

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE NON-UNIFORMED EMPLOYEES' POLICY AND PROCEDURE MANUAL REGARDING OVERTIME COMPENSATION; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Ordinance No. 7690, adopted by the City Council on February 28, 2005, codified by reference as §2-151 of the North Little Rock Municipal Code, established policies and procedures for non-uniformed employees ("Personnel Manual"), which has subsequently been amended by Ordinance Nos. 8115, 8249, 8258, 8393, 8516, 8525, 8584, 8710, 8713, 8732, 8767, 8770, 8777, 8783, 8789, 8819, 8880, 8883, 8975, 8976, 9072, 9322, 9345, 9551, 9564 and 9664; and

WHEREAS, there is a need to amend Policy No. 4-004 to increase the minimum salary necessary to exempt employees from overtime compensation, as required by the Fair Labor Standards Act (FLSA).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Policies and Procedure Manual for Non-Uniformed Employees of the City of North Little Rock is hereby amended as follows:

Policy No. 4-004: Overtime Compensation is hereby revised as shown in Exhibit A attached hereto and incorporated herein by reference.

Editor's note: Changes are in **bold**; deletions are denoted in "**red**" by ~~strike~~through and additions in "**blue**" by underline.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the City Council has determined that the interests of the City and City employees can best be served by the adoption of the above amendment to the Policies and Procedure Manual for Non-Uniformed Employees of the City of North Little Rock; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Terry C. Hartwick

SPONSOR:

TERRY C Hartwick
Mayor Terry C Hartwick *CAF*

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

[Signature]
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED	<u>10:45</u>	A.M.	_____	P.M.
By	<u>Amy Fields CA</u>			
DATE	<u>7/2/24</u>			
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas				
RECEIVED BY	<u><i>[Signature]</i></u>			



OVERTIME COMPENSATION

Overtime Defined

Overtime is defined as the number of hours actually worked by non-exempt employees in excess of forty (40) hours within the established 7-day, 40-hour work week.

Work Week Defined

The work week is defined as the 40 hours within the 7-day work period that begins at 12:01 a.m., Saturday and ends at 12:00 p.m. Friday.

Fair Labor Standards Act (FLSA) Classifications

For purposes of determining eligibility for overtime compensation pursuant to the federal Fair Labor Standards Act (FLSA), positions are classified as Non-covered, Non-Exempt or Exempt. Questions about individual FLSA classifications should be directed to the department head.

- **Non-Covered.** Positions not covered by the FLSA. They include elected officials and appointed employees on elected officials' personal staffs, policy-making appointees, legal advisors, legislative employees, bona fide volunteers, independent contractors, prisoners, and certain trainees.
- **Nonexempt.** Positions for which compensation is based on an hourly basis are covered by the provisions of the FLSA. Employees in non-exempt positions are eligible to receive overtime compensation at the rate of one and one-half times all hours actually worked in excess of 40 in the established work week. Compensation for overtime hours may be provided either in wages at an hourly rate of 1-1/2 times the employee's regular hourly rate of pay, or by compensatory time off at a rate of 1-1/2 hours times the number of hours over 40 in the established work week described in Policy No. 4-002, Hours of Work, located in Section 4 on page 42 of this policy manual.
- **Exempt.** Positions may be classified as exempt from the overtime requirements of the FLSA if the compensation is paid on a salary basis of not less than ~~\$35,568~~ \$43,888 per year and the duties performed in the position meet the minimum tests related to the primary job duties for bona-fide executive, professional, or administrative positions as defined by the Fair Labor Standards Act. These are positions covered by the FLSA, but exempted from the overtime provisions. A job title alone is insufficient to establish the exempt status of an employee. The status must be determined on the basis of whether the employee's salary and duties meet the current requirements of the FLSA regulations. Employees in positions classified as exempt must customarily and regularly perform exempt duties. Certain seasonal recreational employees can also be considered exempt, depending on the position and location. Exempt positions are classified by the Human Resources Department using FLSA definitions.

Circumstances in Which the City May Make Deductions from Exempt Employee's Pay

Exempt employees' salaries cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any work week in which they perform no work. The City is not required to pay exempt employees' full salary in the initial or terminal week of employment, or for weeks in which they take unpaid leave under the Family and Medical Leave Act.

The City's pay and paid leave benefits system was established by ordinance, policy and practice pursuant to principles of public accountability. Absences of less than one work day for personal reasons or because of illness or injury will be considered leave without pay that may be deducted from exempt employees' salaries if accrued paid leave is unavailable or not used by an employee because:-

- permission for its use has not been sought or has been sought and denied;
- accrued leave has been exhausted; or
- the employee chooses to use leave without pay.

If accrued paid leave has been exhausted, deductions from pay are permissible for absences of one or more full days

- to offset amounts employees receive as jury or witness fees;
- to offset amounts employees receive as military pay;
- for penalties imposed in good faith for infractions of safety rules of major significance; or
- for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

Any other wage deduction from the salaries of exempt employees is improper and prohibited.

Complaint Procedure

Exempt employees who have reason to believe they have been mistakenly classified as exempt, or who have experienced salary deductions that they feel may be improper, may file a complaint and request for a review with their department head. The request for review should provide an explanation of why they feel they have been misclassified or have had an improper wage deduction from their salary. The department head will forward such complaints or requests to the Human Resources Director for review. The Human Resources Department will promptly investigate the matter. If it is found that there has been an incorrect classification, the position will be properly reclassified. If there has been an improper wage deduction, the employee will be refunded the amount of such deduction and appropriate steps will be taken to ensure that future violations do not occur. No retaliation shall be taken against any employee for making such an inquiry.

Method of Overtime Compensation

Non-exempt employees shall be compensated for all hours actually worked in excess of 40 within the 7-day work week either in compensatory time off (CTO) at 1-1/2 times the number of hours actually worked in excess of 40, or in wages at 1-1/2 times the regular rate of pay.

Payment of Overtime Wages

Payment of overtime compensation to non-exempt employees is made on the regular payday following the receipt by the Finance Department of the bi-weekly time sheets with the overtime hours reported.

Compensatory Time Off

Only non-exempt employees are eligible for compensatory time off at 1-1/2 times the number of overtime hours. Compensatory time off may be accrued to a maximum accumulation of 240 hours. After accumulation of the maximum number of hours of compensatory time off, such employees shall thereafter be compensated for overtime in wages at 1-1/2 times the regular rate of pay until such time as the accumulated compensatory time off is reduced below the maximum accumulation allowable.

Use of Accrued Compensatory Time Off

Non-exempt employees shall be permitted to use accumulated compensatory time off within a reasonable period after it is requested if to do so would not unduly disrupt operations of the department. Such compensatory time off shall not be counted as hours worked within the work period in which it is taken.

Final Payment for Accrued Compensatory Time Off

Upon separation from employment, payment for accumulated compensatory time off shall be calculated at 1-1/2 times the average regular rate of pay for the final 3 years of employment, or the final regular rate received by the non-exempt employee, whichever is higher.

Absences Within the Work Week

Any hours not actually worked, including those charged to Sick Leave, Annual Leave, Personal Leave, Emergency Leave, Compensatory Time Off, or other leave taken within the 7-day work week, shall not be counted as hours worked during that work period.

Exceptions

- Holidays shall be included in the number of hours actually worked within the work week in which the holiday occurs except for Public Safety Dispatchers who are under a separate policy.
- Subject to prior approval of the Mayor Pursuant to Policy No. 4-003, a non-exempt employee who is called to work or required to remain at work during an emergency or other special, non-routine work requirement and who works in excess of 8 hours in any one 24-hour period at the direction of the department head or his authorized designate will receive 1-1/2 times their

regular rate of pay for those hours actually worked in excess of 8 hours in the 24-hour period. In departments providing overtime compensation in the form of compensatory time off, the employee will be compensated in compensatory time off hours at the rate of 1-1/2 times the number of hours worked in excess of 8 hours in any one 24-hour period.

- Authorization for such overtime shall be upon recommendation of the department head and approval of the Mayor or his designee, and is to be limited to situations defined in Policy No. 4-003. Copies of department head recommendations must be attached to the time sheets for the period in question when submitted to the Finance Department for payment..

Unauthorized Work Hours

Employees shall not begin work before starting time, or fail to take a meal period, or remain at work beyond normal working hours, or report for work when not scheduled to work unless specific authorization has been made by the Department head or supervisor prior to the work.

Responsibility to Control Overtime

To contain costs, department heads are responsible for monitoring and controlling the working hours of non-exempt employees to avoid unnecessary accrual of compensatory time off or payment of overtime wages.

In order to accomplish this, an employee may be directed to take off from work within the work week an amount of time that is equivalent to any extra hours worked in any one or more days during that same work week, so the total number of hours actually worked in that week does not exceed 40.

Seasonal Exemptions from Overtime Compensation

Certain seasonal recreational employees are exempt from eligibility for overtime pay pursuant to the Fair Labor Standards Act. However, upon recommendation of the department head and approval of the Mayor, such employees may be granted overtime compensation.