

## CITY OF WACO

### Policy Summary:

City of Waco employees are covered under the Fair Labor Standards Act (FLSA). FLSA requires:

minimum wages be paid;

identification of each employee's job as exempt or non-exempt from the overtime requirements of the Act;

certain work and pay records be maintained;

compensatory time off or overtime pay for non-exempt employees at one and one-half times the regular rate for hours worked over the established forty hour work week (except Firefighters and Police Officers).

FLSA's application to certain City employees, such as Police Officers and Firefighters, who are also subject to the Firefighters' and Police Officers' Civil Service Act, is not fully addressed in this overtime and workweek policy.

### I. GENERAL REQUIREMENTS

A. FLSA requires, among other things;

1. Minimum wages be paid
2. Identification of each employee's job as either exempt or non-exempt from the overtime requirements of the Act.
  - a. Exempt employees are categorized as:
    - executive
    - administrative
    - professional
  - b. Personnel Services and each department will determine each employee's exempt or non-exempt status in accordance with FLSA.
3. Certain work and pay records be kept;
4. Compensatory time off or overtime pay for non-exempt employees be awarded at one and one-half times the regular rate for hours worked over the established forty hour work week (except Firefighters and Police Officers).

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### II. WORK WEEKS

- A. The City has adopted the workweek of 12:01 a.m. Sunday to 12:00 midnight the next Saturday for all City departments.

### III. TIME SHEETS/TIME CARDS

- A. A time sheet or time card must be submitted to Fiscal Services for each employee at the end of each pay period. Each employee must sign the time sheet or time card verifying the number of hours worked each pay period. In addition, each time sheet is to be signed by the employee's Department Director or appropriate supervisor verifying the accuracy of the hours worked by each employee.
- B. Exceptions to time sheets being signed as required in section III, paragraph A must be approved by the City Manager, or designee, after the procedure has been submitted through Personnel Services for review.

### IV. OVERTIME CONTROL AND REQUIREMENTS

- A. All reasonable efforts shall be made to keep non-exempt employees within the established forty-hour work week, or the established limits for Police Officers and Firefighters. FLSA allows work hours to be adjusted in a workweek for non-exempt employees other than firefighters and Police Officers. For example, a non-exempt employee who normally works an eight-hour day from 8:00 a.m. to 5:00 p.m. is required to report at 7:00 a.m. on Monday and Tuesday to complete a special project. The supervisor may elect to maintain this employee's forty-hour work week by allowing the employee to take off at 3:00 p.m. on Friday. This is not considered compensatory time off. It is a straight time adjustment of work hours within a work week.
- B. Non-exempt employees will receive compensatory time off in lieu of overtime compensation for overtime hours worked.

Departments responsible for providing continued, necessary services and who have employees assigned to shift work or employees who cannot be allowed compensatory time off without jeopardizing City services may authorize overtime pay, provided funds remain in their respective budgets for overtime compensation.

- C. Records will be kept of compensatory time accumulated and used by each non-exempt employee. Such compensatory time must be recorded on the employee's time sheet as outline in section IV paragraph G below.

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- D. The maximum amount of compensatory time a non-exempt employee may accumulate is twenty-four hours. That would translate into sixteen hours of overtime hours multiplied times the one and one-half overtime rate.
- E. A non-exempt employee will be permitted to use accumulated compensatory time within a reasonable period after making a request to use it. In determining a reasonable period, each department will consider the following:
1. the normal schedule of work;
  2. the anticipated peak workloads, based on past experience;
  3. emergency requirements of staff and services;
  4. availability of qualified substitute staff; and
  5. the ability to provide services to the public during the time requested without the use of the employee's services.
- F. A non-exempt employee who accumulates forty hours of compensatory time will be required to use the compensatory time down to eight hours within sixty days from the date twenty-four hours of compensatory time is accumulated.
- G. The City policy of allowing non-exempt employees to accumulate sixteen hours of overtime/compensatory hours worked will be handled as follows:
1. The overtime slot on the time sheet will be coded as indicated below:
    - a. for overtime hours worked to be paid at one and one-half time rate;
    - b. for overtime hours worked to accumulate as compensatory time at one and one-half rate but no cash payment; or
    - c. for compensatory time taken and reducing the time accumulated.
  2. If a non-exempt employee accumulates sixteen hours of overtime/compensatory hours worked and charges additional time to overtime/compensatory hours worked, the computer will automatically calculate the amount over sixteen hours as overtime at one and one-half rate.
  3. Overtime/compensatory time will be recorded in increments of not less than a quarter of an hour (fifteen minutes).

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- H. Any compensatory time earned prior to April 15, 1986, shall not result in any form of monetary compensation at any time, including upon the employee's termination. With respect to compensatory time accrued on or after April 15, 1986, FLSA requires the City to pay non-exempt employees for any accrued balances upon the employee's termination. As a result, two overtime compensation banks have been created. The first bank consists of accrued, unused compensation time earned after April 14, 1986, while the second bank consists of accrued, unused compensation time prior to April 15, 1986. Employees are not to draw from the second bank until the hours in the first bank have been exhausted. The second bank will be maintained by each department.
- I. It is the responsibility of Personnel Services to ensure that each City employee's FLSA status is properly identified and recorded and with the assistance of each department, to ensure each City employee is informed of the FLSA status (exempt or non-exempt) and eligibility to receive overtime or compensatory pay. It is each department's responsibility to ensure that non-exempt employees do not work more than the prescribed forty hours in a work week unless expressly authorized to do so.
- J. Accrued vacation, holiday and compensatory time, when used with departmental authorization, will be considered the same as hours worked and will be computed toward overtime.
- K. Sick leave and/or other excused time off from work will not be used for computing overtime. No unexcused time off from work will ever be computed toward overtime.
- V. **ON CALL POLICY**
- A. Non-exempt employees on call during off duty hours who are not required to remain at home or near a telephone will be compensated for only the actual hours worked when called out. Non-exempt employees assigned a "beeper" during on call time are not required to remain at home or near a telephone. Therefore, they will be compensated for only the actual hours worked when called out.
- B. On call non-exempt employees who are required to remain at home or near a telephone during off duty hours will be compensated as follows:
- The same as one hour worked for each eight hour period on call; the same as two hours worked for each sixteen hour period on call; the same as three hours worked for each twenty-four hour period on call; etc.

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Example: A non-exempt employee in Traffic Division, normally off duty on the weekend is instructed to remain at home or near a telephone from 5:00 p.m. Friday until 5:00 p.m. Saturday in order to respond immediately to signal light malfunctions. If during this period, the non-exempt employee is not called out, the employee will accrue three hours of compensatory/overtime hours worked. If the non-exempt employee is called out and works on a traffic signal for five hours, the non-exempt employee will accrue five hours of overtime/compensatory hours worked. If the nonexempt employee is called out and works three hours or less, the employee will accrue three hours of compensatory/overtime hours worked.

### VI. TRAVEL TIME

#### A. Local Travel

1. Home to work travel is not compensable unless
  - a. after going home the non-exempt employee has been called back to work at a job site other than the non-exempt employee's normal job site; or
  - b. the non-exempt employee is given a special assignment to a job site which requires more travel time than normal, in which case the excess time is compensable.
2. Time spend traveling from one work site to another is compensable.

#### B. Out of Town Travel

1. One day trips
  - a. All hours spent traveling on trips occurring within one day are compensable.
  - b. Example: A non-exempt employee with regular working hours from 8:00 a.m. to 5:00 p.m. is given an assignment in Austin with instructions to leave Waco at 7:00 a.m. The non-exempt employee leaves Waco at 7:00 a.m., arrives in Austin at 9:00 a.m., completes the assignment, and arrives back in Waco at 7:00 p.m. All the time, except for the usual mealtime, is compensable.

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2. Overnight Travel

a. Normal work hours

All references herein to normal work hours include normal working hours for all days of the week, working and non-working, e.g., 8:00 a.m. to 5:00 p.m. seven days a week, including Saturday, Sunday and holidays.

b. Travel during normal work hours

All time spent traveling during normal work hours is compensable.

c. Travel outside normal work hours

(1) When non-exempt employees drive themselves, all time spent driving by non-exempt employees is compensable unless the non-exempt employees have been offered and refused public transportation and are not driving during normal work hours.

(2) When non-exempt employees are passengers in public or private conveyance, all such time spent outside of normal work hours is not compensable.

Example: Two non-exempt employees with regular working hours of 8:00 a.m. to 5:00 p.m. are required to drive to Austin outside of normal work hours. The time that each non-exempt employee spends driving the vehicle is compensable. The time each non-exempt employee spends as a passenger is not compensable.

VIII. TRAINING TIME

A. Except in a special situation, for a non-exempt employee's training time not to be counted as hours worked under the FLSA, ALL the following four criteria must be met:

1. attendance is outside the non-exempt employee's regular working hours;
2. non-exempt employee's attendance is in fact voluntary;

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(Attendance is not voluntary if the non-exempt employee is required by the supervisor or City policy to attend. Attendance is not voluntary, in fact, if the non-exempt employee is given to understand or let to believe that the present working conditions or continuance of employment will be adversely affected by non-attendance).

3. the non-exempt employee does not perform any productive work while attending the program; and
4. the training program is not directly related to the non-exempt employee's job.

(The training is directly related to the non-exempt employee's job if it is designed to make the non-exempt employee handle the present job more effectively as distinguished from training the non-exempt employee for another job or for a new additional skill.

However, when a training program is instituted for the bona fide purpose of preparing the non-exempt employee for advancement through upgrading the non-exempt employee to a higher skill, and is intended to make the non-exempt employee more efficient in the present job, the training program is not considered directly related to the non-exempt employee's job).

- B. Special Situations – There are some special situations where the time spent voluntarily by the non-exempt employee in attending training programs outside of working hours is not regarded as hours worked. Three examples of such special situations are:
  1. the program represents a continuing education requirement that is a condition or practice of the profession and not tailored to the particular needs of the employer;
  2. an employer establishes for the benefit of its non-exempt employees a program of instructions which corresponds to courses offered by independent bona fide institutions of learning;
  3. a non-exempt employee voluntarily attends an independent school, college, or independent trade school after hours.

**VIII. JURY DUTY**

- A. Time spent by an employee serving on a jury shall be compensated with straight pay for the number of hours actually served, with the limitation that the employee shall only be compensated up to and including the employee's

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weekly rate of pay, e.g. salary for forty hours per week even though the employee served more hours on a jury. In other words, no overtime can be accrued by jury duty service.

**IX. HOLIDAY COMPENSATION**

- A. Non-exempt employees in positions ordinarily providing services on weekends and holidays will be given another day off in lieu of being off on a City-designated holiday.
- B. Non-exempt employees whose work schedules are 8:00 a.m. to 5:00 p.m. Monday through Friday, or similar, and who ordinarily would be off on a City-designated holiday will be paid at a double-time rate when required to work on a holiday. However, such non-exempt employees may request approval, from an appropriate supervisor, to take another day off in lieu of the Holiday

**THIS POLICY CONSTITUTES AN AGREEMENT OR UNDERSTANDING  
UNDER THE FAIR LABOR STANDARDS ACT AMENDMENTS OF 1985**

Approved: JNH:

