



**CITY OF WATAUGA – PERSONNEL, ADMINISTRATION AND FINANCIAL POLICIES AND PROCEDURES MANUAL**

<b>POLICY TITLE</b>	<b>Overtime and Compensatory Time</b>
<b>INITIAL EFFECTIVE DATE</b>	<b>October 24, 2016</b>
<b>LAST REVISION DATE</b>	<b>January 1, 2023</b>
<b>POLICY NUMBER</b>	<b>6.02</b>

**OBJECTIVE** It is the policy of the City to comply with the Fair Labor Standards Act (FLSA).

**SCOPE** This policy applies to all employees.

**POLICY**

**A. Definitions**

All employees are covered by the FLSA but certain employee categories are exempted from the overtime pay requirements of the FLSA, such as those designated as "exempt". Under the FLSA, the City is required to pay at least minimum wage for all hours worked for which an employee is required or authorized to work for the City. The City will provide rates of pay for employees, and those rates will be determined by the City's adopted Classification Plan administered by the Director of Human Resources.

1. **Exempt:** Positions paid on a salaried basis as determined by Human Resources based on job analysis to ensure compliance with Fair Labor Standards Act (FLSA). An exempt employee is one who is not covered by the overtime provisions under the FLSA therefore not eligible for compensation for hours worked in excess of 40 in the work week.
2. **Non-Exempt:** Positions paid on an hourly basis as determined by Human Resources based on job analysis to ensure compliance with Fair Labor Standards Act (FLSA). Compensation of all hours worked including hours in excess of 40 in a work week either through overtime (time and ½) or compensatory time.
3. **Work Schedules:** An employee's work schedule is determined by the department's operating requirements and is subject to change at any time by the Department Director or designee. An employee's work schedule may be adjusted within the work period to avoid the payment of overtime or accrual of compensatory time (comp time).
4. **Unauthorized Work Time:** Unless approved in advance by the employee's supervisor, non-exempt employees performing work outside of the time authorized by the supervisor

is prohibited. Such time would include, but not be limited to, work performed before or after regular work hours or work taken home.

## **B. Overtime**

Overtime, when ordered for maintenance of essential City functions, shall be allocated as evenly as possible among all non-exempt employees. Complete records of overtime of employees shall be maintained by each Department or Division. Overtime, when ordered, shall be considered mandatory. **Prior authorization from a supervisor is required before working overtime.**

The Fair Labor Standards Act (FLSA) established minimum wage, overtime, record keeping and child labor standards. FLSA provides the option for compensating time in lieu of overtime compensation for non-exempt employees. Non-exempt employees, under FLSA, shall be paid at one and one-half times their regular hourly rate or receive compensatory time off at one and one-half times their regular hourly rate for hours worked in excess of the maximum allowed under FLSA.

**Supervisor Responsibilities:** The supervisor must approve in advance all overtime or compensatory time worked.

**Employee Responsibilities:** An employee is only allowed to work overtime or accrue compensatory time with the express permission of the supervisor. The employee must accurately record all time worked within the pay period in which it was worked.

**Overtime Payment:** Overtime compensation will be paid to all employees in nonexempt positions who work overtime as defined in this policy, unless accruing compensatory time is approved in advance by the supervisor and the employee.

All non-exempt employees are eligible for overtime according to the following three (3) work schedules:

1. Standard Work Period (Category A): 40 hour employees are eligible for overtime compensation for actual time worked over 40 hours per week.

Work cycles for 40-hour employees include working for 40-hours during a period of seven (7) consecutive days beginning on Saturday at 12:00 a.m. and working through Friday at 11:59 p.m. Hours actually worked over 40-hours in a work period for 40-hour employees shall be considered overtime.

2. Fire Suppression Work Period (Category B): Firefighter/EMS employees that are covered under Section 207(k) of the FLSA and are eligible for overtime compensation for actual time worked greater than 106-hours within a 14-day work period.

Employees covered under the 207(k) plan 14-day work period shall have a maximum work hour standard of 106-hours in 14 consecutive days with the cycle beginning on Saturday

at 12:00 a.m. and working through Friday at 11:59 p.m. Hours worked in excess of the 106-hours in each 14-day work period are considered overtime.

3. Sworn Police Work Period (Category C): Sworn Police Officers, in the Patrol division, that are covered under Section 207(k) of the FLSA and are eligible for overtime compensation for actual time worked greater than 171 hours within a 28-day work period. A majority of employees within this category must agree in writing to a greater work period.

Employees covered under the 207(k) plan 28-day work period shall have a maximum work hour standard of 171-hours in 28 consecutive days with the cycle beginning on Saturday at 12:00 a.m. and working through Friday at 11:59 p.m. Hours worked in excess of the 171-hours in each 28-day work period are considered overtime. A majority of employees within this category must agree in writing to a greater work period.

Overtime compensation is paid to all non-exempt employees in accordance with State Law, Federal Law and in compliance with City Policy. In general, "hours worked" include all time that an employee is required to be on duty and all time during which the employee is authorized to work (under the definition provided by the Fair Labor Standards Act) for the City. Vacation leave, Holiday leave, Bereavement leave, Personal Day leave, Jury Duty leave, Sick leave, Family Medical leave, Compensatory time taken, Military leave, Injury leave, Suspension and all other leaves with/without pay are considered "hours not worked" and are not considered for overtime eligibility.

### **C. Compensatory Time Off**

1. An employee may either be paid overtime compensation or the employee may accrue compensatory time for any overtime worked. The employee may not elect to receive both overtime compensation and to accrue compensatory time for overtime worked in the same day. Both the employee and the supervisor must agree in advance of the time worked to the election of compensatory time in lieu of overtime pay.
2. Non-exempt employees and Civil Service employees are eligible to accrue compensatory time. Non-exempt employees including Civil Service can have a maximum accrual of 80 hours of compensatory time.
3. Exempt employees are frequently required to work more than 40 hours a week. Although exempt employees are not covered under FLSA for overtime or compensatory time, the City Manager or designee may authorize exempt employees to take compensatory time rather than vacation or sick leave for absences.
4. An employee may request the use of their accrued compensatory time in the same manner as vacation leave or personal leave. A supervisor must allow an employee to use their accrued compensatory time within a reasonable period of time from the date of the request, provided the use is not unduly disruptive to the department's operation.

5. Generally, there is no additional compensation for compensatory time other than that outlined in this section unless specified in an employment agreement. The City Manager or designee may authorize payment for compensatory hours if requested by the employee. Generally this will only be authorized for emergencies such as medical expenses. Nevertheless, of and from January 1, 2023, employees who have accrued compensatory time off in excess of 80 hours will be paid for all accrued compensatory time in excess of 80 hours (a buy-down of excess accrued comp time). The City Manager may implement a comp time buy back policy whereby the City may buy back accrued comp time of less than 80 hours. The payment will be based on the employee's regular rate of pay at the time of the City's buy-down of the excess compensatory time.
6. Upon termination of employment with the City, or upon an employee's change of status to an exempt, part-time, or seasonal position, the employee will be paid for all accrued but unused compensatory time off. The compensatory time off payment will be the higher of: 1) the average regular rate of pay received by the employee during the last 3 years of employment, or 2) the final regular rate of pay at the time of termination or change of status to exempt, part-time, or seasonal.