ORDINANCE NO. 5683

AN ORDINANCE AMENDING CHAPTER 24-PERSONNEL CODE; SECTIONS 24-2, 24-31, 24-37, 24-46, 24-48 OF THE CODE OF ORDINANCES

WHEREAS, the City of Minot intends to modify sections of the Personnel Code in accordance with the adopted 2022 Budget for the City of Minot.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

§1. Section 24-2 of Chapter 24 (Personnel Code), Article I (In General) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 24-2. - Definitions.

For purposes of this chapter unless the context indicates otherwise:

Annual plan means the annual employees' classification and pay plan.

Appointing authority means the mayor for the city attorney, subject to section 2-116(4); the city attorney for city attorney subordinates; the city manager, or his or her written designee, for all other employees of the city, subject to section 2-47(d) for heads of departments.

Commission means the civil service commission of the City of Minot.

Department means the following departments of the City of Minot government: finance, police, airport, engineering, assessor, fire, public works, community development, and personnel.

Director means the personnel director of the City of Minot.

Length of service means the period of time during which a person was employed by the city, which period need not be uninterrupted.

Position means a position of employment with the City of Minot.

Service means the City of Minot Civil Service.

§2. Section 24-31 of Chapter 24 (Personnel Code), Article IV (The Civil Service), Division 1 (Composition of the Civil Service) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:
Sec. 24-31. - Composition of civil service.
(a) The civil service of the City of Minot shall consist of all of its employees excluding special appointments noted in section 24-46.
(b) Elected officials and members of advisory boards and commissions such as the planning commission are not considered employees for the purpose of this chapter.
(c) The city manager is not considered an employee for purposes of Article V or Article VI of this chapter.

§3. Section 24-37 of Chapter 24 (Personnel Code), Article IV (The Civil Service), Division 2 (The Annual Plan) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 24-37. - Job descriptions.
(a) The director shall maintain detailed narrative job descriptions with respect to each distinct authorized position. The job description shall set forth characteristic duties and responsibilities attributable to a position and the minimum qualifications and desirable skills expected of the holder thereof.
(b) New job descriptions and substantial amendments to existing job descriptions must be approved by the city council as part of the annual plan or as an amendment thereto.
(c) No person shall be employed by the City of Minot unless he is hired with respect to a specific job description which has been approved by the city council and which has been classified as part of the annual plan or an amendment thereto approved by the city council unless:
   (1) The employee is hired as an independent contractor; or
   (2) The employee is hired under the authority of section 24-46.

§4. Section 24-46 of Chapter 24 (Personnel Code), Article V (Recruitment, Promotion, Demotion, Transfers, Tenure, Dismissal, and Reduction in Force) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 24-46. - Special appointments.
(a) Notwithstanding anything in sections 24-41 through 24-43 to the contrary, the appointing authority exercising his sole authority alone, may hire a person to fill a vacancy in any position as long as he does so subject to the limitations set forth in the following subsections.
(b) A person may be hired to fill a vacancy in any position as a provisional employee, that is, for a period of time consisting of not more than ninety (90) consecutive days. No person shall be hired as a provisional employee more than twice with respect to the same position.
(c) Nothing in this section shall be construed as allowing the appointing authority to disregard the minimum qualifications established for a particular position or to
disregard the minimum employment standards established for all positions of city employment.

(d) Service with the city as a result of a special appointment pursuant to this section shall not be credited as a period of city employment for purposes of establishing pension rights, seniority rights, longevity pay increases, or any other right or benefit which is dependent in whole or in part upon length of service. Nor shall it be considered as part of a period of probationary employment except as provided in subsection (f).

(e) An employee holding a position by virtue of a special appointment under this section shall be treated as a probationary employee for purposes of dismissal, lateral transfer, or demotion.

(f) An employee appointed pursuant to this section, is not considered an employee for purposes of sections 24-41, 24-43, 24-62, 24-63, 24-64, 24-65, 24-66, 24-67, 24-68, 24-69, 24-70, Division 2 of Article VI, or section 24-113, except that if required to work on a holiday he shall be paid accordingly. However a person not already an employee who is appointed to a position pursuant to subsection (b) is considered an employee for purposes of the sections just mentioned when and if he secures a permanent appointment to the same position, with benefits to relate back to the date of the provisional appointment.

§5. Section 24-48 of Chapter 24 (Personnel Code), Article V (Recruitment, Promotion, Demotion, Transfers, Tenure, Dismissal, and Reduction in Force) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 24-48. - Probationary employment.

(a) Except as provided for in subsection (d) hereof, upon making an appointment to fill a vacancy, the appointing authority will establish a probationary period with respect to the particular person appointed to the position (hereinafter called the probationary employee or an employee in probationary status), which probationary period shall be set at six (6) months or twelve (12) months. Prior to the initial probationary period expiration, the probationary period may be extended by the appointing authority, but it shall not exceed eighteen (18) months. Probationary status shall also apply to those former non-career employees converted to full Civil Service status effective January 1, 2022 as adopted in the 2022 budget.

(b) During the probationary period the appointing authority may take the following actions with respect to the probationary employee:

1. A new employee or a rehired former employee may be dismissed, laterally transferred or demoted;

2. An employee who is in probationary status as a result of a voluntary lateral transfer or voluntary demotion may be laterally transferred;

3. An employee who is a probationary employee as a result of a promotion may be demoted to a grade not less than the one occupied prior to promotion.
(c) The appointing authority may take the actions authorized in subsection (b) because in his sole judgment, which is not subject to review, there exists one of the following grounds for so doing:

1. The job performance of the probationary employee is not satisfactory;
2. The action is required as a part of a reduction in force;
3. The action is required in order to provide a vacant position for another employee to fill who is being demoted for the good of the service or who is being demoted under this section;
4. The employee fails a required post-employment physical examination; or
5. There exists with respect to the probationary employee sufficient grounds which would warrant the dismissal or lateral transfer of the employee for disciplinary reasons if he were an employee who was not in probationary status.

(d) If an employee changes a position as the result of a lateral transfer or demotion as part of a reduction in force, or a lateral transfer or demotion for the good of the service, there shall be imposed no probationary period with respect to the employee in his new position, but rather further demotion, lateral transfer or dismissal shall be based upon there arising new grounds for a demotion, dismissal or lateral transfer which are independent from the grounds which gave rise to the original demotion or lateral transfer.

(e) An employee may rescind a voluntary lateral transfer or voluntary promotion during his probationary period and return to his former position:

1. As a matter of right if the former position is vacant, or
2. At the discretion of the appointing authority if the position is not vacant.

§6, This Ordinance shall become effective upon final passage and approval.

PASSED FIRST READING: December 6, 2021
PASSED SECOND READING: December 20, 2021

ATTEST: 
_________________________ 
Anna Schraeder, Interim City Clerk

APPROVED: 
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Shaun Sipma, Mayor