



## Personnel and Administrative Policy and Procedure

<b>SUBJECT: Overtime Compensation</b>	<b>EFFECTIVE DATE:</b> July 1, 2007 <b>REVIEWED:</b> <b>REVISED:</b> 12/2012; 11/2015; 9/2020
<b>CATEGORY: 200</b> <b>POLICY NUMBER: 200.38</b>	<b>CROSS REFERENCE: Compensation System Policy and Procedure 200.8; Payroll Reporting Policy and Procedure</b>

**Purpose:** To inform employees of the City's overtime policy and ensure that the City is in compliance with State and Federal wage and hour law.

**Definitions:** Definitions of exempt and non-exempt status are based on provisions of the Fair Labor Standards Act (FLSA) and state law. These definitions are summarized as follows:

Exempt: Non-represented positions which meet the criteria established by the FLSA and state law are exempt from overtime pay requirements, such as executive, professional and administrative positions.

Non-Exempt: Employees whose positions do not meet FLSA and state exemption tests and who are not exempt from overtime pay requirements.

**Objective:** To ensure the City is in compliance with FLSA standards and other applicable state laws regarding overtime compensation.

**Scope:** Employees will be compensated for overtime pursuant to this policy and procedure. For those employees covered under a collective bargaining agreement, contract language will take precedence over this policy.

**Policy:** It is the policy of the City to reduce to a minimum the necessity for overtime work. Work that results in overtime compensation, except for emergencies, shall require advance approval of the employee's immediate supervisor. All positions in the City of Milwaukie will be categorized as exempt, or non-exempt in compliance with the Fair Labor Standards Act (FLSA) and state law and for pay administration purposes.

### Guidelines for Use

- Part-time employees shall be compensated at a straight time rate if the hours worked are less than the regular hours for a full time employee, forty (40) hours in a workweek.
- Overtime rates for represented employees shall be those specified in the applicable collective bargaining agreements.
- For eligible non-represented non-exempt employees, overtime shall be paid at the rate of time and one-half (1.5) for the time worked at the direction of the City in excess of the regularly scheduled eight (8) or ten (10) hour work day or when hours worked exceed forty (40) hours in a week. Overtime shall be rounded to the nearest quarter (.25) hours.
- Employees who are in an executive, professional or administrative position as defined under the FLSA or ORW 279.340 and ORS 279.342 and are exempted from overtime compensation will receive management leave.
- When calculating overtime, only hours of work performed shall apply.
- Working out of class and longevity pay will be included in overtime rates.

## **Management Leave**

- Management leave, in-lieu of any other overtime compensation, will be credited at the beginning of each fiscal year for eligible employees per the following schedule: pay grades 30-38 receive ninety-six (96) hours of management leave; pay grades 26-29 receive sixty-four (64) hours of management leave; pay grades 21-25 receive forty (40) hours of management leave. New employees, eligible for management leave, will receive a prorated share of management leave for the remaining portion of the fiscal year based on their date of hire. Management leave must be scheduled in advance with the appropriate department head or City Manager. Management leave must be used during the fiscal year it is accrued. Under no circumstances can it be accrued beyond each fiscal year nor be paid off at separation of employment with the City.

## **Compensatory Time Off**

- Compensatory time off instead of cash compensation may be granted, at the request of the employee, at the same rate they would otherwise receive overtime compensation.
- For employees who are allowed to earn comp time, comp time may not accumulate to more than eighty (80) hours during a fiscal year and the amount must be reduced to no more than sixty (60) hours by the end of the fiscal year. After eighty (80) hours of compensatory time accumulation, the City will pay out any additional overtime earned. By the last day of the last pay period for the fiscal year, June 23<sup>rd</sup>, the employee must reduce their compensatory time off bank to sixty (60) hours or the City will pay out any hours over sixty (60). This will not be applied to the forty hours (40) allowed for compensatory time sell back.
- An employee may “sell back” for cash payment up to forty (40) hours of accrued compensatory time off per fiscal year. The employee may sell-back twice per fiscal year only in December and June, and must submit a request to Administration/Payroll by the first working day of the month or per Payroll instructions.
- In case of separation from City employment, accrued compensatory time shall be paid in the same manner that salary due the departing employee is paid.
- If an employee is transferred from one department to another department, accrued compensatory time off will be transferred with the employee.
- If an employee is promoted or reclassified to a position not eligible for compensatory time accrual, accrued compensatory time off will be paid to the employee prior to the promotion or reclassification.

## **Responsibilities**

### Human Resource:

- Ensure that the appropriate status is assigned to all positions at the City.

### Payroll:

- Monitor compensatory time accruals according to above policy.
- Notify employees of opportunities to sell back compensatory time.

### Managers:

- Control the use of overtime while ensuring compliance with the FLSA and other applicable State laws.

### Employees:

- Accurately record hours worked for the correct day.