

# Section 3: Compensation & Performance

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## Policy #2: Wage and Hour Administration

Effective Date: July 1, 2011

### I. Purpose

To establish a wage and hour administration policy in compliance with the Fair Labor Standards Act, as amended.

### II. Scope

This policy shall apply to all persons holding a paid position as an employee of the Town, except the Town Manager, Town Attorney, a member of any appointed or volunteer board or committee, or any others that may be hired or appointed by the Town Board. For this purpose, and subject to the exceptions set out herein, Town employees shall be defined as those employees in departments and offices for which the Town Board serves as the final budget authority.

### III. Background

None

### IV. Definitions

- A. Exempt Employees - An exempt employee is one who *is not covered* by the overtime provisions under the Fair Labor Standards Act (hereinafter "FLSA" or "Act").
- B. Non-exempt Employees – A non-exempt employee *is covered* by the overtime provisions under the FLSA. Non-exempt employees will be paid overtime or receive compensatory time, per departmental policy, for hours worked in excess of 40 hours per workweek except those fire department and police department employees who are governed by a specific work period as defined herein.
- C. Workweek- The workweek normally begins at 12:01 a.m. on Monday, and ends at midnight on the following Sunday.
- D. Work Period (Fire Department) - The work period for which the Town calculates overtime hours for non-exempt fire department personnel will be not less than 7 and not more than 28 consecutive days. Eligible employees will receive overtime pay for any hours worked in excess of 212 hours in the 28 day period.
- E. Work Period (Police Department) – The work period for which the Town calculates overtime hours for non-exempt sworn law enforcement personnel is 14 consecutive days. Eligible employees will receive overtime pay for any hours worked in excess of 86 hours in the 14 day period.

- F. Hours Worked - The time that the Town requires or permits non-exempt employees to be on duty is considered hours worked. Only actual hours worked will be considered for the purpose of determining overtime for non-exempt employees. All paid leave, including, but not limited to, holidays, vacation, sick time, and jury duty will not be considered hours worked.
- G. Pay Period – The time period for which paychecks are issued.
- H. Free personal use of time – That period of time in which an employee is not required to refrain from drinking alcoholic beverages, taking over the counter medications, or prescription medications that could impair his/her work ability and his/her ability to respond within 30 minutes of being called into work. If an employee is to be compensated for on-call duty, the above restrictions apply and the employee is not considered to have free personal use of time.

**V. Legislation**

North Carolina General Statutes - Chapter 95, Article 2A  
North Carolina Administrative Code - Title 13, Chapter 12  
United States Fair Labor Standards Act

**VI. Policy**

It is the Town of Mooresville's policy to comply with the Fair Labor Standards Act.

**VII. Provisions**

Human Resources will determine, according to the Fair Labor Standards Act, whether a position is exempt (E) or non-exempt (N).

- A. Overtime - Overtime, when ordered for the maintenance of essential Town functions, shall be allocated as uniformly as possible among all eligible employees, and will be paid in accordance with applicable law. Department Directors are responsible for exercising adequate supervision to ensure that employees are complying with established work schedules.
  - i. Eligibility - Overtime pay will be given to non-exempt employees for hours worked in excess of 40 or in accordance with their particular work period (Police and Fire).
  - ii. Non-exempt Positions - Department Directors have the authority to designate whether the department's non-exempt employees will receive overtime pay, compensatory time, or a combination of both, for overtime worked. The Department Director is the final authority for the compensation method and will take into account the department's overtime budget and operational demands.

- iii. Rate – Overtime pay for non-exempt employees shall be at one-and-one-half (1.5) times the employee’s base rate of pay.
- B. Compensatory time – Compensatory time shall be credited at the rate of one-and-one-half (1.5) hours credit per one hour worked. Official compensatory time records shall reflect the product of *actual hours worked* multiplied by 1.5.
- i. Accumulation – Non-exempt employees shall be allowed to accumulate no more than (forty) 40 hours of compensatory time, unless a lower maximum is set by individual departmental policy, based on operational demands.
  - ii. Use of compensatory time - Employees may take compensatory time off within a reasonable period following their request. Compensatory time off must not unduly disrupt departmental operations and must have prior supervisory approval. In order to reduce the financial impact of compensatory time accruals, all available compensatory time must be taken before vacation, sick or banked holiday leave is used.
  - iii. Payment upon leaving employment - Non-exempt employees shall be paid for accumulated, unused compensatory time upon leaving their employment with the town, regardless of the reason for leaving such employment.
  - iv. Record-keeping - Department Directors/division managers are responsible for current, accurate compensatory time records for their non-exempt employees. Employees disagreeing with these records may file a grievance in accordance with the employee grievance procedure.
  - v. Unauthorized Overtime - Employees working unauthorized overtime may be subject to disciplinary action.
- C. Exempt Employees
- i. Exempt employees may be required to report to their shift for the entire work period. Unauthorized absences during a shift shall be addressed as a performance issue and may be subject to deductions from appropriate leave banks or be deducted from salary.
  - ii. Exempt employees shall deduct from sick and vacation leave banks for partial and full day absences.
  - iii. Due to the obligations for exempt employees to attend after hour meetings and work on projects outside of regular work hours, an exempt employee’s immediate supervisor has the discretion to approve an exempt employee to use administrative time off.
  - iv. Exempt employees are not eligible to accrue overtime or receive compensatory pay.

#### D. Meal/Break Periods

- i. A 30-minute to 1-hour allowance for meal breaks is customarily granted to regular full-time employees. This meal period is not considered work time if employees are completely relieved of their work duties.
- ii. If employees must continue their work duties through the meal or break period, this work time must be supervisor-approved and recorded as work time. Approved break periods of 15 minutes or less will be considered hours worked.

#### E. On-Call Duty

- i. On-call assignments are not compensable if:
  - a. employees can be contacted by a pager or telephone; and
  - b. have free (personal) use of the time while waiting for an assignment.
- ii. Eligibility - Employees designated by their supervisors as scheduled to serve on-call for a specific period of time.
- iii. Pay – Non-exempt employees required to be on-call will be paid for eight hours of work for each work week of on-call time they serve. Compensation for less than one full week is determined by the ratio of .056 hours of pay per one hour of on-call.
- iv. Employees assigned to an on-call assignment who receives an emergency call after their normal work hours will be compensated one hour per call, or the actual time worked, whichever is greater. An employee will not receive extra compensation for any overlapping calls that begin and end during the same 60 minute period.
- v. Employees assigned to an on-call assignment and who are called back to work after their normal work hours will be compensated from the time they arrive at the worksite until the time they leave the worksite.

#### F. Callback

- i. Whenever non-exempt employees who are not on-call are called back to work after a shift has ended, employees will be paid for two hours, or the actual time worked, whichever is greater.
- ii. Employees who are called back to work after normal work hours will be compensated from the time they arrive at the worksite until the time they leave the worksite.

G. Travel Time to and from Court Testimony and Training

- i. When a Department Director defines the destination as the employee's duty station, compensation to that duty station is not authorized.
- ii. Travel time to and from court appearances and training assignments within a 50 mile radius of an employee's normal duty assignment, will not be compensated unless the travel originates from and terminates at the normal duty station.

H. Travel Time - Travel to and from work is not compensable. Travel time relating to the employee's work or duties during regular work hours is compensable for non-exempt employees. Travel time which is outside of regular working hours is not compensable unless the employee is performing work.

**VIII. Authorization**

Approved by:

Erskine Smith  
Town Manager

July 1, 2011  
Date