

	City of Cedar Park Human Resources Policy Manual		
	Wage and Hour Administration		
	Number: C-2	Revision: 2	Effective Date: 08/10/19

1.0 Policy

The City administers its wage and hour program in compliance with the provisions of the Fair Labor Standards Act (FLSA), 42 U.S.C. §§201, et seq., as amended. To the extent of any conflict between a provision of this policy not otherwise governed by the FLSA and any provision of a meet and confer agreement, the meet and confer agreement shall control.

2.0 Procedure/Rule

2.1 The Human Resources Department shall be responsible for administering the City's Wage and Hour Administration program. Human Resources, with the cooperation of Department Heads, determines according to the FLSA, whether a position is exempt or non-exempt.

2.2 Definitions.

2.2.1 Exempt Employee. An *exempt* employee is an employee who is exempt from (not covered by) the minimum wage and overtime provisions of the FLSA. The federal law provides for exemptions for positions, which meet the criteria for Executive, Administrative Professional, and Computer exemptions.

2.2.2 Non-exempt Employee. A *non-exempt* employee is an employee who is covered by the minimum wage and overtime provisions of the FLSA. A non-exempt employee shall be paid overtime or receive compensatory time for each hour of productive time in excess of 40 hours per week.

2.2.3 Workweek. The *workweek* normally begins at 12:01 a.m. on Saturday, and ends at midnight on the following Friday for most employees. If an employee's shift crosses over two workweeks, then all the hours of that shift will be included in the first of the two workweeks.

Shift Firefighter Work Period. In the Fire Department, the City has declared the following work cycle under Section 207(k) of the Fair Labor Standards Act to provide a basis for overtime compensation: Shift Firefighters shall have a work period standard of 112 hours in

a consecutive 14-day cycle. *Productive time* in excess of 106 hours in the consecutive 14-day work period shall be calculated as overtime.

Personnel in other departments may have a different workweek, depending on the needs of the department to ensure efficient operations. Any workweek that differs from the normal workweek shall be documented and approved by the Human Resources and Finance Director.

2.2.4 Productive Time. “Productive time” is the time an employee actually performs work for the City, and includes any vacation time used by an employee in any pay period in which the employee is directed to perform any unscheduled and involuntary assignment, mandatory overtime shift or holdover shift. This does not include holiday, personal or sick leave. **An employee is responsible for reporting all productive time on his/her timesheet.**

2.2.5 Pay Period. A pay period is two weeks long, but each workweek stands alone for purposes of calculating non-exempt overtime. See section 2.2.3 for Firefighter overtime calculation.

2.3 Exempt Employee Salary Requirement and Wage Deduction. This policy applies when deductions are made from the *wages* of salaried, exempt employees only. **Deductions from accrued leave banks are allowed in partial or full day increments, and are not covered by this policy.** The City shall make partial day deductions from leave banks as appropriate.

An exempt employee paid on a “salary basis” is one who regularly receives a predetermined amount constituting all or part of the employee’s compensation, which is not subject to deduction due to variations in the quality or quantity of work performed. An exempt employee need not be paid for any workweek in which he/she performs no work.

2.3.1 Allowable Wage Deductions. In order to remain exempt from overtime, a salaried employee shall receive full salary for any week in which he/she performs any work without regard to the number of days or hours worked, unless a) the wage deduction is based on legal withholding (such as payroll taxes, authorized insurance payments, legal garnishment, etc.) or, b) the deduction falls under one of the following exceptions of **allowable wage deductions**:

Pay deductions may be made for an absence of one or more full days for personal reasons, sickness or disability **following the employee’s exhaustion of applicable accrued paid leave.** (For

example, if an exempt employee is absent for 1½ days, a deduction will be allowed for one day).

During a workweek where some work is performed, no deductions shall be made for an exempt employee's absence due to jury duty, attendance or testimony as a witness, or for temporary military leave. However, the City may offset the employee's pay by the amounts received by the employee as jury fees, witness fees or military pay for the applicable week's salary, beyond that intended to reimburse the employee for travel and parking.

Pay deductions may be made as penalties for good-faith enforcement of written workplace safety rule violations of major significance.

Pay deductions may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for violations of written workplace conduct rules, but not for performance or attendance problems.

Pay deductions may be made during the employee's first and last week of employment for any time the employee did not work during the week of the start date or last day of work.

Pursuant to the Family and Medical Leave Act (FMLA), pay deductions may be made for any proportion of unpaid leave taken pursuant to the FMLA, including intermittent or partial day leave.

2.3.2 Improper Pay Deductions.

Deductions of less than one week shall not be made for absences made necessary by operating requirements of the business.

Deductions are not permitted for partial day absences (except unpaid FMLA leave).

Deductions are not permitted for variations in the quality or quantity of work.

2.3.3 Grievance Procedures. Improper deductions of the wages of an exempt employee are not permitted. Any employee who suspects or believes that improper deductions have been made from his/her salary shall immediately report the possible violation in writing to his/her direct supervisor and to the Finance Department. If the issue is not corrected to the employee's satisfaction, the employee should forward the report to the Human Resources Director. The City shall promptly investigate the complaint/report of any improper

deduction. *The City shall not tolerate retaliation against the employee for making a complaint regarding improper pay deductions, regardless of whether the complaint/report is determined to have merit.*

If it is determined that improper deductions have been made from one or more employee's pay, the City will promptly reimburse the employee for such deductions. Additionally, the City shall endeavor to assure that no similar improper deductions are made in the future. Questions regarding payroll and deductions should be directed to the Finance Department.

2.3.4 Approved Leave. There may be times when an exempt employee must work excessive hours to meet operational needs of the department. A supervisor may grant an exempt employee leave with pay when an employee has worked excessive hours to meet customer or City needs. Such leave is not accrued on an hour for hour basis and is not considered compensatory time off, but is at the sole discretion of the supervisor, based on appropriate staffing levels and needs of the department.

2.4 Overtime Compensation. Overtime for a non-exempt City employee shall be compensated either in the form of compensatory time off, additional pay, or a combination of both. The acceptance and continuance of City employment is considered consent to receiving overtime compensation in the form of compensatory time. Overtime, when ordered for the maintenance of essential City functions shall be paid in accordance with applicable law.

2.4.1 Eligibility for Overtime. Overtime pay or compensatory time shall be given to a non-exempt employee for productive time in excess of 40 hours in a seven-day workweek. Calculation of overtime hours for Shift Firefighters is addressed in Section 2.2.3.

2.4.2 Determination of Compensation. A Department Head or designee has the authority to designate whether a department's non-exempt employee shall receive overtime pay, compensatory time or a combination of both, for overtime worked. The Department Head is the final authority for determining the method of pay used and shall take into account the department's overtime budget and operational demands. The Department Head or designee shall inform a departmental employee in writing as to the form of overtime compensation used.

2.4.3 Rate. Overtime pay for a non-exempt employee shall be at one-and-one-half (1.5) times the employee's regular rate of pay, including

any special add-on pays. Compensatory time shall be credited at the rate of one-and-one-half (1.5) hours credit per one hour worked.

- 2.4.4 Compensatory Time. An employee who has accrued compensatory time and requests use of the time shall be permitted to use the time off within a “reasonable period” of time after making the request if it does not unduly disrupt departmental operations and has prior supervisory approval. A supervisor may require an employee to use accrued compensatory time. In addition, the City may pay out accrued compensatory time at any time.

An employee shall not carry a balance of greater than **48** hours of compensatory time at any time. If an employee works overtime after reaching his/her accrual cap, then overtime compensation shall switch to monetary payment form. If an employee has greater than 48 hours at the time of implementation of this policy, the City may require the employee to utilize compensatory time or may pay out such accrued time at the City’s discretion.

- 2.4.5 Flex Time. Managers are encouraged to schedule non-exempt employees’ time off within the same workweek to help manage overtime costs. Time off within the same workweek is at an equal, hour for hour basis, so long as the total hours in the workweek do not exceed 40.

- 2.4.6 Payment Upon Termination. A non-exempt employee shall be paid for accumulated, unused compensatory time upon termination, regardless of the reason for termination.

- 2.4.7 Unauthorized Overtime. All overtime worked by a non-exempt employee must be authorized in advance by the employee’s supervisor or Department Head. An employee who works unauthorized overtime may be subject to disciplinary action, up to and including termination of employment.

- 2.4.8 De minimus time. Any time spend preparing to begin or end a work day or shift amounting to 7 ½ minutes or less will not be counted as hours worked. Employees seeking compensation for any time spent preparing to begin or end a work day or shift over the 7 ½ minutes must seek approval by their Department Head.

- 2.5 Work Schedules. Most City employees have a 40-hour workweek. Because of the special nature of some jobs, some regular full-time employees may work more than 40 hours weekly. Work hours may be in shifts and may vary by department. A Department Head or designee determines the hours and work schedules for departmental employees and may have additional departmental

guidelines for meal and break periods to ensure efficient departmental operations.

2.5.1 Meal Periods. A 30-minute to one-hour allowance for meal breaks is customarily granted to regular full-time employees. This meal period is not considered productive time if an employee is completely relieved of his/her work duties. If an employee must continue his/her work duties through the meal or break period, this work time must be supervisor-approved and recorded as hours worked.

2.6 Break Period. A break period is normally no longer than 15 minutes; however, approved break time of 20 minutes or less shall be considered as productive time. Time for this break is to be from the time work stops until it is resumed. Any traveling to and from the job site during the break is included in total break time.

2.7 On-Call Duty. A non-exempt employee scheduled to be on-call and required to return to work after their shift has ended, shall be compensated for the time worked, including time traveled to and from work, or two hours, whichever is greater. In addition to their pay, employees scheduled to be on-call shall receive a stipend of \$10 for every day the employee is on-call. Employees placed on-call may use their time while on-call for their own purpose but must respond within reasonable time, as deemed appropriate by the Department Head, when contacted by appropriate personnel. The Department Head or their designee normally schedules an employee to serve on-call for a specific period of time.

2.7.1 Positions designated as eligible for an on-call stipend must be recommended by the Department Head and approved by the Director of Human Resources. (Refer to Appendix *On-Call Designated Positions*).

2.8 Travel Time. Normal travel between home and the employee's work place is not compensable. If a non-exempt employee is called back, on the same day, to work on an emergency after his/her shift has ended, he/she will be compensated for the travel time.

2.9 Out of Town Travel. Out of town travel is defined as having to travel outside of Williamson County or Travis County and being required to spend the night away from home.

2.9.1 Travel time during regular work hours or during corresponding hours on non-working days is compensable for a non-exempt employee. Travel time which is outside of the regular working hours is not compensable unless the employee is performing work. Time

spent driving is considered work time; time spent as a passenger outside of regular work hours is not considered work time.

- 2.9.2 If the employee travels by automobile for personal convenience, and travel by plane would be more appropriate from the City's viewpoint, the compensable time shall be reconstructed to reflect flight times to the destination based upon published itineraries.
- 2.9.3 If the employee travels for work an equal or shorter distance than the employee's normal home to work travel, the travel shall be considered travel between home and work. It is not considered work time.