

SUBCHAPTER 1
HOLIDAY AND OVERTIME POLICIES

350-1. Definitions. In this chapter, unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following definitions shall apply:

1. DEPARTMENT means the department of employee relations.
2. EMPLOYEE means any person on the bi-weekly payroll of the city.
3. HOLIDAY, except as specifically covered by other provisions of the code means:
 - a. New Year's Day - January 1.
 - b. Good Friday.
 - c. Memorial Day - Last Monday in May.
 - d. Independence Day - July 4.
 - e. Labor Day - The 1st Monday in September.
 - f. Thanksgiving Day - The 4th Thursday in November or the day appointed by the governor of Wisconsin as a day of public thanksgiving in each year.
 - g. The day after Thanksgiving Day.
 - h. Christmas Day - December 25.
 - i. The last normal work day before Christmas Day.
 - j. The last normal work day before New Year's Day.
 - k. Dr. Martin Luther King Jr.'s birthday - the 3rd Monday in January.
4. OVERTIME means the authorized hours worked in excess of 40 hours in one week.
5. TIME AND ONE-HALF means compensation per hour worked, determined by dividing the biweekly rate by 80 and multiplying by 1.5, unless otherwise provided, consistent with the fair labor standards act.
6. TIME WORKED means the hours worked during scheduled work periods, all holiday hours paid but not worked and all furlough hours not worked.

350-2. Holidays, General Provisions.

1. WEEKEND HOLIDAY. Whenever Independence Day (July 4) falls on a Saturday, the preceding Friday shall be observed as a holiday. Whenever New Year's Day (January 1) and Christmas Day (December 25) fall on a Saturday, the following Monday shall be observed as a holiday. When New Year's Day, Independence Day or Christmas Day falls on a Sunday, the following Monday shall be observed as a holiday.

1.5. OPTIONAL HOLIDAYS.

- a. The following days and dates shall be designated as optional holidays:
 - a-1. Cesar E. Chavez Day – March 31.
 - a-2. Juneteenth Day – June 19.
- b. If an optional holiday falls on a day on which the offices of a department are open, the department shall remain open and conduct the operations of the department. Each department head shall, as long as adequate staffing levels are maintained as determined by the department head, allow an eligible employee who complies with that department's advance notification requirements and who requests an optional holiday day off to receive that day as a paid holiday in lieu of receiving a paid holiday for one of the other holidays specified under s. 350-1 that the employee designates, as long as the designated day is within the same fiscal year.
 - c. On the holiday an eligible employee designates in substitution for an optional holiday day, the employee shall use either vacation or compensatory time-off for that day.
 - d. An eligible employee under this section shall be one who is eligible for holiday pay, subject to the city's collective bargaining obligations, as applicable, under s. 111.70, Wis. Stats.
 - e. This subsection shall not change the total number of holidays with pay granted annually.
2. FIRE DEPARTMENT
 - a. Fire equipment dispatchers and fire dispatch supervisors shall receive 11 days off per calendar year in lieu of holidays or holiday pay, earned at the rate of 0.9167 days for each calendar month of active service during that calendar year. This holiday time-off shall be taken in the calendar year in which it was earned.
 - b. Employees Working 24-Hour Shifts.
 - b-1. Holiday Compensation. An employee working 24-hour shifts shall receive 24 hours off per calendar year in lieu of holidays or holiday pay, earned at a rate of 2 hours per month. This holiday time-off shall be taken in the calendar year in which it was earned.
 - b-2. Unused Holiday Compensation. An employee on authorized injury leave as a result of a duty-incurred injury may use holiday time-off scheduled during the period of such leave provided the employee notifies his or her supervisor orally of this fact prior to the start of the holiday time-off. An employee on authorized injury leave as a result of a duty-incurred injury not using holiday time-off scheduled during the period of the employee's leave, because he or she did not make

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a request for it, shall have his or her unused holiday time-off rescheduled by the fire department administration when the employee returns to duty if it is possible to do so before the end of the calendar year. If the fire department administration is unable to reschedule all of the employee's remaining unused holiday time-off before the end of the calendar year, the employee shall be entitled to receive a lump-sum payment equivalent to the dollar value of the remaining unused holiday time-off at the end of the calendar year, computed on the basis of the employee's hourly base rate in effect at the time for which the holiday time-off was originally scheduled. This lump sum payment shall be made as soon as is administratively practicable following the end of the calendar year. The lump-sum payment shall not be construed as being part of the employee's base salary and shall not be included in the computation of any fringe benefits. The lump-sum payment shall not have any sum deducted for pension benefits nor shall it be included in any computation establishing pension benefits or payment. When authorized by the fire department administration, an employee may elect to carry over into the next succeeding calendar year any remaining unused holiday time-off that the fire department administration was unable to reschedule by the end of the calendar year, instead of the lump-sum payment provided for in this subparagraph. The scheduling of carried-over holiday time-off shall be subject to availability of the dates requested by the employee, require prior approval by the employee's supervisor and in no way affect the scheduling of other employee holiday time-off.

c. Computation. For purposes of computation benefits under par. a and b, an employee on the fire department payroll for at least 14 days in a calendar month shall be deemed as having been on the fire department payroll for the full calendar month. If the employee is on the fire department payroll for less than 14 days in a calendar month, exclusive of any furlough time, the employee shall be deemed as not having been on the payroll at all during the calendar month.

2.5. PUBLIC WORKS. a. Floating holiday. As determined by the commissioner of public works, employees assigned to the sanitation services section or the fleet services dispatch section may receive one day off per calendar year in lieu of the New Year's Eve holiday or holiday pay. This holiday time-off shall be taken in the following calendar year.

b. Eligibility. To be eligible, an employee shall have been on paid status for at least 2 work days during the calendar week the New Year's Eve holiday occurs.

3. STATUTORY COMPLIANCE. Any statutory provisions establishing legal holidays on days other than those set forth under the definition of the term "holiday" in s. 350-1 shall not be observed in a manner resulting in a shorter workweek for general city employees. If the state of Wisconsin enacts a statute under which some or all of the holidays enumerated in s. 350-1 are established or observed as so-called Monday holidays, the city will move to observation of such law, but the conformance to state law shall not increase or diminish the number of holidays with pay granted annually.

350-3. Uniform Overtime Policies. Except as provided in s. 350-6, or unless stated otherwise in a certified collective bargaining agreement while it is in force and in effect, the following overtime policies shall be applied uniformly to positions in the city service.

1. CASH OR COMPENSATORY TIME.

The determination as to whether overtime shall be taken as cash or compensatory time shall be made by each department head in consultation with the budget and management division. Department heads shall notify employees of whether cash or compensatory time-off is being offered for overtime worked prior to the actual work being performed. If notification is not provided that compensatory time is being offered for overtime worked, cash shall be paid for the overtime worked. The accumulated compensatory time credit for each employee at no time shall exceed 180 hours of banked compensatory time, which is equivalent on a time and one-half basis to 120 hours worked.

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2. AS OVERTIME ONLY. When computing overtime of either type, time compensated for any reason on an overtime basis shall not be counted in computing further overtime.

3. RATE. Overtime shall be compensated, whether as cash or compensatory time, at time and one-half the rate at which it was earned.

4. AUTHORIZATION. Department heads are authorized to order overtime work, and no overtime shall be worked unless so ordered.

5. HOLIDAYS. All hours worked on a holiday as specified under s. 350-1, s. 350-2-2-a or s. 350-2-2.5 by an eligible, fair labor standards act non-exempt employee shall be considered overtime.

5.5. EMERGENCY OVERTIME WORK.

a. Public Works. As determined by the commissioner of public works, hours worked by an eligible department of public works employee, in response to an emergency call-out, or as a result of an emergency call-out, that is outside of the employee's regular work schedule, shall be considered overtime in accordance with applicable provisions of the salary ordinance.

b. Water Works. Hours worked by an eligible water works employee shall be considered overtime in accordance with applicable provisions of the salary ordinance as follows:

b-1. Hours worked by a plant operations employee in response to an emergency call-out for a shift replacement.

b-2. Additional hours worked by a plant operations employee following the employee's scheduled work shift, as required by a department directive due to an unexpected staffing shortage.

b-3. Hours worked by a distribution section employee in response to an emergency call-out for water main repairs, if performed outside of the employee's regular work schedule.

c. Pension-eligible Overtime Hours. The city comptroller shall report overtime hours worked by an eligible department of public works employee due to an emergency call-out, or hours worked by an eligible water works distribution section employee in response to an emergency call-out for water main repairs, to the employees' retirement system. Up to a maximum of 80 straight-time hours at straight-time rates of pay shall be reported in pay periods in which an employee is compensated for less than 80 straight-time hours due to work performed as a result of an emergency call-out.

d. Milwaukee Police Department-Technical Communications Division. Additional hours worked by an eligible Milwaukee police

department-technical communications division civilian employee following the employee's scheduled work shift, as required by a department directive in response to an unexpected staffing shortage, shall be considered overtime in accordance with applicable provisions of the salary ordinance.

e. Milwaukee Fire Department Technical Services Division. Additional hours worked by an eligible Milwaukee fire department technical services division civilian employee following the employee's scheduled work shift, as required by a department directive in response to an unexpected staffing shortage, shall be considered overtime in accordance with applicable provisions of the salary ordinance.

6. CHANGE OF SHIFT. For departments that have regularly-scheduled multiple shifts, employees who are provided with less than 48 hours notice of a change in shift shall receive overtime for all hours worked during the subsequent 48-hour period.

7. EXCLUSIONS. Nothing contained within this section is intended to authorize or require overtime compensation for employees who are excluded from overtime compensation by other provisions of the code.

350-4. General Overtime Procedures and Regulations.

1. REPORTING OVERTIME REQUIRED. a. To Employee Relations. A report of all overtime employment, whether compensated for in cash or by compensatory time-off allowed by each department, shall be submitted to the director of employee relations with the payroll for the period in which the overtime was authorized for a review of the necessity of the overtime employment. The director of employee relations shall prescribe the form of the report of overtime worked or compensatory time taken off, and the number and disposition of copies. In case of departmental error or omission in reporting overtime worked or time taken off, supplementary reports shall be submitted by the departments in order that payroll checks shall reflect correct amounts, and overtime records shall indicate the exact number of hours of overtime worked or time taken off.

b. To Common Council. From the departmental reports of overtime worked or compensatory time taken off, the director of employee relations shall prepare consolidated reports of the overtime worked or time taken off, and shall submit the consolidated reports together with other appropriate information to the common council at regular intervals.

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c. Accumulated Overtime. If an employee accumulates a total of 180 hours of compensatory time-off, or 120 hours of overtime worked for which time-off may be taken, the director of employee relations shall initiate a schedule to eliminate the overtime backlog, investigate the cause and justification of the overtime work and, when possible, institute such recommended procedures as may be necessary to eliminate the need for overtime work. In each case, the director of employee relations shall provide to the common council a report of the overtime and the recommendations made or action taken to reduce or eliminate the overtime work.

d. Overtime Studies. On the basis of regular and special reports, the common council shall regularly review the overtime worked by each department, require the presence of department heads or supervisors empowered to authorize overtime work for supporting or explaining its need, and establish rules as may be deemed necessary for controlling overtime work.

2. EARNED OVERTIME UPON SEPARATION. All earned overtime, whether earned as cash or compensatory time, shall be paid as cash upon separation from city service.

3. OVERTIME NOT TO BE USED FOR RETIREMENT CREDIT. No overtime period of service, nor the compensation received, shall be counted as accruing toward credit or deduction on any annuity or pension rights.

350-5. Exclusion from Overtime.

1. POSITIONS EXCLUDED. The director of employee relations shall determine the positions that shall be exempt from the overtime provisions of this chapter.

2. FLEXIBLE SCHEDULE. Employees of positions that work a minimum average of 40 hours per week, normally consisting of 5 workdays of 8 hours each, shall be considered to work on a flexible schedule within the limits of a 40-hour week, dependent on existing workload demands and with the approval of department heads. Under this flexible schedule provision, the daily work schedule of employees may be adjusted as necessary and appropriate to fulfill their assigned duties and responsibilities. The adjustments may include starting and quitting times that are earlier or later than established in the normal work schedule of a department and may include hours of work that are more or less than 8 hours in any particular day, within the limits described. This

flexible schedule provision shall not be construed as allowing compensatory time-off at the rate of time and one-half, allowing time-off for extended personal illness without charge to sick leave, or allowing time-off for extended vacation.

3. ADMINISTRATION. Department heads shall enforce this section as it applies to personnel within their departments. The director of employee relations shall interpret the provisions of this section and report to the finance and personnel committee any problems or abuses concerning the interpretation or administration of this section.

4. TO BE USED WITHIN 2 YEARS. All employees entering positions excluded from payment in cash or compensatory time-off for overtime worked under the provisions of this subchapter shall take off any overtime balance previously earned within a 2-year period from the time of entering the positions. If time is not used within 2 years, the employee shall be compensated for the unused earned time in cash.

5. Effective July 15, 2014, any employee entering a position excluded from payment in cash or compensatory time-off for overtime worked under the provisions of this subchapter shall be compensated in cash for any compensatory time balance prior to entering a job excluded from overtime.

350-6. Compliance with the Fair Labor Standards Act. In accordance with the provisions of the federal fair labor standards act, the:

1. Director of employee relations shall determine the positions and classes that are covered by the act and transmit appropriate guidelines and instructions for carrying out the applicable provisions of the act to city departments and agencies.

2. Comptroller shall develop and establish payroll recordkeeping, payment inclusions and payroll practices to ensure good-faith compliance with the act.

3. Director of employee relations shall issue a policy statement prohibiting departments and agencies from docking employees exempt from the act for partial-day absences and institute a policy for those employees to make up the time, consistent with departmental operations.

4. Labor negotiator shall meet with appropriate representatives to discuss and clarify city compliance policies.