

Hours Worked Under The FLSA

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1.0 POLICY

Employees subject to the minimum wage rate, overtime pay, and record-keeping requirements of the Fair Labor Standards Act (FLSA), and who work more than 40 hours per work week, will be compensated for hours worked over 40 or other applicable overtime standard for sworn Police Officers and Firefighters. **This policy defines what constitutes hours worked.**

2.0 PURPOSE

The purpose of this policy is to ensure employees are aware the Town of Carolina Beach complies with the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) as applicable to non-exempt employees and considers the provisions to be minimum requirements.

3.0 SCOPE

All FLSA Non-Exempt employees of the Town.

4.0 DEFINITIONS

- 4.1 **FLSA** - 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.
- 4.2 **Non-Exempt Employee** - An employee who is subject to the minimum wage, overtime and record-keeping provisions of the Fair Labor Standards Act (FLSA).
- 4.3 **Full Time** - Budgeted position where an employee works on a continuous, year round basis, in a set role with a regularly recurring work schedule, normally averaging 40 hours per week and is benefit-eligible. Some employees may work other schedules. See **Policy on Position Types**.
- 4.4 **Overtime** - All hours worked in excess of 40 hours in a week, or for sworn Police personnel 84 hours in a 14 day work period and for Fire personnel 212 hours in a 28 day work period (or proportional amount in lesser number of days).
- 4.5 **Work Week** - A regular work week is a fixed and regularly recurring period of 168 hours -- seven consecutive 24-hour periods designated as the official work week for each employee. Unless otherwise designated, this period will be from 12:01 am Monday through 12:00 am (midnight) the following Sunday.
- 4.6 **Work Period** - A regular work period is a 28 consecutive day period of time designated (or other officially designated period from 7 to 28 days), as the work period for qualifying law enforcement and fire suppression employees under FLSA Section 7(k).
- 4.7 **Work Schedule** - The hours each day and days each week that an employee is normally assigned to work.

5.0 ORGANIZATIONAL RULES

- 5.1 Work Time (Hours Worked) - General
 - A. Work time or "hours worked" is 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 pursued primarily for the Town and its business.
 - B. Work time includes most related preliminary activities of the employee's principle duties. Examples include sharpening or cleaning tools, setting up equipment, fueling or servicing vehicles, waiting for instructions, moving about the Town to perform assigned duties, attending departmental meetings, changing clothes on Town premises where special uniforms or clothing are required by the Town and employees are not allowed to wear them to work, emergency medical treatment for on-the-job accidents, and other similar work-related activities.
 - C. In addition to the activities included above as work time, non-exempt employees must be paid for all time spent in activities which are defined as work time in Section 5.2.
- 5.2 Work Time (Hours Worked) - Specific Situations
 - A. Break Periods
 - 1. The Town normally permits full-time employees two break periods of 15 minutes each during each regular full-time work day, work load permitting. Break periods are counted as work time and cannot be used to offset other work time in any workweek or if missed taken later in the day or week. At the discretion of the Department Head the two 15-minute break periods for certain departments can be combined into one 30-minute break period, work load permitting. Abuse of break period time will subject an employee to disciplinary action up to and including termination.
 - 2. In accordance with the Patient Protection and Affordable Care Act, the Town permits employees who are mothers of a nursing child to use these break periods to express breast milk for her nursing child for up to one year after the child's birth each time the need occurs. When such a break is required, the time away from the work station must be reasonable, i.e., 15 minutes, unless otherwise medically necessary. Managers and supervisors are expected to provide a location, other than a restroom, that is shielded from view and free from intrusion from coworkers and the public for the use of nursing mothers.
 - B. Meal Periods
 - 1. The Town customarily allows a 31 to 60 minute meal period for full time employees. This also applies to other than full time employees with more than a four hour work day schedule. Meal periods are not hours worked and are not paid except when the employee is not completely relieved of duties.
 - 2. A bona-fide meal period of 31 minutes or more is not work time. If an employee is required or permitted to work during the meal period, then this must be counted as work time. Example: If a secretary eats at the desk, continues to answer the phone, receive the public, etc., the meal time would have to count as work time and if not offset at some other point within the week, would result in overtime work and extra compensation.

C. On Call and Call Back Time

1. "On Call" time is unpaid time when the employee is required to remain in a stand-by status or available by phone or pager away from the work site and the employee is able to use the time for their own purposes. Compensable "On Call" time is when an employee is required to remain on-call at or near his place of work or where the calls are so frequent, i.e., every 30 minutes, he cannot use the time effectively for his own personal purposes.
2. When an employee is actually called back to duty, all time from the point that he leaves his home until he returns is considered work time. Compensable time also includes the time responding and answering a call back to duty or where the matter is handled by phone.

D. Travel Time - Determination of whether travel time is counted as hours worked for non-exempt employees depends upon all of the following circumstances.

1. Travel commuting from home to work and work to home is not work time.
2. Time spent by an employee in travel as part of his normal work day activities, such as travel from job site to job site is work time. Compensable travel time is the same as other compensable work time. Compensable travel outside the normal work hours is not automatically overtime hours. Overtime pay or compensatory time off is determined by the total work hours including any compensable travel time.
3. Travel performed away from the Carolina Beach area requiring an overnight stay may not be all compensable time. Overnight travel time outside the normal work schedule may or may not count as hours worked and such situations should be referred to the Human Resource Director for clarification before determining final travel arrangements.

E. Time Adjusting Grievances - Time spent adjusting grievances under the Town's Grievance and Appeal Procedure, during regular hours of work, is work time. Such time spent outside regular hours of work is work time only if the employee's attendance is required by the Town.

F. Attendance at Training Sessions and Other Meetings

1. Required attendance at training or other meetings, whether during, before, or after the employee's regular work schedule, is work time.
2. Voluntary attendance at training or other meetings that are directly related to the employee's job whether during or after regular hours is also work time.
3. Voluntary attendance outside regular work hours in training to maintain certification or qualification required by a higher jurisdiction or the state is not compensable time even if certification or qualification is a requirement of employment.
4. Voluntary attendance outside the employee's regular work hours in a course or training that is offered to the public from a public or private educational institution is not hours worked even if it relates directly to the employee's job.
5. Attendance is voluntary only where an employee, in fact, is not led to believe that his working conditions or chance of continuing employment would be affected by non-attendance.

G. Paid Leave Time and Holidays

1. The following forms of paid leave time and holidays will not count as hours worked in determining the total hours worked:
 - a. Holidays
 - b. Worker's Compensation

- c. Annual Leave
 - d. Military Training
 - e. Sick Leave
 - f. Compensatory Time
 - g. Sick-Family Leave (Illness/Death in Family)
 - h. Medical Appointment Leave
- 2. The following forms of paid leave will count as hours worked:
 - a. Jury Duty
 - b. Official Duty
 - c. Educational Leave with Pay
 - d. Court Duty
- 5.3 Personal Breaks - Personal breaks may be authorized by Department Directors providing the following conditions are met:
 - A. No more than two breaks may be taken during a normal shift and breaks:
 - may not be taken within one hour of the beginning or end of a shift,
 - may not be taken in conjunction with the beginning or end of a bonafide lunch period, and
 - may not be accumulated from one shift to another shift in the same day or any day following the day the break was authorized.
 - B. Breaks shall be limited to 15 minutes in the morning (or first half of an applicable shift) and 15 minutes in the afternoon (or the last half of an applicable shift).
 - C. No breaks, morning, or afternoon may be taken at sit-down restaurants.
 - D. Crews may take all breaks at the office/work site at an appropriate time. Leaving the work site for breaks is not allowed unless the work at the particular site is complete.
 - E. The schedule must have the approval of the Department Director. Supervisors are expected to monitor breaks and are held accountable for the employees in their crews.
 - F. Personal breaks are not a right or entitlement but a privilege granted by the Town, work load permitting, and it is expected that no Town operation will be hindered in any way by an employee's break schedule.

6.0 PROCEDURES

- 6.1 Every day the non-exempt employee will complete his timesheet, accurately recording time worked to the nearest one-quarter hour. Hours not worked will also be recorded and will be coded with the appropriate leave code. If the employee is not sure how to record time, he should ask his supervisor. Prior to giving the timesheet to his supervisor at the end of each payroll period, the employee must sign the timesheet indicating the time recorded is accurate.
- 6.2 The supervisor will review the employee's time sheet and at the end of the payroll period sign the timesheet. Signing the timesheet is an indication the supervisor agrees with the time as recorded by the employee and is an authorization to pay the employee according to recorded time. If the supervisor has any questions about the time recorded by the employee, he should discuss this with the employee and reconcile any questions prior to signing the timesheet.

- 6.3 The supervisor will ensure the employee has appropriately completed a **Leave Request Form** for any time not worked that requires a leave slip.
- 6.4 The supervisor will give the completed and signed timesheet and leave forms to the appropriate departmental employee for entry into the payroll-personnel system.

7.0 APPENDIX, APPENDICES

None