

# CIVIL SERVICE SYSTEM

## SYSTEM ESTABLISHED

Pursuant to Sections 66.0509 and 62.09, Wisconsin Statutes, the City establishes a Civil Service System of selection, tenure and status of certain employees of the City.

## APPLICABILITY OF PROVISIONS—EXCEPTIONS

This chapter shall be applicable to all full-time and regular part-time employees of the city with the following exceptions:

- A. Officials elected by the people;
- B. Members of boards and commissions;
- C. All city officers appointed by the Mayor, pursuant to Section 62.09(3), Wisconsin Statutes, who are not obligated by the terms of their appointment to work exclusively for the City during business hours;
- D. Personnel of the police and fire departments subject to Section 62.13, Wisconsin Statutes;
- E. Election officials appointed pursuant to Sections 7.30(1)(a) and 7.32, Wisconsin Statutes;
- F. Employees within a collective bargaining unit authorized under Section 111.70, Wisconsin Statutes;
- G. All regular employees working fewer than one thousand five hundred (1,500) hours in any calendar year;
- H. Temporary, provisional, casual or probationary employees;
- I. The City Attorney;
- J. Director of Public Works;
- K. Director of Finance;
- L. Director of Human Resources;
- M. Director of Information Technology;
- N. Director of Library Services;
- O. Director of Community Development;
- P. Director of Parks, Recreation and Forestry;
- Q. Municipal Court Administrator;
- R. Emergency Medical Services Director;
- S. City Engineer; and
- T. City Clerk.

Note: Employees not covered under this chapter may be entitled to procedural and substantive rights under other applicable law, rule or regulation.

### **ADDITIONAL EMPLOYEES COVERED**

All employees of the city who are entitled to the protections contained in 2011 Wisconsin Act 10, Section 170 (now codified in Section 66.0509(1m) Wis. Stats.) including any such employees covered above shall be covered under this chapter, but shall only be entitled to the procedures under the Grievance Procedure section. References to “employees” in all other sections of this chapter shall be limited to employees with Civil Service status.

### **PROBATIONARY PERIOD**

All employees holding positions covered under this chapter shall serve a probationary period of one year from the date of initial appointment. During this probationary period, the employee may be discharged or reduced by the City without right of appeal if, during the probation, the appointing authority, in its sole discretion, deems the employee unfit or unsatisfactory for service. Any employees accepting promotions or transfers from one civil service position to another shall serve a probationary period of one (1) year, and in the event of termination, will have rights to return to the previous position, if vacant, or be placed on a reinstatement list for appointment to a future vacancy of similar title, for a period of three (3) years.

### **VETERANS’ PREFERENCE**

In evaluating applicants for vacant positions, veterans’ preferences shall be accorded as provided by law.

### **CONTRACTING FOR TECHNICAL SERVICES PERMITTED**

The Commission may contract or otherwise arrange for such technical services in connection with the duties set forth in this chapter as may be desired, within the appropriated dollar limit of the particular budget year.

### **APPROPRIATION OF FUNDS FOR OPERATION**

The Council shall appropriate such funds as are necessary to carry out the provisions of this chapter. Every city department shall, upon request of the Mayor, cooperate in the operation of the Civil Service System, including the temporary loan of personnel.

### **APPOINTMENTS IN THE CIVIL SERVICE**

The Mayor shall appoint Department Heads, subject to confirmation by a majority of all of the members of the council. The respective heads of departments shall appoint, in all other cases, employees to vacant positions which the city chooses to fill in consultation with the Director of Human Resources pursuant to this chapter. The Mayor and Department Heads are designated as the appointing officers. Where such appointing power is by state law, vested in a board or commission, such body shall function as the appointing officer. If any statute requires certain standards of any appointee, only those persons who can meet such standards as well as qualify under this chapter shall be eligible for appointment.

### **APPOINTMENT PROCEDURE**

When a position in the Civil Service is to be filled, the appointing authority shall promptly meet with the Director of Human Resources to discuss selection of an appropriate individual to fill that vacancy. The Director of Human Resources shall develop and execute a system for selection of a qualified individual to fill the position. Such system may include advertising the vacancy, testing applicants, interviewing applicants, establishing and weighing appropriate selection factors and designating qualified applicants. The appointing authority, after consultation with the Director of Human Resources, shall then appoint to such position one of the persons who has successfully been certified as qualified for the vacant position.

### **PROVISIONAL APPOINTMENTS**

Provisional appointments may be made by the appointing officer until such time as a permanent appointment can be made. Such appointment may also be made during the suspension of an employee or

pending final action on proceedings to review a suspension, demotion or dismissal of an employee. Such provisional appointments shall not continue for longer than six hundred (600) hours in any one calendar year and no person shall be eligible to serve as a provisional appointee in any one or more positions for more than an aggregate period of six hundred (600) hours in any one calendar year. No credit shall be allowed in the giving of examinations for service rendered under a provisional appointment.

### **ABOLISHMENT OF POSITION**

Whenever, in the sole judgment of the Council, a position within the Civil Service is to be eliminated, the Council may abolish such position(s) in the Civil Service. Any employee holding such an abolished position may be removed from the payroll and coverage under this chapter. Should such position be reinstated or recreated within two (2) years, such employee shall be reappointed thereto in preference to any other qualified persons. Further, employees holding an abolished position shall be considered along with all other applicants for any other vacant positions for which he/she is qualified. For purposes of this section, "qualified" is defined as the present, proven ability to perform the primary functions of a particular position.

### **DISCIPLINE OF EMPLOYEES**

Any appointing officer or Department Head is vested with disciplinary or removal power. Such appointing officer or department head shall be allowed full freedom in such matters, it being the intent and spirit of this chapter to provide a fair and just approach to municipal employment, but, in no sense, to handicap or curtail responsible administrative officers in securing efficient service. All persons holding positions in the Civil Service shall be subject to discipline, up to and including discharge, by the appointing authority, subject to appeal to the Civil Service Commission as set forth below.

A. If the appointing authority has reason to believe an employee may have engaged in conduct which may result in discipline, the appointing authority shall promptly investigate the circumstances of such situation. The affected employee may be suspended, with pay, pending the results of the investigation and given the opportunity to present any information or statements the employee wishes the Department Head to consider before making any final determination.

B. After the meeting with the employee has been concluded, the appointing authority shall decide whether any misconduct occurred and, if so, the appropriate penalty.

C. The appointing authority may only discipline employees subject to this chapter for just cause.

### **APPEALS OF DISCIPLINARY ACTIONS**

An employee who is dissatisfied with disciplinary actions taken by the appointing authority may take the following steps:

A. If the penalty does not result in any direct loss of economic benefit to the employee, i.e., suspension, demotion or discharge, the employee may submit a written response to the appointing authority's disciplinary decision, and such written response shall be included in the employee's personnel file. The employee may also discuss the matter with the appointing authority's direct supervisor. There shall be no further appeal of these actions.

B. If the penalty causes the direct loss of economic benefits to the employee, the employee may file a request for hearing before the Civil Service Commission within five (5) days of the date on which the appointing authority announces the discipline. Upon receipt of a request for hearing, the appointing authority shall, within ten (10) days, serve on the Civil Service Commission and the employee a statement of the underlying facts which led to the disciplinary decision, the rules of conduct or standards violated by the employee's actions, and any other information the appointing authority deems relevant to the decision

to discipline the employee. The employee shall, within ten (10) days of receipt of this statement, file an answer.

C. Unless otherwise stipulated by the parties, the Civil Service Commission shall then set a date for hearing not more than thirty (30) days after receipt of the information listed in subsection B of this section.

D. The sole issue before the Civil Service Commission shall be: based on the evidence and information presented to the appointing authority at the time of his decision, was the appointing authority's decision reasonable? If the Commission decides the decision was unreasonable, the Commission shall decide on an appropriate remedy under the circumstances.

E. The Commission shall adopt rules for hearings.

### **WAGES AND BENEFITS**

The wages and benefits covering employees governed by this chapter shall be set by the Council. Those wages and benefits may be modified or reduced at the discretion of the Council from time to time without violating the provisions of this chapter.

### **GRIEVANCE PROCEDURE**

Employees without civil service status shall use the following procedure for resolving disputes regarding employee termination, employee discipline or workplace safety issues. Employees with contractual grievance procedures shall follow the contractual procedure.

A. Timelines.

1. *Informal Grievance Submission.* The employee must discuss any grievance related to discipline or workplace safety with the employee's immediate supervisor prior to filing a formal written grievance in order to informally resolve the issue. Grievances related to termination may proceed straight to the written grievance step.

2. *Formal Grievance Submission.* The employee must file a written grievance within fifteen (15) working days of the termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue. "Working day" is defined as any day that City Hall is open. The grievance must be in writing.

3. *Administrative Response.* The Director of Human Resources (or designee) will meet with the grievant within fifteen (15) working days of receipt of the written grievance, and will provide a written response within five (5) working days of the meeting.

4. *Impartial Hearing.* The grievant may file an appeal to the Civil Service Commission by giving written notice to the Director of Human Resources within ten (10) working days of the written response. The Director of Human Resources will work with the Commission and grievant to schedule a mutually agreeable hearing date.

5. *Commission Response.* The Commission shall file a written decision within thirty (30) working days of the hearing date.

6. All timelines may be extended by mutual agreement.

B. An employee may only initiate a grievance in writing regarding employee termination, employee discipline or alleged workplace safety issues.

1. The term “employee termination,” as used in this section, shall not include the following:
  - a. Layoffs;
  - b. Workforce reduction activities;
  - c. Voluntary termination including, without limitation, quitting or resignation;
  - d. Job abandonment;
  - e. End of employment due to disability;
  - f. Retirement;
  - g. Any other cessation of employment not involving involuntary termination including, but, not limited to, completion of assignment of a temporary, seasonal, contract, daily assignment, substitute, or replacement employment relationship.
2. The term “employee discipline” shall include any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, or disciplinary demotion.

The term “employee discipline,” as used in this section, shall not include the following:

- a. Plans of correction or performance improvement;
  - b. Performance evaluations or reviews;
  - c. Documentation of employee acts and/or omissions in an employment file;
  - d. Oral or written reprimands;
  - e. Administrative suspension with pay;
  - f. Administrative suspension without pay pending investigation of alleged misconduct or nonperformance;
  - g. Nondisciplinary wage, benefit or salary adjustments; or
  - h. Other non-material employment actions.
3. The term “workplace safety” as used in this section means any alleged violation of any standard established under State law or rule or federal law or regulation relating to workplace safety.
- C. The written grievance must contain:
1. A statement of the pertinent facts surrounding the nature of the grievance.
  2. The date the incident occurred.
  3. The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion.
  4. The specific requested remedy.
  5. The workplace safety rule alleged to have been violated, if applicable.
- D. The written response of the Director of Human Resources to the grievance must contain:

1. A statement of the date the meeting with the grievant was held.
2. A decision as to whether the grievance is sustained or denied.
3. In the event the grievance is denied, a statement outlining the timeline to appeal the denial.

E. Commission Standard of Review. The standard of review for the Commission is whether the decision of the Director of Human Resources was arbitrary or capricious. A decision will not have been arbitrary or capricious if it was made in the best interest of the City. The Rules of Evidence will not be strictly followed, but, no factual findings may be based solely on hearsay evidence.

F. The Commission's written decision must contain:

1. A statement of the pertinent facts surrounding the nature of the grievance.
2. A decision as to whether the grievance is sustained or denied, with the rationale for the recommendation.

G. Grievances will be processed per the following procedures:

1. An employee may advance a grievance to the next step if a response is not provided within the designated timeframes.
2. An employee may not file or advance a grievance outside of the designated timeframes.
3. The Director of Human Resources may advance a grievance to the next step at the written request of either the employee or the supervisor.
4. Failure of the employee to adhere to any of the specified timelines within the process shall result in the grievance being denied.
5. Grievance meetings/hearings held during the employee's off-duty hours will not be compensated.
6. Granting the requested or agreed upon remedy resolves the grievance.
7. The decision of the Commission is final and not subject to further review.

## **APPEALS OF HIRING AND PROMOTIONAL DECISIONS FOR CIVIL SERVICE POSITIONS**

A. Any applicant for a position governed by this chapter who is aggrieved by a hiring or promotional decision of an appointing authority may make a written request for a review of that decision by the Civil Service Commission. Such request must be made within ten (10) business days of the date of notice of the decision.

B. The Civil Service Commission shall convene within thirty (30) days of such request to consider that request. It shall conduct a review of the decision in a manner that it, in its sole discretion, deems appropriate to the circumstances.

C. Upon the conclusion of any such review, the Civil Service Commission shall only have the authority to order the appointing authority to conduct a new hiring or promotional process for the position.