

**ORDINANCE NO. 809**

**AN ORDINANCE AMENDING TITLE 2**

**WHEREAS**, The City of Mills has contractual employees and non-contractual employees, all of whom are subject to the then current City of Mills handbook; and

**WHEREAS**, There are provisions that apply to the termination of employees by way of ordinance and in contracts which do not contain identical text; and a uniform procedure would be easier for the City to administer and the employees to operate under;

**NOW THEREFORE**, The City Council of the City of Mills hereby amends Title 2 of the Mills Code to amend so that Title 2.04.060 and 2.88.040 shall read as follows:

**2.04.60 - Appointment of city officials.**

a. The Mayor shall appoint a city administrator, city clerk, city treasurer, city judge, chief of police, fire chief, assistant fire chief, city engineer, city attorney, community development director, and fix their salaries or compensation. The Mayor shall also appoint members of the Planning and Zoning Committee, and all members of all other boards and committees created in code, who shall not be deemed to be employees of the City of Mills. The City Council shall vote to confirm or reject any said appointment, with a majority of the City Council being required in order to approve the appointment. Nothing shall preclude those appointed as engineers, judges and attorneys from being contractors, and not employees of the City of Mills.

b. Unless otherwise provided for, all appointments shall be for four (4) year terms.

c. The salary or compensation of any city official who is an employee of the city may be changed from year to year. The compensation of appointees to committees and boards, if allowed by law, if any, shall be fixed annually, based upon the city's fiscal year.

d. Appointed city officials may be discharged, and their employment terminated at any time at the discretion of the Mayor subject to the provisions of section h below.

e. Members of boards and committees may be discharged from their appointment at any time by the Mayor or the Mayor's designee. Such discharges shall be without recourse or appeal.

f. All other City positions shall be made by the Mayor or the Mayor's designee. Said positions may be terminated at any time at the discretion of the Mayor or his designee, subject to the provisions of section h below.

g. Department heads shall have presumptive authority under this section to act as the Mayor's designee to hire and fire, unless presented with a conflict regarding the same, or a specific instruction from the Mayor reserving to the Mayor this authority in any one particular instance.

h. All employees, whether a city official as referenced in section a above, or at will employee otherwise employed by the city, shall have a right to a hearing in any instance in which their termination is for wrongful conduct or incompetency, including but not limited to that conduct listed at Section 2.88.040. This provision shall not apply in instances of workforce reduction, or budget shortfalls or other reason for termination which fall outside of the category of wrongful conduct or incompetency. Where employees who are subject to collective bargaining agreements have a provision in those agreements which governs such a hearing, that agreement shall control where it is inconsistent with these provisions, provided however that such agreements shall be read to be consistent with these provisions where possible.

i. All rights to a hearing provided for in this section shall be conducted under the provisions of Section 2.88.040 of the Mills City Code.

#### **2.88.040 – Right to a hearing upon termination.**

a. Any employee of the City of Mills, including, but not limited to, appointees under Section 2.04.060(a) or hired under Section 2.04.060(f) who is terminated from their employment for incompetency, neglect of duty or otherwise for cause, shall have the charges against them be specified and the person removed shall be provided an opportunity for a hearing on the charges under procedures set forth under the Administrative Procedures Act, Wyo. Stat. 16-3-107 et seq, where applicable, including the right of appeal to the District Court. An employee may additionally invoke this provision where the employee asserts that the employee's termination was for incompetency, neglect of duty or otherwise for cause even though not so stated, or where the employee asserts that the termination was otherwise made for an improper reason recognized by law or statute.

b. In all such hearings the City Council of the City of Mills, Wyoming, shall act as the hearing panel, except where two or more members shall be conflicted and recused, except as otherwise set forth below, in which case the parties shall agree to the appointment City of Mills Department heads in their place or panel members otherwise stipulated to by the parties.

c. It is further provided for such hearings that:

i. The city may elect to appoint a hearing officer, but is not obligated to do so, to preside over the hearing.

ii. In the event that a council member may not serve due to a conflict and the parties are unable to agree to department heads to take their place within seven days of a hearing being requested, the Mayor, or if the Mayor is conflicted, the City Administrator shall

appoint Department Heads to serve on the panel. Such appointments shall not be subject to objection.

d. In all such instances in which a right to a hearing has been afforded to an employee appointed under Section 2.04.060 by way of a separate contract with said employee, any objections to a council member must be made at the time of objecting to termination and a hearing being requested, provided however that such objections may not have the effect of depriving the ability of the Council to obtain at least four (4) members in deliberations. Should such a challenge be made, the Council and employee may stipulate to a Department Head to serve in a challenged council member's place and waive any defenses based upon the same in writing or stipulate to an alternative procedure. Should the parties not be able to stipulate as set forth above, all challenged members shall remain on the panel and the conflicts be deemed waived.

e. All hearing afforded by contract as referenced in section d above shall be as close to hearings otherwise afforded under this section as practicably possible.

f. Nothing in the provisions set forth above shall preclude the parties in any such hearing to stipulating to an alternative procedure provided, however, that any such stipulation shall be regarded as waiving any alternative form of hearing.

PASSED on 1<sup>st</sup> reading the \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED on 2<sup>nd</sup> reading the \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED, APPROVED AND ADOPTED on 3<sup>rd</sup> and final reading this \_\_\_\_ day of \_\_\_\_\_, 2023

CITY OF MILLS, WYOMING

\_\_\_\_\_  
Leah Juarez, Mayor

\_\_\_\_\_  
Sara McCarthy, Council

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Brad Neumiller, Council

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Cherie Butcher, Council

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Tim Sutherland, Council

ATTESTED:

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Christine Trumbull, City Clerk