

II. COMPENSATION POLICIES

D. SALARY BASIS POLICY

The Fair Labor Standards Act (FLSA) 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 overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, 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 Department of Labor (DOL) regulations. The Human Resources division and City Attorney's Office determine which positions qualify for exemption.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on at least a weekly basis. The amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work.

Deductions from pay are permissible when an exempt employee:

- is absent from work for one or more full days for personal reasons other than sickness or disability;
- for absences of one or more full days due to sickness or disability if the deduction is made in accordance with the sick leave policy;
- to offset amounts employees receive for military pay; or
- for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

Also, an employer is not required to pay the full salary:

- in the initial or terminal week of employment;



- for penalties imposed in good faith for infractions of safety rules of major significance, or
- for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act (FMLA).

In these circumstances, either partial day or full day deductions may be made.

It is the City's policy to comply with the salary basis requirements of the FLSA. Therefore, no director, manager, or supervisor shall make any improper deductions from the salaries of exempt employees. The City wants employees to be aware of this policy and that the City does not allow deductions that violate the FLSA.

If any employee believes that an improper deduction has been made to his or her salary, he or she should immediately report this information to the immediate supervisor, or to the division Manager, Department Director, or Human Resources Manager.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, prompt reimbursement for any improper deduction will be made.