

#58
11/01/22

(O-2023-13)

ORDINANCE NUMBER O- 21562 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 14 2022

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 3, DIVISION 12 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 23.1202, 23.1204, 23.1205, 23.1206, 23.1207 AND 23.1208 RELATING TO EMPLOYEE RESIGNATION, REMOVAL, SUSPENSION, AND REDUCTION IN COMPENSATION, TO ALLOW VIRTUAL APPEAL HEARINGS.

WHEREAS, the COVID-19 pandemic forced the City of San Diego (City) to operate using video communication applications like Zoom and Microsoft Teams to comply with state and local public health requirements; and

WHEREAS, the City's Civil Service Commission began operating remotely using video communication applications to conduct virtual hearings in June 2020; and

WHEREAS, City classified employees appealing removals and suspensions pursuant to San Diego Charter section 129 were offered the option of a virtual hearing, but many appellants decided to wait for in-person hearings when available under applicable local and state health regulations; and

WHEREAS, requiring virtual hearings for appellants to process City discipline in a timely manner consistent with state and local health regulations is necessary to decrease the backlog of removal and suspension hearings; and

WHEREAS, under San Diego Charter section 118, the Civil Service Commission recommends all rules for the government, supervision and control of the classified service to the Council of the City of San Diego; and

WHEREAS, at its meeting on November 4, 2021, the Civil Service Commission recommended amending Civil Service Rule XI, Section 5, codified in San Diego Municipal

Code section 23.1205, to allow the Civil Service Commission to require virtual hearings for removals and suspensions; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 3, Division 12 of the San Diego Municipal Code is amended by amending sections 23.1202, 23.1204, 23.1205, 23.1206, 23.1207 and 23.1208, to read as follows:

§23.1202 Removals

(Rule XI, Section 2 of the Rules of the Civil Service Commission)

[No change in text.]

§23.1204 Procedure for Removal

(Rule XI, Section 4 of the Rules of the Civil Service Commission)

[No change in text.]

§23.1205 Appeal of Removal

(Rule XI, Section 5 of the Rules of the Civil Service Commission)

(a) [No change in text.]

(1) through (2) [No change in text.]

(3) Any employee who has appealed to the Commission for a public hearing and who fails to make an appearance at the hearing either in person, using a video communication application (hereinafter, a virtual hearing), or through a duly authorized representative after having received notice of the time and place for such hearing may be deemed to have abandoned the appeal. In the event of such failure to appear, the appointing authority or the appointing

authority's representative may move the Commission to dismiss the appeal. The Commission shall have the discretion to grant or to deny such motion.

(4) [No change in text.]

(b) Conduct of Hearing. With the fulfillment by the employee of the above appeal procedure, the Commission shall fix a time and place for a public hearing, which may include a virtual hearing.

(1) through (4) [No change in text.]

(5) The Commission shall have the discretion to require a virtual hearing or convert a previously scheduled in person hearing into a virtual hearing with a minimum of 10 working days notification to the employee. The Commission's discretion to order virtual hearings shall only be exercised during a proclaimed local, state, or federal state of emergency or when meeting in person would present imminent risks to the health or safety of attendees.

(c) through (d) [No change in text.]

§23.1206 Procedure for Suspension

(Rule XI, Section 6 of the Rules of the Civil Service Commission)

[No change in text.]

§23.1207 Appeal of Suspension

(Rule XI, Section 7 of the Rules of the Civil Service Commission)

[No change in text.]

§23.1208 Suspension Pending Investigation

(Rule XI, Section 8 of the Rules of the Civil Service Commission)

[No change in text.]

Section 2. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ David J. Karlin
David J. Karlin
Senior Deputy City Attorney

JLB:DJK:jvg:nja
07/20/21
Or. Dept: Personnel Department
Doc. No.: 3025756

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 01 2022.

ELIZABETH S. MALAND
City Clerk

By Kristel Medina
Deputy City Clerk

Approved: 11/10/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on NOV 01 2022, by the following vote:

| Councilmembers | Yeas | Nays | Not Present | Recused |
|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Joe LaCava | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jennifer Campbell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Stephen Whitburn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Monica Montgomery Steppe | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Marni von Wilpert | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Raul A. Campillo | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vivian Moreno | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sean Elo-Rivera | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage NOV 14 2022

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 11 2022

NOV 14 2022

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

21562

Ordinance Number O-_____