

**CITY OF CHESAPEAKE, VIRGINIA**

**NUMBER: 2.08**

**ADMINISTRATIVE REGULATION**

**EFFECTIVE DATE: 10/05/07**

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES  
OVERTIME POLICY**

**SUPERSEDES: 11/22/05**

**I. PURPOSE**

To establish a policy for compensating employees for overtime hours worked which complies with the provisions of the Fair Labor Standards Act (FLSA) and City practice.

**II. DEFINITIONS**

- A. **Exempt employees** are defined as employees who are excluded from the overtime provisions of the FLSA.
- B. **Non-exempt employees** are defined as employees who are eligible for overtime compensation according to the provisions of the FLSA.
- C. **Overtime hours** are defined as the hours actually worked over 40 in a work week for non-exempt employees including paid holidays (excluding any paid leave). For sworn police and fire employees overtime hours are hours that exceed their regularly scheduled hours. The manner for calculating the compensation is described in IV, B.
- D. **Overtime leave** is defined as leave which is earned at time and one half for all hours worked in excess of either 1) regularly scheduled hours, for sworn police and fire employees, or 2) the FLSA limit , for other non-exempt employees.
- E. **Overtime pay** is defined as the payment received at time and one half for all hours worked in excess of either 1) regularly scheduled hours, for sworn police and fire employees, or 2) the FLSA limit, for non-exempt employees.
- F. **Workweek** is defined as an established schedule for seven consecutive days.
- G. **Work period** is defined as a regular work cycle from seven to twenty-eight consecutive days.

**III. ELIGIBILITY**

The Director of Human Resources will designate which employees will be classified as exempt or non-exempt based on their assigned position classification, duties and whether they are paid by salary. The status of unclassified positions will be determined when the positions are funded.

**IV. POLICY**

- A. The authorization and control of all overtime work is the responsibility of the department head.

Department heads have the discretion to grant overtime pay or leave to eligible employees for all overtime hours worked, however, the form of overtime compensation selected must be consistently applied to all eligible employees. New employees must be informed of the method of overtime compensation (leave or pay) before accepting employment. Overtime assignments are permitted when required by operational necessity and without which the normal functioning of the agency concerned would be adversely affected. Department heads must ensure that adequate funds are available for payment of overtime prior to authorization. Department heads are responsible for the maintenance of accurate records of hours worked by employees that conform to the requirements of the FLSA.

B. Non-exempt employees shall be eligible for additional compensation as follows:

1. Employees working a regularly scheduled workweek of 40 hours shall receive either (1) overtime pay at one and one-half times their regular rate of pay or (2) receive overtime leave at the rate of one and one-half times the hours worked for all hours worked in excess of 40 in a given workweek;
2. Employees being paid a set salary for a regularly scheduled workweek that exceeds 40 hours in length or which fluctuates above and below 40 hours shall receive additional compensation of one-half times their regular rate of pay or receive leave at one-half times the hours worked for all hours worked in excess of 40 hours in any given workweek. (Half-time pay or leave is provided because these employees have already received their base pay for these extra hours worked.);
3. Sworn Police and Fire employees (FLSA, §207K eligible) working a workperiod of regularly scheduled hours equal to or fewer than the overtime standard set by the Fair Labor Standards Act shall receive overtime pay or overtime leave for all hours actually worked over those scheduled;
4. Sworn Police and Fire employees (FLSA, §207K eligible) working a workperiod of regularly scheduled hours in excess of the standard set by the Fair Labor Standards Act shall receive additional compensation of one-half times their regular rate of pay or one-half hours of leave for each hour in their regularly scheduled work period which exceeds the overtime standard set by the FLSA. (For example, the Fire Department work period currently is 21 days, with 168 regularly scheduled hours. The FLSA overtime standard for a 21 day work period for firefighters is 159 hours. Firefighters who work 168 hours in their 21 day work period are entitled to additional compensation of one-half times their regular rate for the nine hours they worked over the FLSA overtime standard or four and one-half hours of overtime leave. Their regular salary provides the base pay for those extra hours, since they are scheduled hours.) These employees shall be paid at one and one-half times their regular rate of pay for all overtime hours worked or receive overtime leave at the rate of one and one-half hours for each overtime hours worked (that is, all hours in excess of their regularly scheduled number of hours for the work period); and
4. Non-exempt employees whose normal work schedules would not require working

holidays or Sundays will be compensated by pay or overtime leave at the rate of one and one-half times their regular rate of pay for all hours actually worked on such days. This compensation will be in addition to any pay that the employee would normally receive for the day.

- C. Non-exempt Police, Emergency Medical Services, Fire and Corrections personnel who are required to make job-related court appearances while off duty will receive overtime pay or leave for all court time.
- E. Overtime leave balances are cumulative and, therefore, will carry over from year to year until the FLSA ceilings are reached. Overtime leave that exceeds the FLSA ceiling must be paid. Employees have discretion on the use of such leave unless use of overtime leave would result in an undue hardship in provision of City services. Department heads may direct employees to take accumulated overtime leave or pay out any portion of an employee's accumulated overtime leave balance at any time. A separate record shall be maintained for overtime leave balances.

**V. IMPROPER PAY DEDUCTIONS**

No overtime leave or pay provisions set forth in this Policy shall be in conflict with what is allowed under the Fair Labor Standards Act. Improper pay deductions on the part of the supervisor are prohibited. Any employee who feels he/she has been subjected to such deductions may utilize the City's Grievance Procedure to initiate a formal complaint. The remedy shall be full reimbursement of the improper deduction to the employee.

  
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William E. Harrell, City Manager

10/5/07  
Date