

ORDINANCE NO. \_\_\_\_\_

ENTITLED: "AN ORDINANCE REPEALING CHAPTER 2.92, PERSONNEL SYSTEM, AND CREATING A NEW CHAPTER 2.92, ADMINISTRATIVE HEARING PROCEDURE, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE CODE OF THE CITY OF CHEYENNE, WYOMING."

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE WYOMING:

Section 1. That Chapter 2.92, Personnel System, of Title 2, Administration and Personnel, of the code of the City of Cheyenne, Wyoming, is hereby repealed in its entirety as set out in this ordinance.

**Chapter 2.92  
PERSONNEL SYSTEM**

**2.92.010 — Regulations and benefits.**

~~Unless otherwise provided by law or contract, officers and employees of the city are governed by the city personnel (employee) rules and regulations on file in the offices of human services and the city clerk.~~

~~A. Changes to the city personnel (employee) rules and regulations shall be in accordance with the Wyoming Administrative Procedure Act, Wyo. Stat. Section 16-3-101, et seq.~~

~~B. Any employee appeal (grievance) from administrative decisions regarding the city personnel (employee) rules and regulations must be filed with and pursuant to established procedures of the city personnel commission, established by Ordinance No. 2948, through the city clerk, or designee, who serves as clerk of the commission.~~

**2.92.020 — Terms and conditions of employment.**

~~A. This section applies to all city employees, except members of the fire department below the rank of chief.~~

~~B. The mayor, or designated representative, is authorized to meet and confer with any employee, employee authorized representative or agent for the purpose of discussing the terms and conditions of employment applicable to the city employee or group of employees. Such meetings are not considered collective bargaining and are for the sole purpose of discussing matters of mutual concern relating to employment with the city.~~

~~C. At least ninety (90) days before the annual administrative budget is presented to the governing body for consideration, the mayor shall, through the office of human resources, make available to any employee a proposed employment package which shall set forth the terms and conditions of employment for each class of employee governed by the ordinances of the city.~~

~~1. An employee is any group of employees who have similar work responsibilities which are substantially different from other city employees. An example of a class is the sworn employees of the police department below the rank of lieutenant.~~

~~2. Any employee, or group of employees, either personally or through their duly authorized representative or agent, may request a meeting with the mayor as set forth in subsection B of this section and may file written responses to the proposed package.~~

~~3. The period for comment on the proposed package shall close forty-five days prior to the date the annual administrative budget is required to be presented to the~~

~~governing body. The mayor shall submit the administration's proposed employment package, all written counter proposals and comments, and a report to the governing body for consideration as part of the budget preparation process.~~

~~D. Following approval of the budget for the next fiscal year by the governing body, the city clerk shall place on file with the official documents of the city, and with the office of human resources, the written employment package as approved.~~

Section 2. That a new Chapter 2.92, Administrative Hearing Procedure, of Title 2, Administration and Personnel, of the code of the City of Cheyenne, Wyoming, is hereby created as set out in this ordinance.

## **Chapter 2.92 ADMINISTRATIVE HEARING PROCEDURE**

### **2.92.010 Adoption.**

In accordance with the provisions of the Wyoming Administrative Procedure Act, Wyo. Stat. Sections 16-3-101, *et seq.*, these rules of practice and procedure are adopted.

### **2.92.020 Scope.**

These rules of practice and procedure are applicable only in contested cases, as defined in Wyo. Stat. Sections 16-3-101, *et seq.*, for all personnel matters as defined in Chapter 2.52, all business licenses and regulation matters in Title 5, all nuisance matters in Chapter 8.60, and any other administrative appeal matter, as needed.

### **2.92.030 Appointment of Hearing Officer.**

An independent hearing officer shall preside over and conduct all contested case hearings. Hearing officers shall be appointed by the Mayor and confirmed by the City Council. Initial appointment of a hearing officer shall occur by the Mayor and the term of that appointment shall run from date of confirmation through December 31, 2022. A second hearing officer shall be appointed prior to December 31, 2021, and the term of that appointment shall run from date of confirmation through December 31, 2023. If the number of hearing officers falls below two, the Mayor shall appoint a new hearing officer as soon as is reasonably possible. All subsequent appointments shall have terms that run from date of confirmation through December 31 of the calendar year which best approximates a two-year term and allows for staggered appointments. The city clerk shall appoint a hearing examiner from the list of confirmed hearing officers and rotate appointments among those confirmed hearing officers. Hearing officers shall conduct contested case hearings in accordance with the provisions of the Wyoming Administrative Procedures Act, Wyo. Stat. Sections 16-3-101, *et seq.* All hearings shall be clerked by the city clerk or his or her designee. The cost of the hearing officer shall be borne by the city unless the request for a contested case hearing is deemed frivolous under Wyoming Rule of Civil Procedure 11(b), in which case the petitioner shall bear the cost of the hearing examiner.

### **2.92.040 Adoption of OAH Rules.**

A. The following State of Wyoming Rules for Contested Case Practice and Procedure Before the Office of Administrative Hearings (OAH Rules) are adopted and incorporated by reference herein (as modified), and attached:

Chapter 1	General Provisions
Chapter 2	Contested Case Proceedings
Appendix A	Statutory and Regulatory References
Appendix B	Subpoena

B. All references in the OAH rules to the Office of Administrative Hearings or the Office are deemed to be references to the hearing officer appointed by the city clerk to conduct the contested case. A hearing officer shall be appointed in every properly initiated contested case.

C. Initiation of a contested case in accordance with Chapter 2, Section 5(a) of the OAH Rules shall include, in writing, the name and contact information of the petitioner, a short and plain statement of the matters asserted, identification of the action or inaction of the agency, and be signed by the petitioner or the petitioner's attorney or representative.

D. All filings in a contested case shall be with the Office of the City Clerk of the City of Cheyenne.

E. Unless otherwise required by law, the decision of the hearing officer shall be limited to whether or not the action or inaction of the agency was within the rules, policies, and practices of that agency.

Section 3. That this ordinance shall be in full force and effect upon its approval and publication.

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

THIRD AND FINAL READING: \_\_\_\_\_

\_\_\_\_\_  
Patrick Collins, Mayor

(SEAL)

ATTEST:

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Kristina F. Jones, City Clerk

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