

# Emergency or Disaster Compensation

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## 1.0 POLICY

The Town of Carolina Beach does not close for emergency weather or disasters and certain employees are expected to be available as needed or as scheduled for work. Certain periods of a Town-declared emergency may result in the evoking of this policy for pay practices. The Town Council will determine when an emergency exists. The Town Manager will formally state the Emergency or Disaster Compensation policy is in effect. Emergency Essential Personnel are required to report to work as scheduled or needed, regardless of official delayed opening, early closing, or complete closure of the Town's normal business operations. Upon determination that normal, even if abbreviated, Town operations may resume, the Town Manager will declare this policy is no longer in effect.

## 2.0 PURPOSE

Town services must continue to operate at all times including periods of severe inclement weather or disaster. Many services become more critical during poor weather conditions or disasters. There are times when employees will be called in to work at times that differ from their normally scheduled work hours. Under such conditions, employees may be required to work extended hours or times outside of their regularly scheduled working hours to staff Town operations.

This policy provides guidance on employee compensation to be paid to employees performing work during portions of a Town declared emergency or disaster, and to ensure the Town's compliance with the requirements of the Fair Labor Standards Act (FLSA).

Short periods of bad weather are addressed in the Town's Inclement Weather policy. (See Policy on **Inclement Weather**)

## 3.0 SCOPE

This policy covers all employees of the Town.

## 4.0 DEFINITIONS

- 4.1 **Disaster** – A disaster is a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community to cope using its own resources.
- 4.2 **Emergency** – An occurrence or imminent threat of widespread or severe damage, injury, loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including but not limited to, a cyber-incident, an explosion, a transportation or maritime accident, a radiological accident, or a chemical or other hazardous material incident.  
NC GS 166A-19.3.(6)

- **4.3 Emergency Response Work** – Work performed by an employee during the time period this policy is in effect, and such **work is performed** in furtherance of the duties of the Town to protect the health, safety and welfare of the public against the cause of the disaster or emergency.
- **4.4 Essential Personnel** – A designation given to a particular position within the organization. Department Directors shall designate each position within their department as “Essential Personnel” or “Non-Essential Personnel”. All personnel shall be advised of their status at the time of hire, and each fiscal year. Individual employees’ status may change as the needs of the Town change during an emergency event.
- **4.5 Essential Recovery Personnel** – The Town Manager and Department Director may further identify those employees who are essential to the quick restoration of critical services to the community as “Essential Recovery Personnel”.
- **4.6 Exempt Status** - Employees who are exempt from the minimum wage, overtime, and record-keeping requirements of the FLSA. During the period of time this policy is in effect, Exempt employees are required to account for time worked on an approved timesheet, without jeopardizing their status as Exempt.
- **4.7 Meal Periods** – A bona-fide meal period of 31 minutes or more. A Meal Period is not work time. The employee is completely relieved from duty for the purpose of eating a meal.
- **4.8 Non-Essential Personnel** – After a needs assessment is made, some employees may be temporarily dismissed from work, concurrently or successively, as determined by the type of emergency event. Those employees will be designated as “Non-Essential”.
- **4.9 Non-Exempt Status** - Employees who have not been specifically exempted from the minimum wage, overtime, and record-keeping provisions of the FLSA under the definitions of an Executive, Administrative, Professional, Computer or Outside Sales employee.
- **4.10 Emergency Periods**– Periods of time based on the anticipated length of the Emergency or Disaster that is preventing the Town from conducting regular business operations.
  1. **Pre-Impact Period:** This is the time period prior to the impending disaster and includes emergency response work and measures undertaken by the Town’s departments in preparing for the impending emergency. This period begins when the Town’s Emergency Management Coordinator makes this designation. (See Town’s Emergency Operations Manual)
  2. **Emergency Period:** This is the time period during which emergency response activities and critical services are conducted to protect life and property, and most regular Town services are suspended. During this period Town management may designate “Essential” personnel to take mandatory shelter in the Town’s Emergency Response Operations Center or a location designated by the Town. The Emergency Period begins when the Town is closed for normal business and ends when

the Town's Emergency Management Coordinator declares it safe for all employees to return to work, even in an abbreviated capacity.

3. **Post-Impact Period:** This is the time period immediately following the emergency or disaster, during which activities are conducted to restore the Town's infrastructure and services to pre-disaster conditions. During this period, "Recovery" personnel will be required to return to work to assist with the restoration of critical services, conduct emergency clearance of road-ways, provide damage assessments, etc. This period begins immediately following the emergency or disaster, during which activities are conducted to restore the Town's infrastructure and services and ends when the Town's Emergency Management Coordinator declares it safe for all employees to return to work.
4. **Recovery Period:** This period begins when the Town's Emergency Management Coordinator declares it safe for all employees to return to work, in consultation with Department Directors or EOC staff, and ends when the Town Manager declares the period is over. During this phase, employees will work to help restore the community to normal service levels.
  - **4.11 Rest, Relaxation and Sleeping Time** - Time an employee is not 'suffered or permitted to work'. The employee is completely relieved of work duties. The employee can use his time to engage in personal activities such as reading a book, utilizing a personal electronic device such as a cell phone or computer, eating, resting, bathing, or five (5) or more hours of uninterrupted sleeping time in an adequate sleeping facility. This time could be at spent at Town facilities, a local hotel or at the employee's own personal residence.
  - **4.12 Severe Inclement Weather** - Weather conditions that make travel to and from work especially hazardous or dangerous. Typically, this is the result of an unusually severe weather situation.
  - **4.13 Town Managers' "Administrative Leave"** - Leave with pay at an employee's regular base rate of pay, which the Town Manager has authorized under this policy. The leave applies only to an employee's regularly scheduled working hours during the time the Town Manager has authorized the leave. "Administrative Leave" is awarded when the employee's regular workday is suspended due to an Emergency or Disaster. "Administrative Leave" is not considered hours worked in the calculation of Overtime.

**Administrative Leave under this policy will only be awarded for two (2) business days following the activation of this policy. No employee, whether actively working during a period of disaster, or not working during a period of disaster will be awarded more than two (2) days of Administrative Leave under this policy. See Section 6.2 (A).**

- **4.14 Work Time or Hours Worked** – All time an employee “is suffered or permitted to work”. It is of no consequence where such work takes place, i.e., in the customary workplace, at home, or anywhere else. Work time includes all time spent in physical or mental exertion, controlled or required by the Town, and used primarily for the Town and its business.
- **4.15 Fair Labor Standards Act** – The Fair Labor Standards Act (FLSA) is a Federal law establishing the minimum wage rate, overtime pay, recordkeeping requirements, prohibiting gender-based wage discrimination between men and women performing the same work, and child labor standards affecting full time and part-time workers in the private sector and in Federal, State, and Local governments. The FLSA also protects the rights of employees to pump breast milk at work.

## **5.0 ORGANIZATIONAL RULES**

- **5.1 General Provisions**
    - A. The Town Manager will formally state the Emergency or Disaster Compensation Policy is in effect.
    - B. Employees on pre-approved sick or vacation leave will be deducted for sick or vacation in the normal manner during an emergency or disaster. Employees who rescind their pre-approved sick or vacation leave, in writing, prior to the suspension of normal Town operations will not be deducted sick or vacation leave.
    - C. Essential personnel will be required to be available immediately before, during and after the emergency event. Essential personnel shall remain with the Emergency Operations Center, or a location designated by the Town, to perform duties directly related to the emergency conditions, as determined by the Town. Mandatory residency at the Town’s Emergency Operations Center or a location designated by the Town may vary by department as determined by the Town Manager or Emergency Operations Center Commander.
    - D. After a needs assessment is made, some Non-Essential personnel may be temporarily dismissed from work, concurrently or successively, as determined by the type of emergency event.
    - E. The Town Manager may assign employees to any duty to the extent that the Town is not in violation of any State or Federal Laws. This includes employees in one department serving in an emergency capacity for any other department or function, as assigned.
    - F. All Emergency Response Workers are expected to be at work at scheduled times. The scheduled time may be different from the employee’s normal work schedule.
    - G. Employees must return to work as soon as an emergency is over to participate in the Recovery Period.
- Employees must:**
1. Contact their Supervisor when an emergency event, disaster or inclement weather exists, or is anticipated to exist in order to receive any specific instructions.

2. Discuss with their Supervisor in advance any circumstances anticipated that may prevent the employee from arriving at work during emergencies (such as road closures, childcare arrangements, elder care issues) and any pertinent leave requests.
3. Stay informed about emergencies and Town operations through the communications methods designated by the Town and their Department Heads. These methods could include TV/Radio, the Town's webpage, email, text messaging and phone calls.
4. Maintain an up-to-date Employee ID Badge and carry it at all times.
5. Ensure that contact information supplied to Supervisor and Human Resource Department is current so that employees can be contacted when away from work.
6. If an employee has personal circumstances that would affect his ability to work during any phase of the emergency periods, he must file a "Waiver Request" form with his Department Director each fiscal year, or within 30 days of the onset of the extenuating circumstances. Waiver requests will be reviewed and approved/disapproved by the Department Director and forwarded to Human Resources for maintenance in the employee's Personnel file. Documentation of the qualifying circumstances shall be attached to the waiver request.

H. The Town recognizes that employees have personal and family responsibilities that may conflict with the obligation to fulfill their job requirements during hazardous weather or state or local emergencies. "Essential" personnel are expected to make arrangements for their families, including the use of authorized shelters. The Emergency "Essential" Employee may be permitted to take up to 4 hours of Town Manager's Administrative Leave for this purpose.

I. If an employee, for any reason, (for instance, they have evacuated the area and are unable to return, or they are unable to leave their residence to return to work due to impassable roadways, etc.) does not return to work when the Town Manager ceases operations under this policy, the employee shall utilize accrued vacation, compensatory or sick leave for each regularly scheduled work day in which the employee does not report. It is the employee's responsibility to notify his Supervisor if he is unable to report to work. Exempt employees may not be charged leave without pay in increments of less than a whole day.

J. During an emergency, any unauthorized absence from work or assignment will be considered job abandonment and is sufficient cause for disciplinary action, up to and including dismissal from employment.

**K. Department Directors must:**

Department Directors must keep an updated list of the staff that is designated as "Essential Personnel" along with a defined expectation of duties and reporting during state of emergencies or hazardous weather delayed openings and closings. The list must be disseminated to the requisite people. A list containing employee's home addresses and personal cell phone numbers must not be saved onto any type of cloud or internet based "shared drive". Duties of Department Directors include the following:

1. Coordinate with the Town Manager on any anticipated delays or closings and any alternate procedures that may affect the Town's normal business operations.
2. Ensure a clear communication mechanism with all their employees.

3. Conduct training with employees regarding emergency operations procedures at least once per fiscal year, which outline expectations, possible work schedules, leave, and the like.
4. Provide a list of "Essential Personnel" to Human Resources at least once per fiscal year.

## 6.0 PROCEDURES

### ▪ 6.1 Pay Procedures for Emergency & Essential Personnel

When the Town Manager announces that the Emergency or Disaster Compensation Policy is in effect, those Essential or Emergency Response personnel required to work will be paid as follows:

A. **The safety of all employees is paramount to the Town.** At no time is an employee (Exempt or Non-Exempt) authorized to work more than two (2) consecutive 24-hour periods without a designated break period of at least one 24-hour period. This includes Department Heads, and those working in the Emergency Operations Center.

B. **In addition to** 6.1 A (above), no Essential Personnel or Emergency Response worker may work in excess of 17 hours per 24-hour period without a designated Rest, Relaxation and Sleeping period of at least 7 hours, without the express written permission of the Town Manager. The **only** exception to this rule is Firefighters, who must follow Departmental policy regarding rest hours. However, no Firefighter will work more than two (2) consecutive 24-hour periods without a designated Rest and Relaxation period of at least 24 hours which will be unpaid.

C. All employees will be paid their regular rate of pay in accordance with the FLSA for all hours **'suffered or permitted to work.'**

D. Non-Exempt employees who are **'suffered or permitted to work'** during the period this policy is in effect shall be paid one and one-half times their regular rate of pay for all overtime hours **worked** during the employee's designated FLSA workweek or work period, except as outlined in 6.1(F) below.

E. During the period of time this policy is in effect, Exempt employees who are **'suffered or permitted to work'** in excess of 40 hours in a designated FLSA work week shall be paid overtime during this period at one and one-half times their regular hourly rate of pay for all overtime worked. To determine the Exempt employee's hourly rate of pay, the Exempt employee's current annual salary will be divided by 2080 and the amount derived by this calculation will be the Exempt employee's regular hourly rate of pay. In lieu of overtime compensation the Exempt employee may choose to be awarded compensatory leave time equal to one and one-half times the regular hourly rate of pay for hours worked in excess of the employee's regular FLSA work week. This compensatory leave may be utilized for vacation or sick purposes and is subject to payout upon separation from the Town. (See **Policy E-6 Adjusting, Controlling and Adjusting for Overtime** for the rules regarding the usage of Compensatory time.)

F. Rest, Relation and Sleep Time for the Non-Exempt employee: When an FLSA non-exempt or Exempt employee is fully relieved from work duty and must observe seven (7) hours of rest, relaxation and sleeping time as outlined in 6.1 (B) above, but due to the emergency or disaster cannot leave the island that contains the Town

of Carolina Beach, the employee will be paid their base hourly rate for rest, relaxation and sleep time, and these hours will be **excluded** from hours worked in the calculation of overtime as long as the following conditions are met:

1. A prior written agreement, such as this policy, is in place that excludes rest, relaxation, and sleep time from the FLSA calculation of overtime when the employee is not 'suffered or permitted to work'.
2. That adequate sleeping facilities are furnished, and the employee can enjoy an uninterrupted night's sleep of at least five (5) hours.
3. If the sleep period is interrupted by a call to work duty, the interruption must be counted as time worked. If the sleep period is interrupted so frequently that at least five (5) hours of sleep are not available, then all hours must be counted as work time.

**It does not matter whether rest, relaxation and sleep time occurs while sequestered at a Town facility, Town-designated facility, or at home.**

G. Non-Exempt emergency response workers who are sequestered on the island containing the Town of Carolina Beach during the Pre-Impact period due SOLELY to the anticipated closure of the Snow's Cut bridge connecting Carolina Beach with New Hanover County, will NOT be compensated for hours not 'suffered or permitted to work', during the Pre-Impact period.

▪ 6.2 Pay During Periods of All-Day Closings

- A. All benefit-eligible full-time employees, will be paid their usual rate of pay for the first two (2) full days of Town closure under this policy. This time will be accounted for as Administrative Leave and does not count towards actual hours worked in accordance with the FLSA. (These two days will equal the employee's pre-disaster, regularly scheduled workday of 8 hours, 10.5 hours, 12 hours or 24 hours depending on position held).
- B. Should the Town remain closed more than two (2) consecutive working days, all benefit-eligible non-exempt employees not required to work as a part of an emergency response under this policy will be required to account for time not worked by the use of accrued compensatory time, vacation time, or sick leave. If no compensatory time, vacation, or sick leave is available, the employee will not be paid for any hours after the first two (2) full days of Administrative Leave outlined in 6.2A (above).
- C. Exempt employees who are told not to report to work will be paid in accordance with 29CFR541.602(a). They will not be required to charge their absences to any accrued leave.
- D. Temporary, Seasonal or part-time workers will not receive any compensation during a closure period for hours not worked.
- E. In the event of a significant emergency or disaster that results in the closing of the Town for a prolonged period of time, the Town Manager has the discretion to authorize additional paid Administrative Leave days beyond what is allowed for in Section 6.2 (A). If authorized by the Town Manager, this time will be accounted for as Administrative Leave and does not count towards actual hours worked in accordance with the FLSA.

## **8.0 APPENDIX, APPENDICES**

### **8.1 Disaster Recordkeeping Timecard**