

ARTICLE VII. OVERTIME WORK

Sec. 9-170. General policy for overtime work.

Whenever it shall be determined that the public interest requires it, or that an emergency situation requires it, the city manager, the authorized department head, or a qualified representative of either, may require an employee to perform overtime work. However, the employees who are considered exempt under the FLSA regulations will not be eligible for compensation or compensatory time off with pay for working overtime.

Sec. 9-171. Definition.

Overtime work is defined as:

- (a) That authorized or required time worked in excess of the normal workday, tour of duty, or workweek schedule for the particular class and organizational unit of an employee;
- (b) Work on holidays for those employees who ordinarily would observe the holiday as it occurs with paid time off.

Work amounting to less than thirty (30) minutes in excess of the normal workday or tour of duty shall not be considered overtime, unless otherwise provided herein.

Sec. 9-172. Computation of forty (40) hour week.

In computing a forty (40) hour week, paid leave for holidays, sickness, vacation and other time off with pay shall be credited toward the total.

Sec. 9-173. Compensation for overtime; preferred method.

The preferable method by which overtime work shall be compensated is by monetary payment, at one and one-half (1 1/2) times the rate for regular work, or as otherwise provided herein.

Should the department head determine that the best interests of the city be served thereby, he or she may direct or permit an employee to be compensated for overtime work by taking time off, with pay, for a period equal in duration to overtime worked, commonly referred to as "straight time". Such time off with pay as compensation for overtime worked shall be taken as soon as practicable after it is earned.

Sec. 9-174. No effect on other benefits.

Overtime work shall not apply to the earning of employee benefits, toward the completion of probationary periods, or to progression within a salary range.

Sec. 9-175. Accumulation.

Subject to the approval of the department head, time off with pay to compensate for overtime worked may be accumulated, subject also to limitations hereinafter provided, up to a maximum of forty (40) hours.

Sec. 9-176. City manager to minimize.

To the extent that he or she is reasonably able to do so, the city manager shall keep overtime work to the minimum consistent with the best interests of the city.

Sec. 9-177. Compensatory time off with pay; excessive accumulation.

Department heads shall prevent the excessive accumulation of compensatory time off with pay.

Sec. 9-178. Overtime work to be apportioned.

To the extent that they are reasonably able to do so, department heads shall arrange work programs to minimize overtime work; necessary overtime work shall be apportioned among employees of like classification and assignment. Department heads may adjust employee work schedules, vacation schedules, and may shift personnel to meet job deadline requirements.

Sec. 9-179. Overtime subject to control.

All overtime is subject to control by internal audit of department payroll records. Compensatory time off with pay shall be used only when specifically authorized by the department head and such use does not interfere with the employee's job performance.

Sec. 9-180. Advance approval by city manager, when required.

The department head must secure, in advance, approval of the city manager to permit or direct overtime work to meet time limitations for a particular activity or work assignment.

In those departments of the city where experience indicates a need therefore, and overtime work expense is approved by the city council in the budget, no further approval need be acquired by the department head before his or her authorization or direction of compensable overtime work.

Sec. 9-181. Overtime provision in budget.

Department heads shall, in the preparation of their respective budgets, make provision for reasonably anticipated overtime, describing the types of work which will require such overtime work.

Sec. 9-182. Advance compensation for overtime.

Time off with pay as compensation for overtime may not be granted or taken in advance of the overtime work for which the time off compensates. Before compensatory time off with pay may be taken, as herein provided, the overtime worked must have been recorded on official payroll records at or about the time the overtime work was performed. In the absence of such recording no compensatory time off with pay will be permitted.

Sec. 9-183. Excluded employees.

Employees occupying positions in a classification designated "EM" "MM" and "RM" through a Council Resolution and/or MOU shall not be eligible for monetary compensation for overtime work, or for compensatory time off with pay for overtime work.

Such employees shall work at such times as may be necessary, their hours of work to be determined either by the supervising department head or the city manager.

Sec. 9-184. Other employee exclusions.

Employees who work on an hourly, daily, seasonal or part time basis, elected officials, and members of boards and commissions are not eligible for monetary compensation for overtime work, or for compensatory time off with pay for overtime work.

Sec. 9-185. Compensation for overtime; other exclusions.

No overtime pay or compensatory time off with pay shall be allowed an employee for attendance at conventions, conferences, seminars or the like, unless such employee is ordered to attend. Overtime pay or compensatory time off with pay shall be permitted

only for attendance on such employee's normal days off or for time beyond a normal workday's duration. Overtime pay or compensatory time off with pay shall not be allowed for travel time to and from conventions, association meetings, conferences, seminars or the like, should such time occur outside the employee's normal work schedule, unless the employee is ordered to attend.

Sec. 9-186. Call-back duty.

Any employee, other than those specifically excluded under the Fair Labor Standards Act, who is recalled to active duty from off-duty, shall be entitled to overtime pay at the rate of one and one-half (1 1/2) times the normal hourly pay rate for such employee for time actually worked after reporting to the place of duty, or to two (2) hours' pay at the normal rate of pay, whichever is greater.

Sec. 9-187. City personnel, court appearance.

Compensation for court appearances by city employees not considered exempt under the Fair Labor Standards Act shall be as follows:

- (a) For each court appearance made by an employee during his or her off-duty time in regard to city business three (3) hours overtime will be granted and paid on a straight time basis. If court appearances are made both in the morning and afternoon of a particular day, three (3) hours will be allowed for each session attended. The employee must provide a copy of the subpoena requiring his or her attendance to initiate payroll procedures. Such personnel may not receive time off with pay as compensation for overtime accrued as the result of court appearances.
- (b) A subpoenaed employee scheduled to appear in court on city business during off-duty time may be placed on standby status by his or her department head or authorized representative. In the event such off-duty employee is on standby status during any court session and is not required to appear in court, such employee shall be compensated two (2) hours overtime, paid on a straight time basis, for each court session. If such off-duty employee on standby actually appears in court, he or she shall be compensated only as provided in subsection (a) above. Any employee on standby status who fails to appear in court ready to testify within thirty (30) minutes after notification to appear shall not receive compensation for either standby or for appearance.
- (c) Notwithstanding subsections (a) and (b), whenever an

employee either commences or terminates his or her on-duty shift while he or she is appearing in court or is on standby status, his or her sole compensation for off-duty time spent in court or on standby shall be on a straight time basis paid in half hour increments.

Sec. 9-188. Accrued overtime paid upon promotion.

Upon an employee's promotion to a position in which overtime may not be earned from one in which it may, he or she shall be forthwith paid time and one-half for any outstanding accrued overtime at his or her hourly rate of pay immediately preceding the promotion.

Sec. 9-189. Accrued overtime paid upon separation.

Upon an employee's separation from employment by the City of Santa Ana, whether by resignation, retirement, layoff or otherwise, he or she shall forthwith be compensated at the rate of time and one-half his or her hourly pay for any overtime accumulated to the time of his/her separation.

Sec. 9-194. Declaration of state of emergency.

Upon the occurrence of fire, flood, earthquake, strike, riot or other catastrophe or emergency which directly affects city operations or the welfare of the city's citizens, the city manager may declare a state of emergency to exist. Upon the declaration of a state of emergency, the city manager may require any or all regular full-time employees of the city to work overtime or off-shift as he shall determine, to protect life and property within the city. After three (3) consecutive days worked in any such state of emergency, or whenever a period of three (3) days' work in the state of emergency shall have occurred within a fiscal year, the city manager may, by order, suspend all or any portion of these overtime compensation policies and, if necessary, require employees to work overtime on a straight time basis, or for time off with pay, or without any additional compensation if budgeted funds are insufficient to meet such expenditure.