



HISTORIC
FRANKLIN
TENNESSEE

ITEM #29
BOMA 3/09/2010

MEMORANDUM

March 4, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Shirley K. Harmon, Director of Human Resources

SUBJECT: Amendments to Article XI and XVIII

Purpose

The purpose of this memorandum is to present information to the Board of Mayor and Aldermen (BOMA) to consider amendments to Articles XI and XVIII regarding the compensation and accruals of Sworn Police Personnel (Section 207(k) Employees as defined by the Department of Labor).

Background

In an effort to reduce overtime and serve the citizens of the City of Franklin in a more efficient manner and in order to better schedule the Police Department sworn officers in a less stressful manner, the staff requests approval to amend the City of Franklin Policy Manual to reflect the changes in Articles affected by the change of sworn police personnel to twelve (12) hour shifts. Staff proposes that the City change 207(k) employees of the police department as defined by the Department of Labor to a work period of 14 days. Overtime shall be paid in all hours worked in excess of 86 during the 14 day period as required. Vacation and sick leave accrual shall also reflect the changes. Attached are the recommended changes to the Human Resources Manual.

Financial Impact

Staff believes that there should be a substantial savings in overtime without reduction in services of the City of Franklin Police Department and the City's policies should address such changes.

Recommendation

Approval of the proposed amendments to the Human Recourses Manual is recommended to provide additional clarity regarding the City's compliance with the Fair Labor Standards Act.

hours worked and shall not include sick and vacation leave. Paid holidays shall be counted as actual hours worked. Non-exempt employees may accumulate up to a maximum of forty (40) hours of compensatory time. If an employee who has reached the maximum compensatory time accrual of forty (40) hours earns additional overtime before any of the accrued compensatory time can be used, said additional overtime shall be paid at the rate of time and one-half.

For Section 207(k) employees engaged in law enforcement with a work period of 14 days, overtime for the excess hours is based on all hours over 86 declared in the fourteen day work period as defined by the FLSA under TAB 611. A notation in the payroll records shall be made that shows the work period for each employee (29 C.F.R. – 553.50). The rule computing a Section 207(k) employee's regular rate are the same as those applied to all other nonexempt employees. When calculating overtime for sworn officers, the City shall not use the 40 hour workweek standard but rather the 14 day work period and overtime pay shall be calculated for hours worked in excess of 86 hours during the work period. When off-duty police are called back to work, they must be paid at least their regular hourly rate or at time and a half if they fall into an overtime situation. Unscheduled periods included in "tour of duty" include time spent in court by police officers even though the specific work performed may not have been assigned in advance, the time must be included in compensable tour of duty (29 C.F. F. -553.220(a)).

Regular full-time who are in executive, administrative, or professional positions as defined by the Fair Labor Standards Act are exempt from the overtime provisions of the Act. Therefore, the City is not legally required to compensate these employees, either through overtime pay or compensatory time, for extra hours worked.

All employees, whether exempt or non-exempt, are required to report hours worked on the appropriate forms and forward to the Department Director or designee for approval. The Finance Department shall maintain all payroll records.

Section G. On-Call; Emergency Call-Outs

By the nature of work performed, certain departments may require employees to be on-call outside of normal work hours to respond to emergencies or other immediate service requests. Each department may design its own on-call system/schedule, which best fits, the needs of the department. In accordance with the Fair Labor Standards Act, employees are not compensated for being in an on-call status unless the requirements placed on an employee while on-call are so restrictive that the employee cannot reasonably use the time for personal benefit.

If a non-exempt employee is called back to work for an emergency after the normal work shift has ended and after the employee has left the work premises, then compensation for the extra hours worked shall be at a rate of one and one-half (1 ½) times the regular rate of pay. A call back is not an extension of regular duty hours or prearranged scheduled overtime by the employee's supervisor or scheduled training or meetings. No less than two (2) hours shall be granted for such time in a single day. In the event that employee is called back to work more than once in a day, there must be a break of two hours between the end of one call and the beginning of the next. If there is not a break of two hours, then the time will be counted from the first call.

Vacation leave shall be accrued on the following basis unless otherwise designated by the City Administrator:

Years of Service	Vacation Hours Accrued per Month (37.5 hour employee)	Vacation Hours Accrued per Month (40 hour employee)	Vacation Hours Accrued per Month (84 hour biweekly employees)	Vacation Hours Accrued per Month (Uniformed Fire Employees)
0-5 years	6.25	6.6667	7.00	10.00
6 – 11 years	9.375	10.00	10.50	15.00
12 – 17 yrs	11.25	12.00	12.60	18.00
18+ years	15.00	16.00	16.80	24.00

Vacation will be computed on the number of standard work hours in a week. For vacation leave purposes, the term “workday” as it applies in this section shall be computed on a seven and one-half (7.50) hour basis for 37.50 hour per week employees, an eight (8) hour basis for 40 hour per week employees, twelve (12) hours for uniformed Fire employees on a 28 day cycle, and 8.4 hour basis (84 hours on a 14 day cycle) for sworn police employees.

Vacation leave shall not accrue until the end of the first full calendar month of employment or appointment, and shall be granted only after satisfactory completion of six (6) months of the probationary period, unless mitigating or emergency circumstances prevail. An employee starting to work at any time after the first working day of the calendar month shall not have accumulated vacation leave until the end of the following calendar month. For vacation leave purposes, reemployed employees shall be considered as new employees.

Vacation leave, which is to be scheduled as far in advance as possible, may be used at the employee’s discretion, provided the Department Director approves it. Department Directors may approve earned vacation leave if the operational requirements of the department can still be met despite the employee’s absence. Generally, vacation leave requests of less than four (4) hours will not be approved. Exempt employees will not be required to take leave for less than one working day, except where FMLA is applicable.

Any vacation leave may be scheduled at the approving supervisor’s discretion and in accordance with any approved departmental guidelines. Generally, vacation leave should not exceed ten (10) consecutive working days. However, under unusual or special circumstances, Department Directors may approve requests for more than then (10) consecutive days of vacation after considering the following:

- Whether the vacation leave is being asked in lieu of sick leave as maternity leave or for military service beyond military leave.
- The effect of the employee’s absence on the functioning and work load of the organization.
- The time needed by the employee to complete a special project or trip.
- The lapse in time from the employee’s last extended vacation.

All employees are strongly encouraged to use vacation leave in the year in which it is earned. Employees responsible for financial transactions and accounting (Collections, Payroll, Finance) must take at least one consecutive five-day workweek each year. Department Directors should ensure that work schedules allow employees to use vacation leave in a timely manner. However, regular full-time employees (and regular part-time employees on a proportionate basis) may carry forward from one calendar year to the next the maximum number of days that could be earned in the previous year. In the event an employee has a greater accumulation than the maximum entitlement at the end of any calendar year, the carry-forward amount will be reduced to the maximum, and the employee may roll into sick leave, no more than five (5) excess days at the straight rate (40 hours for all employees except those on a 37.50 hour work week who may be paid for 37.50 hours and 60 hours for Fire Personnel on shift). Under no circumstances will active employees be paid or credited for more than these amounts. In the first pay period in February, Department Directors will submit to the City Administrator through the Human Resources Director notification for employees who have their excess vacation rolled into sick leave.

Employees being separated from City service for any reason will be paid for their unused vacation leave. Payment will be figured at the straight time rate in effect on the termination date. Employees who are not retiring will be paid at the next regularly scheduled pay day after the Department Director verifies that all uniforms, keys, and equipment have been returned.

Section C. Sick Leave

All active regular full-time and regular part-time employees, and all active employees in a probationary period for regular full-time and regular part-time positions, shall accrue sick leave monthly up to an unlimited maximum number of working days. Sick leave shall not accrue until the end of the first full calendar month of employment or appointment. An employee starting to work after the first workday of the calendar month shall not have accumulated a day of sick leave until the end of the following calendar month. Doctor's certifications are required in the first six (6) months of employment. Employees may not borrow against future sick leave before it is earned and accrued. Sick leave taken that extends beyond earned sick leave credits shall be charged to vacation leave or to leave without pay.

Sick Leave shall accrue on the following basis:

Hours Scheduled to Work per Year	Sick Leave Accrued for Each Completed Month of Service	Annual Accrual Rate
2,080	8 hours	96 hours per year
2184	8.4hours	100.8 hours per year
1,950	7.5 hours	90 hours per year
1,560	6 hours	72 hours per year
2,912	12 hours	144 hours per year