

4.10 OVERTIME COMPENSATION AND COMPENSATORY TIME

The Fair Labor Standards Act (FLSA) establishes a test to determine whether an employee is exempt or non-exempt for purposes of paying overtime for time worked in excess of 40 hours in a work week. Positions that do not meet the exempt test standard are classified as non-exempt. Except as otherwise discussed below, non-exempt (hourly) employees are entitled to overtime pay and must be compensated for any hours worked over 40 hours in a work week. Non-exempt (hourly) employees will be paid at the rate of one and one-half times normal hourly rate for all hours worked in excess of 40 hours in any one work week. Overtime will be calculated at one and one-half times the normal rate for non-exempt law enforcement personnel, Sheriff and Detention Deputies, for hours worked over 43 in a work week or hours worked over 86 in a 14 day work period. For firefighters, a 28 day work period has been established. Overtime compensation will be calculated at one and one half times the normal hourly rate for hours worked over 212 in the 28 day work period.

For purposes of calculating overtime, annual leave, sick leave, holiday, compensatory time off and other non-worked hours paid shall not be considered time worked and will not be included when calculating overtime in a work week. For non-exempt (hourly) employees who work a 37.5-hour work week, overtime is available only when the time worked is in excess of 40 hours in any one work week.

In limited situations, non-exempt (hourly) employees may receive compensatory time off when an employee is required to work in excess of 40 hours in a work week for a special project or during weekends or any normally scheduled time off. Compensatory time will be granted at the rate of 1.5 times the employee's normal hourly rate for all hours worked in excess of 40 hours in any one work week. At no time may any employee accrue more than five days of compensatory time off. Accrued compensatory time must be taken within two pay periods from when it is earned. Accrued compensatory time must be taken prior to using any accrued annual, holiday or sick leave. Any exception to this policy must be approved by the County Administrator. The County reserves the right to choose to pay out overtime in lieu of providing compensatory time in individual work weeks when the County deems it appropriate. This will not change the County's right to provide compensatory time in lieu of overtime in future work weeks.

Where practical, employees will be given advance notice of the need to work overtime. All overtime should be approved in advance by the Department Head and the County Administrator.

Exempt employees are not eligible for overtime or compensatory time off.

Nonexempt Spartanburg Parks Maintenance Employees

Spartanburg County has implemented a compensatory time policy which will provide compensatory time off in lieu of overtime for non-exempt maintenance employees performing work for Spartanburg Parks. Compensatory time off is paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for employment. The following explains how the policy works:

**THIS DOCUMENT IS NOT A CONTRACT, EXPRESSED OR IMPLIED.
EMPLOYMENT IS AT-WILL.**

- For every hour of overtime worked, 1.5 hours of compensatory time will be given to the employee. This is in lieu of being paid 1.5 times the employee's regular rate for overtime hours worked. This allows employees the flexibility to have additional paid time off.
- An employee may accrue up to 240 hours of compensatory time. Once 240 hours have accrued, an employee cannot accrue compensatory time until the employee's accrued compensatory time falls below 240. If an employee works overtime and has already accrued the maximum amount of compensatory time, Spartanburg County will pay the overtime rate for any overtime worked in lieu of awarding compensatory time until the employee's accrued compensatory time falls below 240. Please keep in mind that to accrue 240 compensatory hours, an employee need only work 160 overtime hours because for every hour of overtime worked, the employee receives 1.5 hours of compensatory time.
 - **Note:** For purposes of calculating overtime, annual leave, sick leave, holiday, compensatory time off and other non-worked hours paid shall not be considered time worked and will not be included when calculating overtime in a work period.
- The County will make every effort to approve requests to use compensatory time off. If the approval of compensatory time off will unduly disrupt the County's operations, the request will be denied.
- Compensatory time will be paid at the regular hourly rate earned by the employee at the time the employee receives payment.
- If employment ends prior to an employee using all accrued compensatory time, the unused compensatory time will be paid at a rate of compensation, which is not less than: (1) the average regular hourly rate received by the employee during the last three years of his or her employment; or (2) the final regular hourly rate received by the employee, whichever is higher.
- The County reserves the right to choose to pay out overtime in lieu of providing compensatory time in individual work weeks when the County deems it appropriate. This will not change the County's right to provide compensatory time in lieu of overtime in future work weeks.

**THIS DOCUMENT IS NOT A CONTRACT, EXPRESSED OR IMPLIED.
EMPLOYMENT IS AT-WILL.**