RESPONSE TO COMMENTS ON PROPOSED CLASSIFICATION, COMPENSATION, AND PERFORMANCE PAY RULES

On February 19, 2021, the Department of Human Resources (“Human Resources”) published a Notice of Proposed Classification, Compensation, and Performance Pay Rules (“Notice”). Human Resources requested that comments be submitted to Human Resources via email, mail, or hand-delivery by March 1, 2021. Human Resources, in consultation with the Department of Law, hereby responds to the major comments received.

One commenter observed that, in removing other gendered references throughout the proposed rules, one reference to “his/her” in proposed Administrative Rule 2.03.01 was overlooked. This reference is corrected in the final version of Rule 2.03.01.

One commenter suggested that proposed Administrative Rule 2.03.03 should refer to some role for the Civil Service Merit Board (“Board”) in the creation of new positions. The Board is not responsible for position authorization and control.1 Human Resources administers and maintains the Classification Plan.2 Consequently, no change was made in the final version of Rule 2.03.01.

Three commenters expressed confusion regarding the use of the word “periodic” in conjunction with the survey referenced in proposed Administrative Rule 2.03.05. In 2018, the Executive Secretary of the Board recommended that this survey should occur every three years rather than annually, as was then-required. The Mayor accepted this recommendation and submitted it the Council, which approved it.3 Consequently, as set forth in the City Code, the survey is presently required at least “every three (3) years.”4 For the sake of simplicity, when the survey is referenced elsewhere in the Code, it is referenced as a “periodic” survey.5 The proposed Administrative Rule 2.03.05 likewise referenced the survey as “periodic.” However, for the sake of clarity, the final rule does not use the word “periodic.” Instead, the final version of Rule 2.03.05 was changed to state that the survey is required “at least every three (3) years or as required by the City Code.”

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1 Knoxville, Tenn., Charter § 1008. While the Board does not create new positions, the Board determines, consistent with the City Charter and the Board’s Rules and Regulations, whether a newly-created position should, upon request, be designated as unclassified. Knoxville, Tenn., Charter §§ 1002, 1003(F)(5), 1003(G); R. & Regs. Civ. Serv. Merit Bd., Knoxville, Tenn., §§ 201, 3202.
2 Knoxville, Tenn., Charter § 1009; Knoxville, Tenn., Code §§ 2-391, 2-392(6), 2-447(a), 2-458(a), 2-459(a).
4 Knoxville, Tenn., Code § 2-447(b).
5 See, e.g., Knoxville, Tenn., Code §§ 2-455, 2-458(f)(1), 2-459(d)(1) (referring to the survey as “periodic”).
One commenter asked how different deadlines to request classification studies pursuant to proposed Administrative Rule 2.04.02(A) would be communicated to employees. Human Resources anticipates continuing to make use of the existing methods already customarily in use for city-wide communications. No change was made in the final version of Rule 2.04.02(A).

Two commenters suggested that the content of proposed Administrative Rules 2.04.02(C), 2.05.08, 2.05.09, 2.06.08, and 2.06.09 should remain in the Rules and Regulations of the Board.

- Rule 2.04.02(C) confirms the existing policy that no probationary period is required following reclassification. The City Charter requires classified employees to work probationary periods upon “receiving initial appointment” and following “promot[ion],” and the Board makes rules regarding “working” these probationary periods.\(^6\) The Charter does not require classified employees to work probationary periods as a result of reclassification. Consequently, Rule 2.04.02(C) is consistent with the law. No change was made in the final version of Rule 2.04.02(C).

- Rules 2.05.08 and 2.05.09 (regarding general government employees) and 2.06.08 and 2.06.09 (regarding uniformed employees) confirm existing policies regarding rates of pay following demotion for economic reasons consistent with the layoff procedure, rates of pay following reinstatement from retreat, and rates of pay following reinstatement from layoff. While the Board makes rules regarding layoffs and reductions in force,\(^7\) the Board does not determine salaries and wages.\(^8\) Instead, Human Resources is responsible for administering and maintaining the Compensation Plan,\(^9\) and the Mayor makes and promulgates compensation rules.\(^10\) Consequently, Rules 2.05.08 and 2.06.08 are consistent with the law. No change was made in the final version of Rules 2.05.08 of 2.06.08.

One commenter questioned whether proposed Administrative Rule 2.05.02 removes the Council from the process of amending the Compensation Plan. Rule 2.05.02 does not remove the Council from or alter its role in this process. Amendments to the Compensation Plan are considered as part of the budget process, and the Council retains its existing role in adopting and amending the City’s budget.\(^11\) No change was made in the final version of Rule 2.05.02.

One commenter suggested, in reference to proposed Administrative Rules 2.05.06 and 2.05.07, that “step raises” should be instituted. Human Resources will take this

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\(^{6}\) Knoxville, Tenn., Charter §§ 1003(G)(2), 1006.
\(^{7}\) Knoxville, Tenn., Charter § 1003(G)(3).
\(^{8}\) Knoxville, Tenn., Charter § 1008.
\(^{9}\) Knoxville, Tenn., Charter § 1009; Knoxville, Tenn., Code §§ 2-391, 2-392(6), 2-447(b), 2-458(a), 2-459(a).
\(^{10}\) Knoxville, Tenn., Code § 2-448(a).
\(^{11}\) See generally Knoxville, Tenn., Charter § 901 (describing the Council’s role in the budget process); Knoxville, Tenn., Code §§ 2-447(b), 2-456, 2-455, 2-456, 2-458(f), 2-459(d) (describing salary recommendations as part of the budget process).
suggestion into consideration in evaluating future changes to the Classification Plan. No change was made in the final versions of Rules 2.05.06 and 2.05.07.

Finally, beyond the scope of the text of proposed Administrative Rule 2, two commenters expressed concern regarding the Notice’s statement that “[a]nonymous comments will not be accepted.” The previous procedure for classification and compensation rulemaking required commenters to appear and give “public comment” at a “public hearing” before the Board, something which, by its nature, does not allow for anonymous comments. The current policy is therefore consistent with the previous procedure.

**Further Information**

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