

ORDINANCE 22-08

AN ORDINANCE TO AMEND THE EMPLOYEE HANDBOOK OF THE CITY OF SPRING HILL REGARDING OVERTIME HOURS, COMPENSATORY TIME AND ON-CALL TIME

WHEREAS, the Board of Mayor and Aldermen of the City of Spring Hill pursuant to its Charter (Article 4, Section 4-101) and general law of the State of Tennessee, enacted and adopted an Employee Handbook for the employees of the City of Spring Hill on April 19, 2011 with ordinance 11-02; and

WHEREAS, the Spring Hill Board of Mayor and Aldermen does desire to amend the personnel rules and regulations established in Ordinance 11-02 and subsequently amended; and

WHEREAS, the Board of Mayor and Aldermen by passage of this Ordinance, hereby amends the Employee Handbook by modifying the 'Overtime and Compensatory Time: Emergency Call-Outs; Step-up Pay section of the Employee Handbook.

WHEREAS, the Fair Labor Standards Act allows a partial exemption for firefighters and law-enforcement personnel, which is known as the 207k exemption. Qualifying firefighters are allowed to work up to 53 hours per week, or up to 212 hours in a 28-day work period, before overtime is required; and

BE IT THEREFORE RESOLVED BY THE BOARD OF MAYOR AND ALDERMAN OF THE CITY OF SPRING HILL, TENNESSEE that the following amendments be made to the Employee Handbook for the employees of the City of Spring Hill, TN, effective immediately upon passage of the ordinance:

Overtime and Compensatory Time, On Call Time, Emergency Call-Outs and Step-up Pay

Overtime is computed and paid according to current Federal Fair Labor Standards Act criteria and regulations. Overtime must be authorized by prior approval of the department head, other authorized department designee, or the City Administrator, except in the case of an emergency.

Non-exempt employees required to work overtime may be compensated with time off (compensatory time) or paid for such overtime. Except for shift personnel of the Fire Department, overtime, whether paid or exchanged for compensatory time, will be computed on the basis of one and one-half times the regular rate of pay for the hours worked in excess of forty (40) hours per week; eighty-six (86) hours per two weeks for sworn police officers. Overtime for shift personnel of the Fire Department, will be computed on the basis of one and one-half times the regular rate of pay for hours worked in excess of 212 hours per twenty-eight (28) day pay period.

The forty (40), eighty-six (86) or Two Hundred twelve (212) hours, as the case may be, must be actual hours worked. Time off for sick, holiday or vacation will not be considered hours worked for the purposes of calculating overtime.

Non-exempt employees may accumulate up to a maximum of eighty (80) hours of compensatory time. The use of compensatory time must be approved by the employee's supervisor. If an employee who has reached the maximum compensatory time accrual of eighty (80) hours earns additional overtime before any of the accrued compensatory time can be used, said additional overtime will be paid in cash at the rate of time and one-half. All non-exempt employees called in for overtime will be guaranteed pay or compensatory time for a minimum of two (2) hours.

On-call time is time spent by employees, usually off the working premises, in their own pursuits, where the employee must remain available to be "called back" to work on short notice. The FLSA requires

employers to compensate their workers for on-call time when such time is spent “predominantly for the employer’s benefit.”

Employees are generally scheduled for on-call time through-out the year. Employees on call will be compensated with a stipend of \$200 per week for being on-call and carrying the on-call phone. Employees will also be compensated for 2 hours if called out. The employee responsible for the on-call phone may, if necessary, call-in other employees. The called-in employees will receive the 2 hours call-out pay.

It is important to note that on-call payments may alter an employee’s regular rate of pay. Of course, “all payment for time actually worked must also be included in the regular rate calculation.” Once the employee arrives at work after being called into service, all working time must be compensated. If this pushes the hours worked over 40 in a week or any other permitted schedule, overtime must be paid.

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 will be at a rate of one and one-half times the regular rate of pay, including a reasonable length of time to travel to work up to fifteen (15) minutes each way. The department head will determine whether the work is of an emergency nature, and will determine whether the travel time is reasonable.

Regular full-time and regular part-time employees 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.

During times an employee is asked to fill a position different from the one in which they are employed, the employee's compensation shall be temporarily adjusted to reflect the change in assignment. The adjustment shall be one half (50%) of the difference between the employee's assigned compensation level and the compensation level for which the employee has been temporarily reassigned. In the discretion of the City Administrator, the adjustment may be up to but not exceed three fourths (75%) of the difference between the employee's assigned compensation level and the compensation level for which the employee has been temporarily assigned. This temporary compensation change shall occur regardless of the length of time of the temporary reassignment.

Passed and adopted this 4th day of April, 2022.



Jim Hagan, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick M. Carter, City Attorney



REQUEST: Ordinance 22-08

SUBMITTED BY: Richard L. Stokes, Human Resources Director

DATE: March 7, 2022

RE: Compensatory Time Accrual and Call Back Pay

ATTACHMENTS:

PURPOSE: To approve an Ordinance authorizing a change in the Employee Handbook's Overtime and Compensatory Time, On Call Time, Call-Outs and Step-up Pay policy.

BACKGROUND: The Fair Labor Standards Act allows a partial exemption for firefighters and law-enforcement personnel, which is known as the 207k exemption. Qualifying firefighters are allowed to work up to 53 hours per week, or up to **212 hours in a 28-day work period**, before overtime is required. The Fair Labor Standards Act also allows public sector employees to receive compensatory time off, at a rate of not less than one and one-half hours for each overtime hour worked, instead of cash overtime pay. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other state and local government employees may accrue up to **240 hours**. The Fair Labor Standards Act (FLSA) also requires employers to pay an employee who is called back to work **after the employee's normal working hours**, otherwise known as callback pay, for the hours actually worked. "Call-back" pay is extra compensation paid to an employee for responding to a call from the employer to perform extra work that was unanticipated by the employer. Such pay is in addition to the compensation for the time actually worked. The On-Call and Callback policies represent the current practice.

FINANCIAL IMPACT: 1. Firefighter salaries have been calculated based on 216 hours per 28-day pay cycle. The initial impact will be that firefighter salaries will have to be recalculated to determine their regular rate of pay. The regular rate of pay is then used to determine the overtime rate. To prevent an FLSA Audit, back payments of the differences are currently

being scheduled. Firefighters will now be paid for four (4) hours overtime at their corrected rate.

2. Currently the city only allows compensatory time to accrue to a maximum of forty (40) hours before overtime starts. There are a few benefits that make offering comp time to employees an attractive alternative to overtime pay including improving employee satisfaction, allows for a flexible schedule, and gives employees more freedom. Having to use up a personal day is a major headache, and many employees would prefer to have compensatory time for to use for certain other events. Offering compensatory time gives employees more freedom in their lives to use their paid days off when they need it. Compensatory time accrual must be approved by the Department Head. The time must be treated like vacation leave when an employee wishes to use the leave and must be approved by the supervisor. This will result in minimal overtime payment in some departments.

3. The call back policy is the practice currently being utilized in most departments. The policy will not result in a financial impact but will result in spreading the usage of on-call and call back among more employees.

RECOMMENDATION:

That the BOMA, therefore, approve the changes to the Overtime and Compensatory Time, On Call Time, Call-Outs and Step-Up Pay policy as amended.