

<b>CITY OF APPLETON POLICY</b>	<b>TITLE: FAIR LABOR STANDARDS ACT</b>	
REVIEW DATE: December 2006 August 2009	LAST UPDATE: August 2009 August 2015	SECTION: Human Resources
POLICY SOURCE: Human Resources Department	AUDIENCE: All Employees	TOTAL PAGES: 4
Reviewed by Legal Services Date: September 2004 February 2005 August 2009 August 2015 December 2015	Committee Approval Date: October 13, 2004 September 23, 2009 August 24, 2015 December 7, 2015	Council Approval Date: October 20, 2004 October 21, 2009 September 24, 2015 December 16, 2015

**I. PURPOSE**

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. The purpose of this policy is to apply the Fair Labor Standards Act (FLSA) to City of Appleton employees.

**II. POLICY**

It is the policy of the City of Appleton to comply fully with the provisions of the FLSA as well as applicable state laws and City of Appleton Collective Bargaining Agreements. Questions regarding this policy can be directed towards the employees supervisor, Human Resources, or the City Legal Services department. Failure to follow this policy will result in discipline up to and including discharge of employment.

**III. PROCEDURES**

**A. Covered Employees**

The FLSA identifies two types of covered employees: exempt and non-exempt. The employee's duties, responsibilities, and salary determine whether or not an employee is considered exempt or non-exempt under the FLSA.

1. Designation of exempt or non-exempt status is the responsibility of the Human Resources Department. Human Resources and/or the City's compensation consultant will review the positions based on the actual work responsibilities and salary assigned to each position.
2. Employees who are covered by the Wage and Hour provisions of FLSA and are eligible for overtime after 40 hours worked in a work week are considered FLSA non-exempt employees.
3. Employees exempted by the Wage and Hour provisions of FLSA must meet certain category criteria as stated in the regulations. FLSA exempts some employees from its overtime pay and minimum wage provisions and others from the overtime pay provisions if their work assignments fall into one of the following categories: executive, professional, outside sales, administrative, and certain skilled computer professionals. Also certain seasonal recreational

employees can be considered exempt from specific provisions. Exempt employees are expected to put in those hours necessary to complete their job and are not eligible for overtime.

#### B. Non-covered Employees

Non-covered employees include elected officials and their personal staff, policy-making appointees, legal advisors, legislative employees, volunteers, independent contractors, prisoners and certain trainees.

#### C. Work Period

1. The standard FLSA work period is a fixed period of seven (7) consecutive calendar days. Note: Fire Protection and Law Enforcement employees may have a fixed work period of up to 28 calendar days.
2. The work period defines the time of day and day of the week when the employee's work period begins and ends.
3. An established work period may be changed if the change is intended to be permanent and not for the purpose of avoiding the accrual of FLSA overtime.

#### D. Time Worked

1. Time worked includes all time non-exempt employees are required to be on duty at their prescribed work places and all time during which they are permitted to work.
  - a. Non-exempt employees will be compensated for all time they are required or asked to work which supervisors know or have reason to know they are working.
  - b. Non-exempt employees who work without authorization are subject to disciplinary action, up to and including discharge.
  - c. Non-exempt employees are required to report all time worked and are required to accurately reflect this on their timecard or in the City's time system. Failure to correctly record or falsification of actual work time is subject to disciplinary action, up to and including discharge.
  - d. Supervisors are not to ignore unauthorized work that non-exempt employees do on their own time, ~~unless de minimis (8 minutes or less)~~. This is a violation of policy and illegal under FLSA. Supervisors who know or have reason to know that non-exempt employees are performing unauthorized work on their own time should address the situation by ensuring that the employee's unauthorized time is recorded in the City's payroll system and advising the employee that the unauthorized time will be compensated; and, that because the work was not previously authorized the employee is subject to disciplinary action as determined by the supervisor.
  - e. The supervisor who signs an employee's time card or approves his/her time record must have personal knowledge of the hours worked by the employee and may not ask an employee to record more or fewer hours than were actually worked. Such an action is not only a violation of policy but is also illegal under FLSA and may subject the employee and or supervisor to disciplinary action up to and including discharge. Any illegal act may also result in legal action.
2. Exempt employees are paid on a salary basis and are not eligible for overtime. Time records for exempt employees should still reflect an accurate accounting of time worked and paid time off.

- E. Meal Periods - Although meal periods are not required by FLSA, it is the policy of the City of Appleton that meal periods are provided to employees. If meal periods are not provided, there must be specific work-related reasons or departmental needs for not allowing the meal period. (Refer to the applicable Collective Bargaining Agreements and departmental policies for represented employees and to the Conditions of Employment Policy for non-represented employees).
- F. Break Periods - Break periods are not required by FLSA. However, up to two 15-minute break periods per day may be authorized for City employees as per the applicable Collective Bargaining Agreement, the Conditions Of Employment Policy for non-represented employees, or through department Work Rules.
- G. Meetings/Training – Time spent by non-exempt employees attending meetings, training, and similar activities must be counted as time worked unless ALL of the following criteria are met:
1. The attendance is outside of the non-exempt employees’ regular working hours;
  2. The attendance is voluntary;
  3. The meeting, training, or similar activity is not directly related to the non-exempt employees’ positions; and
  4. The non-exempt employees perform no work related to their positions while in attendance.
- Lunch breaks at training are not considered time worked for non-exempt employees, provided the employee is free to leave and there is no formal instruction during the lunch period.
- H. Travel
1. Normal travel, for a non-exempt employee, from home to work and return to home is not work time. This is true whether the non-exempt employee has a fixed workplace or works at different locations.
  2. Travel to work assignments at sites within reasonable commuting distance of the non-exempt employee’s primary work site is considered in the “home to work” category and is not work time. If, however, a non-exempt employee is required to stop by the primary work site for instructions or to pick up materials, the travel from the primary work site to the work assignment will be counted as time worked.
  3. Travel between a non-exempt employee’s normal work site and another place of assignment, or travel between one assignment and another during the work day, is considered time worked.
  4. Travel associated with a one-day assignment at a different location will be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee’s normal travel between home and work.
  5. FLSA exempt employees are not entitled to any FLSA compensation for travel time either outside of, or in addition to, their normal hours of work.
- I. Overtime
1. If overtime occurs (non-exempt employee is to receive time and a half compensation or FLSA compensatory time at the same rate for the amount of overtime worked. All authorized paid leaves with the exception of PTO Sick and Sick shall be considered as time worked for the purpose of computing overtime.

2. Non-exempt employees must receive prior approval from their supervisor to work overtime.
  3. Non-exempt fire protection employees, who have an assigned work period of 28 calendar days, are entitled to overtime compensation after working 212 hours in the work period.
  4. Non-exempt law enforcement employees, who have an assigned work period of 28 calendar days, are entitled to overtime compensation after working 171 hours in the work period.
  5. FLSA exempt employees are not entitled to overtime compensation or FLSA compensatory time for time worked over 40 hours in a work period unless specifically provided for in another policy.
- J. Exempt employees can be subject to an unpaid disciplinary suspension of a full workweek or one or more full days for violations of an employer's workplace or conduct rules, as defined in the regulations, without destroying the exempt status.
- K. Non-exempt employees can be subject to unpaid disciplinary suspensions of one or more full days for violations of an employer's workplace or conduct rules, as defined in the regulations.
- L. Child Labor Laws – The type of work that may be performed by employees under the age of 18 is restricted by federal and state laws. Please refer to the Federal and State Posting in each worksite for more detail.

#### IV. COMPLAINT PROCEDURE

Any employee who feels he/she has had improper pay deductions or has not been paid appropriately should immediately file a written complaint with the Human Resources Department that includes specific information supporting the basis of the complaint of an inappropriate payment or improper deduction. The Human Resources Department will review the situation and determine if an improper deduction has been made and, if so, work with the employee to resolve the situation and, if applicable, ensure proper reimbursement is made within a reasonable period of time and will take steps to prevent a similar inappropriate payment or improper deduction from occurring in the future.