

ORDINANCE NO. _____

An Ordinance Amending Chapter 2 of the City of Peoria Code of Ordinances to Update Division 7 (Public Safety Employee Benefits) to Facilitate the Administration of Public Safety Employee Benefit Act (PSEBA).

WHEREAS, the City of Peoria (“the City”) has a population of more than 25,000 and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, the City, has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens and employees; and

WHEREAS, the State of Illinois’ Public Safety Employee Benefits Act mandates that the City be responsible for the administration of PSEBA benefits to eligible employees; and

WHEREAS, the City’s Human Resource Department controls certain benefit processes, and therefore, it needs to maintain a strong role in the application for and vetting of employee PSEBA benefits; and

WHEREAS, from time to time, it is necessary and proper to amend the City’s Public Safety Employee Benefits Ordinance to facilitate the efficient and lawful administration of PSEBA benefits under State of Illinois statute and common law;

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

Section 1. Amendment of Sec. 2-350 of the Code of Ordinances.

§2-350 of the City of Peoria Code of Ordinances shall be amended, as indicated below, by repealing all language with a strikethrough and adding all underlined language.

Sec. 2-350. - Public Safety Employee Benefits Act.

The purpose of this section is to provide a fair and efficient method of determining the eligibility of an employee for the benefits enumerated under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) through the process of initial evaluation of eligibility by the City’s Human Resources Department ~~an~~ and administrative hearing when necessary. All benefits provided employees pursuant to the Public Safety Employee Benefits Act (Act) will be consistent with the Act.

A. Any eligible public safety employee who desires to receive PSEBA benefits shall make application for such benefits on a form provided by the Human Resources Department or on a form similar in content and format. In the application, the employee shall state, in full detail, the nature of the employee’s claim. The employee’s application shall, at minimum, include the date, time, place, and nature of injury. The application shall further contain any and all other factual circumstances surrounding the incident that gave rise to said claim. Within thirty business days, the Human Resources Department shall evaluate the employee application and render a written decision to the employee. The written decision shall be dated, and if applicable, it shall specify the reasons for denial of benefits.

B. If the Human Resources Department denies the employee’s application for PSEBA benefits, and the employee desires to have an administrative hearing on the matter, the employee shall

serve written notice on the Human Resources Department, within twenty-one (20) business days from the date of the written decision.

C. If a public safety employee gives the proper notice, as contained in subsection B above, An administrative hearing shall be held to adjudicate the matter and determine all claims for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.).

(1) The system of the administrative hearing shall be comprised of a hearing officer whose power and authority and limitations are as follows:

a. *Power of the hearing officer.* The hearing officer shall have all of the powers granted to him under common law relative to the conduct of an administrative hearing including the power to:

1. Conduct a hearing in a formal setting;
2. Preside over all city hearings involving the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.);
3. Administer oaths;
4. Hear testimony and accept evidence that is relevant to the issue of eligibility under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.);
5. Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
6. Rule upon objections in the admissibility of evidence;
7. Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;
8. Issue a determination based on the evidence presented at the hearing, ~~the~~ The determination ~~of which~~ shall be in writing and shall include a written finding of fact, decision and order.

b. *Hearing officer.* ~~The mayor~~ Corporation Counsel with the approval of the City Council is hereby authorized to appoint a person to hold the position of a hearing officer for each and every individual hearing that shall come before this city. In making said selection, the ~~mayor~~ Corporation Counsel shall consider all pertinent information including, at a minimum:

1. The candidate's ability to comply with the job description as set forth herein;
2. Background and performance data made available to the ~~mayor~~ Corporation Counsel on file with the city or otherwise obtained by the eCity;
3. The candidate must be an attorney licensed to practice law in the State of Illinois for at least three years and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

~~(2) The system of administrative hearings for determination of eligibility for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) shall be initiated by the serving of a written notice on the city clerk by any public safety employee stating in full detail the nature of the employee's claim giving full particulars thereof, i.e. date, time, place, nature of injury, and any other factual circumstances surrounding said incident giving rise to said claim; requesting the benefits enumerated under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) and requesting the setting of a hearing for the eligibility to receive said benefits.~~

~~(3)~~4. An administrative hearing shall be held to adjudicate and determine whether the subject public safety employee is eligible for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.). If the employee is found eligible, the employee benefits shall be consistent with this Act.

a. *Time and date.* Hearings shall be held on the date, time and place as established by the city with appropriate notice served upon the public safety employee.

b. *Record.* All hearings shall be attended by a certified court reporter and transcripts of all proceedings shall be made by said certified court reporter.

c. *Procedures.* The city and the petitioning public safety employee may be represented by counsels at said hearing with each party bearing his/her own cost of counsel and may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

d. *Evidence.* The rules of evidence as set forth in the Illinois Code of Evidence shall apply.

e. *Final determination.* The determination by the hearing officer of whether the petitioning public safety employee is eligible for benefits under the Act shall constitute a final determination for the purpose of judicial review under the common law writ of certiorari.

Section Two. Effective Date.

This Ordinance, as amended, shall be in full force and effect, and shall be controlling, immediately upon its passage and approval.

Section Three. Conflicts.

All ordinances, or parts of ordinances thereof, which are in conflict with the provisions of any portion of this Ordinance, as amended, are hereby repealed to the extent of any conflict.

Section Four. Severability.

If any provision of this section, as amended, or the application of any provision of this section, is held unconstitutional, or otherwise invalid, by a court of competent jurisdiction, such occurrence shall not affect other provisions of this sections, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this section.

Section Five. Context.

When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number.

PASSED by the City Council this _____ day of _____, 2017.

AYES:

NAYS:

ABSTAINS:

Beth Ball, City Clerk

APPROVED by the Mayor this _____ day of _____, 2017.

James Ardis, Mayor