

ADMINISTRATIVE RULES – CITY OF KNOXVILLE

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3.01 **DEFINITION OF TERMS**

The following definitions will apply in this Section 3, unless specifically stated otherwise:

- A. FLSA: Fair Labor Standards Act of 1938.
- B. Non-Exempt: An employee covered by the minimum wage and overtime provisions of the FLSA.
- C. On-call: Employees who are free to use their time effectively for their own purposes (within the restrictions of this Article), so long as they leave word with the appropriate supervisory personnel as to where they can be reached, and who are required to respond within a designated number of minutes are considered on-call. Unless an employee is actually called out to work, time spent on-call will not be included for purposes of calculating overtime. Not all employees who are considered to be “on-call” by their department are eligible for on-call pay. General availability of an employee as a “back-up” to working personnel in the event of emergency or simply carrying a City pager, radio or cell phone is not considered on-call.
- C. On-call Pay: A form of pay designed to compensate employees who must remain available to be called back to work on short notice and are restricted in their activities by their department director. On-call pay must be included in calculating the employee’s regular hourly rate for overtime pay.
- D. Compensable Time: For the purposes of this Rule, compensable time is the point where an employee will start to receive payment for hours worked. Compensable time starts at the point the employee begins working or arrives at the work site, whichever is sooner.
- E. Call Back: Employees who are no longer at the work site, and have been requested to respond on short notice to perform emergency work as needed. Employees who are on “call back” status are not designated as being in an “on-call” status. Employees who receive call back pay are not eligible to receive on-call pay for the same time period.
- G. Call Back Pay: A form of pay designed to compensate employees who are required to return to work for emergency purposes. Call back pay must be included in calculating an employee’s regular hourly rate for overtime pay.

3.02 **HOLIDAY PAY**

With the exception of uniformed bodies, employees of the Mayor’s Office, Senior Directors, Directors, and Deputy Directors, those regular full-time and regular part-time employees who are required to work on an official holiday shall receive holiday pay (regular straight time) in addition to receiving time and a half for hours

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actually worked on the holiday. In order to work on a holiday, the employee must have prior written authorization of his/her Department Head.

A qualifying employee who must work on a holiday may elect to take an alternative day off in the same work week in lieu of holiday pay with the approval of his/her Department Head.

Regular part-time employees shall be eligible for paid holidays on a prorated basis based on the percentage of the regular 40-hour work week that they are normally scheduled to work. For example, employees who are scheduled for 20 hours a week (50%) would receive 4 hours of holiday pay (50% of an 8-hour day) at regular straight time provided that the holiday falls on a day the employee would normally have been scheduled to work. Temporary employees are ineligible for holiday pay.

Also, with the exception of the uniformed bodies, regular full-time employees whose scheduled day off falls on an observed holiday shall be entitled to an additional eight (8) hours of pay, however, this time will not be counted as time worked for overtime purposes.

3.03 **PART-TIME PAY**

When an employee works for a period which is less than the regular, established number of hours per week, the amount of pay and leave accumulated shall reflect part-time status.

3.04 **SHIFT DIFFERENTIAL PAY POLICY**

A regular full-time employee who regularly works one-half or more of their assigned time between the hours of 5:00 p.m. and 7:00 a.m. shall be paid a shift differential of \$0.75/hour provided it does not exceed the maximum pay rate. This rule does not apply to employees who rotate shifts (less than 20 work days during a 30-day period). The shift differential is not to be construed as permanent salary, and the employee will not receive the differential if he/she discontinues working night shift. This section does not apply to uniformed personnel in the Police and Fire Departments, to seasonal employees, or to persons employed on a temporary basis.

3.05 **OVERTIME POLICY**

The provisions of the Overtime Policy are intended to comply with the City's obligations under the Fair Labor Standards Act and related regulations. An employee who believes that his/her paycheck is not correct should contact Payroll or Human Resources as soon as possible.

For the purposes of this policy, an eligible employee shall mean any employee who is not exempt from overtime compensation, as provided in this policy.

It is the responsibility of the supervisors, Department Heads, and Department Directors to manage their personnel resources so as to minimize the necessity of

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overtime. If long-term overtime exists, management should analyze the staffing level to determine if additional staff should be hired rather than assigning overtime work. In the absence of a sufficient number of volunteers, overtime can be required of any employee who, in the judgment of the supervisor, is needed in order to meet the demands of the work. Any eligible employee who is authorized or required to work beyond the normal work week or other applicable work period shall be compensated in the manner prescribed herein.

Overtime compensation is only authorized when eligible employees must work beyond the normal work week or other applicable work period. For some eligible employees, the normal work week is 40 hours. However, for those eligible employees who are engaged in public safety activities (law enforcement and firefighting), the maximum allowable non-overtime hours of work during a work week (or work period) must bear the same ratio as 212 hours to 28 days for firefighters, and 171 hours to 28 days for police officers. Therefore, the maximum number of allowable hours in work periods of particular lengths before overtime compensation must be paid to public safety personnel for additional hours is calculated as follows:

Work Period (days)	Maximum Hours	
	Fire	Police
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

Only hours actually worked will be considered in the determination of overtime, except as provided otherwise in this policy. Time off for official City holidays or required work-related Court appearances will be considered time worked for compensation purposes only. However time off for annual leave, sick leave,

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compensatory time, jury duty or any other leave shall not be included in such computations.

When an employee uses paid leave that is not considered hours worked for overtime purposes, the employee shall receive compensation for the paid leave in addition to compensation for all hours actually worked at the appropriate rate.

The granting of overtime pay or compensatory time in lieu of a pay increase, or for any reason other than for actual work performed in excess of the normal work period, is absolutely prohibited.

Compensatory time and compensatory time off are interchangeable terms. Compensatory time off is paid time off the job, which is earned and accrued by an eligible employee in lieu of immediate cash payment for actual work in excess of the normal workweek or other applicable work period. Compensatory time shall be cumulative to a maximum of 240 hours (160 hours of actual overtime worked) for all eligible City employees except those employees engaged in public safety, emergency response, and seasonal activities, which said eligible employees may accrue compensatory time off up to 480 hours (320 hours of actual overtime worked). For hours worked in excess of the accrued maximum amounts, an eligible employee shall receive overtime pay.

All overtime must be approved by the Department Head prior to the assignment of overtime. All authorized overtime must be within budgetary limitations. Overtime will be compensated at a premium rate either by: (1) payment at a rate of one and one-half hours for each hour of overtime worked, or (2) compensatory time off at a rate of one and one-half hours for each hour of overtime worked. Based upon staffing needs and budgetary limitations, the Department Head shall decide which of the above two methods will be used to compensate overtime until the eligible employee reaches the compensatory time maximum, although Department Heads are encouraged to pay employees for overtime rather than allow lengthy accumulation of compensatory time. However, an exception is eligible hourly employees who must receive overtime payment at the premium rate.

The scheduling of overtime shall be carefully monitored. Limitations on overtime shall be enforced by the establishment of thresholds by the Mayor or an appropriate designee. Thresholds shall be determined by factors including, but not limited to the following: the frequency of overtime, the accumulation of overtime during a pay period, the accumulation of overtime during the current fiscal year, staffing needs, and public safety and health emergencies. Authorization for all overtime must be obtained from the Department Head prior to assignment of the work. The Mayor or an appropriate designee must approve all overtime which exceeds the thresholds prior to the scheduling of that overtime work.

All Department Heads shall keep accurate and up-to-date records of all regular hours worked, all overtime worked and all compensatory time off accrued by eligible employees. Department Heads shall submit copies of these records to the Director of Finance and Accountability on a monthly basis. All work time must be recorded. Working “off the clock” is strictly prohibited.

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Compensatory time shall be recorded separately from annual leave by the payroll clerk, although it will be subject to the same restrictions as annual leave, except for the limitation to carrying over leave from one calendar year to the next, i.e., compensatory time will be carried over until depleted. Requests for leave will be deducted from accumulated compensatory time, if any; and deductions from annual leave will not be made until all compensatory time has been depleted. However, if an employee is in jeopardy of forfeiting annual time in December because of a large number of accumulated compensatory hours a Department Head may request to the Director of Employee Benefits and Risk Management that the annual leave in jeopardy of being forfeited be depleted prior to the compensatory time balance. In the alternative, an employee may make application directly to the Director of Employee Benefits and Risk Management. Requests will be reviewed for approval/denial by the Director of Employee Benefits and Risk Management.

Overtime shall not be used to earn any employee benefits or to serve out probationary periods. Compensatory time off in lieu of regular work hours will be counted as regular time worked in computing wages and toward earning employee benefits and to serve out probationary periods. Upon separation from City employment, the employee shall be paid for all accrued but unused compensatory time.

In accordance with the occasional and sporadic employment guidelines of the Fair Labor Standards Act, full-time employees may be eligible to work a second job as a part-time position on the City's events payroll as long as the part-time job they are seeking is in a different field from their normal full-time job. Full-time eligible employees who are authorized to work in an additional part-time position with the City during their off-duty hours shall be paid at the regular rate of such part-time position. No authority shall be given for more than 20% of an employee's total work hours per pay cycle to be spent in said part-time position during off duty hours from their full-time position. Hours worked in a second job will not count towards any overtime or compensatory pay for the employees' regular full time position. However, uniformed employees taking on any type of security or safety function for the City are to be paid overtime.

As far as is practical, eligible employees within the classification where overtime is needed will be allotted overtime work on an equitable basis with all others in the work group, provided that the employee is qualified to perform the required overtime work.

The following categories of employees are not required by the Fair Labor Standards Act to be compensated for overtime hours worked:

- Elected officials
- Those selected or appointed by such elected official to serve on his/her personal staff on a policy making level
- Immediate advisor(s) to such an office holder regarding constitutional and/or legal powers of his/her office
- Those non-eligible employees in a bona fide executive, administrative and/or professional capacity who meet all of the pertinent requirements

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relating to duties, responsibilities and salary schedule as specifically set forth in the federal regulations governing such exempt positions

- Any other employee to whom an FLSA-exemption applies

All newly employed personnel shall be informed of their status with regard to required overtime compensation at the time of their hiring. An agreement regarding compensatory time off in lieu of overtime will be entered into with all newly employed personnel.

Additional departmental rules may exist according to departmental needs but shall not be in conflict with the provisions contained herein, and must be approved prior to implementation in the same manner prescribed in Section 1.03 of these rules.

In applying the aforementioned Fair Labor Standards Act categories of non-eligible employees to the current City of Knoxville employee organizational structure, the following standards shall be used in determining whether or not overtime compensation is required to be made.

A. Non-Uniformed Personnel

Employees whose classifications meet one of the federal exemptions shall be considered non-eligible employees, and overtime compensation shall not be required.

Employees in the Public Service and Engineering Departments whose classifications meet one of the federal exemptions shall be considered exempt under the Fair Labor Standards Act, and overtime pay is not required. The Department Heads of those departments may, however, pay such employees overtime during severe weather, unusual work situations, special events, and other emergencies, provided that the overtime work is approved in writing by the Department Head and that the Mayor, or his designee, has given final written approval prior to the payment of the overtime compensation. Nothing contained herein requires the payment of overtime to non-eligible employees or requires any rights to overtime payments, and such payments are within the sole discretion of the Department Head and the Mayor.

B. Uniformed Personnel

Police Department –

Uniformed personnel in the Police Department whose rank of authority exceeds that of Lieutenant shall be considered to be non-eligible and/or non-covered employees for Fair Labor Standards Act purposes, and compensation in excess of salary within these ranks must be authorized and approved in writing by the Chief of Police and the Director of Finance and Accountability. Employees of the Department assigned to the Patrol Division, other than those employees designated as non-eligible employees, will be permitted to submit requests for overtime as work requires, with a monthly review by the Captain, Division Commander and Chief of Police to identify any abuse of this provision. Approval

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of scheduling overtime will be the responsibility of the Patrol Division Captains and such individuals will be held accountable for the overtime approved. The Deputy Chief of the Patrol Division will be permitted to impose further limitations on overtime of supervisory personnel as needed.

Employees working in the Criminal Investigation Division, other than those employees designated as non-eligible employees, shall be permitted to submit requests for overtime as work requires, with approval of the Section Captain, and such individual will be held accountable for the overtime approved. The Deputy Chief of the Criminal Investigation Division will be permitted to impose further limitations on overtime of supervisory personnel as needed.

Employees working in the Support Services and Management Services Divisions, other than those employees designated as exempt employees, must have requests for overtime approved by the commander of the Division prior to working the overtime.

Any employee involved in abuse of the overtime policy shall be subject to disciplinary action and shall be subject to reassignment to a fixed post assignment where abuse cannot occur.

Fire Department –

Uniformed personnel in the Fire Department whose rank of authority is equal to and exceeds the rank of Fire Assistant Chief (except where provided otherwise in this policy) shall be considered non-eligible employees for Fair Labor Standards Act purposes, and all overtime within these ranks must be authorized and approved in writing by the Fire Chief and the Director of Finance and Accountability prior to any overtime worked. Final written approval must be given by the Mayor or his/her designee prior to the payment of said overtime compensation.

Uniformed personnel in the Fire Department whose rank of authority is below that rank of Fire Assistant Chief shall be considered eligible and shall be required to be compensated for any overtime hours worked.

All uniformed personnel in the Fire Department who are assigned to the Fire Fighting Division shall be required to be compensated for any overtime hours worked.

3.05.01 TIMEKEEPING POLICY

The purpose of this policy is to outline the time keeping policies for nonexempt employees.

All nonexempt employees are required to record their time worked. “Time worked” includes all time spent working the employee’s regular schedule as well as any work performed outside the regular work schedule.

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Nonexempt employees are required to clock in and out for payroll and attendance purposes using either a time clock or time punch in PeopleSoft. Exceptions to the use of a time clock or time punch must be approved by the Human Resources Director. In those approved cases, time for these employees will be recorded on manual time sheets.

Employees are required to clock in and out at the device(s) located in their facility. If there is a problem with the time clock or time punch, employees should immediately notify their supervisor and the applicable payroll employee. The supervisor must take action to ensure the employee's work hours are recorded accurately. Employees using time punch in PeopleSoft may not clock in/out on a mobile device or from home without written permission from their supervisor and approval from the Human Resources Director. Employees may not clock in or clock out for another employee.

If the employee has received prior written permission from their supervisor, the employee may report time worked to their supervisor and the applicable payroll employee for manual reporting in lieu of clocking in or out at the device located in their worksite facility. Such manual reporting may only be utilized under certain conditions when an employee cannot reasonably clock in or out at their worksite facility due to off-site trainings, extracurricular events stemming from the employee's job duties, and other similar circumstances.

Employees should clock in no sooner than 5 minutes before or after their scheduled shift starts and clock out no later than 5 minutes before or after the scheduled shift ends. Exceptions to this 5-minute grace period are subject to written supervisory approval.

Employees are not required to clock in and out for lunch breaks. The 30-minute unpaid lunch period will automatically be deducted from employees' time each day. Engaging in any work-related activities during the 30-minute unpaid lunch period is prohibited. However, if the demands of the workday limit an employee's ability to take a bona fide meal break on occasion, and the employee has written supervisory permission in advance to work through lunch, the employee may do so but must report the working lunch to his/her supervisor that day so that the supervisor can ensure the deducted time is added back to the employee's time worked for the day. Alternative schedules that are permanent in nature and do not include the 30-minute unpaid lunch period must be requested in writing to the Human Resources Director by the Department Head and are subject to Human Resources approval.

If an employee forgets to clock in/out, the employee should clock in/out as soon as possible and notify his/her supervisor and the applicable payroll employee of the error. The supervisor must take action to ensure the employee's work hours are recorded accurately.

Employees who start/end their workday at a work site where there is no device to allow them to clock in/out must report their start/stop time to their supervisor as soon as possible so that the time can be entered and added to their time worked.

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Nonexempt employees are permitted to work overtime only with prior written authorization from their supervisors. Overtime may include clocking in early or clocking out late, working through the scheduled lunch period, work performed from home outside regular hours, work from a mobile device after hours, eligible call-back or on-call work performed outside the regular schedule, or any other work-related activities performed outside the regular schedule. Nonexempt employees who work any additional time that is not recorded on the time clock or time punch must report this additional time worked to their supervisor as soon as possible so that this time may be added to time worked.

If an employee disputes the determination of time worked, the employee should notify their supervisor and the applicable payroll employee immediately. Any dispute that cannot be resolved using time clock records will be reported to the Human Resources Director.

While employees are required to report all overtime worked, it is the responsibility of the supervisor to exercise control and see that the work is not performed if overtime is not authorized and to ensure that time is added to the employee's work time if such time is worked, regardless of authorization.

Violations of this policy are subject to disciplinary action up to and including termination. Violations of this policy include, but are not limited to:

- Working through lunch without permission;
- Failing to clock in/out;
- Clocking in/out early or late;
- Working unauthorized overtime;
- Clocking in/out from home or on a mobile device without permission;
- Clocking in/out for another employee;
- Not reporting all time worked outside the regular schedule; or
- Falsifying or attempting to falsify time records in any way, including any attempt to tamper with timekeeping hardware or software.

3.06 **CALL BACK POLICY**

This policy applies to non-exempt supervisors and employees who are not in an on-call status and are requested to come back to work to perform emergency work as needed. Call back pay does not apply when an employee is called in to work for another employee's regular shift in the event of an absence; in such cases, the provisions of the Overtime Policy would apply. Further, an employee whose work continues immediately following the end of his/her regular scheduled hours of work (or begins immediately preceding an employee's work shift) is not eligible for call

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back pay; the time is considered work time. The availability of call back pay shall not be used in lieu of simple overtime, if appropriate, when such work could have been completed immediately following the end of an employee's work shift.

Employees required to return to work shall receive a minimum of three hours for call back at the overtime rate. If the time on call back exceeds three hours, the employee shall be compensated for all additional hours worked on call back at time and a half. Call back time shall be reported and compensated on the basis of rounding up to the next one-quarter (1/4) hour of time worked.

3.06.01 POLICE COURT TIME

An employee who is a member of the Police Department of the City of Knoxville and is required by duties or subpoenas to appear while off duty before a court, public body or commission as a witness without personal interest in the litigation shall receive three (3) hours at time and one-half (1 1/2) for each such appearance up to three (3) hours in length provided that the three (3) hour period is not adjacent to or does not overlap the employee's regularly scheduled work time. No employee may be paid both court time and regular time or overtime for the same time period. Court appearances in excess of three (3) hours shall be compensated for on the basis of time and one-half (1 1/2) for time spent in court.

3.06.02 ON-CALL POLICY

- A. Determination of On-call: Based upon the needs of the City, each Department Head shall determine which positions/functions are subject to being on-call. The Department Head shall submit a written request for review and final approval by the Human Resources Director prior to the position/function being designated as one that is subject to being on-call. Each year, the on-call positions/functions for each department will be reviewed by the Human Resources Director for continued appropriateness and approval. Each department will be required to create written procedures for its on-call positions/functions (ie. response times, contact information, substitution requirements).
- B. If a position/function is designated as an on-call position/function, the employee filling that position/function is free to use their time effectively for their own purposes (within the restrictions of this policy), so long as they are in compliance with the departmental on-call policy procedures. An employee who is on-call will be required to respond to the work site within the time designated by the Department.
- C. On-call employees are not allowed to consume alcohol at any time while on-call. Additionally, if an employee is taking medication that can affect their preparedness, they must inform their supervisor immediately and remove themselves from on-call status.
- D. An on-call employee is subject to the provisions of the City of Knoxville Drug and Alcohol Policy, during the entire on-call period.

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- E. If at any time while on-call an employee becomes unavailable to respond to a call back to work, the employee must immediately notify his/her supervisor and, on-call pay for the applicable time period shall be forfeited.
- F. An employee in an on-call status must carry and monitor a pager, radio or cell phone in order to be within range to receive notice to return to work.
- G. An employee who does not respond to a call back to work when contact is attempted or is unable to report to work within the prescribed time shall not be eligible for on-call pay for that date and may be subject to disciplinary action.
- H. Each department will maintain a list of on-call employees and regulations pertaining to on-call duty, including required response times and procedures for obtaining substitutes to cover on-call assignments, if necessary.
- I. An employee shall receive sixteen (16) hours of on-call pay per bi-weekly period that he/she is on-call. If the employee is not on-call for the entire bi-weekly period, the sixteen (16) hours of on-call pay shall be pro-rated (for example, an employee shall receive 8 hours of on-call pay for a one week period that he/she is on call). This pay does not count towards the time worked in a workweek or work period and is therefore not calculated as overtime.
- J. If the employee, while on-call, is called back in to work, the employee will be paid for hours worked at the appropriate rate of pay according to the FLSA. If an employee, while on-call, is called back in to work on Thanksgiving Day or Christmas Day, the employee shall receive a minimum of three hours at the holiday rate. If the time worked exceeds three hours, the employee shall be compensated for all additional hours worked that day at the holiday rate.
- K. Exempt (non-overtime eligible) employees are not eligible for on-call pay.

3.07

LONGEVITY PLAN

A. Uniformed Bodies

Beginning January 1, 2007, uniformed bodies of the Fire and Police Departments shall be entitled to annual longevity payments beginning after the completion of four (4) continuous years of service. Such payments shall be in the amount of one hundred twenty dollars (\$120.00) multiplied by the number of years beyond the first four (4) years to a maximum of twenty (20) years. Such payments shall be subject to the same provisions as base salary for purposes of computing pension payments and benefits and holiday and overtime pay. Annual longevity payments for each calendar year shall be paid in equal biweekly installments and said payments shall commence with January 1 of each calendar year. Employees who will complete their 48th month of service during the upcoming year will start their first longevity step. Credit will not be granted for partial years.

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B. Non-Uniformed Bodies

All regular fulltime employees of the City other than members of the fire and police departments who are classified and paid under this division shall be entitled to annual longevity payments beginning after the completion of four (4) continuous years of service. Such payments shall be in the amount of one hundred twenty dollars (\$120.00) multiplied by the number of years beyond the first four (4) years to a maximum of twenty (20) years. Such payments shall be subject to the same provisions as base salary for purposes of computing pension payments and benefits and holiday and overtime pay. Beginning January 1, 2007, annual longevity payments for each calendar year shall be paid in equal biweekly installments and said payments shall commence with January 1 of each calendar year. Employees who will complete their 48th month of service during the upcoming year will start their first longevity step. Credit will not be granted for partial years.

Such payment shall be subject to the same provisions as regular pay for the purposes of computing pension payments.

Longevity payments for the twenty-fifth (25th) and successive years of service shall be the same as those due for the twenty-fourth (24th) year.

3.08 MOVING AND TRAVEL EXPENSES FOR NEW EMPLOYEES/APPLICANTS

The City will not reimburse newly hired employees or applicants for moving expenses associated with relocating for the purpose of employment with the City unless exceptional circumstances exist. In such cases, the Mayor or City Council must approve the reimbursement. Following approval for reimbursement, the employee or applicant shall obtain written estimates from three (3) moving companies; the employee or applicant may select whichever company they desire as long as the price is fair and equitable as determined by the written estimates. Under no circumstance shall any reimbursement for moving expenses exceed Ten Thousand (10,000.00) Dollars.

The City will not pay or reimburse employees or applicants for travel, lodging, or subsistence expenses related to relocation unless approved by the Department Head and/or the Mayor.