

STATE OF LOUISIANA  
CITY OF KENNER  
CIVIL SERVICE BOARD

## CIVIL SERVICE RULES

Revised 09/2025



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Rule I. DEFINITIONS

- 1) Advance in rate of pay: a salary increase given to an employee for a reason or reasons other than a change in the classification of the employee's position or a change in the established salary grade for the employee's class of positions.
- 2) Allocation: the official determination of the specific class to which a position in the classified service belongs.
- 3) Appointing Authority: For purposes of these Rules, it is recognized that under, and except as otherwise provided by the City Charter, the Mayor has the power to appoint and remove all non-elected City officials and employees, and that he is allowed to delegate that authority to the heads of City Departments. "Appointing Authorities" so delegated shall, subject to these Rules, have the authority and responsibility to hire, discipline and separate employees within their respective departments. Those members of the administration, such as the Mayor, who merely sign personnel documents or approve personnel policies in a ministerial manner shall not be considered to be the Appointing Authority unless they act as stated above.
- 4) Appointment: the designation of a person by a duly empowered Appointing Authority to become an employee in a position, and the person's induction into the position.
- 5) Appropriate employment list: a list of the names of persons established for a particular class of positions or, in the absence of such a list, another list of the names of persons who, because they meet certain required standards or possess certain minimum qualifications, are deemed by the Department or the Director to be eligible for appointment to a position in a class other than the class for which they were examined or in which they have permanent status.
- 6) Base Pay Increase: refers to a permanent adjustment made to an employee's current hourly rate that is reflected in future earnings, including overtime, retirement contributions, and other compensation-related calculations.
- 7) Board: When used in these rules, Board shall mean the Civil Service Board.
- 8) Certification: a list of names of persons furnished to an Appointing Authority by the Department from an appropriate employment list, who are eligible to be considered for appointment to a position in the classified service.
- 9) Certification after probation: official notice furnished by an Appointing Authority to the Director that an employee has satisfactorily completed the prescribed working test period.
- 10) Class or Class of Positions: a definitely recognized position or kind of employment in the classified service; or a group of positions in the classified service that are so nearly alike in the essential character and nature of their duties, responsibilities, and consequent qualification requirements, that they can be treated alike equitably and fairly under like conditions for all personnel purposes.
- 11) Classification Plan: all the classes of positions established for inclusion in the classified service.
- 12) Classified Service: all offices and positions of trust or employment in the City service, except those placed in the unclassified service by Section 8.01 A et seq. of the Kenner City Home Rule Charter. Unclassified personnel shall include the following:
  - a) All elected officials and interim appointed officials filling an elective office.
  - b) The Director and Assistant Director of each City Department except for the Civil Service Dept.
  - c) One Chief Administrative Officer, one Chief of Staff, one Deputy and one Executive Assistant.
  - d) Members of advisory boards and other unpaid bodies who are not City employees.
  - e) Organizations and their employees and other persons who are employed by the City on a contractual or part-time basis.
  - f) The City attorney and his legal assistants.
  - g) Clerk of the City Council, such assistants to the Clerk of the City Council as are deemed necessary not to exceed 5; and, seven council assistants, to be hired by each individual Councilmember.
  - h) Three assistants to the Mayor.
  - i) All persons employed and paid exclusively with federal funds administered by the City, unless specifically required by federal regulation or law to be included under this System
- 13) Competitive position: any position in the classified service that is subject to the requirements relating to appointment on the basis of competitive tests of fitness; more specifically, every position in the City service that is not expressly excepted or included among the positions in the unclassified service.
- 14) Continuous examination: an examination for which no final filing date has been set, which will be given on more than one date, and from which the resultant employment list is an openlist.
- 15) Continuous Service and/or uninterrupted service, as used in the Rules, or in the Pay Plan provisions, shall mean employment in the classified City service uninterrupted by dismissal, resignation, retirement, or layoff; subject to the specific administrative and procedural provisions set forth in the Tenure Award provisions of the Pay Plan.
- 16) Cost-of-Living Adjustment, COLA: is an increase in the employee's current hourly rate to

compensate employees for increases in the cost of goods and services during inflation.

17) Demotion: a change of an employee in the classified service from a position of one class to a position of another class for which a lower maximum rate of pay is prescribed.

18) Department: When used in these rules, Department shall mean the Civil Service Department.

19) Departmental certification: certification from a promotional register of a list of persons who already have permanent status in a lower class of positions in the same department.

20) Director: When used in these rules, Director shall mean the Civil Service Director.

21) Division or division of the service or agency: a department or any division or subdivision thereof, or any branch, or any agency of the City government, or any corporation organized for public purposes, all of the positions in which are under the same Appointing Authority.

22) Elective Increase: a percentage of the current hourly rate granted uniformly to regular employees in the classified service.

23) Eligible: a person whose name is on a list.

24) Employee: a person legally occupying a position.

25) Employment list: an original entrance employment list, a promotion employment list, or a re-employment list.

26) Entrance test: a test for positions in a particular class, admission to which is not limited to persons employed in the City service.

27) Examination: the entire qualifying procedure through which an applicant for a classified position must go in his attempt to achieve a place on an employment list.

28) Hours of Work: Designation of a position's work hours and schedule for purposes of administration of Charter provisions regarding jurisdiction of the Department (Civil Service) and applicability of these Rules to appointments and employees of the City of Kenner. Employees may be employed to work a re-occurring, normal weekly or bi-weekly schedule as follows:

- Full-time: a re-occurring, set number of hours equal to the Base Hours per Week stated in the Salary Plan for the class of work involved;
- Limited Full-time (half-time up to but not including Full-time): a re-occurring, set number of hours less than full-time but not less than one-half the Base Hours per Week stated in the Salary Plan for the class of work involved;
- Part-time (less than half-time): a re-occurring, set number of hours less than one-half the Base Hours per Week stated in the Salary Plan for the class of work involved. These employees are not classified under this civil service system.

An employee who works on an intermittent or variable basis, dependent upon the demand for his services, and paid on an hourly basis rather than a set bi-weekly salary, shall be considered a subject-to-call, or On-Call employee. A Transient employee is employed as an extra or substitute employee for a limited duration. Such employees are not entitled to accrue and use Annual and Sick Leave, are not entitled to pay for holidays provided under these Rules, HOWEVER, such appointments and employees shall be subject to review and prior approval by the Director and shall be included in the classified service unless it is determined that they are to be excluded as part-time by virtue of a schedule of less than half the usual full-time working hours.

"Hours of Work" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work. Local conditions, the nature of the work, seasons of the year, and the needs of the service shall determine the specific starting times, ending times and any necessary changes of schedule for each workday. The appropriate Appointing Authority shall determine the schedule of hours for employees. The Appointing Authority will inform employees of their daily schedule of hours of work and of any changes that are considered necessary or desirable of the City, within a reasonable timeframe.

29) Law: When used in these rules, Law shall mean the Home Rule Charter of Kenner, Louisiana, Article VIII. Civil Service System, Section 8.01 – 8.04 and 8.06.

30) Layoff: the removal of an employee because of lack of work, failure of financial appropriation, abolishment of position, or other causes which do not reflect on the employee.

31) Leave year: a continuous period of twelve (12) calendar months beginning on January 1 of any year.

32) List: an employment list, an original entrance employment list, a promotion employment list, or a re-employment list.

33) Open list: a list to which eligibles may be added from time to time through the continuous examination procedure.

34) Organization unit: any administrative agency or part thereof that is designated by rule or regulation as a unit for purposes of administration of the Law or of the administration of the Rules and Regulations of the Civil Service Board.

35) Original entrance employment list: an employment list for a class resulting from tests of fitness open to all applicants who meet the prescribed requirements for admission to the tests, regardless of prior employment in the classified service.

- 36) Pay: salary, wages, and all other forms of valuable consideration, or the amount of any one or more of these, earned by or paid to any employee by reason of service rendered in any position, but excluding allowances for expenses authorized and incurred as incidents to employment. Pay in the form of City contributions to employee insurance and retirement benefits programs shall not be subject to the Civil Service Board's salary plan and rule making authority.
- 37) Pay status: an employee's presence for work or absence on authorized leave with pay during and throughout each working day in a specified pay period.
- 38) Performance evaluation: the evaluation of an employee's job performance, made by the employee's immediate supervisor or Appointing Authority in accordance with the methods prescribed by the Director.
- 39) Political Activity: An effort to support or oppose the election of a candidate for political office or to support a particular political party in an election.
- 40) Position: any office or any employment in the service of the City, or any two or more of them in combination, the duties of which call for services to be rendered by one person, including positions jointly employed by federal and City agencies administering federal and City relief funds.
- 41) Promotion: a change of an employee in the classified service from a position of one class to a position of another class for which a higher maximum rate of pay is provided in the payplan.
- 42) Promotion employment list or promotion list: an employment list for a class resulting from tests of fitness limited to applicants who are employees of lower classes in the classified service.
- 43) Promotion test: a test for positions in a particular class, admission to which is limited to employees in the classified service who are holding a position in a lower class.
- 44) Public Hearing: a hearing held after publication of at least one public notice in the official journal of the City not less than ten (10) days before the hearing is scheduled to convene, at which any person may have a reasonable opportunity to be heard in accordance with the Rules adopted by the Board.
- 45) Public Notice: the posting of a notice of intention on the part of the Board or the Director to take a certain action, such notice to be posted on a bulletin board located at the offices of the Department or published in the official journal of the City, or both.
- 46) Re-employment: the re-appointment of a former regular employee or a present employee who has been demoted or separated from his position for reason other than fault or delinquency on his part to a position of the class from which he was separated.
- 47) Re-employment list: an employment list for a class consisting of a list of names of persons who have previously occupied positions allocated to that class, and who have been found to be entitled to certification for re-appointment to positions of the class.
- 48) Regular employee: an employee who has been appointed to a position in the classified service in accordance with the Law and these Rules and who has completed the prescribed working test period.
- 49) Regulation: a definition, policy, or mode of procedure consistent with the Rules and formally prescribed in writing by the Director or the Board to govern the manner of giving impetus or effect to the Law or these Rules. For this purpose, all such regulations shall be recorded in a Book of Regulations.
- 50) Reinstatement: the re-appointment of a working test employee or a regular employee who has been separated from his position to a position of the same class or to any other position to which the employee may have been assigned, transferred, reallocated, or demoted if the separation had not occurred.
- 51) Salary plan: all the scales or rates of pay prescribed under the provisions of the Law by the Board and approved by the City Council for classes of positions in the classified service.
- 52) Selective certification: certification to an Appointing Authority, by the Department, of a list of names of persons who have been specifically selected from an appropriate employment list because of their possession of certain necessary and specified qualifications.
- 53) Sick leave: an employee's absence from duty because of any one of the following reasons: (1) the employee's personal illness or injury; (2) quarantining of the employee by health authorities; (3) the attendance upon members of the immediate family whose illness requires the care of the employee.
- 54) System: When used in these rules, System shall mean the Civil Service System.
- 55) Temporary appointment: an appointment for a limited period of service without acquisition by the appointee of any continuing right to be retained as an employee beyond that period.
- 56) Termination of service: separation of an employee from his position by reason of death, resignation, layoff, dismissal, expiration of his term of appointment, or failure to return after the expiration of a period of authorized leave.
- 57) Test: a specific phase of the examination process, such as a written test, a performance test, an oral interview, an experience rating, etc.
- 58) Transfer: the reassignment or change of an employee from one position to another provided that the

second position requires no different or additional qualifications for original entrance.

59) Unassembled examination: an examination or test for which the candidates are not all assembled in the same place at the same time.

60) Working test period: the period prescribed by the Director, during which an employee is considered to be in an on-the-job test situation immediately following his appointment. The term "probation period" shall be considered identical with the term "working test period".

61) Working test period employee: an employee who has been appointed to a position from an employment list, but who has not completed his working test period. The term "probational employee" shall be considered identical with the term "working test period employee".

Rule II. ORGANIZATION, RULES AND PROCEDURES OF CIVIL SERVICE BOARD

## Section 2.01 ORGANIZATION OF CIVIL SERVICE BOARD

- (A) Election of Chairman: At the regular meeting in May of each year, the Board shall elect one of its members Chairman for a term of one (1) year or until a successor is duly elected. Should the office of Chairman prematurely be vacated because of death, resignation, or otherwise, the Board shall elect a successor at the meeting next following the occurrence of the vacancy.
- (B) Rules of Order: The Board shall not be bound by any rules of order, evidence or procedure in its meetings, hearings, or investigations, except such as it may itself establish.

## Section 2.02 RULES

- (A) Adoption or Amendment: These Rules shall be adopted or amended only after a public hearing by the Board.
- (B) Effective Date of Amendments: Any amendment to the Rules shall become effective upon approval by the Board.

## Section 2.03 MEETINGS

- (A) The Board shall hold at least one (1) regular meeting in each quarter, except when a meeting is considered unnecessary.
- (B) Special meetings may be held at times and places specified by call of any member of the Board.
- (C) The Director of Civil Service shall notify each member of the Board of the time and place of all regular meetings.
- (D) It shall be the policy of the Board to hold open, public meetings; except that the Board may exercise the right to enter into executive session whenever it is deemed necessary or desirable and allowed by law.
- (E) Three (3) members of the Board shall constitute a quorum for the transaction of business.
- (F) The Director of Civil Service shall act as secretary to the Board and shall keep adequate minutes and other records of the official actions and business of the Board. The Director shall maintain the records in his office.
- (G) Unless the Board specifies otherwise, its meetings shall be held at its offices, in space provided by the proper City officials.

## Section 2.04 APPEALS

- (A) Regular employees in the classified service shall have the right to appeal to the Board from suspension, withholding of pay, dismissal, layoff or furlough, reduction in pay, demotion, or other action(s) specified elsewhere in these Rules to test the reasonableness of such action.
- (B) Any Working Test employee in the classified service who is suspended, dismissed, laid off or furloughed, or has suffered a reduction in pay, withholding of pay or a demotion, shall have a right of appeal to the Board; provided, that he specifically alleges that the action appealed from resulted from discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause unrelated to merit-employment considerations.
- (C) Persons who have applied for or shall have been examined for the classified service and who allege that they have been discriminated against due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause unrelated to merit-employment considerations in review of their applications, admission to examinations, scoring of examinations, establishment of eligible lists, or certification, shall have the right to appeal to the Board.
- (D) Where discrimination is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion of discrimination is not sufficient. The types of facts which must be included are:
  - (1) the date, time and place the discriminatory action took place;
  - (2) the name of the person or agency alleged to have taken the discriminatory action;
  - (3) a description of how appellant's action, conduct or performance was the same as that of other persons who were treated differently;
  - (4) the names of other persons treated differently and the dates the different treatment occurred;
  - (5) a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any

other non-merit factor.

(E) Persons alleging discrimination as a basis for appeal shall bear the burden of proof of their allegations.

#### Section 2.05 INSTITUTING AN APPEAL: THE REQUIREMENTS FOR THE APPEAL PETITION

(A) An appeal shall be commenced by filing a Petition of Appeal with the Civil Service Department. A form titled "Petition of Appeal" will be available in the Civil Service Department for individuals who wish to appeal.

(B) Although an employee need not use this form to begin an appeal, an employee's Petition for Appeal must be in writing and must contain the following information:

- (1) A description of the adverse employment decision or adverse employment action.
- (2) The name and job title of the individual, Department Head or supervisor responsible for the adverse decision or action.
- (3) The date the employee received notice of or otherwise learned of the adverse decision or action.
- (4) The effective date of the action.
- (5) The reasons why the employee believes the adverse decision or action was unjustified.
- (6) The remedy or relief the employee would like the Board to provide.
- (7) The employee's current address, job title or classification and phone number where he or she may be reached during non-working hours.
- (8) The name, address and telephone number of the employee's attorney if an attorney will represent the employee in his or her appeal.

(C) The Petition for appeal must be signed by the employee or by his or her attorney. By his or her signature, the person signing the Petition for Appeal will be attesting that the Petition is being filed for a good and legitimate purpose and that the statements of fact contained in the Petition are true and correct.

(D) Appellant's Address of Record, Service of Official Notice and Time Delays. The address and contact information provided by an employee in his Petition for Appeal shall be deemed his address of record. Any and all notices and documents which the employee is entitled to receive relating to his or her appeal, including a copy of the Board's decision, will be mailed to this address. Official service upon an employee shall be accomplished by mailing whatever document or notice an employee is entitled to receive to the employee's address of record. It is incumbent upon the employee to notify the Civil Service Office if he wishes to change his address of record after filing his Petition of Appeal. Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three (3) days shall be added to the prescribed period.

(E) Service of official notice upon the City shall be accomplished by hand delivery of such notice to the City's Personnel Director, and service shall be deemed made as of the date of delivery.

#### Section 2.06 TIME DELAY FOR TAKING AN APPEAL

An employee who wishes to appeal an adverse employment action or decision must file a Petition for Appeal with the Civil Service Board; which appeal must be received in the Department of Civil Service by close of business on the 30<sup>th</sup> calendar day following the effective date, or where formal written notice was not required or given, the date he learned of the adverse action or decision. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this thirty-day limitation except that if the 30<sup>th</sup> day falls on a City holiday or on a weekend, the employee will have until close of business on the next work day to file the appeal.

Following the expiration of the thirty (30) calendar day period that is provided above for the filing and receipt of appeals, no appeal shall be amended or supplemented in such a way as to change the fundamental issues involved in the original appeal.

#### Section 2.07 RECEIPT OF THE APPEAL, DOCKETING AND NOTICE

When a Petition for Appeal is filed, the Civil Service Director shall clock the Petition showing the date and time it was filed. The Civil Service Director shall provide the employee appealing with a clocked copy, and shall transmit a clocked copy to the City's Director of Personnel by close of business on the next work day.

The Board will decide the order of cases on its hearing docket and which cases shall have precedence. Appeals involving termination of employment will be given highest priority, followed by appeals involving

suspension from employment.

#### Section 2.08 HEARING DATE AND NOTICE OF HEARING

Within forty-five (45) days after receipt of an appeal, the Board shall initiate a hearing; however, by mutual agreement of the employee and the City, the time may be extended. The Board shall have the right to continue the hearing from time to time for good cause and reason.

The Civil Service Director shall notify the appellant and the City's Personnel Director of the date the Board will hear an appeal. Both the appellant and the City must be given at least 21 calendar days advance notice except that this notice requirement may be waived by agreement of the parties.

Except as otherwise specifically provided in these Rules, the burden of proof on appeal, as to the facts, shall be on the appointing authority or other official against whose action the appeal is taken.

#### Section 2.09 DECISIONS

- (A) The Board shall decide appeals promptly, but in any event within ninety (90) days after completion of a hearing.
- (B) In its decisions resulting from appeals hearings taken under this section, the Board may affirm, amend, or overturn the action from which appellant appealed; including an award of back pay and other emoluments. However, in cases in which back pay is awarded, the appellant shall be required to file with the Finance Director a notarized statement of all monies earned by appellant during the period of absence from the City payroll, and such earnings shall be deducted in computing the amount of the back-pay award.

#### Section 2.10 RIGHT TO REPRESENTATION

Appellants shall have the right to be represented by counsel. Such counsel must be duly licensed to practice law in the State of Louisiana.

#### Section 2.11 OATHS, TESTIMONY, PRODUCTION OF RECORDS, DEPOSITIONS

- (A) The Board, and each member of the Board may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by the Board pursuant to the Law and Rules.
- (B) When the Board hears an appeal, the Board Chairman will administer an oath to the witnesses who will then be examined by the parties. In certain cases, it may be necessary for testimony to be taken outside the presence of the Board or on a day other than the day set for the hearing. In such cases, the Board may appoint or designate a person with the power to administer oaths, such as a court reporter, to take and transcribe the necessary testimony. The parties to the appeal will be entitled to question the witness in front of the person designated to take the testimony.
- (C) Any appellant or party to an appeal who desires to take the testimony of a witness or witnesses residing outside of the State of Louisiana or within the State but outside of City of Kenner, shall give due notice in writing to the opposing party or his counsel and shall furnish a copy of said notice to the Board. The testimony of such witness or witnesses may be taken in a manner and form as nearly consonant as possible with the provisions of R.S. 13:3771 through 13:3775.
- (D) Subpoenas
  - (1) The Board, each member thereof, the Director, and any specially designated agent of the Board shall have the power to order the appearance of witnesses and compel the production of books and papers pertinent to the issues involved in any appeal, provided such witnesses and such books and papers are within the City of Kenner.
  - (2) No subpoena will be issued unless a written request for the issuance of subpoenas is received in the office of the Director of the Department of Civil Service no later than ten (10) calendar days before the date fixed for the hearing. The request for subpoenas shall contain the names of the witnesses, the street addresses at which the witnesses can be served, and a brief statement of what is intended to be proved by each witness.
  - (3) No subpoena for the production of books, papers, or other items will be issued unless a written request for the issuance of subpoenas is received in the office of the Director of the Department of Civil Service no later than ten (10) calendar days before the date fixed for the hearing. The request for a subpoena for books, papers or other items shall contain a

description of the items to be produced in sufficient detail for identification and shall contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

- (4) No subpoena will be issued unless the request therefore complies with this Rule and the person authorized to issue the subpoena is satisfied that the testimony of the witness or the production of the books, papers, or other items is relevant to the issues before the Board.
- (5) Authentic copies of books, papers, photographs, or other items in the custody of any department, board, or agency of the City or any sub-division thereof which have been subpoenaed may be admitted into evidence with the same effect as the originals, but if the original books, papers, photographs, or other items are subpoenaed they must be produced and made available for inspection even though authentic copies may be subsequently introduced.
- (6) The Board, its Chairman, or the Director, for cause deemed sufficient, may issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request issued under the provisions of this Rule.
- (7) Any subpoena for a City employee shall be served on the City's Personnel Director.
- (8) Upon request of the Board, the Personnel Director will instruct any employee whose attendance is needed at a hearing to cooperate and appear at the designated place and time. Any employee who is instructed to appear and who, without good cause, fails to appear, shall be considered guilty of insubordination and may be subject to appropriate disciplinary action.
- (9) Any person who disobeys a subpoena duly served without good cause shall be subject to a citation for contempt that the Board may enforce by instituting action against such person in the 24<sup>th</sup> Judicial District for the Parish of Jefferson, State of Louisiana.
- (10) Except with the prior approval of the Board, each party to an appeal shall be limited to not more than five subpoenas for the testimony of witnesses in connection with any merits hearing. Where a request for subpoenas exceeds this limit, the parties are encouraged to discuss the possible stipulation of witnesses' statements in lieu of live testimony.

## Section 2.12 HEARING PROCEDURE

- (A) Hearings will be conducted in an orderly manner designed to afford all parties a full and fair opportunity to be heard. At all times, the Board will control the proceedings and enforce decorum. The Board may eject any person from the hearing who does not comply with the Board's rules, orders and directives.
- (B) All disciplinary hearings shall be open to the public except for those where the Board deems it in the best interest of the parties or witnesses to close a hearing based on privacy concerns.
- (C) Strict rules of evidence shall not apply at hearings. The Board shall decide what evidence to admit, what evidence to exclude and what weight to give whatever evidence is admitted. The parties may object to any evidence offered and the Board will rule on all such objections.
- (D) On motion of any party, or on the Board's own motion, witnesses will be sequestered; however the appellant and a representative of the City will be allowed to remain in the hearing room at all times. When witnesses have been ordered separated, no witness then under examination and no prospective witness may be informed of the testimony given by a prior witness, except in open hearing in order to lay a foundation for impeachment of the veracity of that witness.
- (E) In all disciplinary cases, the City will have the burden of proving justification for the disciplinary action and the penalty imposed by a preponderance of the evidence. Accordingly, the City will present its case first, followed by the employee's case, followed by the City's rebuttal of the employee's case.
- (F) In cases where discrimination is alleged, the party asserting that an action or decision was discriminatory shall have the burden of proof. In such cases, the party alleging discrimination must prove that he or she is in a protected class based on race, color, religion, national origin, age, disability, sex or political affiliation and must prove that he or she suffered an adverse employment action. The burden will then shift to the City which must articulate a legitimate non-discriminatory reason for its decision or action. If the City carries this burden, the burden will shift back to the appellant who must prove that the reason given by the City for its action or decision is untrue and that the real reason was intent to discriminate.
- (G) The Board may require at the inception of the hearing that the parties stipulate all undisputed facts.
- (H) Any witness called by one party may be cross-examined by the other party. Following cross examination, the party calling the witness may again question the witness, but such questions shall

be limited to testimony given by the witness on cross-examination.

- (I) The Board may allow opening statements and closing arguments in such manner and for such duration as it deems appropriate.
- (J) The Board may direct that the parties file written position statements, based on the record and evidence, before rendering its decision.
- (K) Parties shall have the right, but shall not be required, to be represented by Counsel. Counsel must be duly licensed to practice law in the State of Louisiana. When any party is represented by more than one attorney in any hearing, the Board may limit the examination of witnesses by counsel.
- (L) Service or Notice of Pleadings: Whenever under these rules service is required or permitted to be made, it shall be satisfactory evidence of compliance to introduce proof of mailing a registered or certified letter with an accompanying return receipt duly signed by the Party upon whom service is sought, or his agent. If the party sought to be served is represented by an attorney, the service shall be made upon the attorney, unless the Board otherwise orders.
- (M) Dismissal of Appeals: The appellant may withdraw or abandon his appeal by filing written notice to that effect. The effect of this notice shall be to authorize the final disposition of the appeal by the Board. In such event the Director shall promptly notify all interested parties of such dismissal.

#### Section 2.13 DRUG TESTING APPEALS

This section includes special provisions that are applicable only to appeals arising from the application of a City drug testing program.

- (A) At the hearing on any such appeal, completed chain of custody form, test results, MRO report and/or breath alcohol test result from which formed the basis of the disciplinary action shall be received into evidence as a business record exception to the hearsay rule and these documents shall constitute *prima facie* evidence of the validity of the test.
- (B) A regular classified employee who contests the validity of the results of an alcohol or drug test shall allege with specificity, any and all aspects of the alcohol or drug test which the appellant alleges where invalid, including collection, testing, MRO report, and/or breath alcohol test.
- (C) At the time of filing or not later than (10) calendar days after filing an appeal, the employee may submit a request for documents which formed the basis of the disciplinary action.
- (D) When the City substance abuse manager is presented with a request for said documents, the substance abuse manager shall provide to the appellant all documents it intends to introduce into evidence from the collector, testing laboratory, Medical Review Officer, and/or Breath Alcohol Technician within ten (10) calendar days of its receipt of a request for said documents. If the Substance Abuse Manager fails to provide the documents from the alcohol or drug test within ten (10) calendar days after receiving a timely request for said documents, the presumption of the validity of said documents is negated and the Appointing Authority shall be required to introduce admissible evidence to establish the validity of the testing procedure.
- (E) An appellant shall be permitted to amend his or her petition of appeal in order to comply with the provisions of sub-section (B) provided that such amendment shall be filed in writing with and received by the Civil Service Department during established department working hours, within ten (10) calendar days of the receipt of the requested documents from the substance abuse manager, or, where the appellant does not make a timely request for documents, within the initial thirty (30) calendar days provided for filing an appeal.

#### Section 2.14 EXCLUSIVITY AND REVIEW

- (A) The City Of Kenner Civil Service Board shall have the exclusive power and authority to hear and decide all removal and disciplinary cases and other actions appealable under these Rules.
- (B) Standard of Review. The Board will consider the entire appeal and hearing record in rendering its decision. The Board will not reverse an employment action or decision undertaken by the City unless it finds that the action or decision was arbitrary or undertaken without just and reasonable cause. The Board will not reverse an action or decision made by the City administration merely because the Board might have made a different decision or taken a different action under the circumstances. Likewise, any disciplinary penalty imposed by the City will not be reduced unless the Board determines that there is insufficient cause for the greater penalty. The concept underlying the Board's standard of review is that it is not the role of the Board to substitute its judgment regarding personnel matters for the City's judgment unless the Board deems the City's judgment arbitrary or unreasonable under the circumstances.
- (C) Votes Required for a Decision. A vote of a majority of a quorum shall be sufficient to render a binding and final Board decision. A tie vote shall be considered an affirmation by the Board that the

appeal is without merit.

(D) Framework and Form for Decisions. The Board shall decide all appeals acting in its judicial capacity and may deliberate privately. All Board decisions shall be in writing, dated and signed by the Chairman of the Board, and shall set forth the Board's reasons for the decision. Although the Board may orally announce its decision and its reasons for the decision at the close of the hearing, all decisions and reasons shall be served upon the parties. Decisions and reasons will be served upon the City by providing a copy to the City's Personnel Director. They shall be served upon the appellant by mailing the same to the last address of record he gave to the Board.

(E) Applications for Rehearing or Reconsideration and Appeal from Board Decision:

- (1) An application for rehearing or reconsideration of a decision or order by the Board must be filed with the Civil Service Director at his official office address within ten (10) days of the date on which the subject Board decision or order is mailed to the interested parties. The application must be in writing and must specifically state the grounds for the application; said grounds being limited to:
  - a) an allegation of the discovery of new evidence which was unavailable at the time of the original hearing or plea and which, if known, would have significantly altered the conclusions reached by the Board, or
  - b) an allegation of specific error of fact or law which, if corrected, would significantly alter the original decision. The filing of an application for re-hearing shall not stay execution of a Board decision unless otherwise ordered by the Board. Any delay in the execution of an unchanged Board decision shall be at the expense of the applicant. A stay order may be issued by any one member of the Board, subject to review and ratification by a majority of the Board members within ten (10) days.

(F) Decisions of the Board shall be subject to review on any question of law or fact upon petition for review to the Louisiana Fifth Circuit Court of Appeals.

- (1) An application for appeal from a decision of the Board shall be effectuated in accord with the Uniform Rules – Courts of Appeal, Rule 3, 3-1, Fifth Circuit Court of Appeals, The Special Appeals, Administrative Cases, said rules hereby being adopted, and by reference made part hereof.
- (2) The application for appeal from a decision of the Board shall be in writing and shall include an assignment of errors, which shall set out separately and particularly each error asserted, as well as a designation of the record and transcript desired to be incorporated into the record on appeal. Such application for appeal shall be in writing and must be filed with and received by the Civil Service Department during established Department working hours and within thirty (30) calendar days of the effective date of the decision from which the appeal is taken. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this thirty (30) day limitation. The party appealing the ruling, whether the employee or the appointing authority, shall appear as the appellant and the other party shall be named as appellee. The appellee shall be served with a copy of the application for appeal by the appellant.
- (3) The Board shall not be a party to any appeal, and if named, it shall be summarily dismissed upon motion of either party or by the court on its own motion.
- (4) After an application for appeal has been filed, the Board shall issue an Order to the appellant with an estimate of charges to file the application for appeal and record with the Fifth Circuit Court of Appeals. The estimate shall include costs for transcription of the referenced appeal hearing, copies of documents, and court filing fees. Payment of the estimated charges shall be submitted to the Civil Service Department within twenty (20) calendar days of the date that the Order was issued. Upon receipt of payment the Director shall arrange for transcription of the hearing and preparation of the record.
- (5) The Director shall then file the application for appeal and record with the Fifth Circuit Court of Appeals within sixty (60) calendar days of the filing of the application for appeal if payment for filing, transcription, and preparation of the record were made by the appellant as prescribed. The Director shall notify all parties of the filing with the Fifth Circuit Court of Appeals.
- (6) Should the appellant not pay the costs of the appeal to the Board as set forth above, the Board shall docket the matter and take up a motion to dismiss the application for appeal on grounds of nonpayment of cost for preparation of the record, transcription, and court filing fees.
- (7) In the event of any conflict between the Uniform Rules of the Courts of Appeal, Rule 3, 3-1, Fifth Circuit Court of Appeals, The Special Appeals, Administrative Cases and this section, the Uniform Rules of the Courts of Appeal shall govern. (Amended effective June 22, 2017.)

**Section 2.15 FINALITY OF BOARD DECISIONS**

Board decisions and orders shall be final and effective as of the date rendered, as reflected in the decision or order, subject only to such stay of execution as may be effectuated in accord with these rules.

Rule III. CLASSIFICATION PLAN

## Section 3.01 CREATING CLASSES AND ALLOCATING POSITIONS

- (A) The duties and responsibilities of each position in the classified service of the City shall be subject to study and review by the Director for purposes of classification. The position classification plan devised by the Director and approved by the Board in accordance with Section 8.03 A.1. of the Law shall be maintained and administered by the Director.
- (B) The initial allocation of positions and incumbents to specific job classifications and pay grades shall be temporary and subject to change at the time that the Civil Service Department adopts its first comprehensive Classification Plan and Pay Plan. Once the plans are adopted, the Director shall reallocate all positions to their final job classifications and so notify position incumbents.
- (C) The Director shall have the authority to make revisions to the classes in the classification plan except that when the revisions are of such a nature to warrant a reassignment of the class to a different pay grade, such reassignment must be duly approved by the Board. When in the opinion of the Director, the necessity arises for creating, revising or abolishing a class in the classification plan, he may anticipate formal action of the Board by adding the new class or revising or abolishing the existing class. The Director's action in this regard shall be subject to ratification by the Board at its next regular meeting.
- (D) If an employee believes his position has been improperly allocated, he may protest the allocation and request a hearing. The Director or any person designated by him may hold special hearings to determine the facts of each case. The Director or any person designated by him may require the employee or any other party to produce and present pertinent forms or documents. The Director shall make his decision on the basis of the written statements and forms presented by the employee and the facts brought out in the hearing. The employee shall have the right to appeal to the Board if dissatisfied with the action of the Director.

## Section 3.02 FORCE AND EFFECT OF CLASSES

- (A) The Director shall prepare and maintain a set of descriptive specifications for each of the classes of positions in the classification plan. The specifications, and their various parts, shall have the following force and effect:
  - (1) Use, in a class specification, of a particular expression or illustration of duties shall not be interpreted or held to exclude other duties not mentioned that are of similar kind or quality.
  - (2) In determining the class to which a position should be allocated, consideration shall be given to the general duties, specific tasks, responsibilities, and qualification requirements of the position in relationship to similar considerations for positions embraced by other classes.
  - (3) Qualifications commonly required for positions of different classes, such as acceptable physical condition, freedom from disabling effects, United States citizenship, residence within the City of Kenner (except when waived), honesty, sobriety, and industry, shall be deemed to be implied as qualification requirements for entrance to each class even though they are not specifically mentioned in the specifications.
  - (4) Any code number assigned to a class of positions by the Department may be used in all official records of the City in place of the actual class title.

## Section 3.03 STATUS OF INCUMBENT WHEN POSITION IS REALLOCATED

When a position is reallocated to a higher class because of a gradual change in the duties of the position or an error in the allocation of the position to its present classification, and if the Director deems it impracticable to hold a competitive examination to fill the position, the incumbent, if a regular employee, may continue to occupy the position under the higher classification on a permanent basis provided he meets the minimum qualifications for that position. The decision of the Director shall be subject to approval by the Board.

Rule IV. SALARY PLAN

## Section 4.01 APPLICABILITY

(A) For purposes of administering these Rules and the Salary Plan, each pay grade shall consist of an open range including a minimum entrance rate, a normal maximum rate and an absolute maximum rate. The grade range between the normal maximum rate and the absolute maximum rate shall be used for longevity pay purposes. Under no circumstances shall an employee's pay exceed the absolute maximum rate of the pay grade to which his class of positions is assigned. Where the term maximum rate is used in this Rule, it shall mean the normal maximum rate stated in the Salary Plan, or, in the case of an employee having sufficient service to qualify for longevity pay, that employee's individual longevity maximum rate.

When necessary to the operation of the City's automated payroll system, salary equivalents of the hourly pay rates stated in the Salary Plan may be computed on a daily, bi-weekly and annual basis as follows:

- (1) day rate = hourly rate x regular hours per day, rounded to the nearest two (2) decimal places;
- (2) bi-weekly rate = day rate x 10.
- (3) annual rate = hourly rate x base hours for the class or position (2080 hours for 40 hour/week base, or 1820 hours for 35 hour/week base), rounded to the nearest four (4) decimal places.

(B) The pay of all positions in the classified service shall be determined in accordance with the Salary Plan in effect and in accordance with these rules, regardless of any provisions or appropriations for any different salary rate or mode of payment for any position. No person employed in a classified position shall be paid at less than the pay grade minimum rate nor more than the pay grade normal maximum rate provided for his class of positions, except as specifically permitted elsewhere in this Rule, or as specifically provided in the Salary Plan.

(C) All appointments in the classified service shall be made at the minimum rate or such other starting rate specifically authorized by the Civil Service Board, except that:

- (1) when an employee is changed from one class of work to another having a higher pay grade, whether by appointment from an eligible list or by reallocation in accord with Rule III, 3.03 of the Rules, if his salary rate at the time of change is less than five (5) percent below or is equal to or greater than the minimum rate for the class to which he is promoted, he shall, subject to availability of funds, be granted at least, a five (5) percent pay increase (not subject to maximum rate limitations) on the effective date of the change;
- (2) when an employee is changed from one class of work to another having the same pay grade, he shall retain his present pay rate, subject to upward or downward adjustment by separate and specific appropriate action;
- (3) when an employee is changed from one class of work to another having a lower pay grade, he shall be paid his present pay rate or the maximum rate for the lower class, whichever is lesser, subject to downward adjustment by separate and specific appropriate action;
- (4) when an employee or former employee is reinstated or reemployed from a reemployment list, he may be paid at his former pay rate if it is within the appropriate current pay grade;
- (5) with the prior approval of the Director, an Appointing Authority may pay an employee entering into the classified City service through an original employment appointment or temporary employment appointment a pay rate of up to 20% above the minimum entrance rate, subject to the following conditions and limitations:
  - a) that the appointee possesses extraordinary or superior qualifications/credentials above and beyond the minimum qualifications/credentials required which have been verified and documented as job related, and that additional pay shall be limited to five (5) percent per year of formal education or paid work experience, or other valuable qualification or credential;
  - b) that the appointee was, or is currently, satisfactorily employed by another government jurisdiction in a capacity equivalent to the position involved, which employment has been verified, and that additional pay shall be limited to five (5) percent per year of experience;
  - c) that the duties and responsibilities of a position require the employment of a person with qualifications/credentials that differ significantly from those normally required for other positions in the same class, and the persons who possess such qualifications are not readily available in the labor market at the minimum entrance rate in the pay grade;
  - d) that a recruitment effort has failed to produce a full certification of candidates and the Director certifies that qualified personnel cannot be recruited at the prescribed minimum rate, and that the pay rate approved by the Director is subject to review by the Board at its next scheduled

meeting;

- e) whenever a higher starting rate is approved and implemented based on recruiting difficulties, all current employees occupying positions in the class or classes involved whose salaries are below the new entrance rate shall be raised to the new higher rate, unless this requirement is specifically waived by the Board;
- f) that higher rates may be paid only with the prior approval of the Board;

(6) with the prior approval of the Director, an appointing authority may promote from an eligible list a current employee with twelve and one-half (12.5) or more years of service whom possesses extraordinary or superior qualifications/credentials above and beyond the minimum qualifications/credentials required which have been verified and documented as job related, at a rate of up to ten (10) percent above the minimum rate for the classification to which he is promoted, subject to availability of funds, on the effective date of the change, with the review of the Board at its next scheduled meeting; (Added by amendment effective June 30, 2016.)

(7) the Director shall have exclusive, final authority to validate the qualifications/credentials credited for purposes of this sub-section;

(8) these rates may be applied to classes and positions assigned to pay grade \_\_\_\_ or above.

(D) Upon certification by the Director that qualified personnel cannot be recruited and hired at a prescribed normal starting pay rate, the Board may authorize employment at any rate within the established range deemed necessary and adequate, provided that whenever such a higher starting rate is approved and implemented, all current employees occupying positions in the class involved whose salaries are below the new entrance rate shall be raised to the new higher rate, unless this requirement is specifically waived by the Board; or, may approve the reassignment of the job classification involved to an alternate pay grade deemed necessary and adequate, known as a Market Based Pay Grade.

Job classifications which are assigned market based pay grades shall be segregated and clearly identified in the Salary Plan.

The Board shall have exclusive authority to reassign job classes to and from market based pay grades as dictated by labor market factors, based upon recommendation by the Department.

For purposes of applying personnel rules governing admission to examinations, placement on lists of eligibles, certifications, appointments, promotions, transfers, and pay changes upon appointment, the original (non-market) pay grade assignment shall determine which rules are applicable for all job classes assigned to market pay grades. However, when determining the actual pay impact for the action involved, the assigned Market Based Pay Grades shall govern.

(E) Whenever existing occupied positions, not previously within the classified service, are brought within the service, the salaries of incumbent employees shall be determined as follows:

- (1) any employee whose rate of pay is below the minimum rate established for the appropriate class of work shall have his pay increased to the minimum rate;
- (2) any employee whose rate of pay is within the pay grade established for the appropriate class of work, shall retain that rate;
- (3) any employee whose rate of pay exceeds the maximum rate established for the appropriate class of work by not more than twenty (20) percent shall not be required to suffer a salary reduction, but shall be ineligible for any further pay increase(s) until such time as such increase(s) is permissible in accord with the provisions stipulated elsewhere in these Rules or in the Salary Plan permitting pay above the maximum rate; or is permissible as a result of an adjustment to the pay structure which has the effect of increasing the maximum rate for the grade to which a class is assigned;
- (4) any employee whose rate of pay exceeds the maximum rate established for the appropriate class of work by more than twenty (20) percent shall be required to suffer a salary reduction to a rate equivalent to 20% above the maximum rate, and shall be ineligible for any further pay increase(s) until such time as such increase(s) is permissible in accord with the provisions stipulated elsewhere in these Rules or in the Salary Plan permitting pay above the maximum rate, or is permissible as a result of an adjustment to the pay structure which has the effect of increasing the maximum rate for the grade to which a class is assigned.
- (5) As an alternative to items (1) through (4) and with prior Board approval, the salary of an incumbent employee under this section may be set at any rate of pay within the pay grade established for the appropriate class of work provided the rate does not fall below the minimum rate or exceed the maximum rate by more than twenty (20) percent.

(F) Whenever the Salary Plan is amended to set a higher pay grade for any class or classes of work, with the express approval of the Mayor and the Council, additional "across the board" pay increases may be granted to employees occupying positions in the class or classes affected to such extent as the Mayor and Council may think desirable in order to maintain an equitable balance between

employees; provided, however, that under no condition may an employee's salary be advanced beyond the maximum rate of pay fixed for his class of work, except in the case of a Cost-of-Living Adjustment recommended by the Board and granted by the Mayor and the Council.

#### Section 4.02 OVERTIME/COMPENSATORY TIME.

(A) The City compensates the employees in accordance with the *Fair Labor Standards Act*. Based on the needs of the City, an employee may be required or authorized by the appropriate supervisory authority to work a reasonable amount of overtime in excess of their regular schedule. Whenever such work is required and authorized, their overtime compensation will be calculated according to the terms as set out in sub-section (B).

The City may provide compensatory time off in lieu of overtime compensation in accordance with the provisions of the *Fair Labor Standards Act*. Agreement to accept employment with the City of Kenner constitutes agreement by the employee to accept compensatory time off in lieu of overtime compensation when so directed by the City.

Overtime pay provisions shall not routinely apply to classes of work designated as "E" (exempt) in the Salary Plan. It is expected that employees in the "exempt" classes will work whatever hours are required to satisfy the needs of the service, and that they will adjust their working schedules to meet such needs. However, whenever it is deemed justified, an Appointing Authority may authorize overtime pay for such employees.

(B) Non-Exempt Employees. Non-exempt employees shall receive compensation for pre-approved overtime hours as follows:

- (1) For those non-exempt employees whose workweek consists of a forty (40) hour workweek, the employee shall receive compensation at their regular rate for hours worked not in excess of forty (40) hours in a given workweek and shall receive overtime compensation at one and one-half (1.5) times his regular rate for hours worked in excess of forty (40) hours in a given workweek.
- (2) For those non-exempt employees whose workweek consists of a thirty-five (35) hour workweek, the employee shall receive compensation at their regular rate for hours not in excess of thirty-five (35) hours in a given workweek. The employee shall receive one (1) hour of compensatory time off for each hour worked from thirty-six (36) hours to forty (40) hours per week and shall receive overtime compensation at one and one-half (1.5) times their regular rate for hours worked in excess of forty (40) hours in a given workweek.

#### Section 4.03 PROVISIONS APPLICABLE TO OVERTIME PAY AND COMPENSATORY TIME.

The following provisions apply to all employees:

- (1) The following provisions apply to all employees:
- (2) (1) Only hours actually worked are considered in establishing the workweek. However, absence from work on pre-authorized annual leave, compensatory time off, and holidays with pay shall be considered as time worked for purposes of overtime pay eligibility determinations.
- (3) (2) Annual or compensatory leave utilized as sick leave and the time that an employee is not working and receiving worker's compensation benefits shall not be considered as time worked for purposes of overtime.
- (4) (3) When an employee works on a City observed holiday, or City recognized calendar holiday, the actual hours worked and straight time holiday hours shall be considered as hours worked for overtime computation purposes for that workweek.
- (5) (4) No overtime work shall be performed without prior supervisory authority and/or approval.
- (6) (5) Compensatory time not used during the calendar year may be carried forward to successive years. However, the amount of compensatory time that may be carried forward at the end of the calendar year is limited to two hundred forty (240) hours. All accrued compensatory time in excess of the above at the end of each calendar year shall be paid as compensation to the employee at the regular rate earned by the employee.
- (7) (6) Employees separated from the City will be paid for accumulated compensatory time at their regular rate.
- (8) (7) Each department is responsible for maintaining accurate compensatory time records for each employee.
- (9) (8) Overtime work on one day shall not relieve employees from the responsibility of reporting to work at the regularly scheduled time on his next workday.

#### Section 4.04 CALL BACK

When the work situation requires an employee to be called back to his work station, without prior notice, the employee is guaranteed a minimum of two hours straight time pay, or overtime pay if applicable, or compensatory time off, at the discretion of his Department Director.

#### Section 4.05 STANDBY

The City recognizes two types of standby, scheduled and emergency.

- (A) Scheduled Standby. When the work situation requires that an employee be placed on scheduled standby, this constitutes the condition of prior notice. Employees on scheduled standby are compensated according to individual departmental policy.
- (B) Emergency Standby. Employees placed on emergency standby are compensated according to the actual hours worked. If called back to the workstation, employees receive straight time pay until the hours actually worked exceed the number of hours in his normal workweek. Hours exceeding the normal workweek are overtime hours and the employee receives either overtime pay or compensatory time for these hours, according to individual departmental policy.

#### Section 4.06 SEVERE WEATHER

City offices remain in operation on all scheduled days, regardless of weather. When severe weather creates dangerous road conditions and prevents employees from reporting to work, he should contact his supervisor immediately to receive instruction or to request approval to use annual leave or compensatory time off if accumulated. If no annual leave or compensatory time has been accumulated, absence due to severe weather will be charted as leave without pay.

#### Section 4.07 PAY INCREASES (Amended effective May 27, 2015)

- (A) Generally, conditioned upon the availability of funds, an employee entering into the classified City service shall be hired at the minimum rate prescribed for the class of work in which employed; exceptions being permitted only as elsewhere specifically provided in this Rule or in the Special Pay Provisions of the Salary Plan.
- (B) Each regular employee in the classified service shall be eligible for the Merit portion of the current fiscal year's Base Pay Increase on their first day of initial permanent status and on the first day of each subsequent fiscal year. No annual pay increase, other than Cost-of-Living Adjustment, (COLA)/Elective Increases, may be granted until the initial probationary period is satisfactorily completed.
- (C) The fact that an employee will be eligible for a pay increase upon achieving regular permanent status or at the beginning of each fiscal year does not mean the employee will automatically get an increase.
- (D) When pay increases are recommended and approved, they shall be granted uniformly and in accordance with the following:
  - (1) No increases will be granted unless the Mayor, with Council approval, determines that the City fiscally will allow for increases. Any increase the Mayor recommends to the Council shall be in the form of a fixed Base Pay Increase for the fiscal year.
  - (2) The Mayor or their designated representative shall petition the Board to approve either a COLA or a Base Pay Increase. Where possible, the petition shall occur prior to the effective date of the increase. And, when a base pay increase and elective increase is granted a minimum of 50% of the Base Pay Increase must be appropriated as a Merit Increase.
    - a) Merit Increase. A percentage of the Base Increase granted to regular employees in the classified service based upon merit as rated on the employee's annual performance evaluation.
      1. if an employee's overall performance evaluation is "Below Expectations," the employee will not receive any increase.
      2. if an employee's overall performance evaluation is "Needs Improvement," the employee will receive 50% of the Merit Increase.
      3. if an employee's overall evaluation is "Meets Expectations," the employee will receive 100% of the Merit Increase.
      4. if an employee's overall evaluation is "Exceeds Expectations," the employee will receive 150% of the Merit Increase.
    - b) Elective Increase. A percentage of the Base Increase granted uniformly to regular employees in the classified service.

- (3) The Board, at its discretion, may adopt the proposed Base Pay Increase, and the proposed division of the Base Pay Increase by percentage for a Merit Increase and, when appropriate, an Elective Increase.
- (4) For employees eligible to receiving an increase, the effective date of an employee's Base Pay Increase for the fiscal year, including any appropriate portions for Merit Increase and Elective Increase shall be (a) the first day of the fiscal year for regular permanent employees of the classified service, or (b) the first day of employment as a regular permanent employee of the classified service.

(E) Discretionary Pay Increases

In addition to the pay raises specifically required and/or provided for upon promotion, reallocation to a higher class, satisfactory completion of probation, and/or in conjunction with annual eligibility, as elsewhere set forth in these Rules, management shall have discretion to grant additional percentage pay raises in such amounts at such times as deemed fit, under the following conditions: such raise(s) may not be granted to an employee while in probation except with the express prior approval of the Civil Service Board;

- (1) such raise(s) shall not increase an employee's salary to a rate in excess of the maximum rate permitted by the Pay Plan and the Rules;
- (2) such raise(s) must be submitted through the proper administrative authorities, including the Finance Director, and received by the Civil Service Department prior to the end of the effective pay period, must be accompanied by a written statement of justification, and must be approved by the authorities through whom submitted;
- (3) such raise(s) shall not be granted to reward performance in circumvention of sub-section (B), above;
- (4) such raise(s) may be granted for the purpose of recognizing a valued employee for reasons specified with a written justification; upon certification required above the minimum qualifications by State or Federal law or related to the work of their present position; to acknowledge assignment of additional duties/job requirements; or to retain an employee who has received a documented offer of promotion by another Appointing Authority, provided that should the employee accept a promotion to another department within three (3) years of the effective date of the increase, the employee's current salary shall be reduced by the dollar amount of this increase before computing the increase upon promotion. Such raises may be granted for such purpose as additional duties which does not circumvent reallocating a position, attainment of degree from accredited university or college. However, no reduction shall be made in the event that the retention increase is negated by subsequent pay plan revisions or other subsequent action and is not reinstated.
- (5) Such raises may be granted to reduce pay compression upon hire among same or similar job classifications within the same department.

(F) Longevity Pay Increases

Pay raises above the normal maximum rate provided in the Pay Plan (except for across the board cost of living raises elsewhere permitted in these Rules) shall be used only as a reward and incentive for long-career and continued-merit service. To be eligible for such raise(s), an employee must have at least nine (9) years of continuous service, and the employee's pay rate after raise shall not exceed the normal maximum rate by more than five (5) percent compounded for each three (3) years of service.

(G) Pay Reductions

In accordance with the provisions of Rule X, an appointing authority may reduce an employee's pay rate for cause; provided, however, that the pay resulting from the reduction in no case may be less than the established minimum rate.

When an employee is demoted to a position in a class of work having a normal maximum salary rate which is lower than the employee's current pay rate, the employee's pay must be reduced to the normal maximum rate provided, unless eligibility for a longevity rate is established and approved by the Director.

**(H) Red Circle Rates**

Individual pay rates that fall above the maximum rate established for the grade become red circle rates. Such red circle rates remain in effect until the grade for a position catches up with the rate; however, eligibility for a red circle rate is lost upon demotion or separation from City service. Individuals whose salary rates are red circled shall not be eligible for any other pay adjustments provided for in the rules, except in the case of a Cost-of-Living Adjustment recommended by the Board and granted by the Council. Red circle rates are assigned under the conditions as outlined below:

- (1) when the classification to which a position is allocated is assigned to a lower grade;
- (2) when an adjustment to the pay structure has the effect of lowering the maximum rate for the grade to which a job is assigned;
- (3) as provided under sub-section 4.01(E)(3) of this Rule.

Rule V. RETIREMENT

## Section 5.01 RETIREMENT SYSTEM(S) RECOGNIZED

The Municipal Employees' Retirement System of Louisiana and any other retirement system(s) already established, and the rights and benefits of employees provided thereunder, are hereby recognized.

Rule VI. EXAMINATIONS

## Section 6.01 DIRECTOR'S RESPONSIBILITIES

The Director shall establish, operate, and administer policies, methods, and procedures for holding competitive tests to determine the merit and fitness of candidates for original appointment and promotion in the City service; all subject to the provisions of Article VIII of the Law.

## Section 6.02 APPOINTMENT OF EXAMINERS

- (A) For the purpose of assisting him in the preparation and rating of tests, the Director may select officers or employees in the City service to act as examiners. An Appointing Authority shall excuse any employee so selected in his division from his regular duties for the time required for his work as an examiner. Officers and employees shall not be entitled to extra pay for their service as examiners, but shall be entitled to reimbursement for necessary travel and other expenses incidental thereto.
- (B) To assist in the examination of candidates for positions of high responsibility or positions requiring unusual qualities or qualifications, the Director may retain the services of persons from within or without the City who, because of their experience or for other reasons, have special acquaintance with the requisites for such positions.

## Section 6.03 ADMISSION TO EXAMINATIONS

- (A) Admission to examinations held by and under the authority of the Department of Civil Service shall not be restricted by reason of race, color, national origin, sex, religion, age, disability, or politics. Applicants who are residents of the City of Kenner shall be accorded preference over non-residents; and, to this end, the Civil Service Department may require applicants to furnish acceptable evidence of residency. All persons eligible under this rule who possess at least the minimum requirements imposed for admission to an entrance test or examination, and who earn grades on the test or examination equaling at least the minimum passing score required for eligibility, shall have an additional three (3) points added to their earned gradings. Residency preference may be waived on a case by case basis only upon written request by the Appointing Authority and approval by the Civil Service Board.
- (B) When tests are given in series and the tests for the higher classes in the series include all parts of the tests for the lower classes, competitors who fail to qualify as eligibles for appointment to positions in the class for which they took tests may be rated with reference to their eligibility for a lower class or classes in the series.
- (C) The Director shall fix requirements of training, residence, skill, education, and other qualifications for admission to examinations. Unless otherwise specified on the official announcement, such qualifications must be possessed by any applicant by the final filing date for each examination.
- (D) The Director shall give public notice of each entrance test at least two (2) calendar weeks in advance of the test by posting an announcement on the bulletin boards maintained in or near the offices of the Department and by publishing a brief abstract of the notice in the official journal or journals of the City and in such other manner as he considers appropriate. The Director may also advertise tests in newspaper and professional and trade publications, post notices thereof in schools and colleges, and employ any other methods of publicizing tests which he considers appropriate.
- (E) The Director shall reject any application filed (received by the Civil Service Department) after the time fixed for closing receipt of applications, or after a specified number of applications has been received, as announced in the public notice of the test. Applications must be complete (including, without limitation, all required information, attachments, questionnaires, and proofs of education, experience, and/or training) and shall not be subject to amendment after the time fixed for closing receipt of applications. The burden of properly submitting complete applications and the burden of proving compliance with the public testing notice and the application process shall lie with the applicant. (Amended effective June 22, 2017.)
- (F) Subject to the Rules, the Director shall reject the application of any person for admission to any test of fitness, or refuse to test any applicant, or cancel the eligibility of any eligible on any employment list, who:
  - (1) is found to lack any of the qualifications prescribed as requirements for admission to the tests for the class for which he has applied;

- (2) because of criminal record or employment history the Director deems unfit for employment in the class of work applied for;
- (3) is physically or mentally unable to perform efficiently and effectively the essential functions of a position of the class with or without reasonable accommodation that does not present an undue hardship;
- (4) tests positive on a post offer test for drugs or alcohol, refuses or fails to participate in the test or submits an adulterated specimen, as provided under the Drug Testing Program;
- (5) has practiced or attempted to practice deception or fraud in any application, or any test, or otherwise, in securing eligibility for appointment or attempting to do so;
- (6) files an application within two years of dismissal or resigning his position after becoming subject to dismissal as provided for under Rule X of these rules provided that, at the time of the resignation, the Appointing Authority involved reported this matter to the Civil Service Department with a copy mailed to the former employee including the specific reason(s) why dismissal was imminent.

(G) If any of the conditions enumerated in (F) (5) or (F) (6) above are found to be applicable to any employee in the classified service, the employee's Appointing Authority shall be notified of the attempted deception for further consideration of disciplinary action.

#### Section 6.04 CONTINUOUS EXAMINATIONS

Subject to these Rules, the Director may hold examinations for which no final filing date has been set and which will be given on more than one date and from which the resulting employment list is an open list. The Director, in arranging for and providing the means by which continuous examinations for a class of positions shall be held, may determine the length of time which must elapse before a candidate may reapply for an examination for which he failed to qualify as an eligible.

#### Section 6.05 RESULTS OF EXAMINATIONS

- (A) Open Lists. The order of names on an open list and the period for which an eligible's name shall remain on an open list shall be governed as follows:
  - (1) the period of eligibility for each person on such lists shall be six (6) months, unless extended under the provisions of section 6.06(C) of this rule;
  - (2) eligibles shall be listed on the employment list in accordance with their highest rating or re-rating on the examination.
- (B) The Director shall keep the papers, test forms, and other documents of candidates for examinations available for their inspection for a period of thirty (30) calendar days after the date of notification of test results. Persons requesting an opportunity to inspect their papers or other documents shall arrange for an appointment in the manner and on the forms prescribed by the Director.  
At his discretion, the Director may permit the extension of the period during which papers may be examined, but in no event shall he permit the inspection of test papers between the time of announcement and the time of holding another test for a similar position.
- (C) A manifest error in rating a test shall be corrected if called to the attention of the Director after the establishment of the list. However, any appointment(s) previously made from such a list shall not be invalidated by such a correction.
- (D) Should the number of candidates for a position far exceed the number of existing vacant positions in the class for which an examination is held, the Director may set forth a predetermined number to be used in deciding on the number of candidates to be placed on an employment list.

#### Section 6.06 ESTABLISHMENT OF PROMOTION LISTS AND EMPLOYMENT LISTS

- (A) On each promotion list or employment list, eligibles shall be ranked in the order of their ratings as earned in the examination given for the purpose of establishing the list.
- (B) At the time a promotion list or employment list is established, the Director shall determine the period of time during which the list shall remain in force, which in any event shall be not less than six (6) months nor more than three (3) years.
- (C) The Director may extend the period during which a list can remain in force, but no list may be extended for a period longer than three (3) years from the date of the original establishment thereof.
- (D) Combining Current Employment Lists With New Ones. Should an employment list be established for a class of positions for which an employment list of the same class currently exists, and if the currently existing list has not been in force at least six (6) months, the names on the current list shall precede those on the new list until the current list has been in force six (6) months. Thereafter,

if by order of the Director the current list has been continued in force beyond the six-month minimum period as required by this rule, the names on the current and the new lists shall be merged on one list and arranged according to examination score. However, names from the current list shall be removed from the combined list at the time the current list is allowed to expire. Should the name of any individual appear on both the current and the new list, his standing on the combined list shall be determined by the highest score obtained on either of the examinations.

(E) Selective Certification Lists. Upon the request of an Appointing Authority or upon his own initiative, the Director may establish a list for a part of a class if, in his judgment, it is advisable for the good of the City service to certify to some positions in the class only eligibles who have qualifications of age, sex, residence, physical characteristics, training, experience, specialized knowledge, specialized manual skill, facility in the use of a foreign language, possession of a license, possession of paraphernalia, equipment or facilities, or other qualifications which are not required in all positions of the class.

(F) Promotion Lists. The Director, in cooperation with appointing authorities, may establish promotion lists on a service-wide or a departmental-wide basis.

#### Section 6.07 POSTPONEMENT AND CANCELLATION OF TESTS

Should an insufficient number of qualified candidates apply for a test, the Director may postpone the final filing date and the date of tests, or cancel the tests or any of the parts thereof, and shall, in each such case, give suitable notice of the action to the applicants.

#### Section 6.08 REMOVAL OF NAMES FROM LISTS

(A) The Director shall cause the names of eligibles to be removed from an eligible list by operation of any of the following reasons:

- (1) refusal of three (3) offers of appointment under conditions previously listed by the eligible as acceptable;
- (2) appointment through certification from such list to fill a permanent position;
- (3) appointment through certification from the eligible list for another class at the same or higher compensation; in such a case, at the request of the appointee, his name may be continued on, or restored to, any or all lists other than the one from which the appointment was made, for the remainder of the period of eligibility of such lists;
- (4) filing of a statement by the eligible that he is unwilling to accept appointment; such statement of unwillingness may be restricted to a limited period of time, or to geographic locations, or to positions involving other conditions of employment; the name of the eligible shall then be treated as not available and shall be passed over in certification to fill the vacancy under the conditions specified as though such name did not appear on the list; any eligible may renew his eligibility at any time during the life of the eligible list by filing a new statement as to the time, place, or other conditions under which he will accept appointment;
- (5) failure to respond within the specified time to any notice or inquiry of the Director or Appointing Authority, if satisfactory evidence is not furnished in justification of such failure;
- (6) failure to report for work after acceptance of appointment;
- (7) expiration of the term of eligibility on an eligible list;
- (8) notice by postal authorities of their inability to locate an eligible at his last known address;
- (9) death of an eligible;
- (10) loss of citizenship; or,
- (11) review of the eligibility of an eligible reveals that he lacks any of the qualifications prescribed as requirements for admission to the tests for the class for which he has applied, or is physically or mentally unable to perform efficiently and effectively the essential functions of a position of the class with or without reasonable accommodation that does not present an undue hardship, or has tested positive on a post offer test for drugs or alcohol, refused or failed to participate in the test or submitted an adulterated specimen, as provided under the Drug Testing Program, or is deemed by the Director to be unfit for employment in the class applied for by reason of criminal record or employment history, or has practiced or attempted to practice deception or fraud in any application, or any test, or otherwise, in securing eligibility for appointment or attempting to do so, or files an application within two years of dismissal or resigning his position after becoming subject to dismissal as provided for under Rule X of these rules provided that, at the time of the resignation, the Appointing Authority involved reported this matter to the Civil Service Department with a copy mailed to the former employee including the specific reason(s) why dismissal was imminent.

## Section 6.09        NON-COMPETITIVE EXAMINATIONS

When he deems it impracticable to hold competitive examinations, the Director may hold non-competitive entrance and promotional examinations for positions in certain classes of work for which it is difficult to recruit applicants either because of the salary grades provided for the classes or because of a scarcity of applicants possessing the prescribed and required technical, professional, or other qualifications, or for any other valid reasons rendering it impracticable or undesirable to hold competitive examinations.

## Section 6.10        DRUG TESTING PROGRAM

In order to insure a drug free work place, the City shall mandatorily require urine specimens from all prospective employees, and from certain current employees, under conditions specified below, for drug testing to detect the use of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

The Department of Personnel shall be responsible for the management of the City drug testing program, and shall be responsible for City compliance with this section as well as applicable state and federal laws regarding drug testing programs.

The Department of Personnel shall have the responsibility for adopting SAMHSA guidelines and any subsequent revisions of the SAMHSA guidelines for the purpose of management of the City drug testing program.

(A) Definitions. As used in this section, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "CAP-FUDT certified laboratory" means a laboratory certified for forensic urine drug testing by the College of American Pathologists.
- (2) "Collection site" means a place designated by the City where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.
- (3) Collector means a person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals. A collector shall have successfully completed training to carry out this function.
- (4) "Confirmatory drug test" means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.
- (5) "Employee" means any person employed by the City under the provisions of Article VIII of the City Charter and these Civil Service Rules adopted thereunder.
- (6) "Initial Drug Test" or "screening test" means an immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing.
- (7) "Medical Review Officer" is a licensed physician responsible for receiving laboratory results generated by the City drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's test result together with his or her medical history and any other relevant biomedical information.
- (8) "Monitor" means repeated drug testing of an individual as part of a monitoring program to assure compliance with the terms of a rehabilitation agreement.
- (9) "SAMHSA" means the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.
- (10) "SAMHSA" certified laboratory" means a laboratory certified for forensic urine drug testing by the Substance Abuse and Mental Health Services Administration.
- (11) "SAMHSA guidelines" means the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Mandatory Guidelines for Federal Workplace Drug Testing Programs as published in the Federal Register Volume 59, No. 110 on June 9, 1994, and any revised guidelines issued by the Department of Health and Human Services.
- (12) "Prospective employee" means any person who has been certified for possible appointment or who is otherwise being considered for appointment to the City service, and who has been offered City employment contingent on passing the pre-employment physical examination including pre-employment drug and, when appropriate, alcohol testing.
- (13) "Sample" means urine, blood, or breath.
- (14) All other definitions now set forth in the SAMHSA Guidelines are adopted herein by reference

(B) Applicability

- (1) This section applies to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

(2) This section does not preclude testing to detect an employee's use or consumption of, or working while under the influence of other (not included in (B)(1), above) drugs, controlled substances as defined in 21 U.S.C., 812, Schedules I, II, III, and IV, and alcohol, when such testing is performed under conditions outlined in sub-section (C)(2). A test result indicating an alcohol level of at least .02 but less than .04 BAC shall be grounds for disciplinary action under Rule X. A test result indicating an alcohol level of .04 BAC or greater be grounds for dismissal under Rule X of the Civil Service Rules; and the Appointing Authority involved, upon notification of such confirmed positive result from a urinalysis or alcohol test, the refusal to submit to alcohol or controlled substance testing, or the submission of an adulterated specimen, shall dismiss the employee, provided that such dismissal shall be taken in accord with Rule X of the Kenner City Civil Service Rules.

(3) Alcohol and controlled substance testing and related requirements mandated by any preemptive Federal or State law, including but not limited to the Omnibus Transportation Employee Testing Act of 1991, as amended, and related Federal Highway Administration Regulations regarding Controlled Substances and Alcohol Use and Testing, 49 CFR 382, Subparts A-F, as amended, shall be performed in accordance with such laws, in lieu of testing and related procedures specifically required under this section, provided that provisions of this section which are not inconsistent with or preempted by such laws and regulations shall apply.

(4) Any provision of this section held to be prohibited by Federal Law or of the laws of the state of Louisiana shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this section.

(5) A confirmed positive result from a urinalysis for controlled substances; a post-accident, random, or reasonable suspicion alcohol test result indicating an alcohol level of .04 BAC or greater; refusal to submit to alcohol or controlled substance testing; submission of an adulterated specimen; or, violation of the provisions of 49 CFR 382, Subpart B prohibitions; by a driver, under (B)(3), above, shall be grounds for dismissal under Rule X of the Civil Service Rules. The Appointing Authority involved, upon notification of such confirmed positive result from a urinalysis or alcohol test, the refusal to submit to alcohol or controlled substance testing, or the submission of an adulterated specimen, shall dismiss the employee, provided that such dismissal shall be taken in accord with Rule X of the Kenner Civil Service Rules.

(C) Drug Testing

(1) Each offer of City employment shall be conditioned upon the passing of a drug test and alcohol test which shall be administered as part of the pre-employment physical examination, and which shall test for the use of illegal drugs and alcohol as provided in this section. The City shall require a urine specimen from all prospective employees which shall be tested for the presence of drugs as provided in this section; and, shall conduct a breath analysis for the presence of alcohol. The City shall not hire any applicant who fails a pre-employment drug test by refusing or failing to participate in the testing procedure, submitting an adulterated specimen for alcohol testing or illegal drugs, as verified by the City medical review officer or testing positive for illegal drug use or alcohol usage.

(2) As a condition of continued employment, the City shall require a sample from an employee and shall test for the presence of drugs or alcohol

a) following an accident during the course and scope of his employment if the employee is employed in a safety sensitive or security sensitive position or if the employee contributes to an accident which results in damage to property or equipment or personal injury to the employee or others involved in the accident which causes the injured party to seek medical attention by a physician or other licensed medical specialist;

b) under other circumstances which result in reasonable suspicion that drugs or alcohol are being used;

c) as part of a monitoring program to assure compliance with the terms of a rehabilitation agreement; or,,

d) upon return to work after a test result indicating an alcohol level of at least .02 but less than .04 BAC

(3) The City shall implement a program of random drug testing of employees who occupy safety-sensitive or security sensitive positions.

(4) A confirmed positive result from a urinalysis, refusal to participate in the drug testing program, or submission of an adulterated specimen or a test result indicating an alcohol level of .04 or greater shall be grounds for dismissal under Rule X of the Civil Service Rules. The Appointing Authority involved, upon notification of a confirmed positive result from a urinalysis, the refusal to participate in the drug testing program, or the submission of an adulterated specimen, or a

positive alcohol test shall dismiss the employee, provided that such dismissal shall be taken in accord with Rule X of the Kenner Civil Service Rules.

(D) Use Of Certified Laboratories For Drug Testing Of Specimens Collected

- (1) All drug testing shall be performed in SAMHSA-certified or CAP-FUDT-certified laboratories.
- (2) Drug testing as provided in this section shall be performed in compliance with the SAMHSA guidelines. The cutoff limits for drug testing shall be in accordance with SAMHSA guidelines.

(E) Collection Of Urine Specimens

- (1) All urine specimens for drug testing shall be collected, stored, and transported in compliance with the SAMHSA guidelines, and shall be collected with regard to privacy of the individual.
- (2) Direct observation of the individual during collection of the urine specimen may be allowed under any of the following conditions:
  - a) There is reason to believe that the individual may alter or substitute the specimen to be provided.
  - b) The individual has provided a urine specimen that falls outside the acceptable temperature range as listed in the SAMHSA guidelines.
  - c) The collection site person observes conduct indicating an attempt to substitute or adulterate the specimen.
  - d) The testing is post-accident or reasonable suspicion/cause testing.
- (3) A designated employee of the Department of Personnel shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. All direct observation shall be conducted by a same gender collection site person.
- (4) Every collection site person shall be responsible for sanitary collection of urine specimens while maintaining privacy, security, and the chain of custody. Every collection site person shall be responsible for the proper disposal of biohazardous waste and dispose of all biohazardous waste in accordance with proper safety procedures.
- (5) All samples collected for drug testing shall be packaged, sealed, labeled, and transported with the proper chain of custody procedures for analysis to a SAMHSA-certified or CAP-FUDT-certified laboratory in strict compliance with SAMHSA guidelines.

(F) Initial test and confirmatory test required. Drug testing shall, at least, consist of an initial test as provided in the SAMHSA guidelines. All specimens identified as positive on the initial test shall be confirmed using a confirmatory test as provided in the SAMHSA guidelines.

(G) Review of Drug Testing Results; Medical Review Officer

- 1) The City shall employ a Medical Review Officer whose qualifications and responsibilities shall be as provided in the SAMHSA guidelines.
- 2) All results of drug testing shall be reported directly from the laboratory to the City medical review officer as provided in this section.
- 3) The City medical review officer shall review all confirmed positive test results and shall report such results to the Department of Personnel in compliance with the SAMHSA guidelines.
- 4) Negative results need not be reviewed by the City medical review officer, but shall be reported to the Department of Personnel.
- 5) Adulterated specimens shall be reported as such to the City medical review officer with clarification as to the specific nature of the adulteration. The City medical review officer shall contact the individual who submitted the specimen as outlined in the SAMHSA guidelines before making a final decision to verify a position or report an adulteration.

(H) Refusal or Failure to Participate; Adulteration of Specimen

Any prospective or current employee who refuses or fails to participate in the testing procedure or submits an adulterated specimen for alcohol testing or illegal drugs, as verified by the City medical review officer, shall be considered as having failed the test.

(I) Reporting Results to Civil Service Director; Removal of Names from Certifications and Eligible Lists; Disqualification for Future Employment Eligibility

- (1) The Director shall be notified of all confirmed positive test results, refusals or failures to participate in a scheduled drug or alcohol test, and submissions of adulterated specimens by prospective and current employees. Test results and submissions of adulterated specimens shall be reported via a copy of the medical review officer's report or a breath alcohol technician's report.
- (2) Upon receipt of a notice of verified positive test result, refusals or failures to participate, or submission of an adulterated specimen, the Director shall cause the name of the subject to be removed from all current certifications and from all employment lists.
- (3) Subject to the provisions of the Americans with Disabilities Act, persons dismissed or removed from an employment list(s) under this section shall be ineligible for City employment for at least two (2) years. The Director shall reject any application for employment submitted during the two (2) year period following dismissal or removal from the employment list(s).

(J) Resignations.

- (1) When an employee becomes subject to dismissal as provided for under this Rule, and before such provisions are affected, the employee resigns his position, such resignation shall be treated as a dismissal for purposes of sub-section (I).
- (2) The resignation shall be immediately reported to the Civil Service Director on the form prescribed for such purpose, which form shall be accompanied or supplemented by an explanation of the specific circumstances surrounding the resignation, and notification of confirmed positive test result, refusal to participate in a scheduled drug or alcohol test, or submission of adulterated specimens by the employee. Test results and submissions of adulterated specimens shall be reported via a copy of the Medical Review Officer's or Breath Alcohol Technician's report.

(K) Rights of the Prospective Employee and Current Employee

- (1) Prospective employees and current employees who are adversely affected under this section shall have the right of appeal to the Civil Service Board as provided elsewhere in these rules.
- (2) Any prospective employee or current employee, confirmed positive, upon his written request, shall have the right of access within seven working days to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.
- (3) The City may, but shall not be required to, afford an employee the opportunity to undergo rehabilitation without termination of employment when the employee voluntarily seeks treatment/rehabilitation assistance provided that such assistance is independently sought prior to the employee becoming subject to post accident, reasonable suspicion, random, or testing to monitor compliance with a rehabilitation agreement.

(L) Responsibilities of the City

- (1) The Department of Personnel shall develop and promulgate to all City Appointing Authorities and employees, a written drug testing policy which shall comply with the provisions of this section. No oral modification of the terms of the written policy shall be valid.
- (2) As provided by LSA R.S. 49:1001 et seq., all information, interviews, reports, statements, memoranda, or test results received by the City through its drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug or alcohol use by the tested individual is relevant.
- (3) City Appointing Authorities and other employees involved in the administration of the City drug testing program shall maintain and use drug testing results with the highest regard to individuals' privacy.
- (4) An individual's drug test results received by the Personnel Department shall be treated as confidential records under Civil Service Rule XI, and shall be released only to the individual or his legally authorized representative, except as provided in sub-section (L)(2), above.

(M) Defense of Appeals. The Department of Personnel shall be a party to all appeals arising from the City drug testing program; and, shall be responsible for defense of all appeals arising from the administration of the City drug testing program, and the results thereof, as opposed to their application.

Rule VII. LISTS OF ELIGIBLES, CERTIFICATIONS, VACANCIES AND APPOINTMENTS

## Section 7.01 FILLING VACANCIES

(A) Vacant positions in the classified service may be filled by demotion, transfer, promotion, reinstatement or reemployment, original employment, or temporary employment. In certifying names from employment lists, preference shall be given as follows: (1) preferred reemployment lists, (2) promotion lists, (3) reemployment lists, (4) entrance employment lists. A vacancy shall be considered filled under any of the methods specified, and employment thereunder shall be considered effective, as of the date on which the employee reports to work and begins performance of the duties of the position in accordance with the Rules.

(B) Transfers within the Classified Service may be made with the prior approval of the Director, subject to the following provisions:

- (1) an employee may be transferred from any position in the classified service to any other position of the same class or to a position of any other class for which no additional or different qualifications are prescribed for original entrance, on recommendation of the Appointing Authority;
- (2) an employee may be transferred from any position in the classified service to any other position of the same class or to a position of any other class for which he is determined to be a qualified individual with a disability, as a reasonable accommodation required by the Americans With Disabilities Act, provided that such transfer does not create an undue hardship on the department where the vacancy exists;
- (3) an employee may be transferred from any position in the classified service to any other position of the same class or to a position of any other class for which he is deemed qualified and able to perform, consistent with the recommendations of a treating physician, if, as a result of a work related injury, the employee is permanently disabled from performing his current position;
- (4) no employee shall be transferred from a position in one organization unit to a position in another organization unit without the consent of the Appointing Authority of both units concerned;
- (5) no employee shall be transferred from a position in one class to a position in another class having a higher maximum salary;
- (6) any change of an employee from a position in one class to a position in a class having a lower maximum salary shall be considered a demotion.

## Section 7.02 REQUEST FOR CERTIFICATION

(A) An Appointing Authority proposing to fill a vacant position in the classified service shall submit to the Director a statement showing the position to be filled, the class of the position, and the duties thereof. The Appointing Authority may also specify the necessary and desirable qualifications of the person to be appointed to the vacancy.

(B) Anticipation of Need. An Appointing Authority, insofar as practicable, shall anticipate each vacancy sufficiently in advance of its occurrence to permit the Director to determine who may be available for appointment, and, if necessary, to prepare a class specification and to establish a list of eligibles.

(C) Request for Selective Certification. An Appointing Authority may request selective certification of eligibles for a position, by specifying what he considers necessary or desirable qualifications of candidates for appointment. If the Director concludes that the request for selective certification is warranted on the basis of the evidence offered by the Appointing Authority, he shall certify from a list of eligibles having such qualifications.

The Director shall consider each request for selective certification on the basis of the facts in the particular instance. The burden of proof shall rest with the Appointing Authority to demonstrate to the satisfaction of the Director that selective certification is warranted. The Director may consider the cost of giving a special examination in determining whether selective certification is warranted. If the Director approves the request and should it be necessary to hold a special examination to establish a list of a sufficient number of persons eligible for such selective certification, the Director may authorize provisional appointment as provided below.

## Section 7.03 CERTIFICATION OF ELIGIBLES

(A) Upon receipt of an Appointing Authority's request to fill a position other than by demotion, transfer or reinstatement, the Director shall certify to the Appointing Authority from the eligible list for the class of the vacant position, the names of the top five eligible persons subject to the following:

- (1) Eligibles having an equal final score on the examination for the class shall be grouped into a grade group and certified together;
- (2) Appointment will be restricted to the certified candidates as long as there are at least five eligible candidates available and interested in appointment.
- (3) Whenever there are fewer than five eligibles available and interested in appointment, the Director shall certify the next eligible(s) or grade group(s) until there are at least five available eligible candidates.
- (4) Under certain conditions, the names of eligibles may be added to an existing employment list after a certification has been made from that list. In such cases, before proceeding to the next eligible or grade group or groups, the Director shall certify from any higher scoring eligibles or grade group or groups, additional eligibles not previously certified.
- (5) When, due to the number of vacancies to be filled, it appears that a certification or certifications do not contain a sufficient number of eligibles to permit the Appointing Authority(s) to consider at least five eligibles in making appointments to fill those vacancies, the Director may certify additional eligibles necessary to assure the availability of at least five candidates. In making appointments from such a certification, the Appointing Authority may proceed to the next eligible or grade group only when there are fewer than five candidates available within the higher final grade groups.  
In case of demotion, transfer, or reinstatement, the Director shall approve or disapprove the name of the person submitted by the Appointing Authority.

(B) Except as provided under sub-section (I) of this Rule, the eligibles certified shall be the highest ranking eligibles willing to accept employment, ranking in the following order: (1) the eligibles on a preferred re-employment list; (2) those on a promotional employment list; (3) those on a re-employment list; (4) those on an entrance employment list.

All the names on any one of such lists shall be exhausted before any names are certified from the next list. However, except in the presence of a preferred re-employment list, the names certified may be taken from two or more lists if necessary to make a certification of five eligibles. Names shall be certified from each list in the order of their rank on that list.

Within thirty (30) days after the eligibles are certified, the Appointing Authority shall appoint one of the eligibles to each vacancy he is to fill. In each case of acceptance of an appointment, such appointment shall become effective as of the date on which the appointee enters upon duty in accordance with the Rules.

(C) If the appropriate lists do not contain the names of a sufficient number of eligibles willing to accept appointment to make possible the certification of five (5) eligibles, the names of all eligibles on the appropriate lists who are willing to accept appointment shall be certified.

When fewer than five (5) names are certified to fill a vacancy, the Appointing Authority may make his appointment from the names certified. If he does not wish to make an appointment from the names certified, the Director may authorize him to make a provisional appointment.

(D) If an Appointing Authority passes over the name of an eligible on a register in connection with five (5) separate appointments he has made from the register, he may submit a written request to the Director to omit the name of such eligible from any subsequent certification to himself from the same register.

The name of such eligible shall not thereafter be certified to him from that register for future vacancies in that class of positions.

(E) When a vacancy exists in a position of a class for which there are no eligibles available for certification, the Director may certify eligibles for appointment from an alternative eligible register.

(F) Appointments made from certification from an alternative eligible register(s) shall be probationary and the vacancies so filled shall be deemed to have been filled in accordance with the provisions of the Rules.

(G) Subject to the provisions of Rule VI, section 6.08, persons who have been appointed from lists to fill conditional or temporary vacancies shall be certified continuously to all permanent vacancies in the class or classes of positions for which they are eligible, until such time as: (1) they are appointed to fill permanent vacancies; or (2) their eligibility on the register or registers expires; or (3) the factors affecting the conditional or temporary nature of their appointment are removed.

(H) The Director may establish a range of certifiable scores for certain jobs, and without issuing a certificate, permit competitive employment of applicants who have attained a score within that range.

(I) If there are sufficient qualified employees in the Classified Service, whose names appear on a list of eligibles prepared from an entrance examination, the Director may, in his discretion, utilize the names of such eligibles in lieu of conducting a competitive promotional examination. When a promotion list does not exist or is insufficient for a full certification of eligibles, upon request by an

Appointing Authority, the Director may, in his discretion, prepare or supplement a promotional certification from an original entrance employment list by selectively certifying from that list only the names of eligibles who are City employees with permanent status in a lower classification.

The Director shall not include in any promotional certification the name of an employee having a current Unsatisfactory Service Rating. The Appointing Authority's request shall be submitted to the Civil Service Department with his request to fill the vacant position involved.

(J) When a promotion list and an entrance list exist as a result of an examination announced on a promotional and original entrance basis, upon request by an Appointing Authority, the Director may, in his discretion, rank eligibles from both lists together, according to their score on the examination, and certify the names of eligibles as provided under sub-section 7.03(A), above. However, when preparing such certification, the Director shall first certify eligibles from a re-employment list prior to certifying eligibles from outside the City service.

The Appointing Authority's request shall be submitted to the Civil Service Department with his request to fill the vacant position involved and shall specify his reasons why it is in the best interest of his agency that eligibles be certified for consideration without regard to prior employment in the classified service.

#### Section 7.04 REINSTATEMENT AND RE-EMPLOYMENT

(A) Re-employment lists shall consist of the names of persons who were separated from their positions for reasons other than their own delinquency or fault, except as provided in Rule X, and who, at the time of separation, had attained permanent status in accordance with the Rules in the class of positions in which employed when separated. Such names shall be ranked on the re-employment list based on their years of continuous City employment in that class of positions. Should two (2) or more employees have equal service in a class of positions, the employee who has the greatest number of years of continuous City service shall be ranked highest.

(B) Former employees who have retired from City service may be reinstated or certified from a re-employment list subject to provisions of these Rules provided that the retiree is advised that reinstatement or re-employment might jeopardize retirement benefits and/or obligate the return of monies previously paid, and referred to the City retirement office or retirement system(s) for further information in this regard, which advice and referral shall be inwriting.

(C) The name of a regular employee who has been laid off shall be placed automatically on the appropriate preferred re-employment list for the class of positions he occupied. His name shall remain on the list for a period of two (2) years from the date of separation, unless removed earlier by any of the provisions of Rule VI, section 6.08. Until his reinstatement or re-employment is affected within the department or organization unit from which he was separated, or until his period of eligibility shall have lapsed, his name shall be certified on a service-wide basis to vacancies in that class of positions.

(D) Preferred re-employment lists shall precede general re-employment lists in certification; provided that persons on such lists meet the requirements and qualifications, as determined by the Director, to perform the duties of the position involved.

(E) The name of a former regular employee returning from military duty and placed on a re-employment register in accordance with Rule IX, section 9.10(A), shall remain thereon for a period of two (2) years, unless removed sooner under any of the provisions of Rule VI, section 6.08.

(F) A former regular or probationary employee who resigns or is laid off from a classified position may, upon written recommendation by an Appointing Authority and with the prior approval of the Director based upon a record of satisfactory service, be reinstated with former status, at the option of the Appointing Authority, to his former position or to any other position to which the employee may have been assigned, transferred, reallocated, or demoted if the resignation has not occurred, if a vacancy exists therein.

(G) A regular employee who has resigned from his position, if he submits a written request to the Director within one (1) year from the date of resignation, shall have his name placed on an appropriate re-employment list. The employee's name shall remain on the list until a date two (2) years from his date of resignation, unless removed sooner under any of the provisions of Rule VI, section 6.08.

An employee who is separated for inefficiency, delinquency, or misconduct, shall be ineligible for reinstatement within two (2) years from such separation. When an employee becomes subject to dismissal as provided for under Rule X of these rules, and before such provisions are effected, the employee resigns his position, such resignation shall be treated as a dismissal for purposes of this sub-section, provided that, at the time of the resignation, the Appointing Authority involved reported this matter to the Civil Service Department with a copy mailed to the former employee including the

specific reason(s) why dismissal was imminent.

Following two (2) years from separation, an employee who has been separated for inefficiency, delinquency, or misconduct, may be reinstated with probationary status to a position of the same class or to any other class to which the employee may have been assigned, transferred, reallocated, or demoted, upon written recommendation by the Appointing Authority and prior approval of the Director, based upon an overall acceptable work and personal history.

(H) A regular employee who has been promoted to a position of a higher class and who subsequently is removed from that position before acquiring full civil service status therein, unless the removal was for disciplinary reasons, shall be reinstated in his former position subject to the following:

- (1) A regular employee who is promoted from a position in one organization unit to a position of a higher class in another organization unit and who subsequently is removed during his working test period, or while serving provisionally or on a conditional basis, shall be reinstated in his former position in the organization unit from which promoted if a vacancy exists therein or if the present incumbent is on promotional leave of absence as provided for in sub-section (2), below; or shall be reinstated in any other vacant position in the same class in the organization from which promoted; or shall be reinstated to any other vacant position in the organization unit to which the employee may have been assigned, or transferred from his former position; provided he possesses the necessary qualifications to perform the duties of such position, as determined by the Director. If reinstated as herein authorized or required, the employee shall not be made to serve a new working test period. If the employee cannot be reinstated as herein authorized, the Director shall upon the employee's written request submitted within one (1) year from removal, place his name on a preferred re-employment list for the class of positions from which he was promoted.
- (2) Whenever a regular employee is promoted to a higher class within the same organization unit, he shall be granted promotional leave of absence from the position of the lower class until he acquires full civil service status in the higher position, and until he acquires such status the Appointing Authority may fill his position only by conditional appointment. Should the employee be required to vacate the position to which promoted, he shall be reinstated to his former position or, in the alternative and at the discretion of the Appointing Authority, in any other position of the same class in which there is a vacancy.

#### Section 7.05            CONDITIONAL AND TEMPORARY APPOINTMENTS

(A) **Conditional Appointments.** When a position is temporarily vacated because the incumbent is on authorized leave of absence of an expected duration of more than three (3) months, and the Appointing Authority desires to fill the position for the duration of the leave, he must do so by making a conditional appointment in accordance with the provisions of section 7.03 of this rule. If an employee is appointed to fill the position of a classified employee on leave of absence, he shall vacate the position when the employee on leave of absence returns. If the employee was appointed on a conditional basis by demotion or transfer, he shall be reinstated in his former position when the employee on leave of absence returns.

If the employee was appointed on a conditional basis through certification from an employment list, he shall retain all rights he may have acquired by virtue of his service under the conditional appointment, including, if he has completed his working test period, the right to have his name placed on a re-employment list, or, if he has not completed his working test period, the right to have his name replaced on the employment list from which his name was certified for conditional appointment if the list exists. He shall also be subject to all other provisions of these Rules not inconsistent with this paragraph.

(B) **Limited Term Appointments.** Whenever the services of an extra employee are needed in any position in the classified service for a limited period of time, in the discretion of the Director, the names of eligibles on the appropriate list who are willing to accept appointment may be certified. In each case of acceptance of appointment, such appointment shall become effective as of the approved date and the vacancy shall be considered filled.

(C) **Temporary appointments to positions in the classified service** may be made for short periods without compliance with provisions of this Part requiring certification as follows:

- (1) **Provisional Appointments.** When a vacancy is to be filled in a position of a class for which there are no eligibles available for certification, the Appointing Authority, with the prior approval of the Director, may make a provisional appointment. Such appointment shall be made only after submission of the name and qualifications of the intended appointee to the Director and such individual is approved for appointment.

A provisional appointment shall terminate upon the regular filling of the vacancy in any manner

authorized under these Rules, and, in any event, within fifteen (15) working days after a certification from which appointment can be required.

In any case in which a provisional appointment remains in effect for three (3) years, the Director shall make a report to the Board which shall include: the efforts made by the Civil Service Department to recruit applicants, a statement from the Appointing Authority of his assessment of the employee's on-the-job ability and acceptability, and a recommendation by the Director that the provisional appointment either be extended or that the employee be granted permanent status. Based upon the information furnished, the Board shall either order the appointment extended, or grant permanent status to the incumbent employee.

(2) **Transient Appointments.** Whenever the services of an extra or substitute employee are needed in any position in the classified service for a period of six (6) months or less, the Appointing Authority, with the prior approval of the Director, may make a transient appointment of any person he deems qualified to serve for the period required.

A transient appointment of longer duration may be made only with the prior approval of the Civil Service Board.

(3) **Emergency Appointments.** When an emergency situation requires that a position be filled before appointment can be made under any other provision of these Rules, an Appointing Authority may grant an emergency appointment to any available person to serve until the position involved can otherwise be filled under the provisions of these Rules. No emergency appointment shall continue for more than ten (10) working days in any case, or be renewed for any further period beyond that limit. The authority for any emergency appointment is conditioned upon a prompt report thereof to the director, at the time the appointment is made.

#### Section 7.06 STATUS OF EMPLOYEES OCCUPYING CLASSIFIED POSITIONS ON EFFECTIVE DATE OF THIS PROVISION

(A) The status of employees occupying classified positions on the effective date of this provision shall be determined as follows:

- (1) position incumbents holding full-time positions on January 1, 2007 who had served as an employee of the City of Kenner for at least the eight previous months shall be granted permanent civil service status;
- (2) position incumbents not covered under sub-section (1) above, holding their positions for at least one year on the effective date of this provision shall be granted permanent civil service status;
- (3) position incumbents not covered under sub-section (1) above, holding their positions for at least six months but less than one year on the effective date of this provision, provided they meet the minimum qualification requirements established by the Director for their class of position shall be granted permanent civil service status;
- (4) position incumbents not covered under sub-section (1) above, holding their positions for less than six months on the effective date of this provision, provided they meet the minimum qualification requirements established by the Director for their class of position shall be granted probationary status and required to complete a working test period;
- (5) position incumbents not covered under (1) – (4) above, holding positions on the effective date of this provision shall be required to attain a passing score on the exam for their class of position unless specifically waived by the Board. Employees who attain a passing score as required and those who receive a waiver by the Board shall be required to serve a working test period;
- (6) employees required to serve a working test period, shall be credited for service in their current position from their date of hire;

(B) If a position incumbent does not attain permanent or probationary status as provided under (1) – (5) above, his/her position shall be considered to be filled by provisional appointment and the provisions regarding provisional appointments found elsewhere in these Rules shall apply.

(C) The initial allocation of positions and incumbents to specific job classifications and pay grades shall be temporary and subject to change at the time that the Civil Service Department adopts its first comprehensive Classification Plan and Pay Plan. Once the plans are adopted, the Director shall reallocate all positions to their final job classifications and so notify position incumbents.

Rule VIII. WORKING TEST PERIODS

## Section 8.01 EMPLOYEES TO SERVE WORKING TESTS

(A) Every person appointed to a position in the classified service by certification from an original employment list or a promotion list shall serve a working test period while occupying the position. At any time after the first two (2) months of the working test period, the Appointing Authority may remove an employee for either of the following reasons: (1) the working test indicates that the employee is unable or unwilling to perform his duties satisfactorily; or (2) the working test indicates that the employee's habits or lack of dependability do not merit his continuance in the service. Upon removing an employee, the Appointing Authority shall inform the Director and the employee forthwith, in writing, of the fact and the reason for his action.

An Appointing Authority may remove an employee within the first two (2) months of his working test period only with the approval of the Director.

The Director may remove an employee at any time during the latter's working test period if he finds, after giving the employee notice and an opportunity to be heard, that the employee was appointed as a result of fraud or error.

(B) The working test period shall be six (6) months unless extended.

(C) Extension of Time: Prior to the expiration of a working test period, an Appointing Authority may request the Director to extend the duration of the test; provided that at the time of the announcement the employee was notified that an extension might be required.

The request shall be in writing and, at the time of submission, a copy shall be sent to the employee. No extension shall be allowed which would cause the test period to be longer than one (1) year.

(D) Failure to submit a timely request and a copy thereof to the employee shall result in the employee attaining regular permanent status.

(E) If the Director determines that an employee who has been removed from his position during or at the end of his working test period is suitable for appointment to another position, he may restore the employee's name to the list from which it was certified. If the employee was a regular employee in another position in the classified service immediately prior to his appointment to the position from which removed, his name may be placed on the re-employment list for the class of positions in which he was a regular employee.

## Section 8.02 INTERRUPTION OF WORKING TESTS

(A) If an employee is laid off during a working test period and subsequently is reappointed by the same Appointing Authority from the same eligible list, he shall be given credit for the portion of the working test period completed before he was laid off.

(B) If an employee is transferred during his working test period from a position under one Appointing Authority to a position under another Appointing Authority, the second Appointing Authority may at his discretion permit the employee to receive credit for the portion of the working test period previously completed under the first Appointing Authority.

(C) If an employee is placed on military leave without pay while serving his working test period, he shall be given credit for the portion of the working test period completed before being placed on such leave.

(D) If an employee is appointed to a higher position in a like classification of work before completion of his working test period in a lower position, he shall be given credit for the uncompleted portion of the working test period if he remains in the higher position during a period equivalent to the unfinished portion of the working test period served in the lower position.

(E) An Appointing Authority may, at his discretion, permit credit to be granted an employee for the portion of a working test period previously served under himself or another Appointing Authority.

## Section 8.03 RECOGNITION OF PROVISIONAL SERVICE

(A) In the case of an employee who was hired under provisional appointment, and who subsequently qualifies for and is appointed to the same position on a regular basis, without interruption of employment, credit toward completion of the required working test period shall be given for all service previously rendered under the preceding provisional appointment.

(B) Consistent with the spirit of sub-section 8.02(E), above, credit toward completion of a working test period may be granted for provisional service other than that described in (A) herein, upon recommendation of the Appointing Authority and with the approval of the Director.

Rule IX. HOLIDAYS AND LEAVES OF ABSENCE

## Section 9.01 ANNUAL LEAVE

- (A) Persons employed on a subject-to-call basis, or under emergency or transient type appointments shall not be entitled to accumulate annual leave; except in the case of those persons who are currently employees accumulating leave and who have been temporarily promoted on a transient basis to fill a vacant position pending filling of the vacancy by regular appointment.
- (B) Eligible employees shall begin accruing Annual Leave immediately upon employment and for purposes of this section, they shall receive credit for the full month in which employment begins. No annual leave shall accrue to an employee for any accrual period during which the employee is on suspension or leave without pay with the exception of Military Leave Without Pay, or is absent without leave for more than two days per month.
- (C) Annual Leave shall accrue to an eligible employee (see sub-sections (A) and (B), above) as follows:
  - (1) Full-time employees having:
    - a) having 0-5 years of continuous service shall accrue Annual Leave at the rate of one (1) day of leave per month;
    - b) having 5-10 years of continuous service shall accrue Annual Leave at the rate of one and one-half (1 ½) day of leave per month;
    - c) more than 10 years of continuous service shall accrue Annual Leave at the rate of two (2) days of leave per month.
  - (2) Limited Full-time employees having:
    - a) having 0-5 years of continuous service shall accrue Annual Leave at the rate of one-half (1/2) of a day of leave per month;
    - b) having 5-10 years of continuous service shall accrue Annual Leave at the rate of three-quarters (3/4) of a day of leave per month;
    - c) more than 10 years of continuous service shall accrue Annual Leave at the rate of one (1) day of leave per month. (Amended effective May 13, 2016.)
- (D) Eligible employees shall begin accruing Annual Leave immediately upon employment and for purposes of this section, they shall receive credit for the full month in which employment begins. Each employee shall be entitled to and is encouraged each year to use the amount of leave accumulated during the previous year. Such leave may be used only at the time or times approved by the appropriate department or agency head under established policy, based upon the departmental workload, and the demand for the employee's services. Any employee who feels that s/he has been treated unreasonably in regard to the use of annual leave may file a written appeal to the Board in accordance with the conditions outlined in Rule II, section 2.04 of these Rules. (Amended effective November 13, 2018)
- (E) Leave that is not used by the employee during any calendar year is carried forward to the following year up to a maximum of forty-five (45) days. In no case shall the amount of leave carried forward to successive years exceed a maximum of forty-five (45) days. (Amended effective November 13, 2018)
- (F) Leave accruals shall be in hours or decimal parts thereof based on the employee's regular base hours of work per week and shall be calculated as one-fifth of the base work week.
- (G) If an employee works an irregular weekly schedule whereby he works a predetermined set number of hours per by-weekly pay period (for example, a rotating schedule of 32 hours in one week and 48 in the next), one day of leave shall be calculated as one-tenth of normal base hours of work per bi-weekly pay period. When such an employee uses accrued leave, he shall be charged the actual number of hours normally scheduled for the day (for example, an employee scheduled to work four 12 hour days in a given week who is granted a day of annual leave shall be charged and paid for 12 hours of leave for that day).
- (H) In computing and recording charges against an employee's accumulated annual leave, deduction shall be made only for such time that the employee is absent when scheduled to work. The minimum charge against annual leave shall be a unit of one-quarter (0.25) of an hour.
- (I) Upon an employee's death, termination of employment, or separation for entry into active duty with the Armed Forces of the United States, after an initial accumulation of six days of annual leave as set forth in sub-section (C) and attainment of permanent status, such employee shall be paid for all unused annual leave accrued to his/her credit, except that:
  - (1) when an employee is dismissed from or resigns from the City service, the Appointing Authority may deduct from payment, any amount necessary to offset the cost to the City for damages to

goods or works or City property which the Appointing Authority believes was caused by willful acts or negligence of the employee or for the failure of the employee to return in good condition any City equipment or materials which had been issued to him/her; or,

(2) if an unclassified City employee other than employees of organizations and other persons engaged on a contractual basis resigns to accept a provisional, transient or probational appointment to a position in the classified service without a break in service, all unused Annual Leave accrued to such employee's credit shall remain to his/her credit when s/he begins service in the new position and the employee shall receive continuous service credit for purposes of determining the rate of Annual Leave accruals. Unused Annual Leave accrued to such employee's credit shall remain to his/her credit when s/he begins service in the new position provided that any break in service is not in excess of one full bi-weekly pay period.

(J) Payment for unused accumulated annual leave hours shall be made at the employee's regular hourly rate equivalent at the time payment is made.

(K) When an employee has used all accumulated Sick Leave, but has Annual Leave accumulations available for use, upon request by the employee, he shall be permitted to use Annual Leave in lieu of Sick Leave (for sick leave purposes), subject to the provisions, conditions and limitations regarding Sick Leave set forth in this rule.

#### Section 9.02 SICK LEAVE

(A) Persons employed on a subject-to-call basis, or under emergency or transient type appointments shall not be entitled to accumulate Sick Leave; except in the case of those persons who are currently employees accumulating leave and who have been temporarily promoted on a transient basis to fill a vacant position pending filling of the vacancy by regular appointment.

(B) Eligible employees shall begin accruing Sick Leave immediately upon employment and for purposes of this section, they shall receive credit for the full month in which employment begins. No Sick Leave shall accrue to an employee for any month during which the employee is on suspension or leave without pay with the exception of Military Leave Without Pay, or is absent without leave for more than 2 days per month;

(C) Leave accruals shall be in hours or decimal parts thereof based on the employee's regular base hours of work per week and shall be calculated as one-fifth of the base work week. Each eligible employee in the classified service (see subsections (A) and (B), above) shall earn and accumulate Sick Leave with pay as follows:

- (1) Full-time employees at the rate of one (1) day of leave per month;
- (2) Limited Full-time employees at the rate of one-half (1/2) day per month. (Amended effective May 13, 2016.)

(D) If an employee works an irregular weekly schedule whereby he works a predetermined set number of hours per bi-weekly pay period (for example, a rotating schedule of 32 hours in one week and 48 in the next), one day of leave shall be calculated as one-tenth of normal base hours of work per bi-weekly pay period. When such an employee uses accrued leave, he shall be charged the actual number of hours normally scheduled for the day (for example, an employee scheduled to work four 12 hour days in a given week who is granted a day of annual leave shall be charged and paid for 12 hours of leave for that day).

(E) Payment for unused accumulated sick leave hours shall be made at the employee's regular hourly rate equivalent at the time payment is made.

(F) There shall be no limitation on the amount of sick leave that may be accumulated and carried forward from one year to the next.

(G) In support of usage of sick leave with pay, an employee shall furnish his supervisor notice of the need for and cause of his absence from work and, where appropriate, a prognosis. The notice shall be in writing and shall be furnished in advance or, if advance notice is not possible, as soon as reasonably practical and in no case later than ten (10) calendar days after the onset of sick leave. Sick leave may be granted for absence due to personal illness or injury or for attendance upon members of the immediate family whose illness requires the care of the employee. Immediate family is defined to include spouse, children, parents, grandparents, parents-in-law, step children, step parents, step grandparents, grandchildren, brothers and sisters. Unusually strong ties with other relatives may be recognized for leave purposes upon justification by the employee and the approval of the Mayor and/or Personnel Director. Sick leave may be utilized for medical, dental or optical appointments with approval of the Appointing Authority or an authorized department supervisor. However, employees should make an effort to schedule these appointments without interrupting their normal work schedule to the greatest extent possible. In addition:

- (1) if the amount of sick leave taken amounts to four (4) or more consecutive working days, the

employee shall as soon as reasonably practical and in no case later than ten (10) calendar days after the onset of the sick leave, file with his supervisor a written statement by a registered physician or other acceptable authority certifying that the employee was ill and unable to work during the period of sick leave of absence, and/or;

- (2) if there is a reasonable doubt as to the validity of an employee's claim for consecutive sick leave of less than four (4) days, the Appointing Authority may require written evidence of illness by giving the employee written notice of the need therefor, and/or;
- (3) in any case in which an employee fails to provide the statements or evidence required in (a) and (b) above, or in which the Appointing Authority has cause to doubt the validity of the statements or evidence provided, the Appointing Authority, as a condition of granting such leave, may require the employee to undergo examination by a City physician, at City expense, and/or;
- (4) if an Appointing Authority determines that an employee charged an absence against sick leave although no actual illness or disability occurred, he shall correct the time and attendance reports to show the employee on unauthorized leave of absence without pay for the period in question, shall take steps appropriate to recover compensation paid to the employee for the period in question and, also, may take such other disciplinary action as he deems fit.
- (5) whenever an Appointing Authority has reason to question an employee's ability to return to full duty after an illness, injury, or temporary disability, he or she may require the employee to submit an unrestricted release to return to work from Sick Leave or other leave of absence before allowing the employee to return to work.

(H) In computing and recording charges against an employee's accumulated sick leave, deduction shall be made only for such time that the employee is absent when scheduled to work. The minimum charge against sick leave shall be one-quarter (.25) of an hour.

(I) All unused sick leave remains to an employee's credit:

- (1) when the employee resigns to accept a provisional, transient or probational appointment in the City classified service without a break in service or with a break in service not in excess of one full bi-weekly pay period;
- (2) during any period when s/he is carried on authorized military leave without pay, or;
- (3) when s/he is reinstated or reemployed after layoff, or;
- (4) when s/he is transferred from one City department or agency to another, or;
- (5) when an unclassified City employee other than employees of organizations and other persons engaged on a contractual basis resigns to accept a provisional, transient or probational appointment in the City classified service without a break in service or with a break in service not in excess of one full bi-weekly pay period.

Records of the central payroll office shall be used in determining the amount of leave involved.

(J) Special provisions for job-related injuries:

- (1) When an employee suffers a job-related injury which results in the employee's inability to perform the normal duties of his position and which entitles him to compensation under the State workers' compensation laws, he:
  - a) shall, to the extent of the amount accrued to his credit, be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary;
  - b) upon request,:
    - 1) when his Sick Leave balance is insufficient to take advantage of a), above, shall to the extent of the amount accrued to his credit, be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary; or,
    - 2) shall be granted Leave Without Pay not to exceed the duration of concurrent FMLA Leave;
    - 3) may be granted Leave Without Pay subject to the conditions and limitations found elsewhere in these rules;
  - c) at his option, when the period of disability is of such duration that he becomes eligible for a workers' compensation payment for the initially uncompensated absence, may endorse his compensation check to the City and in return receive an equivalent credit to his accumulated Sick or Annual Leave whichever had been used to cover the period of absence and such leave may be changed to Leave Without Pay, subject to section (2),, below.
- (2) Except as provided below under sub-section (K)(4), when an employee has sufficient accumulated paid leave to take advantage of provisions (1)a) or b), above, he shall be granted Leave Without Pay subject to the provisions found elsewhere in these Rules to cover the balance of his absence not covered by paid leave however this Leave Without Pay shall not be counted for purposes of sections 9.01(B) and 9.02(B) of this Rule, during the first ninety (90) days that the employee has been receiving workers' compensation benefits.

## (K) Return To Work Program.

- (1) When employees suffer a work related injury, their rapid and efficient return to full duty in their current position is a goal of the City and will be accomplished through transitional duty, if possible.
- (2) All injured employees will be given the workers' compensation benefits due under the law, including wage replacement and appropriate medical care to ensure a speedy recovery and return to work.
- (3) Employees are expected to fully cooperate with their treatment plan and transitional duty requirements once released to work by a physician. Failure to do so could result in loss of worker's compensation benefits.
- (4) If an employee refuses an offer of a transitional duty assignment and is granted LWOP in excess of one (1) working day during one or more pay periods for which transitional duty is offered, he shall not be covered by the LWOP exclusion provided for under sub-section (J)(2) of this section and shall not accrue Annual and Sick Leave for the period(s) involved.
- (5) An employee who suffers a work related injury which is subject to State worker's compensation laws may be offered or may request a transitional duty assignment consistent with the recommendations of a treating physician, subject to the following:
  - a) all employee requests shall be given due consideration by the Appointing Authority;
  - b) short term transitional duty assignments of up to sixty (60) calendar days may be offered without change in classification or pay rate. Assignments of a longer duration may be made only with the approval of the Board except that the Director may approve an extension pending Board action;
  - c) all transitional duty assignments shall involve productive work which contributes to the efficient and effective operation of the City service;
  - d) a transitional duty assignment shall be made only when there is a reasonable expectation that such assignment will terminate with the employee's return to full duty in his current position;
  - e) employees who are determined to have a permanent total or permanent partial disability which will prevent them from returning to full duty in their current position shall not be eligible for assignment to or continuation of transitional duty, but maybe considered for transfer; and,
  - f) in every case of a job injury and resulting transitional duty assignment, the Appointing Authority involved shall immediately report the nature of the injury and the assignment including its starting date and modified job description to the Director for inclusion in the employee's file maintained in the Department, and shall report any alteration or discontinuation of the assignment and the date(s) thereof.

## (L) Emergency Sick Leave. Upon written request from an employee who does not have any or adequate sick leave or annual leave, the Mayor, or his delegated Appointing Authority, may, at his discretion, advance an employee emergency sick leave with pay not in excess of five (5) working days, providing that such advanced emergency sick leave must be charged against the first available sick and/or annual leave accumulations credited to the employee. In such a case, the Mayor, or his delegated Appointing Authority, must furnish the employee a written notice approving his request, and copies of this notice must be sent to the Civil Service Department, Personnel Department, and the Finance Department. Emergency sick leave with pay in excess of five (5) working days may be advanced to an employee only after receiving the prior approval of the Civil Service Board. In the event the employee retires, resigns or is terminated before all such advanced emergency sick leave pay is fully reimbursed, the employee remains responsible for full reimbursement, and sufficient funds shall be withheld from the final paycheck(s), if possible, to accomplish full reimbursement.

## (M) Payment for Accumulated Sick Leave Upon Separation. Upon separation from the City service after having attained sufficient creditable service to qualify for a current or deferred retirement benefit under the Municipal Employees' Retirement System of Louisiana and/or Federal Social Security Administration, an employee shall be paid for unused sick leave credits up to a maximum of ninety (90) days.

## Section 9.03

## FUNERAL LEAVE

In the case of death in the immediate family (spouse, children, parents, grandparents, grandchildren and step grandchildren, parents-in-law, brothers and sisters, children's spouses, step children and step parents) of an employee other than one employed on a subject-to-call basis, or under emergency or transient type appointments, the employee shall be given time off with pay to make arrangements and attend the funeral. This time is not charged against any accrued leave credits. Funeral leave may not exceed three (3) work days; however, upon request, additional time may be granted at the discretion of the Administration.

Employees will not receive compensation for eligible funeral leave days that fall on an employee's unscheduled workday.

#### Section 9.04        FLOATING HOLIDAY LEAVE

Employees other than those employed on a subject-to-call basis, or under emergency or transient type appointments shall be given one floating holiday off per year. The Floating Holiday time shall be considered as hours worked for purposes of overtime pay computation. The Floating Holiday shall be non-transferable and does not count towards accrued leave. The Floating Holiday may be used only at the time approved by the appropriate department or agency head under established policy, based upon the departmental workload, and the demand for the employee's services. (Effective January 1, 2019)

#### Section 9.05        CIVIL LEAVE

Employees other than those employed on a subject-to-call basis, or under emergency or transient type appointments shall be given necessary time off without loss of earnings under the following conditions:

- (1) When performing jury duty, the employee must sign over to the City all court payments received for jury duty. Employees volunteering for court duty are not eligible for civil leave; however, an employee may use accumulated leave time to serve on a jury. Any employee required to appear in court for a Criminal Neglect of Family Hearing or Trial to receive payment (as a recipient) will be eligible for civil leave. An employee should contact his supervisor promptly after receiving notification and present to the department the proper documentation requiring his attendance;
- (2) When subpoenaed before a court of law in a role other than defendant, plaintiff, expert or compensated witness;
- (3) When performing emergency civilian duty in connection with the national defense; and,
- (4) To vote in elections when the polls are not open at least two hours before or after the employee's scheduled hours of work.

#### Section 9.06        LEAVE WITHOUT PAY

An Appointing Authority may grant an employee, other than a transient employee, leave without pay for a period not to exceed an aggregate of sixty (60) working days within a period of twelve consecutive months, whenever such leave is considered to be in the best interest of the service; provided that:

- (1) leave without pay for a longer period may be granted only with the consent of the Director, subject to review by the Board;
- (2) when an employee is on leave without pay for more than five (5) consecutive days, the Appointing Authority must submit a report to the Director;
- (3) when an employee does not return to work at the expiration of a period of leave without pay as authorized herein, s/he shall be considered as having resigned his/her position as of the day following the last day of leave;
- (4) when an employee is on leave without pay on the day before or the day after a holiday which is provided for under Section 9.08 of the Rules, he shall not be entitled to and shall not be paid holiday pay for the holiday; and,
- (5) employees on leave without pay must arrange with the Department for payment of any health insurance premium or other benefits for the employee and/or his dependents, in order to keep such coverage and benefit in place.

#### Section 9.07        FAMILY AND MEDICAL LEAVE

- (A) Employees shall be entitled to and shall be granted Sick Leave, Annual Leave, Compensatory Leave, and/or Leave Without Pay for Family and Medical Leave purposes in order to comply with the Family and Medical Leave Act of 1993.
- (B) An employee who has been employed by the City for at least twelve (12) months and who has worked a minimum of 1,250 hours during that twelve (12) month period is eligible for a Family and Medical Leave of Absence (FMLA). Eligible employees shall be entitled to a maximum of twelve (12) weeks of Family and Medical Leave within any twelve (12) month period for one or more of the following:
  - (1) The birth of a child of the employee;
  - (2) The placement of a child with an employee in connection with the adoption or (state approved) foster care of the child by the employee;
  - (3) The serious health condition of a child, parent or spouse; and,
  - (4) The serious health condition that makes the employee unable to perform his job.

- (C) The maximum period of allowable unpaid leave shall be reduced by the employee's accrued paid leave, including sick leave, annual leave or compensatory time off which must be exhausted prior to the granting of LWOP for FMLA purposes, except as provided elsewhere in these Rules.
- (D) The employee must provide thirty (30) days written notice to his Department Director of his need for leave, or if emergency conditions prevent such notice, notice to the City as soon as is practical. The employee is required to provide medical certification to support a request for leave because of a serious health condition of the employee, or of the son, daughter, spouse or parent of the employee, as appropriate, and a fitness for duty report to return to work. Taking of leave may be denied if requirements are not met.
- (E) The FMLA also includes "Military Caregiver Leave", which would allow an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness up to a total of twenty-six (26) workweeks of unpaid leave during a single twelve (12) month period to care for the service member. An eligible employee is limited to a combined total of twenty-six (26) workweeks of leave for an FMLA qualifying reason during the single twelve (12) month period.
- (F) Under the FMLA, "Qualifying Exigency Leave" is granted to an eligible employee up to a total of twelve (12) weeks of unpaid leave during the normal twelve (12) month period established by the employer for FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- (G) For the duration of FMLA leave, the City will maintain the employee's health coverage under the group health plan. Both the City and employee will continue to pay the customary portion of the monthly premiums. If the employee chooses not to return from leave, under certain circumstances, the employee may be required to repay the City's portion of the premium payment. If the employee cannot return after the twelve (12) weeks of leave, there is no obligation to return the employee to work.
- (H) An employee granted leave under this section will be restored to the same position held prior to the leave, or with the prior approval of the Director, another position in the same job classification that is equivalent in pay, benefits, privileges, and other terms and conditions of employment. The use of FMLA leave will not result in the loss of any employment benefits accrued prior to the start of an employee's leave.

#### Section 9.08 PAID HOLIDAYS

- (A) Employees other than those employed on a subject-to-call basis, or under emergency or transient type appointments shall be given necessary time off without loss of earnings for the following paid holidays or other day or days declared by the Mayor or City Council as paid holidays.
- (B) The following days shall be observed as holidays, except as otherwise provided, specifically, elsewhere in these Rules.

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Veterans Day (observed)
Mardi Gras Day	Thanksgiving Day
Good Friday	Christmas Eve
Memorial Day	Christmas Day
Juneteenth	New Year's Eve

- (C) Should any of the above listed holidays fall on a day that is not a scheduled working day, the next following or immediately preceding working day, whichever is closer, shall be observed as a holiday.
- (D) In addition to the provisions above, any other holiday which may be declared by the Mayor or City Council shall be observed by such employees and under such conditions as might be specified in the declaration of such holiday.
- (E) Employees of Courts and other agencies that are bound by law or practical necessity to observe holidays inconsistent with those listed above may observe such holidays in lieu of those provided above.
- (F) Paid Holidays are taken without loss of vacation credit.

- (G) Non-exempt employees who are scheduled to work on a holiday will be paid the equivalent of one day's pay for the holiday in addition to pay for hours worked. As indicated in Rule IV, holiday pay hours as well as actual hours worked shall be considered as hours worked for purposes of overtime pay computation.
- (H) An employee must be in pay status the day before and the day after a holiday in order to be paid for the holiday. Those employees who are scheduled to work on a legal holiday or on a City declared holiday but do not work because of requested Sick Leave or Annual Leave in lieu of Sick Leave may be required to produce a doctor's certificate as allowed elsewhere in this Rule.

#### Section 9.09 MILITARY LEAVE WITH PAY

- (A) Any regular or probationary employee who is a member of the Officers' Reserve Corps of the Army of the United States, the National Guard of the United States, the Naval Reserve Corps, the Marine Corps Reserve, the Air Force Reserve, the Citizens' Military Training Corps, or the Civil Air Patrol, either officers or enlisted persons, are entitled to military leave of absence from his/her respective duties, without loss of pay, time, annual leave, or benefits on all days during which they are ordered to duty with troops or at field exercises for instruction, for periods not to exceed fifteen (15) working days in any one (1) calendar year; and when relieved from duty, he/she will be restored to the positions held by them when ordered to duty.  
In terms of pay, the City will pay the employee the difference between the sum earned while on military duty and that which he would have earned if working for the City, provided his City salary is greater than his military salary.  
An Appointing Authority may grant a regular or probationary employee leave without pay in accordance with other provisions of these Rules for periods of training in excess of fifteen (15) working days.
- (B) Any regular or probationary employee who is inducted or ordered to active duty to fulfill his reserve obligation, or who is ordered to active duty for an indefinite period in connection with reserve activities, and who has not been granted full leave with pay benefits provided in sub-section 9.09(A), above, shall be granted Military Leave With Pay up to an amount which, when added to any leave previously granted within the current calendar year, equals not more than fifteen (15) working days. The provisions of this sub-section apply only to leave eligibility during the initial calendar year of a lengthy or indefinite tour of duty which spans a period which extends into two or more calendar years.  
In no case shall the combined total of leave granted under sub-sections 9.09(A) and 9.09(B) exceed fifteen (15) working days in a calendar year.  
Additional leave, if necessary, shall be granted under section 9.10 of this Rule.
- (C) In support of a request for Military Leave With Pay, an employee shall submit, as soon as possible, a copy of the written orders issued to the employee.

#### Section 9.10 MILITARY LEAVE WITHOUT PAY

- (A) Any regular employee or probationary employee who is a member of the Officers' Reserve Corps of the Army of the United States, the National Guard of the United States, the Naval Reserve Corps, the Marine Corps Reserve, the Air Force Reserve, the Citizens' Military Training Corps, or the Civil Air Patrol, either officers or enlisted persons, shall be entitled to a temporary military leave of absence as specified in section 9.09 of this Rule.  
If active duty for training or other specified eligible active duty exceeds the fifteen (15) days of Military Leave With Pay as provided for under section 9.09, the employee shall be placed on regular Military Leave Without Pay for the remainder of the period of active duty.  
After discharge from service, the employee must report for employment in accordance with the guidelines as set forth in the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) and shall be reinstated and assigned to his original position, or alternatively, at the City's discretion, to a position which is comparable in terms of pay, seniority, status and benefits. However, if such person is not qualified or capable of performing the essential functions and duties of the same or like position by reason of disability sustained during his call to duty, but is otherwise qualified by reason of education, training, or experience to perform another position in the employ of the employer or his successor, the City shall assign such person to that other position, the essential functions and duties of which he is physically capable and qualified to perform, that will provide like seniority, status, benefits, and pay, provided the employment does not pose a direct threat or significant risk to health and safety of the individual or others that cannot be eliminated by reasonable accommodation.

If an employee, under this subsection, does not return in accordance with the guidelines set forth

in USERRA, he/she shall be considered as to have resigned his/her position with re-employment rights provided for Act.

(B) Any regular or probationary employee who enters military service in the armed forces of the United States under the provisions of the selective service law, by call to active duty or by voluntary entrance (regular military service unrelated to reserve duty) shall be considered to have resigned their position with all re-employment rights subject to USERRA regulations.

The cumulative length of a person's absence from a position may not exceed five (5) years except for those categories of service exempt from the five year limitation as specified by the USERRA. The right to restoration to the position formerly occupied or an equivalent position shall automatically terminate if the employee voluntarily remains in military service beyond the prescribed period of time allowed for absence by the USERRA.

Upon termination of his/her military obligation, the employee shall be restored to the position he/she vacated provided that: 1) he/she has provided notice of military service to the Appointing Authority prior to entering into active duty and; 2) returns to work, upon honorable discharge or discharge under honorable conditions, within the time limits prescribed by the USERRA.

An employee who was placed on military leave while serving a working test period, upon returning to his position, shall be required to serve the remaining portion of the working test period before he may gain permanent status in his class of position.

(C) If a position vacated by an employee entering the armed service no longer exists when he/she qualifies to return to work, he/she shall be entitled to re-employment in any position of the same classification within the organization unit in which he was previously employed, or a position of equal pay grade, or a position he/she would have reasonable certainty been promoted to, so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the person, provided such re-employment does not necessitate laying off an employee appointed at an earlier date than the employee returning from military service.

(D) If a position vacated by an employee entering the armed services no longer exists when he/she qualifies to return to work, and if no other position to which he/she might be entitled through re-employment privileges exists in the organization unit in which he/she was previously employed, his/her name shall be placed upon an appropriate re-employment list or lists by the Director, who shall take all steps consistent with the Rules to effect re-employment at the earliest possible date. Names of persons placed on re-employment lists under the provisions of this section shall be given preference in certifications.

(E) Any position vacated by an employee placed on military leave without pay may be filled only by a conditional appointment in accordance with provisions contained elsewhere in these Rules. A regular employee temporarily occupying a position vacated by a person entering the armed services shall be entitled to all benefits provided in these Rules that he/she might otherwise have, except as herein provided. If and when a regular employee is required to vacate a position as the result of the re-employment of a person returning from military service, he/she shall be entitled to be demoted or transferred to his/her former position, unless the former position is not vacant, in which case, the layoff provisions of these Rules shall be followed.

(F) A person on authorized military leave of absence shall be permitted to take any promotional examination given during his/her period of leave, provided that he/she must take the examination during the life of the appropriate eligible list and prior to announcement of the next examination for the same class of positions.

#### Section 9.11                    SCHOOL CONFERENCE LEAVE

Employees other than those employed on a subject-to-call basis, or under emergency or transient type appointments shall be granted one hour of School Conference Leave if necessary to attend a scheduled meeting during the employee's normal working hours. Each employee must obtain a written statement indicating time of conference from the child's teacher in order for the excused paid absence to be granted.

#### Section 9.12                    SICK LEAVE INCENTIVE PLAN

In an attempt to improve employee attendance and productivity, the City has initiated an attendance incentive plan concerning sick leave usage and encourages employees to accumulate sick leave so it is available in the event of a long illness.

(A) Qualified employees must have retained a minimum of two-thirds (2/3) of the Sick Leave accrued during the calendar year at the end of that calendar year in order to be eligible.

(B) Such employees shall be eligible to sell back accrued Sick Leave to the City based on the amount of leave used during the year as follows:

- (1) Full-time employees:
  - a) if no Sick Leave is used, the employee can sell up to three (3) days of Sick Leave and carry forward the balance;
  - b) if Sick Leave usage is less than or equal to two (2) days, the employee can sell up to two (2) days leave and carry forward the balance;
  - c) if an employee uses more than two (2) but not more than four (4) days of Sick Leave, the employee can sell up to one (1) day of sick leave and carry forward the balance.
- (2) Limited Full-time employees:
  - a) if no Sick Leave is used, the employee can sell up to two (2) days of Sick Leave and carry forward the balance;
  - b) if Sick Leave usage is less than or equal to two (2) days, the employee can sell up to one (1) day of Sick Leave and carry forward the balance. (Amended effective May 13, 2016.)

#### Section 9.13 VOLUNTARY RESIGNATIONS

- (A) The voluntary resignation of an employee in the Classified Service may be submitted orally or in writing, and shall be accomplished upon:
  - (1) acceptance by his Appointing Authority, notwithstanding any prospective effective date; or,
  - (2) the passing of the effective date and time of resignation specified in the resignation;
- (B) Acceptable evidence of acceptance of resignation shall include but shall not be limited to preparation and signature by the Appointing Authority of forms prescribed by the Department for the purpose of recording employee resignations.
- (C) Subsequent to its acceptance, an employee may not retract his resignation except with the approval of his Appointing Authority.

#### Section 9.14 ABSENCE WITHOUT LEAVE AND PRESUMED RESIGNATION

- (A) It shall be the duty of every employee to report for work in accordance with, and to work throughout, all regularly scheduled working hours, unless granted a leave of absence duly applied for and approved or authorized in accordance with one or more of the provisions contained in this Rule. Each and every absence without leave shall be reported on the daily time and attendance reports by separate and specific identification, and no compensation shall be paid to any employee for any time absent from work without leave.
- (B) Deduction from pay or denial of pay to an employee for time absent without leave shall not be considered or treated as a disciplinary action. Separate disciplinary actions, including dismissal, may be taken against an employee, for any absence without leave, in accordance with Rule X of these Rules.
- (C) For purposes of this section, the term "work" shall include, in addition to normal and related duties, all other assignments that are ordered or authorized by an employee's supervisor (i.e. participation in job-related safety or training sessions, work-breaks, evacuation of premises or relief from duty due to hazardous conditions, escort or transport to a City medical facility for first-aid of a job related injury).
- (D) Absence without leave for a period of three (3) consecutive working days shall constitute a presumed resignation. The Appointing Authority involved shall, subject to the provisions of sub-section 9.14(A), above, effect the presumed resignation on forms prescribed by the Department. In every case of presumed resignation of an employee in the classified service, the Appointing Authority responsible for the action shall furnish to the employee involved a written notice thereof. The written notice shall also inform the employee of his right of appeal to the Board as provided in 9.14(E), below.
- (E) Denial of pay for time absent without leave and presumed resignation shall be appealable to the Board only on the basis of a specific allegation that the absence was, or should have been, approved or authorized under one or more of the provisions of this Rule IX. Such an appeal must be filed in writing and within thirty (30) calendar days of the pay day on which the pay was denied. The Appellant shall bear the burden of proof of such allegations.

#### Section 9.15 SURVIVOR BENEFIT

Upon the death of an employee, all accrued sick leave, up to a maximum of ninety (90) days shall be paid in full.

## Section 9.16 SPECIAL LEAVE OF ABSENCE WITHOUT PAY

An Appointing Authority may grant a regular employee special leave of absence without pay for the purpose of enabling the employee to accept an unclassified position in the City service, except an elective office.

The leave without pay herein authorized shall end automatically whenever the employee resigns from his unclassified position or his employment therein is otherwise terminated.

## Section 9.17 THERAPY LEAVE

Employees other than those employed on a subject-to-call basis, or under emergency or transient type appointments who have incurred an on-the-job injury only for which a valid First Report of Injury has been made, and whose medical doctor orders them to receive therapy treatments, employees shall be granted paid Therapy Leave. This leave will not be charged against any other leave credit unless the employee is out the entire work day, in which case, it shall be charged to Sick Leave. An employee must present written verification of the time spent at the medical facility to his Department Director and a leave request form must be completed. Therapy Leave shall only be credited and paid for time that the employee would have otherwise normally been scheduled to work.

The Administration reserves the right to send the employee to be evaluated by the City's physicians and to withhold this benefit if abuse occurs.

## Section 9.18 DECLARED EMERGENCY LEAVE

An employee who was available for work and otherwise scheduled to work shall be placed on Declared Emergency Leave and given time off without loss of pay for up to the first two weeks on which City Departments are closed by direction of the Mayor because of a declared natural disaster or other declared emergency subject to the following:

- (A) This subsection shall not apply to employees who are on leave without pay immediately prior to and immediately subsequent to day(s) involved.
- (B) This subsection shall not apply to employees during times when they were not otherwise scheduled to work due to a pre-approved leave of absence;
- (C) This subsection shall not apply to essential duty personnel who fail to report for essential duty when required or abandon their post without prior permission from appropriate supervisory authority and they shall not be placed on Declared Emergency Leave nor shall they receive pay provided for in this sub-section;
- (D) During weeks three (3) and four (4) of said declared emergency, employees shall be paid fifty percent (50%) of their regular pay for the actual hours involved;
- (E) During weeks five (5) and six (6) of said declared emergency, employees shall be paid twenty-five (25%) of their regular pay for the actual hours involved;
- (F) During week seven (7) and beyond, employees shall not be eligible for further declared emergency leave payment until their return to duty; however, subject to the availability of funds, by declaration of the Mayor, for a period specified by him, employees may be paid twenty-five percent (25%) of their regular pay for the actual hours involved;
- (G) All payments anticipated under this section shall be subject to the availability of funds and as such, they may be increased, reduced or discontinued by appropriate authority at any time that it is determined that the City's financial condition will in the case of increased payments, support such increase or in the case of decreased or discontinued payments will not support continued payments or that continued payments would or could adversely impact the ability to provide essential services.

## Section 9.19 NON-DECLARED EMERGENCY LEAVE

An employee who was available for work and otherwise scheduled to work shall be placed on Non-Declared Emergency Leave and given time off without loss of pay on the day(s) on which City departments are closed by direction of the Mayor or delegated authority, due to non-declared local emergency events. An employee who is available, and directed to report to an alternate work location as the result of and during the emergency closure of his/her building or work location under this provision shall be considered at work and shall not be placed on Non-Declared Emergency Leave. This subsection shall not apply to employees who are on leave without pay on the day before or the day after the period of time of closure or to employees during times when they were not otherwise scheduled to work due to a pre-approved leave of absence. This subsection shall not apply when City departments are closed by direction of the Mayor or delegated authority because of a declared natural disaster or other declared emergency.

## Section 9.20

## CRISIS LEAVE

(A) The City may establish a policy to implement and administer a pool of shared annual leave which may be used by eligible employees who are unable to work due to a crisis situation and who have insufficient appropriate paid leave to cover the period of absence needed for the crisis situation involving a catastrophic injury or illness. The City's crisis leave policy shall not apply to the Kenner Fire Department and the Kenner Police Department. An employee using leave from a crisis leave pool shall receive leave in sufficient quantity to ensure his or her wage replacement is 100% of the pay he or she would receive in a regularly scheduled workweek. The City's policy must have the approval of the Civil Service Board prior to implementation. At minimum, the crisis leave policies must include the following terms and conditions:

- (1) Classified employees must have attained permanent status to be eligible to donate or use leave from the crisis leave pool.
- (2) The City shall specify the calendar year or the fiscal year as their "crisis leave pool policy year." The City's policy shall establish a cap on the amount of annual leave which may be donated by an individual employee. No cap shall exceed 240 hours per employee per policy year.
- (3) The City's policy shall establish a reasonable balance of annual leave that donors are required to retain after the leave donation.
- (4) The City's policy shall establish a cap on the amount of leave which may be used by an individual employee. The cap shall not exceed 240 hours per employee per policy year.
- (5) The City's policy shall establish and clearly define eligibility criteria and the crisis situations which will be covered.
- (6) The City's policy shall define a procedure for administering the leave pool.
- (7) The City's policy shall establish a prohibition against the use of coercion or pressure to donate.

(B) The City may establish other policy elements and conditions as deemed necessary. All additional elements and conditions shall be in compliance with Kenner Civil Service Rules. In support of compliance, the City policy and all future additions and/or modifications should first be submitted to the Civil Service Director for review and comment.

(C) Eligible employees who are denied crisis leave shall have the right to appeal the denial of crisis leave to the Civil Service Board under the rules established for appeals in Section 2.04, *et seq.* of these Rules.

**Rule X. DISCIPLINARY ACTIONS****Section 10.01 MAINTAINING STANDARDS OF SERVICE**

(A) When an employee in the classified service who has been employed for at least six (6) months is unable or unwilling to perform the duties of his position in a satisfactory manner, or has committed any act to the prejudice of the service, or has neglected to perform any act it was his duty to perform, the appointing authority shall take action warranted by the circumstances in order to maintain standards of effective service.

Action by the appointing authority may extend to:

- (1) Removal from the service;
- (2) Retirement;
- (3) Reduction in pay to a lower rate in the pay grade for the employee's class of positions;
- (4) Demotion to any position of a lower class that the appointing authority and the Director deem the employee is competent to fill;
- (5) Suspension without pay, not exceeding ninety (90) consecutive calendar days in any period of twelve (12) consecutive calendar months;
- (6) Withholding of pay in any amount necessary to offset the cost to the City for damages which may have been caused by the employee or for the failure of the employee to return in good condition any City equipment or materials which may have been issued to him/her, provided that such withholding shall not reduce the hourly rate below the Federal Minimum Wage or, in an overtime week, shall not exceed a maximum of employee's regular hourly pay rate-Federal Minimum Wage Rate x 40;
- (7) Reprimand or other less drastic measures of discipline that the appointing authority considers proper.

(B) In every case of dismissal, suspension, reduction in pay, withholding of pay, involuntary retirement, or demotion of an employee in the Classified service, the appointing authority responsible for the action shall furnish to the employee involved a written statement of the reasons therefor. The written notice shall also inform the employee of his right of appeal to the Civil Service Board within thirty (30) calendar days of the date of the action taken against him, of the address of the Department of Civil Service, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Civil Service. In addition, the appointing authority shall forward to the Director of Civil Service a copy of the notification sent to the employee. In any case of alleged inability to furnish the required written notice to a disciplined employee, the Civil Service Board may require evidence, and shall be the sole judge, of the sufficiency and timeliness of the effort. The Director may review any case of disciplinary action taken against a classified employee, and may, on his own initiative, immediately investigate the circumstances.

**Section 10.02 TERMINATION FOR CONVICTION OF A FELONY**

The employee-employer relationship existing between an employee in the classified service of Kenner City and the City shall be terminated and such employee shall be removed from his position of employment with the City upon conviction, during his employment, of a felony as defined by the laws of this state or by the laws of the United States. After a conviction is final and all appellate review of the original trial court proceedings is exhausted, the appointing authority of the employing department or office shall terminate any classified employee who is convicted of a felony and is holding a position of employment with such department or office. For purposes of these Rules, final conviction of a felony shall be a cause for termination of an employee from the classified service.

Nothing herein shall be interpreted as giving any employee a right to continued employment who is unable to report to work after exhaustion of all authorized leave.

**Section 10.03 SUSPENSION PENDING INVESTIGATION**

(A) An employee may be verbally suspended pending investigation when his appointing authority has reason to believe he has engaged in conduct which, if confirmed, would warrant disciplinary action and the employee's continued presence at work during an investigation of the suspected conduct would be contrary to the best interests of the City service. The employee shall be informed that he is being suspended pending investigation and the reasons therefor.

(B) A suspension pending investigation shall be with pay and shall not exceed 15 calendar days without the prior approval of the Director. Upon an appointing authority's written request which explains the

reasons therefor, the Director may allow the suspension with pay to be extended for up to 15 additional calendar days.

- (C) Upon completion of the investigation, the employee and the Director shall be advised of the outcome thereof.
- (D) A suspension pending investigation is not a disciplinary action and is appealable only based upon an allegation of discrimination, pled with specificity as provided under Rule II Sub-section 2.04(D) of these Rules.

Rule XI. FORMS AND RECORDS

## Section 11.01 APPPOINTMENT FORMS

The Director shall prescribe forms on which appointing authorities shall certify the fact of lawful creation of a position and the fact of lawful appointment of a person to the position. The Director shall indicate on these forms the proper allocation of the position and the rate of pay at which payment is to be made. When submitted to the Director of Personnel, in the case of those departments for which the Director of Personnel prepares departmental payrolls, or when submitted to fiscal officers whose departmental payrolls are not prepared by the Director of Personnel, these forms shall constitute authorization for the initial placement of the name of a person on a payroll. No person shall subsequently be removed from a payroll except in accordance with the Rules.

## Section 11.02 PAYROLL AND ATTENDANCE RECORDS

- (A) Each Appointing Authority shall install a system of payroll and attendance records. Each payroll shall show the name of the employee, the official class title, the period for which payment is proposed, the rate of pay, and the amount of proposed payment. The system or systems shall be designed to facilitate the maintenance of adequate personnel records and to eliminate duplication of accounting and reporting to the fullest extent practicable. The Director shall advise and assist appointing authorities in establishing systems of payroll and attendance records.
- (B) The Appointing Authority shall certify on each payroll or subsidiary document the fact of continued authorized employment of a person in a position, the fact of the actual rendering of service in the position or the fact of absence from duty on duly authorized leave with pay, the actual number of hours of attendance on duty, or any other satisfactory way of describing the time worked in the payroll period.
- (C) No payment for personal services shall be made by any department or fiscal officer thereof to any employee in the classified civil service of the City until after certification by the Director that such payment is authorized and is in conformity with these Rules. The Director's approval of forms relating to personnel transactions shall constitute certification within the meaning of this rule. The forms prescribed by the Director shall also be used for the authorization for continuance of the name of a person on a departmental payroll. Any change in the status of an employee shall be reported promptly to the Director on the prescribed forms, and when approved by the Director such forms shall constitute proper authorization for the corresponding change in status of the employee.
- (D) If the Director finds that a person has been employed in a position in violation of these Rules, he shall notify the responsible fiscal officer or officers, who shall not issue any order for the payment of, and no officer shall pay, any compensation to the person, upon the penalty of personal liability for the sum or sums paid contrary to the order of the Director.

## Section 11.03 LEAVE RECORDS

The City shall, with the advice and assistance of the Director, install and maintain a leave record showing for each employee in the classified service: (1) annual leave earned, used, and unused; (2) sick leave earned, used, and unused; and (3) any special leave or other leave, with or without pay. Such records shall be documentary evidence to support and justify the certification of authorized leave of absence with pay. The Director, in collaboration with the City Administration, shall prescribe the forms and procedures by which each Appointing Authority shall transmit notice of the leave taken by or granted to classified employees.

## Section 11.04 EXAMINATION OF PERSONNEL RECORDS

The Director may, from time to time, examine departmental payrolls and related records to determine whether or not the persons on the payrolls have been appointed, transferred, reinstated, continued, or otherwise employed in violation of any provision of the Rules or are being paid at a rate other than the duly authorized rate. Appointing authorities, officials, and other officers of the City shall cooperate with the Director in such examination.

## Section 11.05 RECORDS OF THE DEPARTMENT OF CIVIL SERVICE

- (A) Except as specifically provided in this rule, the records of the Department of Civil Service shall be public records and shall be open to public inspection during office hours observed by the Department. For reasons of public policy, the following records shall be held confidential:

- (1) examinations, examination material, tests, and the results of tests, except as provided in Rule VI, sub-section 6.05(B), and sub-section (B) of this rule;
- (2) reports and investigations on the character, personality, and history of employees or applicants for positions in the City service;
- (3) medical reports;
- (4) performance evaluations;
- (5) other employee records deemed to be confidential based on an overriding concern for an employee's right to privacy under Federal or State Law.

(B) Upon the request of any member of the Kenner City Council, the Mayor, or any City administrative official having a direct legitimate interest in the appointment of an employee to a classified position, the Director of Civil Service will make available to them full information concerning the results of tests taken.

Rule XII. PERFORMANCE EVALUATIONS (This Rule is approved to be effective July 01, 2008)

## Section 12.01 ADMINISTRATION

- (A) A uniform performance evaluation system shall be established for all departments, which shall provide for evaluation of each employee's on-the-job performance. The Director shall prescribe the form on which performance evaluations are to be made, and each Appointing Authority shall use the prescribed form in accordance with these rules and the instructions furnished by the Civil Service Department.
- (B) Each employee serving in a Probationary period shall be evaluated at least once during the Probationary period, in conjunction with consideration of granting employee Permanent Status. An employee evaluated Below Expectations during Probation shall not be granted Permanent civil service status until and unless a reevaluation of Needs Improvement, Meets Expectations or higher is made (See Rule VIII for limit of Working Test Periods.)
- (C) Each employee serving in a permanent status civil service appointment shall be evaluated by the Appointing Authority at least once in each calendar year, in conjunction with consideration of the employee's annual pay raise eligibility. This shall be the employee's Annual Performance Evaluation. The Annual Performance Evaluation period shall be June 1<sup>st</sup> through May 31<sup>st</sup>. An employee evaluated as Below Expectations shall not be eligible for the annual pay increase. The overall evaluation (Below Expectations, Needs Improvement, Meets Expectations or Exceeds Expectations) shall be indicated on an Annual Pay Increase form along with the amount of the corresponding increase in pay. It shall be the duty of the Appointing Authority to reassign, demote, or dismiss any employee who receives two successive overall evaluations of Below Expectations on an annual performance evaluation. (Amended effective May 27, 2015.)
- (D) An employee who has been absent from work on any type of leave of absence, paid or unpaid, or Absence Without Leave for an aggregate of one hundred thirty (130) or more working days or equivalent number of working hours shall not be evaluated due to insufficient opportunity for observation and shall not be entitled to an Annual Pay Increase for the year; however, an Appointing Authority may grant an alternative discretionary pay increase provided for under Rule IV, subject to applicable provisions governing such increases pursuant to a department-wide policy established by the Appointing Authority, or City-wide policy established by the Mayor.
- (E) The basic performance evaluation of each employee shall be made and provided to the employee by the employee's immediate supervisor. The Appointing Authority shall review the employee's and supervisor's comments and assign an Overall Evaluation. The Appointing Authority or his designated agent shall calculate the numerical value of the evaluation and determine any pay increase due under Rule IV. The Appointing Authority, the immediate supervisor, and the employee shall sign the completed evaluation.  
In the event that the immediate supervisor or the Appointing Authority is on extended leave of absence and unable to meet these obligations, the responsibility for performance evaluation shall be performed as follows. In the absence of the immediate supervisor, the Appointing Authority may perform the basic performance evaluation and may gather input from other employees familiar with the employee's work performance for use in the evaluation or may assign the task to an intermediate supervisor deemed sufficiently familiar with the employee's work performance. In the absence of the Appointing Authority, the overall evaluation may be delegated to an intermediate supervisor or other supervisor delegated to act for the Appointing Authority in his absence.  
Employee performance evaluations may be performed by other individuals and subject to other conditions only with prior approval of the Civil Service Board, limited to situations in which the supervisor's or Appointing Authority's completion of the evaluation would constitute a prohibited transaction under state and/or local law, or other situations in which the Board believes that reassignment of performance evaluation responsibilities is in the best interest of the parties involved or in the best interest of the City service.
- (F) Discussion of an evaluation with the employee is mandatory if the evaluation is Below Expectations or Needs Improvement in any category, or if the employee is on Probation. Discussion of other evaluations of Permanent status employees is not required, but is recommended to reinforce desirable performance. In any case, the employee shall be provided the immediate supervisor's (or other authorized rater's) basic evaluation for review, comment and signature, and upon completion of the overall evaluation by the Appointing Authority (or other authorized rater), shall be provided the completed performance evaluation for review and signature. A copy of the evaluation shall be provided to the employee upon request.
- (G) Performance evaluations are management judgments by appropriate supervisory authority and are

not appealable to the Civil Service Board except as provided in sub-section (I), below.

(H) A copy of each employee performance evaluation shall be retained in the files maintained by the Appointing Authority. The original evaluation form shall be forwarded to the Civil Service Department for review along with the employee pay raise form on or before June 15<sup>th</sup> of each year. The Civil Service Department shall review the performance evaluation and pay raise form for compliance with the performance evaluation process as provided in these Rules and the Director's instructions. Deficiencies or errors shall be reported in writing to the appropriate Appointing Authority who shall take corrective action, provide written notification of the correction(s) to the supervisor and employee involved, and resubmit the corrected form(s) within ten (10) working days. Pay increases granted based on corrected evaluations shall be retroactive to the employee's pay raise eligibility date. (Amended effective May 27, 2015.)

(I) In any case in which a performance evaluation is not made as provided herein above, the employee shall have the right to appeal this failure to evaluate to the Civil Service Board. This appeal right shall continue until such time as the performance evaluation is made and applicable pay increase is granted if required, but in no case shall extend beyond thirty (30) days from the date of the employee's signature of or refusal to sign an original or corrected evaluation, or sixty (60) days from the employee's pay raise eligibility date, whichever occurs first. An employee appealing under this sub-section shall state the alleged procedural omission(s) by his supervisors with specificity. In its decisions resulting from appeals hearings taken under this sub-section, the Board may remand the matter to the Appointing Authority with instructions to perform the performance evaluation and grant a pay increase if required. Annual pay increases shall be retroactive to the employee's pay raise eligibility date or other date prescribed by the Board. (Amended effective May 27, 2015.)

Rule XIII. FURLoughs, Layoffs, and Layoff avoidance measures

## Section 13.01 ADMINISTRATION, DESIGNATION OF CLASSES AND ORGANIZATIONAL UNITS AFFECTED

- (A) In the event of a reduction in the work force of an organization unit or division thereof for fiscal or other valid reasons, not later than thirty (30) days prior to the proposed effective date, the Appointing Authority having jurisdiction over the organization unit(s) involved, or his authorized representative, shall notify the Director of the need for and reasons for the reduction and shall designate the class(es) to be reduced and the employees to be transferred, demoted or laid off in accordance with the provisions of this Rule.
- (B) The class(es) thus designated shall include all the employees in the organizational unit who are currently employed in the class(es) or who are on authorized leave from positions in the class(es); provided that where the organizational structure warrants limiting layoffs to a unit smaller than a department, the Appointing Authority, with the prior approval of the Director, may divide the department into functional units for the purpose of limiting the number of employees potentially affected by any reduction in personnel.
- (C) The Director shall review the Appointing Authority's reduction plan for compliance with the provisions of this Rule. No actions shall be affected except with the Director's prior approval.

## Section 13.02 SUCCESSION OF LAYOFFS

- (A) When employees in a designated class in an organization unit are to be laid off, the order of layoff shall be determined in the following order of succession:
  - (1) temporary and provisional appointees;
  - (2) working test employees;
  - (3) regular employees, in the manner specified in this Rule.
- (B) Should it become necessary to lay off regular employees in an organization unit, an order-of-layoff list for each class involved in the organization unit shall be established as follows:
  - (1) Employees whose most recent performance evaluation was Below Expectations shall be listed in the inverse order of seniority within the class or a higher class of the same kind of work;
  - (2) Remaining employees shall be listed in the inverse order of seniority within the class or a higher class of the same kind of work;
  - (3) When an Appointing Authority feels that a certain individual is essential to the efficient operation of the organization unit because of special skills or abilities, and he wishes to retain this individual in preference to a person of greater seniority, he must submit a written request to the Director for permission to do so. The request must set forth in detail the specific skills and abilities possessed by the individual and the reasons why such individual is essential to the effective operation of the department or organization unit. If the Director approves the request, the specified individual may be retained in spite of a lack of seniority.
- (C) Seniority of regular employees in the class involved in the organization unit affected by a contemplated layoff shall be computed by the total length of continuous employment under a permanent appointment plus the total length of prior interrupted service under a permanent appointment occasioned by a layoff, providing the break in service occasioned by such layoff is not greater than thirty-six (36) months.
- (D) In the event two (2) or more regular employees have like seniority, the employee entitled to preferential treatment as an honorably discharged member of the Armed Forces or entitled to preferential treatment as a dependent of a former member of the Armed Forces, shall be laid off last. When two (2) or more regular employees have like seniority and all or none are entitled to preferential treatment, the Appointing Authority shall have the discretion in determining which employee or employees shall be laid off first.
- (E) Should a regular employee be scheduled for layoff as a result of having the lowest ranking on the order-of-layoff list for the class in which a layoff is contemplated but have an equal overall evaluation on the most recent performance evaluation and greater seniority or a higher overall evaluation than an employee in a lower class of the same kind of work in the organization unit, he shall be demoted to the lower class and an employee in the lower class shall be demoted or laid off in accordance with this rule.
- (F) Once the Director receives formal notice of an impending layoff but before the layoff is affected, the Director may approve the transfer of employees to vacant positions which are not affected by the layoff in order to vacate positions to be abolished. The following provisions regarding the transfer

of employees potentially affected by the layoff shall apply:

- (1) Should a probational or regular employee be scheduled for layoff in one department while a provisional employee holds a position of the same class in another department, the Director shall arrange a transfer of the probational or regular employee to the position held by the provisional.
- (2) An employee on an order-of-layoff list who is not scheduled for layoff or demotion may be voluntarily transferred to an equal or lower position which is not affected by the layoff and which the Appointing Authority and the Director deem the employee is competent to fill.
- (3) An employee on an order-of-layoff list who is scheduled for layoff or demotion may be voluntarily transferred or demoted to another position in the same class which is not affected by the layoff or to a position in an equal or lower class which is not affected by layoff and which the Appointing Authority and the Director deem the employee is competent to fill, provided that:
  - a) the employee has the highest overall evaluation and seniority of all employees on the same order-of-layoff list or an order-of-layoff list for another class of the same kind of work who are also scheduled for layoff or demotion and who could also be considered for transfer into the position; and,
  - b) when there are multiple vacant positions available, the highest level position shall be offered first and shall be offered to the highest ranking employee eligible under this section.
- (4) Nothing in this section shall preclude the transfer of an employee under Rule VII sub-section 7.02(B), provided that the employee is eligible for voluntary transfer under this section.

#### Section 13.03 PROCEDURE

- (A) With reference to any proposed layoff, the names and job titles of any and all working test or regular employees scheduled for layoff shall be submitted to the Director for approval. However, no layoff shall be affected until the Director has approved the names submitted for layoff.
- (B) Employees shall be sent to the Department of Civil Service for an exit interview prior to layoff. During the exit interview, re-employment rights will be explained to the employees.
- (C) When laid off, employees, other than transient, must be paid their accumulated annual leave within two (2) working days after separation from the service.
- (D) The name of every regular employee who is laid off shall be placed on an appropriate re-employment list by the Department for a period not to exceed two (2) years from the date of layoff. All such names shall be ranked by seniority within class and shall remain on the re-employment list and be governed by the provisions of Rule VII, section 7.04.
- (E) Regular employees and working test employees shall be given written notice of their layoff at least ten (10) work days prior to the effective date of the layoff.

#### Section 13.04 FURLough TO AVOID LAYOFF

- (A) For purposes of this policy, furlough means a period of leave without pay required of employees by an Appointing Authority for fiscal or other valid reasons, in order to avoid a layoff.
- (B) When an Appointing Authority determines that it is necessary to furlough employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:
  - (1) Except as provided under sub-section (3), below, furlough must receive approval of the Director, no later than seven (7) calendar days prior to the effective date, based on a written request and justification from the Appointing Authority. This justification shall include reasons for the furlough, the names and classifications of those employees to be excluded and reasons for their exclusion, the total hours or days of furlough for each employee, the proposed dates and periods of time involved, and the organizational unit(s) affected. In all cases of disapproval by the Director, his decision shall be subject to the Civil Service Board's ratification, at its next regularly scheduled meeting. Furlough under this sub-section (1) shall be reported to the Civil Service Department on forms prescribed for this purpose prior to the effective date of the furlough. Employees furloughed under this sub-section (1) shall have the right to appeal to the Kenner Civil Service Board within thirty (30) calendar days of the effective date of the furlough.
  - (2) An employee shall not be furloughed for more than a total of three hundred twenty (320) work hours or the number of work hours equivalent to forty (40) work days, whichever is the lesser, in any twelve calendar month period, without prior approval of the Civil Service Board. The number of work hours equivalent to forty (40) work days shall be computed using the following formula: position's base hours per bi-weekly pay period /10\*40 (or, position's base hours per bi-weekly pay period\*4).
  - (3) Employees who as a condition of employment were appointed as cyclic workers, i.e., workers whose work schedules are governed by fluctuations in the business cycle of City programs or

operations, may be furloughed by the Appointing Authority without prior approval of the Director when such furloughs are consistent with the conditions of employment approved by the Civil Service Department at the time of appointment via forms prescribed for this purpose. Within one year of adoption of these Rules, an Appointing Authority may, subject to approval by the Civil Service Director, identify current employees within his department or an organizational unit thereof as cyclic workers for purposes of this sub-section where such designation shall apply to all current employees and all future appointments in a given job classification within the department or unit. Upon approval by the Civil Service Department, each employee shall be notified in writing by his Appointing Authority of his designation as a cyclic worker and of the associated specific conditions of employment. Employees so designated shall have the right of appeal to the Kenner Civil Service Board within thirty (30) calendar days of such designation or notice of same. Employees furloughed under this sub-section (3) shall not have the right of appeal from furlough. Furlough under this sub-section (3) shall be reported to the Civil Service Department on forms prescribed for this purpose not later than seven (7) calendar days prior to the effective date of the furlough.

- (4) In every case of furlough, the Appointing Authority shall furnish to the employee involved a written statement of the reasons therefore. In the case of furloughs under sub-section (1), the written notice shall also inform the employee of his right of appeal to the Civil Service Board within thirty (30) calendar days of the date of the action taken, of the address of the Department of Civil Service, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Civil Service. In addition, the Appointing Authority shall forward to the Director of Civil Service a copy of the notification sent to the employee. In any case of alleged inability to furnish the required written notice to a furloughed employee, the Civil Service Board may require evidence, and shall be the sole judge, of the sufficiency and timeliness of the effort.

Rule XIV. VETERANS' PREFERENCE

## Section 14.01 VETERAN PREFERENCE AND PERSONS ELIGIBLE FOR PREFERENCE

(A) As subsequently enumerated in this rule, preference shall be accorded to persons honorably discharged or discharged under honorable conditions from the Armed Forces of the United States, or to their dependents as subsequently defined in this rule, who served during the following wartime periods or who served in the peace time campaigns or expeditions for which campaign badges have been authorized:

- (1) April 6, 1917 through November 11, 1918, World War I;
- (2) September 16, 1940 through July 25, 1947, World War II;
- (3) June 27, 1950 through January 31, 1955, the Korean Conflict;
- (4) July 1, 1958 through May 7, 1975, the Vietnam Era; however the period of July 1, 1958 through August 4, 1964, is considered a wartime period only for those who served within the area known as the Vietnam Theater;
- (5) August 2, 1990 through the end of the Persian Gulf War as prescribed by the presidential proclamation or concurrent resolution of Congress; however this period applies only to those persons in the armed forces who received the Southwest Asia Service Medal; or,
- (6) Any period beginning on the date of any future declaration of war by the Congress and ending on a date prescribed by presidential proclamation or concurrent resolution of Congress.

(B) All persons eligible under this rule who possess at least the minimum requirements imposed for admission to an entrance test or examination, and who earn grades on the test or examination equaling at least the minimum passing score required for eligibility, shall have an additional three (3) points added to their earned gradings.

(C) A preference of five (5) points in original appointments shall be awarded persons eligible for preferential treatment under the provisions of sub-section (A) above of this rule who have one or more physical disabilities recognized by the Veterans Administration to be service-connected; provided, that the preference of five (5) points permitted herein shall not be in addition to the preference of three (3) points permitted under sub-section (B) above; and provided, further, that persons awarded the point-preference permitted herein shall possess at least the minimum requirements imposed for admission to the entrance test or examination and that they earn grades on the test or examination equaling at least the minimum passing score required for eligibility.

(D) A preference of five (5) points in original appointments may be awarded to the wife of a disabled veteran who is in such poor physical condition as to preclude his appointment to civil service jobs in his usual line of work; or to remarried widows of deceased veterans who served during any of the periods enumerated in sub-section (A) of this rule; or to remarried widowed mothers of veterans who died during any of the periods of service enumerated in Sub-section (A) above or who suffered total and permanent service-connected disability during any of the periods; or to divorced or separated mothers of veterans who died during any of the periods of service enumerated in sub-section (A) above or who suffered total and permanent service connected disability during any of the periods; provided, that only one five (5) point preference shall be allowed at any one time to any person eligible under this rule; and provided further, that if the five (5) point preference is not being utilized by the veteran either because his physical or mental capacity precludes appointment to a civil service job in his usual line of work, or because of his death, such preference shall be available to his wife, remarried widow, or eligible mother, as defined above, in the order specified.

(E) All persons eligible under this rule who possess at least the minimum requirements imposed for admission to a promotion test or examination, and who earn grades on the test or examination equaling at least the minimum passing score required for eligibility, shall have an additional one (1) point added to their earned gradings.

(F) All persons described in this rule who become eligible for certification shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentage attained in examination or test, after credit of five (5), three (3), or one (1) point, as the case may be, has been added to their earned gradings.

(G) Persons claiming any of the preferences provided herein shall submit to the Department proof of eligibility for preference, which, in the case of a veteran or persons claiming preference through a veteran, shall be either the discharge granted the veteran or a properly certified copy of the discharge, and, in the case of a disabled veteran, shall be both the discharge or a certified copy thereof plus a certificate from the Veterans Administration attesting to the existence of service-connected disability.

(H) Except when general and uniform physical standards, such as height, weight, and age, are required as basic qualifications for eligibility and the passing of a test for a particular class or classes of positions, physical requirements shall be waived for any person covered by this rule if it is shown by satisfactory evidence that his disability will not interfere with his performance of the duties of the position to which he seeks appointment.

Rule XV. POLITICAL ACTIVITIES

## Section 15.01 POLITICAL ACTIVITIES RESTRICTIONS

- (A) No member of the Kenner City Civil Service Board, or employee covered under the Kenner Classified Civil Service shall participate or engage in political activity; be a candidate for nomination or election to public office or be a member of any national, state, or local committee of a political party or faction, make or solicit contributions for a political party, faction or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.
- (B) Contributions. No person shall solicit contributions for political purposes from any classified employee or use or attempt to use his position in the city service to punish or coerce the political activity of a classified employee.
- (C) Political Activity Defined. As used in these rules, political activity means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election.
- (D) Spouses of Candidates. It shall be the duty of a classified employee whose spouse is a candidate for elective office to be knowledgeable of, and adhere to, the political activities restrictions set forth in this Rule, all of which shall continue to apply. Accordingly, the employee may not take active part in the management of the affairs of his or her spouse's political campaign, and the employee may not contribute funds or assets which are the employee's separate funds or assets to his spouse's political campaign. However, the restrictions imposed by this Rule notwithstanding, the Rule shall not prevent a classified employee whose spouse is a candidate for elective office from appearing with his or her candidate spouse in pictures and at political functions, or from otherwise allowing himself or herself to be publicly identified as married to the candidate. As such, any classified employee shall not portray and/or indicate his or her classified employment status in any public appearance and/or pictures.

## Section 15.02 REPORT OF VIOLATIONS

- (A) It shall be the duty of any employee or City official to report promptly any violation of the provisions of this rule to the Civil Service Director, whose duty it shall be to make a thorough investigation concerning the alleged violations and to report his findings to the Civil Service Board.
- (B) The Civil Service Board, on its own initiative, may at any time order the Civil Service Director to investigate violations of the provisions of this Rule by any person.

## Section 15.03 BOARD ACTION ON VIOLATIONS

- (A) Within forty-five (45) days after receiving a report of an alleged violation from the Director, the Civil Service Board shall conduct a review of the investigation. If the Board determines that the person or persons under inquiry did violate any of the provisions of this Rule, the Board is empowered to order such disciplinary action(s) as the Board deems appropriate and the Appointing Authority shall immediately take such action(s) necessary to comply therewith.