



HOURS WORKED UNDER THE FLSA

ISSUE DATE:	March 2020	REVISION DATE:	
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I. PURPOSE

The purpose of this policy is to ensure employees are aware the City of Lodi 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.

II. 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. This policy defines what constitutes hours worked.

III. DEFINITIONS

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 employees 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.
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).
3. **Full Time (FT).** A 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.
4. **Overtime.** All hours worked in excess of 40 hours in a designated work week.
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 Saturday through 12:00 am (midnight) the following Friday.
6. **Work Schedule.** The hours each day and days each week that an employee is normally assigned to work.

IV. ORGANIZATIONAL RULES

1. Work Time (Hours Worked) - General

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 City, and pursued primarily for the City and its business.

2. Work Time (Hours Worked) - Specific Situations

A. Break Periods

1. The City 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.

2. In accordance with the Patient Protection and Affordable Care Act, the City 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. 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 City customarily allows a 30 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 30 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.

C. Call Time

This time will **not** count toward the total hours worked for the work week. Compensation is at a rate of 1½ times normal rate of pay. The following are situations when employees may receive “Call Time” pay:

- When scheduled “**on call**” by the Director – shall receive two (2) hours paid time per day, as s/he is required to remain available near the place of work, or where calls are frequent, and within a 30-minute response time.
- When called back for duty (“**call back**”) including drive time and all time to respond by phone or work duties – shall receive a minimum of two (2) hours paid time.
- When called in for duty (“**call in**”) immediately before or after a regular scheduled workday.

D. Travel Time

Determination of whether travel time is counted as hours worked for non-exempt employees depends upon 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 Lodi 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 Director before determining final travel arrangements.

E. Time Adjusting Grievances

Time spent adjusting grievances under the City’s Grievance Policy, 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 City.

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 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 will **not** count as hours worked in determining the total hours worked:

- a. Holidays/Floating Holiday
- b. Worker's Compensation
- c. Vacation/Executive Leave
- d. Sick Leave
- e. Compensatory Time
- f. Compassionate/Funeral Leave

2. The following forms of paid leave will count as hours worked:

- a. Jury Duty
- b. Voting Duty
- c. Volunteer Fire/**EMS** Duty

H. Personal Breaks

Personal breaks may be **authorized by the supervisor**, providing the following conditions are met:

1. No more than two (2) 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,
- combined during a shift,
- taken in conjunction with the beginning or end of a bonafide lunch period, and
- accumulated from one shift to another shift in the same day or any day following the day the break was authorized.

2. 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).
3. 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.
4. The schedule must have the approval of the Director. Supervisors are expected to monitor breaks and are held accountable for the employees in their crews.
5. Personal breaks are not a right or entitlement but a privilege granted by the City, workload permitting, and it is expected that no City operation will be hindered in any way by an employee's break schedule.

V. PROCEDURES

1. Every day/week employees shall complete the required timesheet. Hours not worked will also be recorded and will be coded with the appropriate leave code (or PTO) by the employee's supervisor. Prior to the supervisor's review of the timesheet, the employee must sign to indicate the time recorded is accurate.
2. The supervisor will review the employee's timesheet and, at the end of the payroll period, approve the timesheet. Approval is an indication the supervisor agrees with the time as recorded by the employee and is 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 with the employee and reconcile any questions prior to approving the timesheet.
3. Once the supervisor has approved the timesheet, timesheets shall be forwarded to the designated City staff for payroll processing.