

## **CHAPTER 4**

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**ARTICLE A - Employment Policies**

**Section 4.1 Equal Employment Opportunity**

The Town of Brusly is an equal opportunity employer. Employment decisions are based on merit and business needs, and not on race, color, citizenship status, national origin, ancestry, gender, sexual orientation, age, weight, religion, creed, physical or mental disability, marital status, veteran status, political affiliation, or any other factor protected by law.

The TOWN OF BRUSLY is committed to employing only United States citizens and/or aliens who are authorized to work in the United States. The Town does not unlawfully discriminate on the basis of citizenship or national origin. Each new employee, as a condition of employment, must present a driver's license, Social Security card or passport to establish identity.

Employees shall maintain a positive working relationship with other employees and the general public. Employees must project a positive image and show interest in their work.

Employees shall have the ability to follow simple oral and written instructions and adhere to agency personnel policies and directives. Knowledge of the English language, spelling and basic mathematics are necessary. All employees must have knowledge of modern

practices. (Ordinance No. 1 of 2015)

#### **Section 4.2 Affirmative Action/Diversity**

The TOWN OF BRUSLY is committed to affirmative actions that will build on the strengths of our current workforce and continually enhance the diversity of our organization. Our actions include, but are not limited to, the following:

- The TOWN OF BRUSLY monitors state and federal agencies to keep informed of ongoing activities such as workshops, circulars and technical assistance opportunities regarding affirmative action/diversity;
- The TOWN OF BRUSLY monitors and works with local governments for programs that would benefit the TOWN OF BRUSLY on affirmative action/diversity methodologies. (Ordinance No. 1 of 2015)

#### **Section 4.3 Americans with Disabilities Act**

It is the policy of the TOWN OF BRUSLY to comply with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA). The TOWN OF BRUSLY will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability.

The TOWN OF BRUSLY is committed to treating all guests and employees with sensitivity and respect, regardless of physical or mental disability. We acknowledge the special needs of our guests and employees with disabilities. In regard to disabilities, an employee may request reasonable accommodations to perform the essential functions of the job. The TOWN OF BRUSLY will evaluate each request and determine whether it can be granted. If you have specific questions regarding the ADA, please contact the Mayor or Town Clerk. (Ordinance No. 1 of 2015)

#### **Section 4.4 Immigration Law Compliance**

All offers of employment are contingent on verification of the candidate's right to work in the United States. On the first day of work, every new employee will be asked to provide original documents verifying his or her right to work and, as required by federal law, to sign Federal Form I-9, Employment Eligibility Verification Form. (Ordinance No. 1 of 2015)

#### **Section 4.5 Appointment, suspension, and dismissal**

(a)(1) Vacancies to be filled in the municipal service shall be publicized in order that qualified persons shall be encouraged to apply and qualify for municipal employment.

(2) A vacancy in position listed in R.S. 33:404(3) shall be filled as provided by law.

(3) A vacancy in any other position shall be filled from among qualified applicants for the position.

(4) The appropriate department head, other than the Chief of Police, shall review the applicants, and if there are more than two qualified applicants, shall submit two names for consideration to the mayor. In such instances, the Mayor may request the personnel committee to review the applicants and make recommendations to the Mayor. (Ordinance No. 9 of 1994)

(b) Employees shall be appointed pursuant to R.S. 33:404(A)(3). Appointments to positions shall be made on the basis of merit and fitness. In filling vacancies, an effort should be made to promote qualified employees before seeking an outside replacement. (Ordinance No. 4 of 1986)

(c)(1) All appointments to positions in the service of the municipality shall be for a probationary period of three months. During the probationary period, a salary increase shall not be granted. Further, completion of the probation period shall not require any increase in salary. This Ordinance shall become effective on August 1st, 1997. [Ordinance No. 2 of 1998]

(2) The municipality shall provide and each new employee shall undergo an orientation period consisting of reviewing the municipality's personnel policies, safety rules and regulations, employee benefits, job duties, and pertinent rules, regulations, ordinances, and laws.

(3) Each prospective employee to fill a position which will require twenty or more hours of work per week shall take and pass a drug test prior to employment. (Ordinance No. 9 of 1994)

(d)(1) During the investigation, hearing, or trial of an employee on any criminal charge, or during the course of any civil action involving an employee, when suspension would be in the best interest of the municipality, the Mayor may suspend the employee without pay for the duration of the proceedings as a nondisciplinary measure. Back pay shall not ordinarily be recoverable; but where the suspension is terminated by full reinstatement of the employee, the Mayor may authorize full recovery of pay and benefits for the entire or for any lesser period of the suspension. (Ordinance No. 4 of 1986; Ordinance No. 5 of 2002)

(e)(1) An employee whose performance is unsatisfactory shall be notified how his work is deficient and what he must do if his work is to be satisfactory. If the employee's work continues to be below standard, the mayor shall demote or dismiss the employee pursuant to R.S. 44:404(A)(3).

(2) The performance of each employee, including the Police Department, shall be evaluated between April first and May first annually. Department heads, other than Chief of Police, shall be evaluated by the mayor. Every other employee shall be evaluated by his/her department head. Police Department employee shall be evaluated by the Police Chief. Ordinance No. 5 of 2002)

(3) The evaluation of all employees shall be on forms approved by the Mayor and the board. (Ordinance No. 13 of 1994)

(4) Each employee shall receive a copy of his evaluation.

(5) Evaluations shall be kept and maintained for three years in the employee's personnel file in the Town Hall. (Ordinance No. 4 of 1986; Ordinance No. 9 of 1994)

(f) The evaluation of an employee may be inspected by the mayor and members of the board of aldermen whenever the employee is the subject of a proposed personnel action such as a salary increase, promotion, transfer, reprimand, suspension, or termination. (Ordinance No. 9 of 1994)

(g) The board may refer any personnel action requiring board approval to the personnel committee for hearing and recommendation. (Ordinance No. 9 of 1994)

#### **Section 4.6 Employment Classifications**

(a) **Full Time Employee-** Employees hired on a permanent basis working 40 or more hours per week. They shall be recommended for hire by the Mayor, except police personnel who shall be recommended by the Chief of Police, subject to approval by the Town Council. After satisfactorily completing the probationary period, their continued employment shall be based on performance only. Includes Mayor and Chief of Police but does not include any other elected official. (Ordinance No. 14 of 2007; Ordinance No. 10 of 2010)

(b) **Permanent Part Time-** Employees that work less than 28 hours per week on a permanent basis. They shall be recommended for hire by the Mayor, except police personnel who shall be recommended by the Chief of Police, subject to approval by the Town Council. After satisfactorily completing the probationary period, their employment shall be based on need only. Permanent Part-time Employees may work more than 28 hours per week if one or more full-time employees are on vacation, sick, leave of absence, etc; only after authorization by the Mayor (or Police Chief for police personnel) and with concurrence of the Council at the next regular meeting of the Council. Under no circumstances shall a Permanent Part-time employee be allowed to exceed 1,500 hours per calendar year. They are subject to termination at any time and without cause. Does not include any elected official. ( Ordinance No. 14 of 2007; Ordinance No. 11 of 2012)

(c) **Seasonal-** Employees that work 40 hours or more per week not on a permanent basis. They shall be recommended for hire by the mayor, except police personnel who shall be recommended by the Chief of Police, subject to approval by the Town Council. After satisfactorily completing the probationary period, their employment shall be based on need only. They are subject to termination at any time and without cause. Does not include any elected official. ( Ordinance No. 14 of 2007)

(d) **Appointed-**The Town Clerk and Town Attorney shall be appointed by the Mayor at the first meeting after the beginning of each term subject to approval by the Council. (Ordinance No. 14 of 2007)

#### **Section 4.7 Hours of work**

(a)(1) Municipal employees, other than police personnel, will normally perform their work

during hours established by the mayor.

(2) Police personnel will normally perform their work during hours established by the Chief of Police.

(b)(1) If it shall prove necessary for employees, other than police personnel, to work beyond the hours established for the standard work day, the mayor or authorized department head may authorize or require overtime work. (Ordinance No. 4 of 1986)

(2) If it shall prove necessary for police personnel to work beyond the hours established for the standard work day, the chief of police may authorize or require overtime work.

(c) An "overtime hour" is an hour worked by an employee, other than police personnel, at the direction of the mayor or authorized department head and is an hour worked by a police personnel at the direction of the Chief of Police:

- (1) On the employee's official holiday.
- (2) In excess of the regular duty hours in a regularly scheduled workday.
- (3) In excess of the regular duty hours in a regularly scheduled workweek.
- (4) On a day which the employee's department is closed by direction of the Mayor because of a natural emergency.

(d)(1) Compensation for overtime and for work required on an observed holiday shall be as follows:

Compensatory leave earned at time and one-half rate or cash payment at time and one-half rate, at the employee's option. However, any such employee who accrues 36 hours of compensatory leave shall, for any additional overtime hours of work, be paid overtime compensation at time and one-half rate. The maximum amount of compensatory leave shall not exceed 36 hours. All accrued compensatory leave must be used by the end of each calendar year, unless approved by the Mayor (or Police Chief for Police personnel). (Ordinance No. 5 of 2002; Ordinance No. 14 of 2008)

(e)(1) Holidays observed by the Council shall not be counted as annual leave. No more than twelve eight (8) hour days shall be so designated by the Council within a calendar year. When an employee's normal day off is other than Saturday and Sunday, and the holiday falls on the employee's day off, if the holiday falls on the employee's first day off, it shall be observed on the work day immediately preceding. If the holiday falls on the employee's second day off, it shall be observed on the work day immediately following. Whenever an employee is required to remain on duty on a holiday, the employee shall be granted compensatory leave at the rate of time and one-half for the first eight hours actually worked; or the employee shall be paid on an hourly basis at the rate of time and one-half for the first eight hours actually worked. No other type of leave or compensation shall be allowed for the employee required to work on a holiday. For a shift to be considered as working a holiday, that shift must begin during the holiday. (Ordinance No. 2 of 1981; Ordinance No. 4 of 1986; Ordinance No. 9 of 1994; Ordinance No. 6 of 1998; Ordinance No. 5 of 2002; Ordinance No. 2 of 2010)

(2) No employee is eligible for compensation on any observed holiday when the employee is on leave without pay immediately preceding and following the holiday period.

(f) Notwithstanding any other provision of this Chapter, no overtime shall be considered, nor compensatory leave or overtime pay given, for work performed by any elected municipal official or full-time appointed department head. (Ordinance No. 13 of 1994; Ordinance No. 5 of 2002)

The following dates are considered to be paid holiday time for all full-time salaried employees:

New Year's Day  
Civil Rights Day  
Mardi Gras Day  
Good Friday  
Memorial Day  
Fourth of July  
Labor Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
Christmas Day  
Floating Day

(Ordinance No. 1 of 2015)

#### **Section 4.8 Annual leave**

(a) As used in this section:

(1) "Annual leave" is leave with pay granted to an employee for the purpose of rehabilitation, restoration, and maintenance of work efficiency, or transaction of personal affairs.

(2) "Employee" does not include any elected official.

(b) On each January 1, each full-time, permanent employee with at least six months service, but less than six full years of service with the municipality as a full-time employee, shall be credited with eighty hours of annual leave. If hired as a full-time permanent employee between July 1 and December 31, the employee shall be credited with forty hours of annual leave on the first anniversary of the hire date for the first year only. Each full-time, permanent employee with between six and nine full years of service with the municipality as a full-time permanent employee shall be credited with ninety-six hours of annual leave annually on January 1. Each full-time, permanent employee with between ten and fourteen years of service with the municipality as a full-time employee shall be credited with one hundred twenty hours of annual leave annually on January 1. Each full-time, permanent employee with between fifteen and nineteen years of service with the municipality as a full-time employee shall be credited with one hundred sixty hours of annual leave annually on January 1. Each full-time permanent employee with twenty or more years of service with the municipality as a full-time employee shall be credited with two hundred hours of annual leave annually on January 1. (Ordinance No. 6 of 1989; Ordinance No. 9 of 1994; Ordinance 5 of 2002; Ordinance No.2 of 2010)

(c) Employees may carry over or accumulate a maximum of forty hours annual leave from one calendar year to another. (Ordinance No. 3 of 1995; Ordinance No. 5 of 2002)

(d) Annual leave may be taken as earned by an employee with the approval of the employee's department head. However, annual leave is permissive and may be denied by the employee's

department head or the mayor when conditions are such that the ordinary work of the municipality could not be performed adequately if annual leave were granted. Annual leave may not be taken in less than four hour increments. (Ordinance No. 4 of 1986; Ordinance No. 6 of 1989)

(e)(1) The Mayor or authorized department head may require an employee, other than a police officer, to take annual leave whenever in his administrative judgment such action would be in the best interest of the municipality.

(2) The Chief of Police may require police personnel to take annual leave whenever in his administrative judgment such action would be in the best interest of the municipality. (Ordinance No. 13 of 1994)

#### **Section 4.9 Sick leave**

(a) As used in this section:

(1) "Employee" does not include any elected official.

(2) "Sick leave" is leave with pay granted an employee who is suffering with a disability which prevents him from performing his usual duties and responsibilities or who requires medical, dental, or optical consultation or treatment.

(b) Sick leave with pay is not a right which an employee may demand but a privilege granted by the municipality.

(c) Leave from work with pay may be charged as sick leave if the absence is due to sickness, bodily injury, quarantine, required physical or dental examinations or treatment, or exposure to a contagious disease when continued work might jeopardize the health of others. All such absences except those resulting from intemperance or immorality shall be charged against the sick leave credit of the employee.

(d) Sick leave credits accumulated by each employee as of April 1, 1994, shall be retained.

(e) Each employee shall earn sick leave at the rate of eight hours for each month worked; provided, however, no employee with less than twenty years service may accumulate more than two-hundred forty hours of sick leave overall. Employees with twenty years of service but less than twenty-five years of service may accumulate three hundred twenty hours. Employees with greater than twenty-five years of service may accumulate no more than four hundred hours. (Ordinance No. 6 of 1989; Ordinance No. 5 of 2002; Ordinance 10 of 2012)

(f) The Mayor shall determine when a doctor's certificate is required and under what conditions certificates are required. Department heads shall be responsible for the application of this provision so that there will be no abuse of sick leave privileges. (Ordinance No. 4 of 1986)

(g) Employees who resign or retire or who are dismissed from employment shall not be paid for any accrued sick leave. (Ordinance No. 7 of 1986)

(h) After an employee's first full-time employment anniversary date, sick leave may also be used for providing care for sick immediate family members. For this purpose, "immediate family" includes a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, step-mother-in-law, father-in-law, step-father-in-law, grand-parent, or grand-child.

(1) The Mayor or authorized department head may or may not place an employee, other than a police officer, on sick leave when the employee asserts the need to be absent from the work place because of the employee's illness or injury.(Ordinance No. 5 of 2002)

(2) The Chief of Police may or may not place police personnel on sick leave when the employee asserts the need to be absent from the work place because of the employee's illness or injury. (Ordinance No. 13 of 1994; Ordinance No. 5 of 2002)

### **Section 4.10 Civil leave**

(a) An employee shall be given time off without loss of pay, annual leave, or sick leave when

- (1) Performing jury duty.
- (2) Summoned to appear as a witness before a court, grand jury, or other public body or commission, provided that for purposes of this paragraph a plaintiff or defendant shall not be considered a witness.
- (3) Performing emergency civilian duty in relation to national defense.
- (4) The Mayor determines that he is prevented by an act of God from performing duty.
- (5) The Mayor determines that because of local conditions or celebrations it is impracticable for employees to work.
- (6) The employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States.
- (7) The employee is a member of the National Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergency nature which threatens or affects the peace or property of the people.

(b) Municipal employees may keep all fees received from jury duty in addition to regular compensation.

(c) Police officers may not receive or keep any witness fees for appearing in Mayor's court in connection with their official duties while on duty. (Ordinance No. 13 of 1994)

### **Section 4.10.1 Funeral leave**

An employee may be granted time off without loss of pay, annual leave, or sick leave when attending the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, step-mother-in-law, father-in-law, step-father-in-law, grand-parent, or grand-child; provided such time off shall not exceed two days on any one occasion. (Ordinance No. 13 of 1994; Ordinance 5, 2002)

### **Section 4.10.2 Military leave**

(a) An employee who is a member of a reserve component of the Armed Forces of the United States is entitled to military leave with pay when placed on "military active duty for training" by order of an authority of the Armed Forces of the United States and when given constructive credit for such training.

(b) The maximum military leave with pay for "military active duty for training" is fifteen working days per calendar year.

(c) An employee may apply for but shall be required to take annual leave or compensatory leave for military purposes. However, the employee shall be entitled to leave without pay for a period of up to 90 consecutive calendar days:

- (1) When ordered to "military active duty."
- (2) When placed on "military active duty for training."
- (3) When placed on "military training duty" and the maximum authorized military leave with pay has been exhausted or is not authorized.

(d)(1) "Military active duty" means full-time duty in the active military service, other than military active duty for training.

(2) "Military active duty for training" means full-time paid duty in the active military service for training purposes.

(3) "Military training duty" includes active and inactive duty for training such as annual two-week summer encampments and cruises, weekly and weekend drills or training meetings, attendance at service schools for refresher training or the upgrading of military skills, field exercises, and the like. (Ordinance No. 13 of 1994; Ordinance 11 of 2011)

### **Section 4.10.3 FMLA and Other Leaves of Absence**

The TOWN OF BRUSLY recognizes four types of leaves of absence: Family and Medical Leave Act (FMLA); Non-FMLA Medical Leave; Military Leave; and Personal Leave. The eligibility requirements and the procedures associated with different leaves of absence are set forth below.

#### **1. FAMILY & MEDICAL LEAVE OF ABSENCE (FMLA)**

Employees who have been employed for at least twelve (12) months and have worked 1,250 hours of service during the previous twelve (12)-month period preceding the start of the leave, shall be eligible for up to twelve (12) weeks of unpaid leave of

absence during any rolling twelve (12)-month period for one or more of the reasons listed in Section I(b):

A. Definitions:

- Spouse  
Legal spouse  
Excluded are unmarried domestic partners of either sex
- Child  
Biological, adopted, or foster child less than 18 years of age  
Biological, adopted or foster child over 18 years of age and incapable of self-care because of mental or physical disability  
An individual under 18 years of age for whom the employee acts as a parent by caring for and financially supporting the individual
- Parent  
Biological parent or an individual who filled the parental role for the employee when the employee was less than 18 years of age
- Serious Health Condition  
Serious health condition is an illness, injury, impairment, or physical or mental condition that requires:  
In-patient care in a hospital, hospice, or residential medical care facility;  
Any period of incapacity due to a serious health condition or the treatment therefor; or recovery therefrom, resulting in the inability to work, attend school or perform other regular daily activities; or  
Continuing treatment or supervision by a health care provider for a chronic or long term health condition that is incurable or so serious that it results in a period of incapacity of more than three (3) full consecutive calendar days and any later treatment by a health care provider or under his orders or supervision or any period of incapacity related to the same condition that also involves:
  - (a) Treatment two (2) or more times by a health care provider within the first day of incapacity unless extenuating circumstances exist; or
  - (b) Visit to a healthcare provider within seven (7) days of the first day of incapacity; or
  - (c) Treatment by a health care provider on at least one occasion which results in a regime of continuing treatment under the health care provider's supervision; or
  - (d) Any period of incapacity due to pregnancy, or for prenatal care; or
  - (e) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.
- Parental Leave  
Time off to spend with a newborn or newly adopted child.

B. Types of FMLA Leave:

- FMLA/Maternity;

- FMLA/Employee's Serious Health Condition;
- FMLA/Serious Health Condition of Spouse, Child or Parent;
- FMLA/Parental Leave, Adoption or Placement of a Foster Child.

C. Employee Notice Requirements:

- All requests for FMLA leave must be made to the Mayor of the TOWN OF BRUSLY;
- When the need for FMLA leave is foreseeable, the employee must provide at least thirty (30) days' notice. If the employee requires the FMLA leave to begin in less than thirty (30) days, the employee must provide notice as soon as practicable under the facts and circumstances. If the employee fails to give thirty (30) days' notice for FMLA leave that was reasonably foreseeable, with no reasonable excuse for the delay, the TOWN OF BRUSLY may delay the start of the leave until at least thirty (30) days after the employee provides proper notice; Each request for FMLA leave will be considered based upon its own merits;
- Employees may not work or accept other employment during an FMLA leave unless that work is consistent with the restrictions placed upon the employee by his physician.

D. TOWN OF BRUSLY Notice Requirements:

- The TOWN OF BRUSLY will provide an Eligibility Notice within five (5) business days (absent extenuating circumstances) of being advised by the employee that he/she needs to take FMLA leave or has been made otherwise aware of the employee's need for such leave (Form WH-381). In the event the employee is not eligible, The TOWN OF BRUSLY will provide at least one reason why the employee is not eligible for leave;
- Along with the Eligibility Notice, the TOWN OF BRUSLY will provide the employee with a notice containing his or her FMLA rights and responsibilities (e.g., submitting medical certification, requiring substitution of paid leave, maintenance of benefits, etc.);
- Once the TOWN OF BRUSLY has sufficient information to determine whether an employee's leave is FMLA qualifying, the TOWN OF BRUSLY will provide the employee with a notice stating that the leave, specifying the amount, has been designated as FMLA qualifying within five (5) business days or, in the alternative, that additional information is needed in order to determine if the leave is FMLA qualifying, and explaining what additional information is needed.

E. Concurrent Use of Sick, Annual Leave:

- If the employee taking FMLA leave has sick or annual leave available, he/she shall use sick leave for a personal illness and annual leave for all other situations until it is exhausted or the employee returns to work. If the

employee's sick or annual leave is exhausted and the employee is unable to return to work, the remainder of the FMLA leave will be unpaid. (Worker's Compensation -- covered injuries or illnesses run concurrently with FMLA leave provided that the illness or injury is also a "serious health condition" as defined herein.);

- If the employee has no accrued paid benefit time, the entire FMLA leave will be unpaid.

#### F. Benefits During Leave:

- An employee who is on FMLA leave other than for his or her own serious medical condition and who wishes to maintain group health plan coverage during the leave must continue to pay his or her portion of the premium for coverage, if any, on the same basis as if the employee had been continuously working during the leave. Payment of the employee's portion of the premium must be received by the TOWN OF BRUSLY by the date such payment would have been made through payroll deduction;
- If an employee fails to return to work upon completion of an approved FMLA leave of absence for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control, the employee must reimburse the TOWN OF BRUSLY for the entire cost of any premium payments made by the TOWN OF BRUSLY to maintain the employee's group coverage during the leave.

### 2. FMLA/MATERNITY

#### A. Eligibility:

Employees who are disabled due to pregnancy, childbirth or related medical conditions.

#### B. Duration:

Maternity leave is governed by the TOWN OF BRUSLY's FMLA policy. Employees returning from maternity leave will be reinstated to their former position or, if unavailable, to an equivalent position.

### 3. FMLA/EMPLOYEE'S SERIOUS HEALTH CONDITION

An employee who is eligible for FMLA/Employee's Serious Health Condition leave may be granted up to twelve (12) weeks of job protected leave during any rolling twelve (12)- month period.

### 4. FMLA/SERIOUS HEALTH CONDITION OF SPOUSE, CHILD OR PARENT

An employee who is eligible for FMLA/Serious Health Condition of Spouse, Child or Parent leave may be granted up to twelve (12) weeks of job protected leave during any rolling twelve (12)-month period.

5. FMLA/PARENTAL, ADOPTION OR PLACEMENT OF A FOSTER CHILD LEAVE

- A. An employee who is eligible for FMLA/Parental, Adoption or Placement of a Foster Child leave may be granted up to twelve (12) weeks of job protected leave during any rolling twelve (12)-month period.
- B. An employee's entitlement to parental FMLA leave expires twelve (12) months from the date of birth, adoption, or placement, any such FMLA leave must be concluded during this one-year period. Maternity leave may also be available pursuant to Louisiana state law.
- C. An employee may take FMLA for adoption or the placement of a foster child prior to the actual date of adoption or placement provided the employee meets the eligibility requirements. The employee's entitlement to FMLA for adoption or placement of a foster child will begin with the first day the employee requests to be off.

6. MEDICAL CERTIFICATION

- A. The employee will be required to provide medical certification to the TOWN OF BRUSLY before FMLA begins (when it is foreseeable) and when such leave is needed to care for the employee's own serious health condition, of any period of incapacity or treatment therefor, including maternity (Form WH-380E), or the serious health condition of a spouse, child or parent . When this is not possible, the employee must provide the certification within fifteen (15) calendar days after it is requested by TOWN OF BRUSLY.
- B. If medical certification is not provided within the amount of time requested by the TOWN OF BRUSLY, the employee may be denied FMLA leave and the employee absence will be treated as unauthorized.
- C. When an employee takes FMLA leave for his or her own serious health condition, including maternity, the TOWN OF BRUSLY will require that the certification be completed by the health care provider and include the date the condition began, the expected duration of the condition and a statement that the employee is unable to perform the essential functions of the job. If needed, the TOWN OF BRUSLY will provide a copy of the employee's job description to enable the health care provider to review the essential functions.
- D. When an employee takes FMLA leave to care for a family member, the TOWN OF BRUSLY will require the certification be completed by the health care provider and include a statement that the employee is needed to care for the family member. It should also include a statement describing the care the employee will provide and an estimate of the time period required for such care.

- E. When an employee submits a medical certification form that is incomplete or insufficient (vague, ambiguous or nonresponsive), the TOWN OF BRUSLY will advise the employee in writing as to what additional information is needed and give the employee seven (7) calendar days (or longer if the employee is unable to comply within that time frame despite the employee's diligent good faith efforts).
- F. The TOWN OF BRUSLY, at its own expense, may request the employee obtain a second opinion from a health care provider selected by the TOWN OF BRUSLY. If the second opinion differs from the first opinion, the TOWN OF BRUSLY, at its own expense, may request a third opinion. The third opinion will be provided by a health care provider mutually agreed upon by the TOWN OF BRUSLY and the employee. The third opinion will be final and binding.
- G. The TOWN OF BRUSLY may require the employee on leave to submit recertification, at the employee's expense, on a reasonable basis (usually not more often than every thirty (30) days).

7. RETURN FROM LEAVE

- A. Employees on leave of absence must report on their status and intent to return to work every thirty (30) days.
- B. The TOWN OF BRUSLY requires any employee returning from medical leave of absence to obtain and present a fitness for duty certification that the employee is able to resume work. Such certification must be provided prior to return to work.
- C. Employees who fail to report to work when released to do so by a health care provider, or who fail to accept an available position upon release from a health care provider, will be subject to termination.
- D. Employees returning from FMLA leave will be allowed to return to their same or equivalent position upon completion of the authorized leave.

8. RELEASE TO RETURN TO WORK WITH RESTRICTIONS

An employee on medical leave of absence who is released to return to work with restrictions will be allowed to return to his or her former position if it is still available, and if the employee can perform the essential functions of the job. In the event the former position is no longer available, or the physician's restrictions prevent the employee from performing the essential functions of the position, the employee may be assigned to another regular available position for which the employee can perform the essential functions of the job.

9. INTERMITTENT FMLA

- A. The employee may take up to twelve (12) weeks of FMLA leave, during any rolling twelve (12)-month period, on an intermittent or reduced work week basis.

Intermittent leave may be granted for the employee's own serious health condition or the serious health condition of an employee's child, spouse or parent.

- B. The same requirements for medical certification apply for intermittent or reduced work week leave. The certification from the health care provider must state the reasons why intermittent or reduced work week leave can best accommodate the medical need.
- C. The TOWN OF BRUSLY may temporarily transfer the employee to an alternate position with equivalent pay and benefits which better accommodates recurring periods of intermittent leave than the employee's regular position.
- D. The employee on intermittent leave must make a reasonable effort to work out a schedule which meets the employee's needs without unduly disrupting TOWN OF BRUSLY's operations.

#### 10. SERVICEMEMBER FAMILY LEAVE

Family and medical leave can also be taken to care for a Covered Servicemember ("Servicemember Family Leave"). A total of twenty-six (26) workweeks during a single twelve (12) month period of Servicemember Family Leave is available to an employee who is the spouse, son, daughter, parent, or next of kin of a Covered Servicemember. During a single twelve (12)-month period, an eligible employee is entitled to a combined maximum of twenty-six (26) workweeks of nonservice related family and medical leave and Servicemember Family Leave. A "Covered Servicemember" means a member of the armed forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired List for a serious injury or illness (i.e., an injury or illness incurred by the member in the line of active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating). Any accrued vacation, sick, personal days or family leave must be used first as part of your family and medical leave.

#### 11. QUALIFYING EXIGENCY LEAVE

Family and medical leave can also be taken as "Qualifying Exigency Leave." Under Qualifying Exigency Leave, employers are required to provide eligible employees up to twelve (12) weeks of leave due to a "qualifying exigency" arising out of the fact the employee's spouse, child, or parent has been called up to active duty. Qualifying exigencies include:

- A. short-notice deployment, defined as a call/order to active duty seven (7) days or less prior to the date of deployment (limited to seven (7) calendar days of leave beginning on the date the military member is notified of deployment);

- B. military events and activities related to a call to active duty;
- C. childcare and school activities (e.g., to arrange for alternative childcare; to provide childcare on urgent or immediate need basis; to enroll a child in a new school or day care; to attend meetings with a child's school or day care employees);
- D. to make or update financial and legal arrangements;
- E. counseling;
- F. rest and recuperation (limited to five (5) days per leave, up to twelve (12) weeks in a twelve (12)month period, to spend with a military member on short-term leave);
- G. post-deployment activities, defined as up to ninety (90) days following termination of active duty status; and
- H. additional activities which must be agreed to by both the employer and employee. The manner in which the twelve (12)-month period is calculated can be designated by the employer just as with other FMLA-qualifying leave.

## 12. STATE LAW

The TOWN OF BRUSLY will also provide leave for pregnancy, childbirth and related medical conditions pursuant to Louisiana law.

## 13. NON-FMLA MEDICAL LEAVE

- A. In addition to FMLA leave, employees may request medical leave of absence due to employee illness or injury where (1) the employee is not eligible for FMLA leave, or (2) the employee's illness or injury does not constitute a serious medical condition.
- B. Leave under this section shall be referred to as non-FMLA medical leave.
- C. If an employee seeks non-FMLA leave, the TOWN OF BRUSLY requires medical certification before the leave begins on a form provided by the TOWN OF BRUSLY. When this is not possible, the employee must provide certification within five (5) calendar days after it is requested by the TOWN OF BRUSLY. Subsequent medical recertification may be required.
- D. Benefits During Leave:
  - An employee who wishes to maintain group health plan coverage during the leave must continue to pay his or her portion of the premium for coverage, if any, on the same basis as if the employee had been continuously working during the leave. Payment of the employee's portion of the premium must be

received by the TOWN OF BRUSLY by the date such payment would have been made through payroll deduction.

- If an employee fails to return to work upon completion of an approved leave of absence for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control, the employee must reimburse the TOWN OF BRUSLY for the entire cost of any premium payments made by the TOWN OF BRUSLY to maintain the employee's group coverage during the leave.

E. Concurrent Use of Vacation, Sick Leave:

An employee taking non-FMLA leave of absence will be required to use during the leave accrued vacation days or sick leave (if applicable). After accrued vacation days or sick leave (if applicable), have been exhausted, the remainder of the leave will be unpaid.

F. Release to Return to Work with Restrictions:

An employee on medical leave of absence who is released to return to work with restrictions will be allowed to return to his or her former position if it is still available, and if the employee can perform the essential functions of the job. In the event the former position is no longer available, or the physician's restrictions prevent the employee from performing the essential functions of the position, the employee may be assigned to another regular available position for which the employee can perform the essential functions of the job.

G. Extension of Leave/Termination of Employment:

- If the employee is absent from work for six (6) consecutive months for any reason, the employee will be considered voluntarily resigned and his/her employment will be terminated. In administering this policy, the TOWN OF BRUSLY will consider extending leave if such an extension would be deemed, in the TOWN OF BRUSLY's judgment, a reasonable accommodation under the Americans with Disabilities Act, or appropriate under controlling state law.

It is the employee's responsibility to promptly report any changed circumstances regarding leave. Any request, and the reasons supporting the request, for extension of leave must be submitted to the (insert title) at least fourteen (14) days before the expiration of leave. If a request is not submitted in accordance with this policy, the employee will be terminated at the expiration of the maximum leave period. (Ordinance No. 1 of 2015)

#### **Section 4.10.4 Leave of absence without pay**

(a) "Leave of absence without pay" means time off from work without pay granted by the mayor, or authorized department head, or imposed by the mayor, or authorized department head, for an unapproved absence.

(b) The Mayor, or authorized department head, may extend leave of absence without pay to any employee for a period not to exceed six months, provided that such leave shall not prolong the period of his appointment. (Ordinance No. 13 of 1994)

#### **Section 4.10.5 Worker's compensation payments**

When an employee is absent from work due to disabilities for which he is entitled to worker's compensation he

(1) 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 worker's compensation equal to his regular salary.

(2) may, 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 worker's compensation equal to his regular salary.

(3) may be granted leave without pay. (Ordinance No. 13 of 1994)

#### **Section 4.11 Outside employment**

The work of the municipality shall have precedence over the other occupational interests of employees. All outside employment for salary, wages, or commission and all self-employment must be reported to and approved by the Mayor and the council. Conflicting outside employment shall be grounds for dismissal. (Ordinance No. 5 2002)

#### **Section 4.12 Gifts and favors**

No official or employee shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the municipality; nor shall any official or employee accept any gift, favor, or thing of value that may tend to influence him in the discharge of his duties or grant in the discharge of his duties any improper favor, service, or thing of value.

#### **Section 4.13 Statutory subsistence allowance**

(Repealed by Ordinance No. 9 of 1994)

#### **Section 4.14 Base Compensation and Pay Practices**

The following information constitutes the Town of Brusly Pay Plan. Every employee of the TOWN OF BRUSLY will be placed into a position approved by the Town Council. These approved positions are described in the following sections. The TOWN OF BRUSLY Pay Plan will work according to the following guidelines:

The Mayor will annually recommend each employee's base salary for approval by the Town Council;

The Mayor can also recommend additional merit raises for an employee during the year for approval by the Town Council;

All full time and part time employees are responsible for recording time cards correctly and for completing the time sheet three days before payday and submitting it to the Supervisor for processing of paychecks in a timely manner. All attendance, sick leave and annual leave records are maintained by the Town Clerk;

The law requires that the TOWN OF BRUSLY make certain deductions from each employee's earned income. Among these are applicable federal, state, local, social security taxes and retirement on each employee's earnings. (Ordinance No. 1 of 2015)

#### **Section 4.15 Salary supplements**

(a) By a majority vote of the membership, the board may authorize the payment of funds to the Chief of Police and other eligible police officers to substitute for any reduction in or termination of state supplemental pay for a period of time of not more than the period of the reduction or termination and in an amount not more than the amount of the reduction or termination.

(b) The authorization herein and any payments hereunder shall not be deemed to be a part of the salary of any officer not to be a part of the compensation of the chief of police as that term is used in the constitution and laws of this state concerning elected officials.

(c) The Chief of police and any officer who receives funds pursuant to this section shall refund any amount received from the municipality which is also paid by the state supplemental pay program.

#### **Section 4.16 Group insurance for retirees**

(a) As used in this section:

(1) "Employee" does not include any elected official.  
Section 4.16 Group Insurance for Retirees

(b) Retiree Health Insurance Plan

- (1) Retiree must have been a full time employee and/or Town Clerk of the Town for at least the last twenty consecutive years and at least fifty-five years of age.
- (2) Retiree must have been on the Town's health insurance plan for at least the last ten consecutive years prior to retirement.
- (3) Coverage for Retirees must be unbroken beginning with retiree's retirement date.
- (4) If eligible, the Town will cover retiree only (no spouse, family, etc.). The Town

will pay the same monthly premium as a single full time employee, which is subject to change from year to year; from the retirement date until reaching Medicare age.

- (5) Retirement day shall be defined as the day after the last day of employment.
- (6) When the retiree reaches Medicare eligibility age, coverage by the Town Health Insurance program will cease. However, if the qualified retiree chooses Medicare Part B coverage, the Town will reimburse the retiree for that premium. In addition, if the qualified retiree chooses a supplemental health insurance plan, the Town will reimburse up to one hundred dollars per month for such plan. Notwithstanding the above, the reimbursement by the Town of the combined cost of Medicare Part B and the supplemental plan shall not exceed two hundred seventy-five dollars per month.
- (7) Retirees are not eligible to participate in the Town's life, dental, vision or any other employee plan.
- (8) Only employees retiring after December 31, 2016 are eligible for the Retiree Health Insurance Plan. (Ordinance No. 8 of 2016)

#### **Section 4.17 Group insurance for full-time employees**

Except as provided in section 4.11, on or after January 1, 1997, only full-time municipal employees may participate in the municipality's group insurance program. (Ordinance No. 12 of 1993; Ordinance 10 of 2010)

#### **Section 4.17.1 Benefits Summaries and Eligibility**

The TOWN OF BRUSLY sponsors a comprehensive benefits program for eligible employees, and each benefit plan has specific eligibility conditions. The benefits are summarized in separate booklets which are provided to all eligible employees. The details of each benefit are contained in separate legal documents which take precedence over anything contradictory in the summaries.

All full-time employees and full-time elected officials will enjoy all of the benefits described in this policy and the individual plan summaries as soon as eligibility requirements are met for each particular benefit.

Non-salaried, part-time employees are not eligible for the insurance plans.

#### **Section 4.17.2 Health Insurance**

On or after January 1, 1997, only full-time municipal employees may participate in the municipality's group insurance program.

#### **Section 4.17.3 Dental Care Insurance**

Only full-time municipal employees may participate in the municipality's dental insurance program. (Ordinance No. 1 of 2015)

#### **Section 4.17.4 Visual Care Insurance**

Only full-time municipal employees may participate in the municipality's vision insurance program. (Ordinance No. 1 of 2015)

#### **Section 4.17.5 COBRA Notification**

According to the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, in the event of termination of employment with the TOWN OF BRUSLY or loss of eligibility to remain covered under the TOWN OF BRUSLY's group health insurance program, employees and eligible dependents may have the right to continued coverage under the TOWN OF BRUSLY's group health insurance program for a limited period of time at their own expense. Consult the Benefits Administrator for details. (Ordinance No. 1 of 2015)

#### **Section 4.17.6 Unemployment Compensation**

Unemployment compensation is designed to provide a temporary income for those who are out of work through no fault of their own. Depending upon the circumstances, employees may be eligible for Unemployment Compensation upon termination of employment with the TOWN OF BRUSLY. The Division of Unemployment Insurance of each State's Department of Labor determines eligibility for Unemployment Compensation. The TOWN OF BRUSLY pays the entire cost of this insurance program. (Ordinance No. 1 of 2015)

### **ARTICLE B - Social Security**

#### **Section 4.21 Declaration of policy to come under coverage**

It is hereby declared to be the policy and purpose of the municipality to extend the provisions of Section 1 of Act 204, Regular Session of the Louisiana Legislature of 1952, as amended, providing social security to eligible officers and employees of the municipality. In pursuance of this policy, and for such purpose, the officers of the municipality shall take such action as may be required by applicable state or federal laws and regulations. The coverage of eligible officers and employees shall be effective as of October 1, 1971.

#### **Section 4.22 Execution of agreement with state agency**

The Mayor is authorized to execute an agreement with the Public Employees Board in Louisiana to secure coverage of eligible officers and employees as provided in section 4.21.

### **Section 4.23 Withholdings**

Withholdings from salaries or wages of officers and employees for the purposes provided in section 4.21 are hereby authorized to be made in the amounts and at the times as may be required by applicable state and federal laws and regulations and shall be paid over to the Public Employees Board, a state agency, in the amounts and at the times as are designated by state laws and regulations of the agency.

### **Section 4.24 Contributions**

Employer contributions and assessments for administrative expenses shall be paid from amounts appropriated for such purposes to the state agency in accordance with applicable state laws and regulations of the agency.

### **Section 4.25 Records and reports**

The clerk shall maintain records and submit reports as may be required by applicable state and federal laws or regulations.

## **ARTICLE C - Retirement System**

### **Section 4.41 Membership of eligible employees in the Municipal Employees' Retirement System of Louisiana**

The Town of Brusly, Louisiana desires to extend the provisions of Act No. 788 of 1978 to provide membership in Plan B of the municipal Employees' Retirement System of Louisiana for its eligible employees effective July 1, 1987. (Ordinance No. 13 of 1987)

### **Section 4.42 Withholdings**

Withholding from salaries or wages of eligible employees may be made in the amount and at such times as may be required by the Board of Trustees of the Municipal Employees' Retirement System of Louisiana in accordance with Act No. 788 of 1978, or any amendment thereof, and such withholdings shall be transferred to the Board of Trustees of the Municipal Employee's Retirement System of Louisiana in such amounts and at such times as are designated by state law and regulation. (Ordinance No. 13 of 1987)

### **Section 4.43 Authorized agent; qualifications; duties**

An "authorized agent" shall be appointed to act as the coordinator between the Town of Brusly, Louisiana and the Board of trustees of the Municipal Employees' Retirement System of Louisiana. The agent shall be an employee working on a permanent, regularly scheduled basis of at least thirty-five hours per week or an elected official. The authorized agent shall maintain necessary records and submit such reports as may be required by applicable state law or regulation of the board of trustees. (Ordinance No. 13 of 1987)

## **ARTICLE D - Drug and Alcohol Testing**

### **Section 4.51 Purpose**

The municipality desires to maintain a safe, healthful, productive, and efficient environment and workplace for its employees and volunteers and the public they serve. The municipality acknowledges that substance abuse increases the potential for accidents, absenteeism, substandard performance, poor employee morale, and damage to the municipality's reputation. Therefore, the municipality adopts a policy against substance abuse, and places in effect a testing program for applicants, employees, and volunteers, as outlined in this article. (Ordinance No. 7 of 1995)

### **Section 4.52 Definitions**

As used in this article, the following terms have the following meaning:

(1) "Applicant" means a person (i) seeking full-time employment with the municipality or (ii) seeking to perform volunteer service to the municipality which involves operating a municipal motor vehicle or equipment or carrying a weapon.

(2) "Appointing authority" means the municipal officer or the municipal body which has the authority to appoint or employ the employee or volunteer.

(3) "Controlled substance" means a controlled substance as defined in 21 U.S.C. 812 in Schedules I through V.

(4) "Controlled dangerous substance" means a drug or other substance or immediate precursor listed in R.S. 40:964 in Schedules I through V.

(5) "Drug" means and includes controlled substances, controlled dangerous substances, and alcohol.

(6) "Employee" means a person employed on a full-time basis by the municipality.

(7) "Physician" means a physician licensed to practice medicine in this state.

(8) "Volunteer" means a person who provides volunteer service to the municipality by operating a municipal motor vehicle or equipment or by carrying a firearm. (Ordinance No. 7 of 1995)

### **Section 4.53 Application**

This article applies to all employees, volunteers, and applicants. (Ordinance No. 7 of 1995)

## **Section 4.54 Policy**

(a)(1) The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by an employee or volunteer on municipal premises or in the immediate premises wherever municipal work is being conducted is prohibited. Violation of this policy by an employee may result in personnel action including termination. As a condition of employment, each employee will comply with the policy and notify the municipality of any criminal drug statute conviction for a violation occurring in the municipal workplace no later than five days after such conviction. The mayor shall prepare and publish a statement notifying employees of this policy.

(2) The Mayor shall establish a drug-free awareness program to inform employees and volunteers about:

- (i) The dangers of drug abuse in the workplace.
- (ii) The municipal policy of maintaining a drug-free workplace.
- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) The mayor shall provide each employee with a copy of the statement described in (a) (1).

(4) If the municipality is subject to the federal Drug-Free Workplace Act of 1988, the mayor shall notify the appropriate federal agency of any criminal drug statute conviction of an employee for a violation occurring in the municipal workplace no later than ten days after receiving notice as described in (a) (1) from the employee or otherwise receiving actual notice of the conviction.

(5) Within thirty days after receiving notice of a conviction described in (a) (1), the appropriate supervisor shall take one of the following actions of the employee so convicted:

- (i) Take appropriate personnel action against the employee, up to and including termination.
- (ii) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

(6) The mayor shall implement and maintain the policy set forth herein.

(b) Except for law enforcement purposes, no employee or volunteer shall possess, use, or ingest any controlled substance or controlled dangerous substance.

(c) No employee or volunteer, whether on-duty or off-duty, shall violate the Uniformed Controlled Dangerous Substances Law.

(d) No employee shall report for work, and no volunteer shall report to serve, in an intoxicated or impaired condition caused by off-duty use of a drug which detrimentally affects his ability to perform work or serve.

(e)(1) Except for law enforcement purposes, no prescription medicine shall be brought upon municipal premises by any person other than the person for whom the medicine is prescribed by a physician, and such medicine shall be used only in the manner, combination, and quantity prescribed.

(2) Any employee or volunteer required to take a prescription medicine shall notify his immediate supervisor of the type of medication prescribed and the purpose for the prescription and may be required to provide written verification from the prescribing physician.

(3) No employee or volunteer shall operate a municipal motor vehicle or equipment or carry a firearm while taking prescription medicine, unless the prescribing physician advises the employee's or volunteer's supervisor in writing that the medication will not impair his abilities.

(f) No employee or volunteer shall possess, distribute, dispense, sell, use, or ingest any alcoholic beverage during working hours or on municipal property except when authorized at municipal functions. (Ordinance No. 10 of 1995)

(g) All municipal property is subject to inspection at any time and without prior warning. "Municipal property" includes, but is not limited to, vehicles, desks, files, containers, and foot lockers. There shall be no expectation of privacy by any employee or volunteer concerning any municipal property. However, any inspection of any employee's or volunteer's locker shall be in the presence of the employee or volunteer.

(h) Any employee or volunteer who has reasonable suspicion to believe that another employee or volunteer is either (1) involved in the manufacture, possession, distribution, dispensing, sale, or use of a controlled substance or controlled dangerous substance or (2) abusing the legal use of prescription or nonprescription medicine shall notify his supervisor and the mayor.

(i) Any employee or volunteer required to take prescription medicine that may impair his ability to operate a motor vehicle or equipment, carry a firearm, or to make split-second decisions shall report this to his supervisor who shall alter the employee's or volunteer's assignment without retribution to the employee or volunteer.

(j) The policy and procedures set forth in and under this article shall conform with applicable law, particularly R.S. 23:1081 et seq. (Louisiana Worker's Compensation Law) and R.S. 23:1601 et seq. (Louisiana Employment Security Law).

(k) Drug testing/urinalysis

(l)(i) On and after January 1, 1995, each applicant shall submit to a drug-screening urinalysis as a part of his pre-employment or prequalification medical exam.

(ii) In addition, each applicant shall complete a medical questionnaire providing a complete list of all prescription and nonprescription medicines being taken at the time. The questionnaire shall be kept in the mayor's office and shall remain confidential.

(iii) Any applicant found to test positively for a particular controlled substance or controlled dangerous substance, unless caused by a medicine for which a valid prescription was given by a physician and which was made known to the municipality prior to testing, shall be rejected and may not re-apply for employment or volunteer service for a period of one year from the date of notification of the results.

(iv) Any applicant refusing to submit to drug testing during pre-employment or prequalification shall be rejected.

(2) Prior to or on January 1, 1995, each employee and volunteer shall complete a medical questionnaire providing a complete list of all prescription and nonprescription medicines being taken at the time. As medicines change, the employee or volunteer shall update his questionnaire. The questionnaire shall be kept in the mayor's office and shall remain confidential.

(3) On and after January 1, 1995, each employee and volunteer shall submit to tests for any drug as announced by the mayor for the following purposes:

- (i) Investigation of possible individual employee or volunteer impairment of each employee or volunteer returning from drug/alcoholic rehabilitation or medical care and at any time there is reasonable suspicion that an employee or volunteer is under the influence of a drug during work or service hours. "Reasonable suspicion" means an articulable belief based upon specific facts and reasonable inferences drawn from those facts that any employee or volunteer is under the influence of a drug. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to direct observation of drug use; a pattern of erratic or abnormal behavior and mood changes; information provided by a reliable and credible source; an accident; presence of physical symptoms of drug use, such as slurred speech, glassy eyes, and poor coordination or reflexes; decreased productivity; unusual absenteeism or tardiness; or frequent or prolonged absence from the work area. The supervisor shall submit to the mayor a written report stating the facts and circumstances upon which the recommended testing is based, and the mayor or his designated representative shall make the final decision as to whether the test will be conducted. (Ordinance No. 10 of 1995)
- (ii) Investigation of accidents or incidents involving an employee, volunteer, or municipal property or incidents of workplace theft.
- (iii) Maintenance of safety for employees, volunteers, or the general public.
- (iv) Maintenance of productivity, quality of products or services, or security of property or information.
- (v) Monitoring to assure compliance with the terms of a rehabilitation program.
- (vi) Random testing of employees who occupy safety-sensitive or security-sensitive positions.

(4) Tests may be conducted without prior notice.

(5) Any employee or volunteer who refuses to submit to a required drug test shall be relieved from duty or service and possibly dismissed. (Ordinance No. 7 of 1995)

#### **Section 4.55 Laboratory testing; requirements; procedures**

(a) All drug testing, except as otherwise specifically provided in this article, shall be conducted at medical facilities or laboratories selected by the municipality. To be eligible as a site, a medical facility or laboratory must submit in writing a description of the procedures that will be used to collect, maintain, and test samples and be experienced and capable of quality control, documentation, and chain of custody techniques.

(b) All sample collection and testing shall be performed as follows:

(1) The employee, volunteer, or applicant may be required to go to the facility where the laboratory is located to submit to testing.

(2) Each employee, volunteer, and applicant shall be positively identified by picture identification prior to obtaining a sample.

(3) A form shall be completed prior to the test that will serve to establish current medicines being taken, whether prescription or nonprescription, and any other information which the employee or volunteer considers relevant to the test.

(4) The area where a sample is collected shall be reasonably free from any foreign substance.

(5) Specimen collection shall be witnessed without violating the employee's, volunteer's, or applicant's right to privacy in a setting that will not demean, embarrass, or cause physical discomfort to the employee, volunteer, or applicant.

(6) The specimen taken shall be sealed, labeled, and checked against the identity of the employee, volunteer, or applicant. Such sample shall be properly collected, secured, stored, handled, and transported following appropriate rules of evidence and chain of custody and so as to reasonably preclude the probability of sample contamination or adulteration.

(7) Any employee testing will be done on the municipality's time and the employee required to test while off duty shall be compensated for the time.

(c) Processing urine samples

(1) The testing methods used shall be capable of identifying marijuana, cocaine, amphetamines, opiates, and PCP. Personnel utilized for testing shall be qualified and trained to conduct urinalyses. (Ordinance No. 10 of 1995)

(2) The test shall consist of a two-step procedure:

- (i) initial screening; and
- (ii) confirmation by gas chromatography/mass spectroscopy.

(3) An initial screening that proves to be positive shall be reported, not as a positive test, but as a confirmation pending.

(4) The time frame between a confirmation pending and a positive confirmation shall not exceed forty-eight hours.

(5) Notification of the confirmation positive shall be reported to the mayor. (Ordinance No. 10 of 1995)

(6) Any sample which proves to be positive upon confirmation shall be retained for a period of at least twelve months to allow the employee, volunteer, or applicant adequate time for further testing in case of dispute.

(7) An employee or volunteer who is found to be drug free shall be notified in writing and may, if he chooses, have a copy of the notification placed in his personnel file.

(d) Alcohol testing. If the municipality has reasonable suspicion to believe that any employee or volunteer is under the influence of alcohol during work or service hours, the employee or volunteer shall be taken to the West Baton Rouge Parish Sheriff's Department where he shall submit to a breath test using the procedures established by the state Department of Public Safety and Corrections. Test results shall be made known to the municipality's designated agent upon completion of the test. If the results are positive (i.e. 0.04% or more), the employee or volunteer shall not operate a municipal motor vehicle or equipment or carry a firearm. If the results are .10% or more, the employee or volunteer shall be subject to disciplinary action. Each employee and volunteer found to be alcohol free shall be notified in writing and may, if he so chooses, have a copy of the notification placed in his personnel file. (Ordinance No. 7 of 1995; Ordinance No. 10 of 1995)

#### **Section 4.56 Notice of testing policy**

The municipality shall provide a copy of this article to each employee, volunteer, and applicant. (Ordinance No. 7 of 1995)

#### **Section 4.57 Consent to testing**

Prior to a drug test being administered, the employee, volunteer, or applicant shall be requested to sign a consent form authorizing the test and permitting the release of the result to the municipality or its authorized agents, and containing an acknowledgment of notification of the testing policy. (Ordinance No. 7 of 1995)

#### **Section 4.58 Tampering with test procedure**

If an individual being tested tampers with the testing procedure or attempts to falsify a specimen or invalidate the chain-of-custody, he shall be immediately disallowed from continuing testing and treated as if a positive test result had been obtained. (Ordinance No. 7 of 1995)

#### **Section 4.59 Sanctions**

- (a) Violation of this article shall result in dismissal or other disciplinary action.
- (b) An unexplained positive test result shall be grounds for action by the appointing

authority. This action may require the employee or volunteer to submit to a mandatory substance abuse program, psychological counseling, or medical treatment, all at the employee's or volunteer's expense.

(c) Repealed. (Ordinance No. 10 of 1995)

(d) Job action may result from cases of illegal use of a nonprescribed controlled substance or controlled dangerous substance or abuse of prescription medicine. A job action may be transfer, demotion, or dismissal.

(e) Any employee with a positive alcohol test result for the first time shall be subject to suspension without pay for a period of five days. A second positive test shall result in dismissal. (Ordinance No. 7 of 1995)

#### **Section 4.60 Confidentiality of information; exceptions**

Except for claims for worker's compensation under R.S. 23:1091, claims for unemployment compensation under R.S. 23:1601(10), or other proceedings wherein the results are relevant, all information, interviews, reports, statements, memoranda, and test results received by the municipality in its drug testing program are to remain confidential to the municipality, authorized agents or representatives of the municipality, the tested employee, volunteer, or applicant, or those authorized by the employee, volunteer, or applicant to receive such information. (Ordinance No. 7 of 1995)

### **ARTICLE. E - Contracts and Other Business with Municipality**

#### **Section 4.71 Short title**

This article shall be known and may be cited as the "Conflict of Interest Ordinance." (Ordinance No. 11 of 1996)

#### **Section 4.72 Definitions**

For the purposes of this article, the following terms shall have the following meanings:

(1) "Agency" means a department, office, division, agency, commission, council, committee, or other organizational unit of the municipality. (Ordinance 5 of 2002)

(2) "Elected official" means the Mayor, Chief of Police, and the council members. It shall also include any person appointed to fill a vacancy in such offices. (Ordinance 5 of 2002)

(3) "Immediate family", as the term relates to a public servant, means his/her children, step-children, the spouses of his/her children, step-children, step-brothers, brothers, step-sisters, sisters, step-parents, parents, spouse, and the parents of his/her spouse.(Ordinance 5 of 2002)

(4) "Public employee" means anyone, whether compensated or not, who is:

(a) An official of the municipality who is not an elected official.

(b) Appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the municipality or an agency thereof, either as a member of an agency, or as an employee thereof.

(c) Under the supervision or authority of an elected official or another employee of the municipality.

(5) "Public servant" means a public employee or an elected official of the municipality. (Ordinance No. 11 of 1996)

#### **Section 4.73 Prohibited contractual arrangements**

No public servant, nor member of his immediate family, nor any corporation, partnership, or other legal entity in which the public servant or member of his immediate family owns any interest in, except publicly traded corporations, shall knowingly enter into any contract or subcontract with the municipality or any agency thereof, unless the contract or subcontract is awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 or is competitively negotiated through a request for proposal process. (Ordinance No. 11 of 1996)

#### **Section 4.74 Assistance to certain persons after termination of public service**

a.(1) No former agency head shall, for a period of two years following the termination of his public service as the head of such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency.

(2) No former elected official shall, for a period of two years following the termination as an elected official, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving the municipality.

b. No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the municipality, or for a period of two years following termination of his public employment, render, on a contractual basis to or for the agency with which he was formerly employed, any service which such former public employee had rendered to the agency during the term of his public employment.

c.(1) No legal entity in which a former public employee is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such public employee at any time participated during his public service and involving the agency by which he was formerly employed.

(2) No legal entity in which a former elected official is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such elected official at any time participated during his public service and involving the municipality.

d. No former public servant shall share in any compensation received by another person for assistance which such former public servant is prohibited from rendering by this section.

e. For the purposes of subsections b and c of this section, termination of public employment or service means the termination of employment with the agency which employed the public employee, or the termination of public service with the agency in which an elected official served, when he participated in the transaction.

(Ordinance No. 11 of 1996)

#### **Section 4.75 Exceptions**

a. The article shall not prohibit the following:

(1) Completion of any contract or subcontract otherwise prohibited by this article which was entered into prior to initial election to, or employment with, the municipality.

(2) Completion of any contract or subcontract otherwise prohibited by this article which was entered into prior to April 1, 1996.

(3) Contracts of sale pursuant to the expropriation of immovable property by the municipality.

b. Pension and benefit plans. A public servant may continue in a bona fide pension, insurance, or other benefit plan maintained by a former employer, provided that such former employer makes no contributions in his behalf with respect to the period of his public service. However, a former employer may make contributions to a pension plan that is qualified under the Internal Revenue Code or to any pension, insurance, or other benefit plan, if such contributions are made on behalf of all former employees who continue in the plan.

c. Profit sharing or stock bonus plans. The rights acquired by a public servant under a bona fide profit sharing or stock bonus plan qualified under the Internal Revenue Code and maintained by a former employer may be retained by such public servant, provided the former employer makes no contributions on his behalf based upon profits derived during the period of his public service.

d. This article shall not preclude:

(1) Participation in the affairs of charitable, religious, nonprofit educational, public service, or civic organizations, including bona fide organized public volunteer fire departments when no compensation is received, or the activities of political parties not proscribed by law.

(2) Awards for meritorious public contributions given by public service organizations.

(3) Sharing in any compensation received from the municipality by a person of which such public servant owns or controls less than ten percent, provided such public servant did not participate or assist in the procurement of such compensation, except as otherwise specifically prohibited by section 4.73.

(4) Sharing in any compensation received from the municipality by a person of which such public servant owns or controls any portion thereof, provided such compensation was received by such person as a result of having made the lowest sealed competitive bid on a contract or subcontract and having had such bid accepted by the governmental entity or the general contractor, and provided such public servant did not participate or assist in the procurement of the acceptance of such low bid, except as otherwise specifically prohibited by section 4.73.

(5) Campaign contributions for use in meeting campaign expenses by any public servant who is or becomes a candidate for election to the same or another public office.

(6) The use by a duly commissioned law enforcement officer of a publicly owned law enforcement vehicle in connection with the private employment of such law enforcement officer in providing traffic control or security services for a private employer when such use is approved by and in accordance with the policy of the municipality, which policy shall be published in the official journal of the municipality prior to becoming effective and shall provide for appropriate charges for the use of public vehicles for private employment.

(7) A building inspector employed by the municipality, a member of such building inspector's immediate family, or a legal entity in which such building inspector has a controlling interest from performing construction services that are under the supervision or jurisdiction of the building inspector's agency or the municipality, provided such services are not performed during the building inspector's assigned working hours, do not interfere with the performance of his assigned duties, and do not include construction services performed for the building inspector's agency or the municipality. Under no circumstances shall the building inspector inspect his own work, the work of his immediate family, or the work of a legal entity in which the building inspector has a controlling interest. "Building inspector" means any person employed by the municipality who tests, examines, or issues a permit for compliance with a building code as defined in R.S. 33:4771. (Ordinance No. 11 of 1996)

#### **Section 4.76 Enforcement**

Violation of this article shall be punished by a fine not exceeding five hundred dollars. (Ordinance No. 11 of 1996)