CHAPTER 44

MUNICIPAL CIVIL SERVICE

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44.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the context requires otherwise, the words and phrases defined in the following subdivisions shall have the meanings there ascribed to them.

Subd. 2. **Appointing authority.** "Appointing authority" means the official, employee, council, board, or commission empowered by statute, charter, or ordinance to make an appointment to the position referred to in the context.

Subd. 3. **Board.** "Board" means the personnel board provided for in section 44.04.

Subd. 4. **Council.** "Council" means the city council or other body having general authority to adopt ordinances.

Subd. 5. **Classified service.** "Classified service" means the positions covered by the merit system.

Subd. 6. **Employee.** "Employee" includes an officer, employee, or other holder of a position in a municipality.

Subd. 7. **Merit system.** "Merit system" means the method provided in sections 44.01 to 44.16 and rules adopted thereunder for the employment, promotion, dismissal and discipline of municipal employees.

Subd. 8. **Merit system ordinance.** "Merit system ordinance" means the ordinance establishing the merit system in any municipality and includes, except where preceded by the word "original," all amendments thereto.

Subd. 8a. **Peace officer.** "Peace officer" means an employee of a city with a merit system established under section 44.02 who is licensed by the Minnesota Board of Peace Officer Standards and Training, is charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state, and has the full power of arrest.

Subd. 9. **Position.** "Position" includes an office, employment, or place in the municipal service that may be filled by an employee.

History: *1951 c 675 s 1; 1973 c 123 art 5 s 7; 2010 c 186 s 1*

44.02 MUNICIPAL MERIT SYSTEM, ESTABLISHMENT.

Any city of the second, third, or fourth class, however organized, or any statutory city may, by ordinance approved by a majority of the voters voting on the question of its approval at a general or special election, establish the merit system.

History: *1951 c 675 s 2; 1973 c 123 art 5 s 7*

44.03 MERIT SYSTEM.

Subdivision 1. **Classified service; exceptions.** In any municipality establishing the merit system under this chapter, every employee of the municipality shall be in the classified service except the following:

(a) Any officer chosen by popular election or appointed to fill a vacancy in an elective office.

(b) Any official reporter, bailiff, or other employee appointed by any court, or judge or justice thereof.

(c) Members of any board or commission provided for by statute, charter, or ordinance.

(d) The city manager.

(e) Any other employee expressly excluded by the merit system ordinance.

Subd. 2. **Employees, placing in unclassified service.** The council may make the exclusions authorized in subdivision 1, clause (e), by entire departments, by class of position, or by individual positions; but no position under the jurisdiction of a police or firefighter's civil service commission at the time the merit system is adopted in any municipality shall be so excluded by the original merit system ordinance and no such position shall be thereafter excluded unless the ordinance proposing to do so is submitted to the voters as a separate proposition and approved by two-thirds of those voting on the proposition of its adoption. After the ordinance establishing the merit system has been approved by the voters in a municipality, the council may add to or subtract from the exclusions made under subdivision 1, clause (e), by an amendment to the original ordinance approved by the voters as in the case of the original ordinance. Any position established by the municipality after the original ordinance is approved by the voters shall be in the classified service without further action by the council unless the position is (1) excluded from the classified service by subdivision 1, clause (a), (b), (c), (d), or (e) in a department or class of positions excluded from the classified service by the merit system ordinance; but any such position may thereafter be excluded from the classified service by ordinance amendment adopted under subdivision 1, clause (e).

History: *1951 c 675 s 3; 1973 c 123 art 5 s 7; 1977 c 429 s 63*

44.04 PERSONNEL BOARD.

Subdivision 1. **Appointment, terms, oath.** Within 30 days after the effective date of the merit system ordinance in any municipality, a personnel board shall be appointed. Except as provided in subdivisions 2 and 3, the board shall consist of three members and be appointed by the mayor with the consent of the council. Each member shall serve for a term of three years, except that of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years; and each shall serve until a successor is appointed and qualified. A member may be removed by the mayor with the consent of the council for cause after written notice and an opportunity to be heard. No member shall hold any other municipal position. Before entering upon the duties of office, each member shall subscribe and file with the city clerk or recorder an oath for the faithful discharge of the duties. A chair shall be elected under such rules as the board may adopt.

Subd. 2. **Police or firefighter's civil service commission, as personnel board.** When a merit system ordinance is adopted in any municipality having a police or firefighter's civil service commission, the existing commission shall become the personnel board and its members shall serve for the duration of terms for which they were originally appointed. Successors shall be appointed for three-year terms as provided in subdivision 1.

Subd. 3. **Membership reduced.** When a merit system ordinance is adopted in any municipality having both police and fire civil service commissions, all the members of such commission shall become the members of the board established under sections 44.01 to 44.16 and shall continue to serve as members of the new board for the remainder of the terms for which they were originally appointed. No successor shall be appointed for the members whose terms are the first, third, and fifth of the six to end, but at the end of every other term, one member shall be appointed for a three-year term, thus reducing the board membership to five by the end of the first year, four by the end of the second year, and three by the end of the third year.

Subd. 4. **Meetings.** The board shall hold regular and special meetings as provided by its rules. All meetings and hearings shall be open to the public. Two members of the board shall constitute a quorum. Members shall be paid all necessary expenses. The board shall select a secretary to serve at the pleasure of the board. The secretary may be a member of the board or an employee of the municipality. The council may authorize the payment of compensation for the secretary's services and for the members of the board in an amount to be determined by the council.

History: *1951 c 675 s 4; 1957 c 328 s 1; 1973 c 123 art 5 s 7; 1977 c 429 s 63; 1986 c 444; 1987 c 216 s 1*

44.05 POSITIONS; GRADED, CLASSIFIED.

The board shall, as soon as practicable after its appointment and organization and after consultation with appointing authorities and principal supervisory officials, grade and classify all positions in the classified service according to the duties and responsibilities of each position and appropriate lines of promotion and it shall allocate each position in the classified service to the appropriate class therein. The titles in the classification plan shall be used for original appointments, promotions, payrolls, and all other personnel records, and rates of pay shall be fixed according to the grades of positions established in the classification plan. The board shall prepare and maintain an employment roster on which shall be entered in their respective classes of employment, the names, ages, compensation, period of past employment and such other facts with reference to each employee in the classified service as the board deems useful.

History: *1951 c 675 s 5*

44.06 APPOINTMENTS, PROMOTIONS.

Subdivision 1. **Competitive examinations.** Every appointment or promotion to a position in the classified service shall be made after a competitive examination given by the board or under its direction as provided in section 44.07.

Subd. 2. **Lists of eligibles.** The board shall, as the need arises, prepare and maintain lists of eligibles for classes of positions in the classified service in accordance with their standing in examinations, taking into account the credit given war veterans by section 197.455.

Subd. 3. **Three names certified.** Whenever a vacancy occurs in a position in the classified service, the appointing authority shall notify the board of the vacancy. The board shall certify to the appointing authority the three names standing highest on the appropriate eligible list. If two or more vacancies are to be filled in

the same class, the board shall certify two more names than the number of vacancies to be filled. The appointing authority shall appoint one person from the names so certified to fill each vacancy.

Subd. 4. **Temporary employment.** An appointing authority may, to the extent authorized by the rules of the board, temporarily employ persons on eligible lists but without regard to rank thereon for a period not to exceed 90 days in emergencies and may provisionally employ persons for not more than 90 days when necessary because of the lack of eligibles on the eligible list. No person shall serve as a temporary or provisional employee for more than 90 days in any calendar year.

History: *1951 c 675 s 6; 1978 c 674 s 10*

44.07 EXAMINATIONS.

Subdivision 1. **Requirements.** Every examination shall be impartial, fair, and designed only to test the relative qualification and fitness of applicants to discharge the duties of the particular position for which it is designed. No questions in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety, and integrity, and all applicants for positions requiring special experience, skill, or faithfulness shall be especially examined in respect to those qualities. Within these limits, the board may make use of any appropriate testing technique, including oral examinations or interviews.

Subd. 2. **Notice.** Public notice of the time and place of an examination shall be given by one publication in the official newspaper of the municipality, or in a newspaper of general circulation in the municipality if there is no official newspaper, at least ten days in advance of the examination and by posting for a similar period. A written notice shall also be mailed in advance of the examination to each person who has submitted an application for the position to the board before the public notice is given.

Subd. 3. **Examiners.** It shall be the duty of every employee of the municipality to act as an examiner at the request of the board without additional compensation for such service. The board may make use of other qualified persons who are not employees of the municipality to act as examiners.

History: *1951 c 675 s 7; 1986 c 444*

44.08 PERMANENT EMPLOYEES, DISMISSAL, SUSPENSION.

Subdivision 1. **Just cause; notice, charges filed.** No permanent employee in the classified service shall be dismissed or suspended without pay for more than 30 days, except for just cause, which shall not be religious, racial, or political. No such action shall be taken except after the employee has been given notice of the action in writing. A copy of the notice shall be transmitted to the board. Upon written request made by the employee within 15 days after receipt of such notice, the appointing authority shall file the charges of inefficiency or misconduct on which the dismissal or suspension is based with the employee concerned and with the secretary of the board and a hearing shall be held by the board thereon after 10 days' written notice to the employee of the time and place of the hearing. Action of the appointing authority shall be final if no such written request is made within 15 days after receipt of the notice of dismissal or suspension.

Subd. 2. **Public hearing, witnesses.** The hearing on the charges shall be open to the public and each member of the board shall have the power to issue subpoenas, to administer oaths, and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The board shall require by subpoena the attendance of any witness requested by the employee who can be found in the county. The board may make complaint to the district court of disobedience of its subpoenas or orders and the court shall prescribe notice to the person accused and require obedience to the board's subpoena and order and punish disobedience as a contempt of court. Witnesses shall be entitled to the same

fees and mileage as for attendance upon the district court, except that any officer, agent, or employee of the municipality who receives compensation shall not be entitled to fees or mileage.

Subd. 3. **Determination.** If, after the hearing, the board finds that the charges are sustained, the dismissal or suspension shall be final unless an appeal to the courts is taken under section 44.09. If the board finds that the charges are not sustained, the employee, if suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension; if not suspended, the employee shall be continued in the position as though the action had not been brought, subject to the right of the appointing authority to appeal as provided in section 44.09.

Subd. 4. **Findings; filing, notice.** Findings hereunder and orders sustaining disciplinary actions or compelling reinstatement shall be in writing and shall be filed within three days after the completion of the hearing among the records of the secretary of the board. The secretary shall give written notice of the decision to any employee concerned and to the appointing authority.

History: *1951 c 675 s 8; 1986 c 444*

44.09 APPEALS.

Subdivision 1. **Notice.** The employee or the appointing authority may appeal to the district court from an order of the board concerning the employee's dismissal or suspension without pay for more than 30 days by serving written notice of the appeal upon the secretary of the board within ten days after receiving written notice of the board's order.

Subd. 2. **Certification of record.** Within five days after receiving service of the notice, the secretary shall certify the record of the proceedings, including all documents, testimony, and minutes to the court administrator of the district court. The administrator shall then place the cause on the calendar for determination at the next general term of the court to be held at the nearest place in the county where the municipality is located. The question to be determined by the court shall be: "Was the order of the personnel board reasonably supported by the evidence?"

Subd. 3. **Appeal.** The employee or the appointing authority may appeal from the district court as in other civil cases.

History: *1951 c 675 s 9; 1983 c 247 s 22; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

44.10 PROBATIONARY PERIOD.

Subdivision 1. **Employees in classified service.** (a) Except as provided in paragraph (b) and subdivision 2, every person holding a position in the classified service of a municipality on the effective date of the merit system ordinance and every person subsequently appointed to such a position shall serve a probationary period of six months.

(b) The probationary period for a peace officer is 12 months.

(c) During the probationary period described in this subdivision, the person may be dismissed summarily without compliance with section 44.08, but the dismissal shall be in writing and reported to the board.

Subd. 2. **Police or fire department employees.** Subject to the completion of an existing probationary period, any permanent employee of a police or fire department under the jurisdiction of a police or fire civil service commission at the time of the effective date of a merit system ordinance shall automatically become

a permanent employee in the classified service subject to and protected by this chapter without the service of any additional probationary period thereunder for the position then occupied.

History: *1951 c 675 s 10; 1986 c 444; 2010 c 186 s 2*

44.11 RULES.

Subdivision 1. **Publication.** The board shall, as soon as practicable after its appointment and from time to time thereafter, adopt rules consistent with this chapter on the subjects enumerated in subsequent subdivisions in order to carry out the purposes thereof. Copies of the rules may be published in the official newspaper or made available at the office of the city clerk in printed form for general distribution. If not so published, copies shall be posted in a conspicuous place in the city hall and in such other public places as the board shall specify, and no rules of general application with reference to employment, promotion, dismissal, or suspension shall be effective until so posted or published.

Subd. 2. **Classification of positions.** The board shall provide by rule for the classification of all positions in the classified service on the basis of duties and responsibilities.

Subd. 3. **Public competitive examinations.** The board shall provide by rule for public competitive examinations, after public notice, to test the relative fitness of applicants for positions.

Subd. 4. **Lists of eligibles.** The board shall provide by rule for the creation and maintenance of lists of eligibles. No name shall remain on an eligible list for more than two years.

Subd. 5. **Rejection of candidates.** The board shall provide for the rejection of candidates or eligibles who fail to comply with reasonable requirements of the board with respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception, or fraud in connection with their applications.

Subd. 6. **Certification of names to appointing authority.** The board shall provide by rule for certification of names to the appointing authority from the appropriate eligible list for appointment, promotion, or reemployment.

Subd. 7. **Temporary and provisional appointments.** The board may provide by rule for temporary and provisional appointments.

Subd. 8. **Promotion.** The board shall provide by rule for promotion based on competitive examination, supplemented by records of efficiency, character, conduct, and seniority when a passing grade is obtained upon the examination.

Subd. 9. **Suspension.** The board shall provide by rule for the suspension by the appointing authority of any employee in the classified service for a period of not to exceed 30 days for disciplinary reasons.

Subd. 10. **Layoffs.** The board shall provide by rule for the layoff, because of curtailment of work or funds, of employees in the classified service and for the conditions under which employees thus laid off shall be reinstated.

Subd. 11. **Hours of work, holidays, leaves of absence.** The board shall provide by rule for hours of work, holidays, attendance regulations, and annual, sick and special leaves of absence for positions in the classified service.

Subd. 12. **Periodic check of payrolls.** The board may provide by rule for the periodic check of municipal payrolls to determine if all employees being paid by the municipality have been properly paid and are entitled to such payment.

Subd. 13. **Procedure of board.** The board may adopt rules governing its own procedure and such other rules, not inconsistent with this chapter, as may be found necessary to carry out the purposes thereof.

History: *1951 c 675 s 11; 1973 c 123 art 5 s 7*

44.12 EXPENSES, PAYMENT.

Whenever the classified service includes employees who are under the jurisdiction of a board or commission with authority independent of the council to appropriate money and pay bills, the personnel board's expenses incurred in recruiting such employees shall be paid by the independent board or commission concerned; and the board shall provide for the apportionment of general expenses of the board between the funds of the council and the funds of such independent boards or commissions in the proportion that the number of full-time employees of each in the classified service bears to the total number of full-time employees in the classified service. The council and each independent board and commission shall provide for the payment of all reasonable expenses of the board thus apportioned to it; and the council shall provide for the payment of all reasonable expenses of the board in all other cases.

History: *1951 c 675 s 12*

44.13 CONTRACTS, TECHNICAL SERVICES.

With the approval of the council or independent board or commission responsible in the particular case for the payment of the cost incurred, the board may contract with the state or any other political subdivision, or any public or private agency, for the conduct of competitive examinations, for the formulation of classification plans, or for the performance of any other technical service in connection with the discharge of its duties under this chapter.

History: *1951 c 675 s 13*

44.14 EFFECT ON VETERANS PREFERENCE LAW.

This chapter does not exclude or modify the application of sections 197.455 and 197.46.

History: *1951 c 675 s 14; 1975 c 45 s 3*

44.15 PROHIBITED PRACTICES.

Subdivision 1. **Influencing examination, appointment, or promotion.** No applicant for examination, appointment or promotion in the classified service of a municipality shall directly or indirectly give, render, or pay, or promise to give, render or pay, any money, service or other thing to any person, for or on account of, or in connection, with an examination, appointment or proposed appointment or promotion. Any person violating this provision shall be guilty of a misdemeanor.

Subd. 2. **By employee.** No employee in the classified service shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assistance, assessment, or subscription, whether voluntary or involuntary, for any political purpose whatsoever, or for any political party or affiliate. Any violation of this provision shall be cause for dismissal from the service of the municipality.

History: *1951 c 675 s 15; 1986 c 444*

44.16 MERIT SYSTEM, ABANDONMENT.

Subdivision 1. **Procedure.** The merit system may be abandoned and the board abolished in any municipality in the manner provided in this subdivision. The council may, and upon petition therefor signed by voters equal in number to at least 25 percent of the electors voting at the last general municipal election shall, submit to the voters at a regular or special election the question of abolition of the board. The question on the ballot shall be stated substantially as follows: "Shall the personnel board be abolished?" If a majority of the votes cast on the proposition is in favor of abolition of the board, the board shall cease to exist and the status of all departments and employees shall thereafter be the same as if no board had been established; but if the board supplanted a police or firefighter's civil service commission, the board shall not be abolished unless two-thirds of the electors voting at the election vote in favor of the proposition.

Subd. 2. **Home rule charter provisions.** Nothing in subdivision 1 shall preclude any municipality from abolishing the board or modifying its powers and duties by home rule charter provisions or from supplanting the merit system provided by this chapter by a different provision in a home rule charter. The provisions of this chapter shall thereafter become inapplicable to such city except as otherwise provided in the charter.

History: *1951 c 675 s 16; 1977 c 429 s 63*