Amendments to South Tucson City Code, Chapter 17, Division 2, Section 17-45(e), 17-45(g)" is hereby adopted, an emergency is hereby declared and all ordinances or parts of ordinances in conflict herewith are hereby amended.

**SECTION 3:** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, the City of South Tucson, Arizona, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase, irrespective of the fact that any sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 4:** That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of actions acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**SECTION 5:** That the various City Officers and Official(s) and/or any other duly appointed deputy are authorized and directed to perform all acts necessary or desirable to give effect and to carry out all the duties authorized under this Ordinance and the City Code.

**SECTION 6:** That where this Ordinance conflicts or overlaps with any other Ordinance, Code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

**SECTION 7:** The City Clerk is ordered and directed to cause this Ordinance to be published and posted as required by the South Tucson City Code and by state law.

**SECTION 8:** The City Clerk shall attest to the adoption of this Ordinance and cause same to be maintained as a public record as required by law. This Ordinance shall become effective after posting and publication as required by law and passed and adopted by Mayor and Council.

**SECTION 9:** The Ordinance shall be effective on June 26, 2012.

**SECTION 10:** The South Tucson City Code, Chapter 17, Division 2, Section 17-45(e) and 17-45(g) are hereby amended to the above. Any ordinance or parts of an ordinance or any part of the South Tucson City Code in conflict with the provisions of this

Ordinance are hereby repealed to the extent of such conflict as of the effective date hereof.

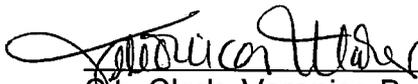
**PASSED, ADOPTED and APPROVED** by the Mayor and Council of the City of South Tucson, Arizona, this 26<sup>th</sup> day of June, 2012.

**APPROVED/EXECUTED**

  
MAYOR, JENNIFER ECKSTROM

ATTEST:

APPROVED AS TO FORM:

  
City Clerk, Veronica B. Moreno

  
City Attorney, Patrick Alan Moran, Esq.