

CHAPTER 19. OVERTIME, COMPENSATORY TIME, AND FLSA COMPLIANCE

A. For purposes of determining the City's obligations to pay overtime rates as per federal law, all Employees shall be classified for FLSA purposes as either "exempt" or "non-exempt" in accordance with the guidelines established by federal law.

B. "Exempt" Employees are those who are not subject to the overtime provisions of the FLSA. "Non-exempt" employees are those employees who are covered by the overtime provisions of the FLSA that is, employees who under this federal law are entitled to earn overtime pay under criteria set by federal law.

C. It is the responsibility of the Mayor and the City Council, along with the City Administrator, with the advice of counsel, to determine the appropriate employees which are FLSA exempt. Any employees not qualifying as exempt shall be carried as non-exempt.

D. FLSA exempt employees shall not be entitled to receive overtime pay as per FLSA standards. FLSA non-exempt employees shall be afforded overtime pay at the rate of time and one-half the employee's regular rate of pay for hours worked more than forty (40) hours within a given workweek.

E. Law enforcement personnel covered under the FLSA 7(k) exemption shall be on a 43-hour requirement before FLSA overtime is triggered in a workweek or 86 hours for 14-day work period. Other statutory exceptions to the standard 40-hour workweek shall be used if applicable.

F. For purposes of calculating overtime pay obligations, if any, the City's work week begins at 12:00 AM (midnight) each Monday and runs through 11:59 PM on the following Sunday, as specified above.

G. Paid time off in the form of holidays, annual leave, sick leave, jury duty, military leave, and other absences from productive work will not be counted as time worked for purpose of overtime pay computations under FLSA, except as otherwise required by law.

H. Any unscheduled hours worked that would trigger an overtime pay obligation must be approved in advance by a supervisory employee in the chain of command, including the City Administrator, or the Mayor.

I. Non-approved overtime work shall be compensated, as required by law, but may serve as grounds for disciplinary action for failure to abide by this pre- approval requirement.

J. Compensatory Time

i. Each job description designates whether persons hired in that classification are Exempt or Non-exempt by the overtime provisions of the Fair Labor Standards Act (FLSA).

ii. Overtime Compensation for Non-Exempt. Non-exempt employees are entitled to compensatory time. Compensatory time hours accrued shall be used within three (3) months of accrual or get bought back by the City. If it is found to be at no fault of the employees that

compensatory time was not used in a timely manner, employees may request permission to extend use of comp time up to six (6) months.

iii. The City of Bandera shall pay the non-exempt employee any unused Compensatory Time in accordance with one and one half of the regular rate of pay at the time of separation.

iv. Certain executive, administrative, and professional employees are exempt from the overtime provisions of the FLSA and are expected to provide necessary and reasonable overtime services with no additional compensation. The salaries of these positions are established with this requirement in mind. Compensatory time off is at the discretion of and with approval by the City Administrator for Exempt employees for special reasons or extenuating circumstances.

v. Public safety -- i.e., police officers, are subject to an 80-hour cap on accrual of compensatory time. All other employees are subject to a cap of 60 hours without the express written consent of the City Administrator. Compensatory time off for Exempt employees, if granted, is accrued at the employee's regular rate of pay and subject to the same accrual caps.

1. Compensatory Time Hours Definition

- a. Compensatory time may also be referred to as comp time.
- b. Compensatory time hours shall include hours worked for the City of Bandera in excess of 40 hours in any work week.
- c. Paid leave, such as holiday or vacation, shall not be counted in determining if compensatory time hours.

2. Compensatory Time Hours Qualifications

- a. Compensatory hours and pay qualification shall be determined by the employee's position and duties.
- b. Employees may be required to work compensatory time hours, however, employees required to work compensatory time hours shall be reasonable and in compliance with the laws governing working hours and the City of Bandera policy due to their positional duties and responsibilities and level of decision-making authority.
- c. Compensatory time hours for employees performing law enforcement/fire protection duties is to be actual hours worked in excess of 86 in the 14-day work period, as defined by the Fair Labor Standards Act (FLSA) and its regulations.

3. Compensatory Time Hours Accrued

- a. Compensatory Time Hours Accrued may also be referred to as compensatory time hours earned.
- b. Exempt employees shall accrue compensatory time hours at a rate of one and one-half times their hours worked over 40 and up to 45 hours

of work in a workweek and at the rate of one times their hours worked over 45 hours worked in a workweek.

- c. Compensatory time hours accrued shall not exceed 40 hours. If it is found to be at no fault of the employees that compensatory time exceeds the maximum amount, employees may request permission to accrue up to 80 hours. Department heads shall make request to City Administrator. City Administrator shall makes request to City Council.
- d. Nonexempt employees shall accrue compensatory time hours.
- e. Compensatory time for law enforcement employees shall be handled in accordance with the policy for overtime compensation established, as defined by the Fair Labor Standards Act (FLSA) and its regulations.

4. Compensatory Time Hours Used

- a. Compensatory time may be used for any purpose desired by the employee; however the City of Bandera shall have the right to require employees to use earned compensatory time at the convenience of the City.
- b. City Administrator and department heads shall be responsible for ensuring each employee is using compensatory time accrued as soon as possible after earning it.
- c. Exempt Employees: Compensatory time hours accrued shall be used within 3 months of accrual or it will be forfeited. If it is found to be at no fault of the employees that compensatory time was not used in a timely manner, employees may request permission to extend up to 6 months. Department heads shall make request to City Administrator. City Administrator shall makes request to City Council.
- d. Nonexempt Employees: Compensatory time hours accrued shall be used within 3 months of accrual or get bought back by the City. If it is found to be at no fault of the employees that compensatory time was not used in a timely manner, employees may request permission to extend up to 6 months.