

THE CITY OF  
**PORTSMOUTH**

Work Period & Overtime  
Administrative Policy #7  
(July 22, 2021, Updated)

**I. PURPOSE**

The purpose of this Administrative Policy is to establish procedures and guidelines for the administration of work periods, overtime with regard to eligibility, rates of pay, hours to be paid, overtime pay, record keeping, and other requirements necessary to fully comply with the provisions of state law and the federal Fair Labor Standards Act (FLSA).

**II. GENERAL PRINCIPLE**

This policy applies to all city employees, both full time and part-time, without regard to the funding source. To ensure compliance with the FLSA, the Director of Human Resource Management serves as the city's FLSA Compliance Officer and has the authority to audit leave, pay and time records, and all record-keeping required by the Act. Also, the Director of Human Resource Management shall report any violations of this policy to the Department Head and City Manager which may include recommending appropriate disciplinary action and remedies for future compliance.

Department Heads are ultimately responsible for the control of hours worked and compensation for overtime work. Careful planning and supervision will minimize the need for overtime work. When conditions requiring overtime work occur, the Department Head or authorized designee has the right to require employees to work beyond their regularly scheduled hours, and the responsibility to determine the mode of payment, subject to the provisions of this policy, prior to the time overtime work is performed. If monetary payment is anticipated, the Department Head shall ensure that budgeted funds are available or, where necessary, a budget transfer to cover overtime costs has been approved in advance of the overtime assignment. Any requests for budget transfers for overtime shall require a written request to the City Manager or designee and shall include full justification for the request.

**III. DEFINITIONS**

A. Exempt employees

Employees excluded from the overtime provisions of the Fair labor Standards Act (FLSA) and state law.

B. Non-exempt employees

Employees who are eligible for overtime compensation according to the provisions of the FLSA and state law.

C. Overtime hours

Hours worked over the established work period equal to the overtime standard set by the FLSA and state law for non-exempt employees, including any paid leave time charged in the same week.

D. Overtime compensation

Payment received at a rate of one and one half of an employee's regular rate of pay for all hours worked in excess of the established work period, including any paid charged in the same week.

E. Hours Worked

Includes all approved work time that the employee is required to be on duty or required to be on the city's premises or at a prescribed workplace for the city, and all-time during which the employee is suffered or permitted to work for the city. For sworn public safety employees, hours worked is considered any time they are in a paid status.

F. Work Period

A regular work cycle that may range from seven (7) to twenty-eight (28) consecutive days determined by operations and in compliance with FLSA provisions.

G. Workweek

A regularly recurring period of seven consecutive days from 12:00 AM Saturday through 11:59 PM Friday.

H. On-Call

The period of time that a non-exempt employee who is issued a personal communication device is required to be available for emergency work and/or repair service. On call status is not available to public safety employees.

**IV. CLASSIFICATIONS**

All city employees in the classified service are designated as either exempt or non-exempt.

Exempt employees are those who, on the basis of accrual work performed in the executive, administrative, computer professional or professional (learned or creative) areas, are exempt from the provisions of the Fair Labor Standards Act.

Non-exempt employees are those who, on the basis of work performed, are covered by the provisions of the Fair Labor Standards Act. A list of the statuses (exempt, non-exempt) of city positions are currently included in the city's Classification and Pay Plan, which is available on the City of Portsmouth's Human Resource Management's website.

Neither the position title nor such terms as hourly, salaried, weekly, or bi-weekly identify the status of an employee concerning overtime eligibility. The Director of Human Resource Management will review and decide on all questions of classification and rulings concerning exempt or non-exempt status, which will be final.

**V. EXEMPT EMPLOYEES**

Exempt employees, by virtue of their executive, administrative, computer or professional duties, will encounter routine overtime requirements as part of their normal responsibilities. Monetary payment will not be provided in such cases. Leave records for such employees are for whole workdays, i.e., if an exempt employee is absent for an entire shift, normally an 8-hour day, and a request for time off must be submitted in advance and as soon as possible. Exempt employees working a partial day are not to have such absences recorded as leave time, except for partial day docking for intermittent leave under the Family Medical Leave Act (refer to the city's administrative policy on Family and Medical Leave). Exempt employees are expected to work all the hours necessary to complete the assigned or expected tasks of their position. Department Heads and supervisors are responsible for work assignments and schedules and must approve whole and partial work days off for exempt employees.