

CHAPTER 7

CIVIL SERVICE

Article

- 7-01 General Provision, §§ 7-0101 to 7-0103.
- 7-02 Civil Service Commission, §§ 7-0201 to 7-0207.
- 7-03 Rules and Regulations, §§ 7-0301 to 7-0309.

ARTICLE 7-01

GENERAL PROVISIONS

Section

- 7-0101 Purpose of chapter.
- 7-0102 Employees covered--Exceptions.
- 7-0103 Definitions.

7-0101. Purpose of chapter.--The purpose of this chapter is to increase the efficiency of all city departments and to promote fair treatment of employees by the establishment and maintenance of a personnel system based on merit principles.

Source: 2386 (1987).

7-0102. Employees covered--Exceptions.--All regular full-time employees and officers of the city shall be included in, and come under, the civil service system of the city. The following officers and employees are not included in the civil service system of the city:

- A. Elective officers and officials.
- B. Members of commissions and boards appointed by the board of city commissioners.
- C. Employees who have not satisfactorily completed a probationary period.
- D. Part-time non-benefited positions and contract positions.

Source: 2386 (1987), 2661 (1993), 2799 (1996).

7-0103. Definitions.--

1. "Appointing authority" means the board of city commissioners for directors and department heads; and directors or department heads for all other employees.

2. "Class of positions" means a group of one or more positions sufficiently similar that the same title may be used to designate positions in the class, the same minimum qualifications of experience and training may be required of all candidates for entrance to competition, and the same examination may be given to all persons seeking appointment to a position in the class.

3. "Classification" means the process of analyzing the duties and responsibilities of positions and then grouping positions which are substantially similar in these respects into classes.

4. "Clerk" means the clerk of the civil service commission as provided in § 7-0207.

5. "Commission" means the civil service commission as provided in article 7-02 of this chapter.

6. "Demotion" means the assignment or transfer of an employee to a position with less responsibilities which is in a lower salary range.

7. "Eligible person" means a person whose name is on an original entrance, promotional or re-employment list.

8. "Lateral transfer" means the transfer of an employee to a position in the same salary range as his or her current position.

9. "Original entrance list" means a list of names of persons arranged in the order of final examination ratings who have qualified, through suitable entrance examinations, for employment in a specific class of positions.

10. "Position" means any office and place of employment where the duties and responsibilities appertaining thereto are exercised by one person.

11. "Probationary period" means a working test period lasting a minimum of 12 continuous months during which the appointing authority is required to note the work and conduct of all employees new to their positions and determine whether they merit permanent appointment with civil service status.

12. "Promotion" means an assignment or transfer of an employee to a higher level position with increased responsibilities which is in a higher salary range.

13. "Promotional list" means a list of names of persons arranged in the order of final examination ratings who have qualified, through suitable examinations open only to those already employed in city departments, for promotion.

14. "Reclassification" means the addition or deletion of responsibilities and may or may not result in assignment to another salary range, and may or may not result in a change in salary.

15. "Re-employment list" means a list of names of persons, who have been separated from city departments through no fault of their own, and who seek reinstatement to a position in the specific class where formerly employed.

16. "Regular full-time employee" means any person appointed by proper authority who is employed for 12 continuous months in each calendar year and who works a minimum of 40 hours per work-week or an equivalent amount for work periods in excess of one week.

17. "Salary plan" means the schedule of salaries for each class of positions in the city departments, showing minimum, intermediate and maximum salaries for each classification.

18. "Salary range" means a range of minimum to maximum salaries determined by a classification of position.

19. "Salary step" means any assigned salary in a salary range.

Source: 2386 (1987), 2661 (1993).

ARTICLE 7-02

CIVIL SERVICE COMMISSION

Section

7-0201 Creation of civil service commission.

7-0202 Qualifications of members.

7-0203 Terms of members of civil service commission--Appointment--Vacancies.

7-0204 Removal of members.

- 7-0205 Meetings--Order of business.
- 7-0206 General duties of commission.
- 7-0207 Personnel officer--Clerk of commission--Duties.

7-0201. Creation of civil service commission.--There is hereby established a civil service commission of five members who shall be appointed as hereinafter provided.

Source: 2386 (1987).

7-0202. Qualifications of members.--The members of the civil service commission shall be citizens and qualified electors of the city of Fargo. No person shall be eligible to be a member of such commission if he is a member of any local, state, or national political party committee; or if he is a candidate for or holds any elective public office; or if at any time within one year immediately preceding the date of appointment to such commission, he has been a member of any such committee, or been a candidate for or held any such public office.

Source: 2386 (1987).

7-0203. Terms of members of civil service commission-- Appointment--Vacancies.--Terms of members of the civil service commission shall be three years, beginning on July 1 and ending on June 30. Terms of two of the members shall expire in 1988, two in 1989, and one in 1990. Appointments to the commission shall be made and confirmed in accordance with § 2-0106 of the Fargo Municipal Code. If a vacancy occurs other than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term.

Source: 2386 (1987).

7-0204. Removal of members.--Any member of the commission may be removed by an affirmative vote of four members of the board of city commissioners. The member shall be given a copy of the charges against him and he shall have ten days from the date on which his removal is effective within which to request that he be given an opportunity to be heard publicly. A statement of the charges, the member's request for hearing, and the findings of the hearing shall be filed with the city auditor.

Source: 2386 (1987).

7-0205. Meetings--Order of business.--The commission shall hold regular meetings at the city commission chambers in city hall at such times as shall be determined by the commission. The commission shall determine the order of business for the conduct of its meeting and three members of the commission shall constitute a quorum for the transaction of official business.

Source: 2386 (1987).

7-0206. General duties of commission.--The duties of the commission shall be as follows:

- A. To present to the board of city commissioners such rules and regulations as they may deem necessary for the administration of this chapter. Such rules and regulations shall have no effect until approved by the board of city commissioners; provided, that the commission may establish procedural rules for the conduct of its own business without approval of the board of city commissioners.
- B. To hear appeals of disciplinary matters as hereinafter provided in this chapter.

- C. To make investigations, either on complaint or on its own motion, concerning any matters touching the administration of this chapter, and otherwise represent the public interest in the improvement of personnel administration and the protection of the merit principle.
- D. To make an annual report to the board of city commissioners on its activities, together with recommendations for improvement of the civil service system, and to make any special analysis or reports requested by the board of city commissioners.

Source: 2386 (1987).

7-0207. Personnel officer--Clerk of commission--Duties.--The personnel officer shall be the clerk of the commission and its administrative officer and shall assume all of the duties hereinafter set forth:

- A. To attend all meetings of the civil service commission and maintain a record of its official proceedings.
- B. To prepare and recommend rules and regulations to the commission, and amendments thereto, for the execution of this chapter.
- C. To administer such rules and regulations.
- D. To prepare and recommend duties classification and salary plans.
- E. To perform any and all additional duties which may be directed by the commission or the board of city commissioners concerning the civil service of the city.

Source: 2386 (1987).

ARTICLE 7-03

RULES AND REGULATIONS

Section	
7-0301	Duties classification and salary plan.
7-0302	Recruitment.
7-0303	In-service personnel activities.
7-0304	Attendance and leave regulations.
7-0305	Employee separation and discipline.
7-0306	Prohibition of discrimination and corruption.
7-0307	Political activities of employees.
7-0308	Residence of employees--Response time.
7-0309	Administrative rules.

7-0301. Duties classification and salary plan.--The clerk shall prepare and maintain a duties classification plan and a salary plan which shall include job descriptions, minimum qualification requirements, relative rank of the various positions, base pay and step increases for all positions, and any other information which is deemed necessary and appropriate. The plan or plans and any amendments thereto shall be subject to the approval of the board of city commissioners. A copy of the duties classification and salary plan shall be maintained in the personnel office for inspection by any interested person.

Source: 2386 (1987).

7-0302. Recruitment.

A. Public announcement of vacancies.

The clerk shall give public notice of all examinations for entrance into the civil service of the city and, of all vacancies to be filled without examination. Such public notice shall include the posting of an appropriate notice on bulletin boards in the city hall and other public buildings, advertising in the official newspaper of the city, and any other method which the clerk deems advisable; provided, that advertisement in the official newspaper shall not be required for positions which are to be filled without examination and which are classified in salary range 22 or lower. The notice shall specify the time and place of each examination, the title and salary range of each position, the minimum qualifications required, and any other pertinent data.

B. Application procedure.

All applications shall be made on forms prescribed by the clerk. Such forms may require information relating to personal characteristics, education, experience, references, and other information. The clerk may also require a report as to the applicant's health from one or more physicians who have examined the applicant. The clerk shall establish the procedure for notifying applicants of their rejection for employment or their acceptance for participation in further tests of fitness, and, prior to the date of the tests for which they have filed, may reject for cause any application. The clerk, subject to review by the commission, may refuse to examine an applicant or, after examination, may remove his name from any employment list, or refuse to certify for appointment any eligible whom he finds lacks any of the preliminary requirements established for the class of position or whom he deems, for reasons of physical health or personal character, unfit to assume the duties and responsibilities of the position to which he seeks appointment.

C. Application and promotion--Competitive examination: factors considered.

The relative fitness of applicants for appointment to or promotion within the police and fire departments shall be determined by competitive examination. Such examination may consist of written or oral tests, or any combination thereof, and may include consideration and grading of any or all of the qualification factors; education, training, experience, general adaptability, special aptitudes, physical fitness as determined by physical tests and medical examination, knowledge, skill, behavior characteristics, character and such other qualifications as may be deemed necessary as determined by the appointing authority. All applicants will be required to undergo a drug screening and provide sufficient information for completion of a background investigation. The clerk shall ensure that competitive examinations are administered in a manner to give applicants equal opportunity to demonstrate their fitness. The commission, in its discretion, may also order competitive examinations for positions in other departments.

D. Establishment of eligible entrance and promotional employment lists--police and fire departments.

With respect to initial application to the police department, applicants receiving a passing score on competitive examinations and having satisfactorily completed all other requirements shall be placed on a list of eligible applicants for a period of two years provided, however, that the appointing authority may establish the maximum number of eligible applicants as deemed necessary and appropriate.

With respect to initial application to the fire department, applicants receiving a passing score on competitive examinations and having satisfactorily completed all other requirements shall be placed on a list of eligible applicants for a period of two years provided, however, that such list shall not exceed thirty (30) candidates.

The appointing authority may request a new competitive examination for initial application to the police and fire departments as deemed necessary and appropriate. In such cases, the list of additional applicants will be consolidated into the existing eligibility list provided, however, that the maximum period of eligibility shall not exceed two (2) years.

With respect to promotions within the police and fire departments, applicants receiving a passing score on competitive examinations shall be placed on a list of eligible applicants for promotion for a period of two (2) years or until a new test is required by the appointing authority. The appointing authority may request a new competitive examination as deemed necessary and appropriate. The period of eligibility on a promotional list shall not exceed two years.

E. Establishment of re-employment lists.

Any person who has held a permanent position in the civil service from which he has been laid off for reasons not discreditable to him shall be entitled to have his name placed on the re-employment list for that position; provided, that he notifies the clerk, in writing, within five days from the date that his lay-off became effective. Any person who has resigned in good standing from a permanent civil service position may, at the discretion of the department head, be placed on the re-employment list, if it is determined that the employee's work record and contribution to the department is such that it would merit consideration for re-hire. Each name placed on the re-employment list shall be stricken therefrom at the expiration of two years from the date of resignation or lay-off.

Any person returning to his former position while his name is on the re-employment list shall begin at his former step on the pay scale and shall be given credit for longevity time accrued to the date of the lay-off. Any person returning to his former position after his name has been stricken from the re-employment list shall be treated as a new employee and begin at the beginning step on the pay scale.

F. Removal of names from lists.

The name of any person appearing on an original entrance, promotional or re-employment list shall be removed by the clerk if he or she fails to respond to a notice of certification or to give an acceptable reason for not appearing before the appointing authority as requested.

G. Appointments to positions in the Civil Service.

Whenever an appointing authority desires to fill a vacancy in any position in the civil service, he shall notify the clerk giving pertinent facts relative to the duties, responsibilities, and qualification requirements of the position which is to be filled.

All vacancies in the civil service shall be filled by original appointment, promotion, re-employment, transfer or demotion. All such vacancies for positions having a salary band of "C" or higher shall be advertised by public announcement as is set forth in subsection (A) of this section.

Formal eligibility lists and certification procedure shall not be required for positions which the commission has not designated to be filled by competitive examinations. The clerk shall, however, review all applications and forward his recommendations to the appointing authority. Such recommendations shall not be binding.

If the position is to be filled by competitive examination, the clerk shall certify to the appointing authority the names of all eligible candidates from the original entrance, promotional, or re-employment lists for the position to be filled. The appointing authority shall appoint one of the persons certified by the clerk.

H. Probationary period.

All non-police original appointments and re-employments shall be made for a probationary period of one year. The probation period for police officers shall start upon the date of hire and shall end one year after completion of North Dakota POST [Professional Officer Standards & Training] certification and the department field training program. After the first six months, the appointing authority shall submit a rating of the employee's performance on a report form prepared by the clerk. Additional appraisals may be prepared and filed as the appointing authority may deem necessary. During the probationary period, an employee may be summarily dismissed by the appointing authority. Written notice of such dismissal, with the reasons therefor, shall be delivered to the clerk who may cause the name of such employee to be reinstated to its former position on the appropriate list.

No salary or other wage payment shall be made to any employee after his probationary appointment is completed unless the appointing authority has first certified to the clerk, five days preceding the end of the probationary period, that the employee is to be continued in service.

Promotions shall be made for a probationary period of one year. During the probationary period for promotion, an employee may be summarily reinstated to his former position by the appointing authority. Written notice of such reinstatement, with the reasons therefor, shall be delivered to the clerk.

For demotions and lateral transfers, the appointing authority, in consultation with the human resource department, shall determine whether a probationary period is required, depending on the circumstances of the demotion or lateral transfer. The presence or absence of a probationary period would be determined prior to the effective date of the demotion or

lateral transfer.

Probationary periods in individual cases may be extended by the appointing authority, in his or her discretion, for a period not to exceed six months.

I. Transfer and re-employment of employees and former employees.

Any person who is unable to perform his or her duties as a result of job-related disability may be transferred to any other position for which he or she is qualified, without the necessity for compliance with subsections (A), (B) and (C) of this section.

Any person who has been retired from service with the city of Fargo as a result of job-related disability and who is being paid worker's compensation benefits, may be re-employed by the city for any position for which he or she is qualified, without the necessity for compliance with subsections (A), (B) and (C) of this section.

J. Fingerprinting.

This ordinance is enacted pursuant to N.D.C.C. §12-60-24 to regulate the employment of firefighters.

An applicant, seeking to engage in firefighting shall submit, if required, two sets of his/her fingerprints taken by the Cass County Sheriff's Department or the Fargo Police Department to the Fargo Fire Department.

Upon receipt of the fingerprints, the Fargo Fire Department will transmit both sets of fingerprints and the appropriate fees to the North Dakota Bureau of Criminal Investigation. The North Dakota Bureau of Criminal Investigation will compare the subject's fingerprints against its criminal file and submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation check will be returned to the North Dakota Bureau of Criminal Investigation, which will disseminate the state and national results to the Fargo Fire Department.

The Fargo Fire Department shall render a fitness determination based upon the results of the criminal background check.

In rendering a fitness determination, the Fargo Fire Department will decide whether the record subject has been convicted of, or is under pending indictment for, (a) a crime which bears upon his/her ability or fitness to serve in the capacity; (b) any felony; or (c) a misdemeanor which involved force or threat of force, controlled substances, or was a sex-regulated offense.

A record subject may request and receive a copy of his/her criminal history record information from the Fargo Fire Department. Should the record subject seek to amend or correct his/her record, he/she must contact the Bureau of Criminal Investigation for a North Dakota state record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

Source: 2386 (1987), 2530 (1990), 2559 (1991), 2610 (1992), 2682 (1994), 2715 (1994), 2781 (1996), 4095 (2000), 4335 (2003), 4581 (2007), 4660 (2008).

7-0303. In-service personnel activities.--

A. Promotions.

Whenever practical, vacancies shall be filled by competitive promotional examinations. The procedure set forth in § 7-0302(G) shall be utilized provided that competition shall be limited to those in the service who possess the minimum qualification requirements.

B. Transfers.

The commission may authorize the transfer of an employee in the civil service from one position to another position in the same class, and not otherwise. Transfers shall be permitted only with the consent of the concerned appointing authority.

C. Performance evaluations.

The clerk shall prepare, install, and maintain a system of performance evaluations whereby appointing authorities shall report on the performance of all employees in the civil service. Such evaluations shall be in writing and at such times and in the manner prescribed by the commission. Performance evaluations shall be considered in all actions involving a change in status of any employee.

D. Temporary inter-departmental assignments.

The city commission may temporarily assign employees from one department to another department under such terms and conditions as it deems advisable and necessary, including a provision relative to the employee continuing present pension membership should such temporary assignment be to a department which operates under a different pension system from that to which the temporarily assigned employee belongs.

Source: 2386 (1987), 2613 (1992).

7-0304. Attendance and leave regulations.--Attendance and leave regulations including annual leave, sick leave, holidays, and the like, shall be policy as adopted by resolution of the Board of City Commissioners.

Source: 2386 (1987), 2662 (1993), 2699 (1994), 4443 (2004).

7-0305. Employee separation and discipline.--

A. Layoff.

An appointing authority may lay off an employee in the civil service whenever he deems it necessary because of a material change in duties or organization or a shortage of work or funds. The order in which employees will be laid off shall be determined by the commission in accordance with the employees' service ratings and length of service with the city. Employees separated from the service through no fault of their own shall be placed on the re-employment list for their former classes of positions as provided in subsection (E) of § 7-0302.

B. Resignation.

Any employee wishing to leave the municipal service in good standing shall file with his department head, at least two weeks before leaving, a written resignation stating the date the resignation shall become effective and the reason for leaving. An employee failing to give such notice

shall not be placed on the re-employment list. Unauthorized absence from work for a period of three working days may result in termination without the right to be placed on the re-employment list. The appointing authority shall, upon receipt thereof, forward all resignations to the clerk.

C. Disability retirement.

Any employee may be retired from city service because of permanent mental or physical disability. The determination as to whether an employee's disability is total and permanent shall be made as provided in subsection (B) of § 7-0304.

D. Suspension, demotion and discharge--Procedure.

Any employee or official in the civil service who has completed the probationary period may be suspended, removed, demoted, or discharged by the appointing authority for cause. Cause shall include, but not be limited to, any violation of the general rules and regulations of conduct governing the employees. Written notice of the suspension, removal, demotion, or discharge stating the reason and effective date shall be given to the employee or mailed to his last known address by certified or other mail requiring a signed receipt. A copy of such notice of suspension, removal, demotion or discharge shall be filed with the clerk. Within five business days after the delivery or receipt of such written notice, any employee so suspended, removed, demoted or discharged may, in writing, petition the commission for a hearing.

The commission, on receiving such petition, shall set a date for a hearing or investigation of the reasons for the proposed suspension, removal, demotion or discharge. The date set shall not be less than three days, nor more than 30 days after the date on which the employee received notice of the proposed disciplinary action. Notice of the time and place of such hearing or investigation shall be personally served upon the employee being disciplined, or mailed to his last known address by certified or other mail requiring a signed receipt, at least two business days before the hearing date. Notice of the hearing shall also be given the appointing authority who imposed the suspension, removal, demotion or discharge.

The employee being disciplined shall have full opportunity to be heard. The commission may call other persons to ascertain the facts and make any further investigation which it deems proper. The commission shall spread in its official minutes, its findings of facts and conclusions resulting from the investigation and hearing. Copies of the findings and conclusions shall be transmitted to the city auditor's office, the clerk, the appointing authority, and the employee.

The determination of the commission shall be appealable to the board of city commissioners; provided, that the employee must file his notice of appeal within 10 calendar days after service of the findings and conclusions on the employee. Service shall be deemed complete upon delivery of a copy of the findings and conclusions to the employee or, if personal service cannot be made, by sending a copy to the employee, by certified mail or other mail requiring a signed receipt. If the employee shall refuse or neglect, or otherwise fail to sign a receipt for the findings and conclusions, the 10-day

appeal period will commence five days after the findings and conclusions are mailed.

Source: 2386 (1987).

7-0306. Prohibition of discrimination and corruption.--No person in the municipal service or person seeking admission to the municipal service shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his race or his political or religious affiliations.

No person shall willfully or corruptly make any false statement, certificate, mark, rating, or report in regard to any test, certificate, or appointment held or made under the municipal personnel system or in any manner commit or attempt to commit any fraud preventing the impartial execution of the personnel rules. No person seeking employment to or promotion in the municipal service shall either directly or indirectly give, render, or pay any money, service, or other valuable consideration to any person for or on account of, or in connection with, his test, proposed appointment, promotion, or proposed promotion. Provided, however, that nothing in this chapter shall prohibit persons from securing such employment through duly licensed employment agencies and paying reasonable fees therefor.

Violation of this section shall be grounds for discharging an employee or for disqualification of an applicant for employment with the city.

Source: 2386 (1987).

7-0307. Political activities of employees.--No person holding a position under the civil service of the city shall engage in political activities while on duty or in uniform.

The term "political activity" includes any form of campaigning or electioneering, such as attending or arranging for political meetings, transporting candidates or workers engaged in campaigning or electioneering, distributing campaign literature, political guide cards, and placards, soliciting or canvassing for campaign funds, transporting electors to the polls on election day, and any other form of political work usually and ordinarily engaged in by city employees during city, primary and general election campaigns.

Nothing in this chapter shall be construed to prevent a city employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his or her vote, or from seeking or accepting election or appointment to public office. Provided, further, that any person employed subject to the terms and provisions of this chapter who shall become a candidate for the office of mayor or city commissioner shall automatically receive a leave of absence without pay commencing 40 days prior to the date of the city election and continuing until such person is eliminated, either voluntarily or otherwise, as a candidate, and shall, during such period, perform no duties connected with the office or position so held by him. If such person is required to participate in a runoff election, his or her leave of absence without pay shall continue until the runoff election is held. In the event that such person is elected to the office of mayor or city commissioner, his or her employment with the city shall be terminated, effective on the date of election.

Source: 2386 (1987), 2680 (1994).

7-0308. Residence of employees--Response Time.--Employees of the city shall not be required to live within the corporate limits of the city provided, however, that employees living outside of the corporate limits may be required to respond and be at his or her duty station within a certain specified time after being called by a supervisor. Response time may, depending on job

requirements, be different for the various departments and shall be established by the director, department head or chief of the department involved.

Source: 2404 (1988).

7-0309. Administrative rules.--The clerk may adopt administrative rules to implement and amplify the provisions of this chapter. Such rules shall be incorporated in the city employees' handbook and the adoption of such rules or any changes thereto shall not be effective until approved by the commission and the board of city commissioners.

Source: 2386 (1987).