



Work Period & Overtime Administrative Policy

June 2020

I. PURPOSE

The purpose of this Administrative Policy is to establish procedures and guidelines for the administration of work periods, overtime with regard to eligibility, rates of pay, hours to be paid, overtime pay, record keeping, and other requirements necessary to fully comply with the provisions of state law and the federal Fair Labor Standards Act (FLSA).

II. GENERAL PRINCIPLE

This policy applies to all city employees, both full time and part-time, without regard to the funding source. To ensure compliance with the FLSA, the Director of Human Resource Management serves as the city's FLSA Compliance Officer and has the authority to audit leave, pay and time records, and all record-keeping required by the Act. Also, the Director of Human Resource Management shall report any violations of this policy to the Department Head and City Manager which may include recommending appropriate disciplinary action and remedies for future compliance.

Department Heads are ultimately responsible for the control of hours worked and compensation for overtime work. Careful planning and supervision will minimize the need for overtime work. When conditions requiring overtime work occur, the Department Head or authorized designee has the right to require employees to work beyond their regularly scheduled hours, and the responsibility to determine the mode of payment (compensatory time or monetary payment), subject to the provisions of this policy, prior to the time overtime work is performed. If compensatory time has been authorized, it is the responsibility of the Department Head to ensure that the employees' subsequent work schedules are arranged to accommodate employees' requests to use compensatory time while reducing the compensatory time accumulation in a methodical and timely manner. If monetary payment is anticipated, the Department Head shall ensure that budgeted funds are available or, where necessary, a budget transfer to cover overtime costs has been approved in advance of the overtime assignment. Any requests for budget transfers for overtime shall require a written request to the City Manager or designee and shall include full justification for the request.

III. DEFINITIONS

A. Compensatory time

Time which is earned by non-exempt employees at one and one half for each hour of work for which overtime compensation would otherwise be required by the Fair Labor Standards Act (FLSA), including any paid leave and compensatory time charged in the same week.

B. Exempt employees

Employees excluded from the overtime provisions of the Fair Labor Standards Act (FLSA).

C. Non-exempt employees

Employees who are eligible for overtime compensation according to the provisions of the FLSA.

D. Overtime hours

Hours worked over the established work period equal to the overtime standard set by the FLSA for non-exempt employees, including any paid leave and compensatory time charged in the same week.

E. Overtime compensation

Payment received at a rate of one and one half of an employee's regular rate of pay for all hours worked in excess of the established work period, including any paid leave and compensatory time charged in the same week.

F. Hours Worked

Includes all approved work time that the employee is required to be on duty or required to be on the city's premises or at a prescribed workplace for the city, and all-time during which the employee is suffered or permitted to work for the city. For sworn public safety employees, hours worked is considered any time they are in a paid status.

G. Work Period

A regular work cycle that may range from seven (7) to twenty-eight (28) consecutive days determined by operations and in compliance with FLSA provisions

H. Workweek

A regularly recurring period of seven consecutive days from Saturday through Friday.

IV. CLASSIFICATIONS

All city public safety sworn employees are classified as either exempt or non-exempt.

Exempt employees are those who, on the basis of actual work performed in the executive, administrative, or professional areas, are exempt from the provisions of the Fair Labor Standards Act.

Non-exempt employees are those who, on the basis of work performed, are covered by the provisions of the Fair Labor Standards Act. A list of the exempt statuses of city positions are currently included in the city's Classification and Pay Plan, which is available on the Human Resource Management's website.

Neither the position title nor such terms as hourly, salaried, weekly, or bi-weekly identify the status of an employee concerning overtime eligibility. The Director of Human Resource Management will review and decide on all questions of classification and rulings concerning exempt or non-exempt status, which will be final.

V. EXEMPT EMPLOYEES

Exempt employees, by virtue of their executive, administrative, or professional duties, will encounter routine overtime requirements as part of their normal responsibilities. Neither monetary payment nor compensatory time will be provided in such cases. Leave records for such employees are for whole workdays, i.e., if an exempt employee is absent for an entire shift, normally an 8-hour day, and a request for time off must be submitted in advance and as soon as possible. Exempt employees working a partial day are not to have such absences recorded as leave time, except for partial day docking for intermittent leave under the Family Medical Leave Act (refer to the city's administrative policy on Family and Medical Leave). Exempt employees are expected to work all the hours necessary to complete the assigned or expected tasks of their position. Department heads and supervisors are responsible for work assignments and schedules and must approve whole and partial work days off for exempt employees.

VI. WORK PERIODS FOR SWORN NON-EXEMPT PUBLIC SAFETY EMPLOYEES

FLSA provides for the declaration of longer work periods for law enforcement and fire protection personnel. For FLSA purposes, the city has adopted work periods for fire protection and law enforcement personnel pursuant to Section 207 (k) of FLSA and Title 29 Code of Federal Regulations (29 C.F.R.) Part 553. The partial overtime exemption of Section 207 (k) allows the city to set work periods from 7 to 28 days in length and to pay overtime for hours worked in the work period by fire protection personnel in a ratio of 212 hours per 28-day period and by law enforcement personnel in a ratio of 171 hours per 28 days.

The city has chosen the following work periods:

A. Fire Department

1. All sworn non-exempt fire suppression employees will have a work period of 27 days. These employees will be scheduled for two 12-hour shifts for a total of 216 hours per 27-day work period, which shall include paid meal and sleep periods. Employees will receive overtime pay in accordance with the policy for all hours worked in each 27-day work period in excess of 216 hours.
2. All sworn non-exempt administrative employees will have a work period of 14 days. These employees will be scheduled for 9-hour shifts to include an unpaid meal break of one-hour duration permitted during each shift for a total of 80 hours in each 14-day work period. These employees will receive overtime pay in accordance with the policy for all hours worked in each 14-day work period in excess of 80 hours.

B. Police Department

1. Uniform Patrol Division - All sworn non-exempt police employees assigned to the uniform patrol division work 12-hour shifts including a one-half hour paid meal period each shift for a total of 84 hours per 14-day work period. Employees will receive overtime pay in accordance with law and city policy for all hours worked in each 14-day work period in excess of 84 hours.
2. K-9 and Mounted Patrol Unit - All sworn non-exempt police employees assigned to the K-9 and mounted patrol unit work 8.5 hour-shifts, including a one-half hour paid meal period each shift for a total of 85 hours per 14-day work period. Employees will receive overtime pay in accordance with law and city policy for all hours worked in each 14-day work period in excess of 85 hours.
3. All Other Police Units - Other sworn non-exempt police employees are scheduled to work either 9-hour or 11-hour shifts, depending on the specific assignment. This includes a one-hour unpaid meal break permitted each shift, for a total of 80 hours per 14-day work period. These employees will receive overtime pay in accordance with law and city policy for all hours worked in each 14-day work period in excess of 80 hours.

Each employee will be informed by their department of his or her work period. Any exceptions to these work periods must be recommended by the Department Head and approved in advance of scheduled implementation by the Director of Human Resource Management.

VII. WORK PERIODS FOR NON-EXEMPT GENERAL EMPLOYEES

Work schedules are established by the Department Head or his/her designee on a fixed, recurring basis for workdays, work hours, and the starting and stopping times for each workday or work shift. The city's standard work schedule is eight hours per day, five days per week. However, the Department Head or designee may establish other work schedules and has the authority to change work schedules within the provisions of this policy.

In appropriate circumstances and when required or permitted by operations, the Department Head or designee may regularly allow or require employees to have some limited, individual flexibility in their schedules such as flexing the starting and stopping times, the number of hours worked in a day and, to a

more limited degree, the working days of the week, provided overtime-eligible employees receive overtime when they work over 40 hours in a workweek. When such latitude is regularly permitted or required, even though the employee must receive prior approval of their work schedule and even though the department may limit the scope of such flexibility, the employee is considered to be working a "flexible work schedule". Additionally, there are operations in which it is understood that employees may not necessarily work a set daily or weekly schedule but are required to regularly respond to operating needs requiring flexibility. For purposes of this policy, these employees are also considered to work a flexible work schedule.

The work period for such non-exempt employees, for purposes of overtime eligibility, shall be seven days. Each employee will be informed in writing by the Department Head of his or her work schedule and shall sign their agreement to such conditions. This agreement shall be on the official city form as prescribed by Human Resource Management. Overtime will be compensated at the rate of one and a half times the regular rate of pay for all hours worked over 40 hours in a work period.

VIII. OVERTIME PAYMENT CALCULATION FOR SWORN PUBLIC SAFETY EMPLOYEES

Overtime hours worked beyond regularly scheduled work hours, as defined by city policy, will be paid at a rate of one and one-half times the employee's regular rate of pay. The regular rate of pay is defined by the applicable FLSA statutes and regulations. The overtime rate includes the prorated amounts for the following allowances, in accordance with the adopted Classification and Pay Plan:

1. Educational allowances
2. Special Weapons and Tactics Team allowances
3. Hazardous Materials Team allowances
4. Cardiac Technician/Intermediate and Paramedic Certifications
5. Self-Contained Breathing Apparatus allowances
6. Field Training Officers allowances
7. Fire Staff allowances
8. Master Police and Master Fire Fighter allowances
9. Retirement Offset Payments (if eligible)

Clothing allowances are not applicable for overtime calculation.

IX. OVERTIME PAYMENT CALCULATION FOR NON-SWORN GENERAL EMPLOYEES

Overtime will be paid at the rate of one and one-half times the regular rate of pay for all hours worked beyond 40 hours in a work period. The regular rate of pay is defined as the rate per hour paid for normal non-overtime work. Certain allowances are included in the base rate of pay, and they must be prorated and added to the hourly rate of pay in order to calculate the proper overtime pay rate. Examples of such allowances include educational allowances, radio communications allowances, equipment maintenance allowances, etc. Examples of payments not included are Employee of the Month, Tuition Assistance payments, travel reimbursements, etc. The Department of Information Technology will automatically include the appropriate allowances when calculating the proper rate of overtime pay. No employee will receive a monetary payment for overtime until that employee has accumulated 240 hours of compensatory time based on 160 hours of overtime worked. Compensatory time will be accumulated as explained in this policy.

X. HOURS WORKED FOR SWORN PUBLIC SAFETY EMPLOYEES

Hours worked shall include all time during which an employee is performing work functions. It is expected that employees will primarily perform their required work functions on the city's premises or at a prescribed workplace, except for unpaid meal breaks or other periods when free from duty, and when an employee is in a paid status during his regularly scheduled work hours, including sick leave, annual leave, funeral leave, jury duty, compensatory time leave, and city holidays, all of which will be counted as hours of work.

The following activities are also considered to be included in hours worked:

- Time spent in training classes required by the city.
- Preparatory activities that are an integral part of the employee's principal work activity and specifically required by the Department Head.
- Special activities for other city departments and city-related agencies.
- Time spent in court.
- Travel time, under certain circumstances. If employees travel out of town for work-related reasons, it may result in hours worked or overtime pay, and employees must have the approval of the Department Head.

XI. HOURS WORKED FOR NON-SWORN GENERAL EMPLOYEES

All times during which an employee is required to be on the city's premises or at a prescribed workplace, except for meals or other periods when free from duty, shall be considered as hours worked.

Computation of hours worked to determine overtime eligibility shall be based on hours worked rather than on hours paid. Sick leave, annual leave, funeral leave, jury duty, holidays, count as hours paid, but not hours worked. For example, an employee who was on paid sick or annual leave in the work period and who is required to work beyond his or her normally scheduled hours in the same work period is not eligible for payment or compensatory time at the overtime rate until the total hours worked exceeds 40. The following activities are also considered to be included in hours worked:

- Time spent in training classes required by the city.
- Preparatory activities that are an integral part of the employee's principal work activity and specifically required by the Department Head.
- Travel time, under certain circumstances. For non-exempt employees, certain travel out of town may result in overtime pay. Before committing to any such travel for non-exempt employees, Department Heads must consult with the Director of Human Resource Management.

XII. TRAINING

Training is not considered compensable working time if all of the following criteria are met:

- Attendance is outside the employee's regular work hours;
- Attendance is voluntary;
- The employee does no productive work while attending the training; and
- The training is not directly related to the employee's job.

Training attended by an employee at the direction of the city or upon the employee being led to believe that non-attendance would adversely affect the employee's employment is counted as hours worked. All personal free time while attending such training is not counted as hours worked.

XIII. COMPENSATORY TIME

Subject to certain limitations discussed in this section, compensatory time will be given instead of overtime compensation to non-exempt employees. All such compensatory time must be at the appropriate rate of pay (one and one-half or straight time) times the number of overtime hours worked, in accordance with FLSA requirements. Under FLSA, employees may accumulate a maximum of 240 hours of compensatory time, (160 hours worked overtime equals 240 hours of compensatory time).

When 240 hours have been accumulated by a non-exempt employee, all additional overtime must be compensated by monetary payment until the employee reduces the hours accumulated below 240 by taking time off. Additional overtime may be authorized only when sufficient funds are budgeted.

Upon the termination of employment, whether due to resignation, discharge, retirement, or death, all accumulated compensatory time must be paid monetarily. Payment will be at the rate the employee is

earning upon termination. To reduce payment liability, Department Heads will not permit employees to routinely accumulate compensatory time.

It is the responsibility of each Department Head to monitor and schedule the use of compensatory time which employees have earned. Employees should be allowed to schedule the use of compensatory time as soon as operationally feasible after it is earned. Also, the Department Head cannot require an employee to take compensatory time off in order to reduce the accumulation of compensatory time.

XIV. VOLUNTEERS

In all cases in which a Department Head is considering the use of a city employee as a volunteer, the Department Head will consult with the Director of Human Resource Management before entering into any agreement with the employee. If, while off duty, an employee performs volunteer work for the city which is of the same type as his or her regular duties, the time spent in a volunteer status will be considered as hours of work for purposes of calculating pay and overtime. The employee cannot waive this right. An employee may volunteer to perform work which is different from his or her normal duties. Such volunteer hours will not be counted as hours of work.

XV. SECONDARY EMPLOYMENT

An employee may not accept a secondary job except in accordance with the approval process set forth in the Administrative Policy on Secondary Employment, which governs the acceptance of outside employment.

Time spent on outside secondary jobs will not be counted as hours of work until the employee actually engages in activities that require the use of official police/fire powers or performance of police/fire duties to include associated paperwork or court actions. In such cases, an on-duty employee should be summoned as soon as possible to relieve said employee to complete the performance of the official duties.

Police

Sworn Police Officers shall not be permitted to accept a secondary or part-time job with the city or for any outside employer except as outlined in the Police Department's policy and accordance with the city's administrative policy.

Fire

Sworn Fire Personnel are required to request approval from the Fire Chief for any secondary employment in accordance with the city's administrative policy.

XVI. RECORD KEEPING

Non-exempt employees should be completing timesheets and submit them weekly for approval by his/her supervisor. Each department shall use the city's time and attendance system through MUNIS to enter, maintain, and pay employees for hours worked.

XVII. RESPONSIBILITY & ACCOUNTABILITY

To comply with the Fair Labor Standards Act and leave records requirements of the city, Department Heads are responsible for thorough and accurate record-keeping for their respective departments. Time records must be kept by departments for 6 years. Accurate record-keeping is a shared responsibility between management and employees. Failure to do so is not in line with our values.

A. Employees will be subject to disciplinary action for violations of this policy, including, but not limited to:

1. Refusing to work overtime.
2. Failure to accurately sign in and out/complete their timesheet/punch a time clock.

3. Working overtime without authorization.
 4. Signing in and out for another non-exempt employee.
 5. Failure to accurately record and report all time worked.
- B. Supervisors, for purposes of this policy, are defined as individuals having responsibility for assigning work, approving leave, and overall management of the work unit. Supervisors are subject to disciplinary action for violations of this policy, including, but not limited to:
1. Improper record keeping.
 2. Approving or permitting payment of overtime without adequate funds being budgeted and available.
 3. Failure to submit leave within 30 days after the leave occurs or keeping overtime under control.
 4. Signing a non-exempt employee in or out for work.
 5. Violations of any provisions of the Fair Labor Standards Act or this policy.

XVIII. IMPROPER PAY DEDUCTIONS – SAFE HARBOR PROVISION

It is the intention and policy of the city to comply with the Fair Labor Standards Act that includes the “Safe Harbor” Provision of 29 CFR 541.603. If an employee believes that a deduction has been improperly made to his/her paycheck or does not understand the reason for the deduction, the employee should contact the Department of Human Resource Management. If the city finds that there has been an improper deduction, as defined under 29 CFR 541.602, the deducted amount will be reimbursed to the employee in a subsequent paycheck(s). The city will thereafter continue to make a good faith effort to comply with the regulations and prevent future improper deductions.

XIX. OTHER

As the city’s FLSA Compliance Officer, the Director of Human Resource Management must be consulted on all questions concerning the application of this administrative policy.

If you have any questions regarding the Work Period and Overtime Policy, please contact Human Resource Management at (757) 393-8626.

Approved:



City Manager