

**TOWN OF VIENNA, VIRGINIA  
ADMINISTRATIVE REGULATIONS**

<u>Subject:</u> <b>OVERTIME, COMPENSATORY TIME AND HOLIDAY PAY</b>	<u>Regulation No:</u> 2.8	<u>Effective Date:</u> December 15, 2015
	Supersedes: July 1, 2009; July 1, 2012	

**I. OVERTIME PAY**

Under the Fair Labor Standards Act, an employer who requires or permits an employee to work overtime is generally required to pay the employee premium pay for such overtime work. Unless specifically exempted, employees covered by the Act must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 and older may work in any workweek. The Act does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, as such. Employees who are required to be paid an overtime premium rate by law are referred to as "Non-Exempt."

- A. In the Town of Vienna, Non-Exempt employees will be paid overtime at a rate of one and one-half times their normal hourly wage for each hour over 40 hours of work in the Town's workweek. For purposes of calculating overtime earned, all hours worked along with those hours classified as paid leave status are included in determining eligibility.
- B. On Call: Sworn police personnel assigned to the Criminal Investigation Section and Public Works employees who are on "on-call" status are compensated for 5.5 hours of overtime pay for each weekend day and holiday worked during a seven-day period.
- C. Positions designated as Exempt (E) in the classification system are not eligible for any type of overtime pay. In the Town of Vienna, Exempt personnel are eligible for accruing compensatory time (see Section II, B, below).

**II. COMPENSATORY TIME**

- A. Non-Exempt Personnel
  - 1. In lieu of receiving cash overtime payment for time worked in excess of 40 hours per seven-day workweek, the employee and supervisor may agree to compensation in compensatory time.
  - 2. Compensatory time is accrued at one and one-half hours for each hour of overtime earned.
  - 3. The maximum accumulation of compensatory time for Non-Exempt employees is 120 hours.

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4. Any employee who has accrued the maximum number of compensatory hours shall be paid cash overtime compensation for any additional hours of overtime worked.
5. An employee is to submit his/her request to take compensatory time off in the same manner as for annual leave requests. An employee will be permitted to use his/her accrued compensatory time within a reasonable period of time after it is requested as long as it does not unduly disrupt the operation of the Town.
6. Employees shall be paid for any earned and unused compensatory time at cessation of their employment. Payment shall be calculated at the average regular rate of pay for the final three (3) years of employment or the final regular rate received by the employee, whichever is higher.
7. Compensatory time shall be earned and taken in half hour increments.
8. When a Non-Exempt employee is promoted to a position with Exempt status, any hours of compensatory time earned but not used at the time of promotion will be paid out at the rate of pay in the Non-Exempt position.

**B. Exempt Personnel**

Employees in FLSA-Exempt positions are paid a fixed salary that takes into consideration the executive, supervisory, or administrative responsibilities of the job. They are exempt from the FLSA requirement of overtime pay; they typically work all hours required to complete the job, which may be in excess of 40 a week, for the fixed salary paid. Federal law does not require that employers pay overtime pay to these employees.

1. The Town of Vienna trusts that its senior managers and other Exempt professionals accomplish their core job duties in approximately 40 hours per week. They manage their schedules taking into account work coverage, deadlines, customer needs and business outcomes.
2. It is the personal responsibility of employees in Exempt positions to complete their work, even if such completion requires more than 40 hours per week without the expectation of overtime compensation. Conversely, the Town is legally prohibited from reducing an Exempt employee's pay for absences of less than one full day under certain circumstances and must, therefore, guarantee payment, under most circumstances, of a full week's pay.

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3. Where possible, Exempt employees who work extra hours are encouraged to offset their time, if appropriate, in the same workweek that the extra hours are worked; i.e., leave early or come in late the same day or another day in the workweek, if possible. Because it is work performed within the same workweek, this would be considered “flex time” and not compensatory time.
4. Section 11.6(G) of the Code of the Town of Virginia provides in part that, “Exempt employees shall earn hour for hour compensatory time for authorized hours in excess of 40 hours per week.”
5. Compensatory time may be accrued for hours spent on Town business after normal working hours on an hour-for-hour basis, as authorized by the department head or designee. Compensatory time may not be earned routinely by the foregoing of lunches, arriving at the worksite early, staying after work, taking personal leave then working extended hours or weekend, or otherwise artificially extending the workweek.
6. Prior to the use of compensatory time, the employee must first receive authorization from his/her supervisor or by the supervisor’s approval on their timesheet or time entry. The Town Manager will review department heads’ compensatory time accrual and use.
7. Compensatory time earned by Exempt employees will not be used in determining final pay or service time at retirement or any other separation from Town service.
8. Upon separation, Exempt employees shall receive no credit or payment for outstanding compensatory time hours.
9. Compensatory time shall be earned and taken in half hour increments.

**III. HOLIDAY PAY**

**A. All Employees (*Excluding Police Department*):**

1. Permanent employees are paid their regular straight time rate for all days designated as Town holidays in Section 11-10(K) of the Code of the Town of Vienna.

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2. Non-Exempt personnel required to work on Town holidays receive their holiday pay for that day and pay at the rate of time and one-half for all hours worked.
3. Permanent, part-time employees shall be paid only in the event that the holiday falls on their regularly scheduled work day and then only for the number of hours for which they are regularly scheduled at their straight time rate.
4. Temporary or seasonal employees shall be paid only in the event that the holiday falls on their regularly scheduled work day and then only for the number of hours for which they are regularly scheduled at their straight time rate.
5. When a holiday falls on a full-time, permanent employee's scheduled day off, one of his/her scheduled working days within the same pay period in which the holiday occurs may be designated by the department head as the official holiday.
6. In order to receive pay for an observed holiday, an employee must be in a work or paid leave status on his/her scheduled workday immediately preceding and following the holiday.

**B. Police Department Employees**

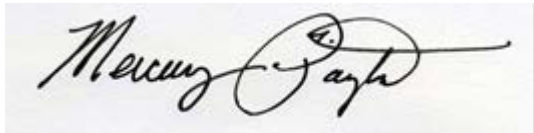
1. All police personnel shall be paid their regular straight time rate for all days designated as Town holidays in Section 11-10(K) of the Code of the Town of Vienna. This payment will be determined by incorporating the number of hours the employee is regularly scheduled to work each shift or day.
2. In addition, all police personnel below the rank of Captain assigned to the 14-day, 12-hour- shift work cycle shall receive holiday pay. These employees will be compensated at their regular straight time rate at twelve (12) hours per holiday. Holiday pay is issued in the pay period within which the holiday resides and is given whether or not the employee is scheduled to work on that holiday.
3. In order to receive the regular and/or supplemental holiday pay, an employee must be in a work or paid leave status on his/her scheduled workday immediately preceding and following the holiday.

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**IV. APPLICABLE DOCUMENTS**

None

<b>Signature of Town Manager:</b>	<b>Date:</b>
	December 15, 2015