

# CITY OF SPRINGFIELD SAFE HARBOR POLICY

It is the policy of the City of Springfield to properly compensate employees and to do so in compliance with all applicable state and federal laws including the salary basis requirement of the Fair Labor Standards Act (FLSA). The City prohibits all managers, supervisors and timekeepers from making any improper deductions from the salaries of employees who are exempt from the overtime provisions of the FLSA. The City wants employees to be aware of this policy and that the City does not allow deductions that violate the FLSA. The Fair Labor Standards Act is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and receive overtime at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. Employees who are eligible for and work overtime must be properly compensated for the hours worked.

## SALARY BASIS REQUIREMENT

To qualify for exemption from the overtime requirements of the FLSA, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the U.S. Department of Labor's regulations and applicable state statutes

The FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional, outside sales employees, and certain computer employees. These employees are considered to be paid on a salary basis. Being paid on a salary basis refers to an employee who regularly receives a predetermined amount of compensation each pay period on a weekly or less frequent basis, which cannot be reduced because of variations in the quality or quantity of work. Thus, they are exempt from the overtime payment provisions of the Fair Labor Standards Act.

If deductions are made from an employee's predetermined salary because of operating requirements, that employee is not considered to be paid on a salary basis. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

Exempt employees normally must receive their full salary for any week in which they perform any work, without regard to the number of days or hours worked. However, exempt employees need not be paid for any workweek in which they perform NO work at all.

In accordance with the FLSA regulations, exempt employees who are required to be paid on a salary basis may not have their pay reduced for variations in the quantity or quality of work performed.

## CIRCUMSTANCES IN WHICH THE CITY CANNOT MAKE DEDUCTIONS FROM PAY

Deductions from pay cannot be made as a result of absences due to the circumstances listed below. Such improper pay deductions are therefore specifically prohibited by the City of Springfield, regardless of the circumstances. Managers, supervisors or timekeepers violating this policy will be subject to investigation of their pay practices and may be subject to disciplinary action.

- 1) Jury duty
- 2) Attendance as a witness
- 3) Temporary military leave
- 4) Partial day amounts other than those listed below.

## CIRCUMSTANCES IN WHICH THE CITY MAY MAKE DEDUCTIONS FROM PAY

The few exceptions to the requirement to pay exempt employees on a salary basis are listed as follows. In these cases deductions may be permissible as long as they are consistent with other City policies and practices.

- 1) Absences of one or more full days for personal reasons other than sickness or disability (partial days must be paid).
- 2) Absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness.
- 3) Unpaid disciplinary suspensions of one or more full days in accordance with the City's discipline policy, including those resulting from infractions of safety rules of major significance.
- 4) Deductions for the first and last week of employment, when only part of the week is worked by the employee, as long as this practice is consistently applied to all exempt employees in the same circumstances.
- 5) Deductions for unpaid leave taken in accordance with a legitimate absence under the Family and Medical Leave Act including intermittent leave.
- 6) Fees received by the employee for jury duty or witness fees or for military pay may be applied to offset the pay otherwise due to the employee for the week. No deductions can be made for failure to work for these reasons, however.
- 7) Absences of less than one day for personal reasons or because of illness or injury when accrued leave is not used because:
  - a) Permission for its use has not been sought or has been sought and denied;
  - b) Accrued leave has been exhausted;
  - c) The employee chooses to use leave without pay.
- 8) Deductions for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

## COMPLAINT PROCEDURE

The City shall make every effort to ensure that employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do occur and are called to the City's attention, we will promptly make any corrections necessary.

- 1) It is the employee's responsibility to review his or her pay stub in a timely manner to ensure it is correct.
- 2) If the employee believes a mistake has occurred, he or she must submit the complaint in writing to his or her direct supervisor or the Director of Human Resources. The complaint must be signed and dated and include the employee's name, title, department, name of immediate supervisor, and collective bargaining unit, if applicable. The circumstances of the pay deduction and whether there have been similar occurrences on other occasions should be described, along with the dates the questionable deduction or denial occurred.
- 3) Time and pay records will be reviewed, and the supervisor and timekeeper will be interviewed to determine whether the allegation can be substantiated.
- 4) If the deduction was improper, the City will reimburse the employee as promptly as possible, but in no case longer than two pay periods from the identification of the problem.
- 5) The individual(s) responsible for the error will be investigated further to determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the City. If warranted, the responsible person(s) will be held accountable for the errors(s) and may be subject to disciplinary action.
- 6) The resolution of the situation will be documented (including confirmation on the part of the employee that the situation has been resolved) and placed with the employee's pay records.
- 7) Following the identification of such a problem, the City will establish a practice to regularly audit employee pay records to ensure no further issues arise.
- 8) Retaliation taken against any employee who makes a good-faith complaint will not be tolerated and any employee engaging in retaliatory conduct will be subject to disciplinary action.

*Effective 1/1/05*