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ON-CALL / STAND-BY POLICY

I. POLICY

All employees regardless of status will abide by the “on-call” policy. The U.S. Department of Labor regulation 29 CFR 785.17 notes that “An employee who is required to remain on call on the employer’s premises or so close thereto that he cannot use the time effectively for his own purposes is working while ‘on-call.’” Otherwise the employee is considered to be on “stand-by” and the employee is able to use his or her time freely and is not performing a specific assigned task.

II. PURPOSE

It is important to clearly define when an employee is considered “waiting to be engaged” or “engaged to wait.” If the employee is considered “waiting to be engaged” the employee will **not** be compensated. If the employee is considered “engaged to wait,” the employees time **will be** compensable.

III. PROVISIONS

A. Stand-by: “Waiting to be Engaged” Defined

If an employee who is able to use his or her time freely and is not performing a specific assigned task, that employee is considered “waiting to be engaged” otherwise known as “stand-by.” The employee can be available by telephone if needed; however, since he or she is waiting (off-duty), the employee is not compensated for that time.

(1) Examples of Standby

The following examples have been given based on the U.S. Department of Labor publications and/or court rulings:

U.S. Department of Labor notes the following example in 29 CFR 785.16. “If the truck driver is sent from Washington, D.C., to New York City, leaving at 6:00 a.m. and arriving at 12 noon, and is completely and specifically relieved from all duty until 6 p.m. when he again goes on duty for the return trip the idle time is not working time. He is “waiting to be engaged.” Thus, the idle time is not compensable.

Water and sewer department employees who could wear pagers, could not consume alcoholic

beverages and were called back to duty an average of less than once per day are not considered compensable.

Police detectives called less than twice per week, who could be reached by pager, and who had to remain sober and report to duty within 20 minutes of responding to a page are not considered compensable.

Town of Davidson specific examples include: an off-duty law enforcement officer waiting to be called by telephone to court and/or an off-duty public works employee waiting to be called by telephone to respond during a weather related event.

(2) Carrying a Paging Device or Cellular Phone

If an employee must carry a paging device such as a beeper or cellular phone and the employee is relieved of his or her duties (off duty), the time carrying and answering the device is considered not compensable. Federal court decisions have held that on-call employees are not overly constrained by a paging device and thus is not compensable.

(3) Compensability

Employees “waiting to be engaged” otherwise known as “stand-by” will not be compensated for their time.

B. On-Call: “Engaged to Wait” Defined

When an employee is required to stay at the workplace or is so near to the workplace the he or she cannot use his or her time freely, the employee is “engaged to wait (on-duty)” otherwise known as “on-call” and the employee is compensated for the time.

(1) Examples of On-Call

The following examples are based on the U.S. Department of Labor publications and/or court rulings:

U.S. Department of Labor notes the following example in 29 CFR 785.15. “A stenographer who reads a book while waiting for dictation, a messenger who works a crossword puzzle while awaiting assignments, a firefighter who plays checkers while waiting for alarms and a factory worker who talks to his fellow employees while waiting for machinery to be repaired are all working during their periods of inactivity.”

Firefighters required to report to the station house within 20 minutes of being paged in appropriate physical condition to work, who were called back to work an average of three to five times per 24 hour on-call period, could trade on-call shifts only with great difficulty and were effectively precluded by their schedules from obtaining a second job.

Forestry service employees required to remain within 50 miles of the work site, who could not

participate in social or other activities that would prevent them from monitoring radio transmissions, and who had to respond to an emergency call within 30 minutes and could not obtain relief from the on-call status because they were subject to call 24 hours per day.

Town of Davidson specific examples include: law enforcement officers that are required to stay within a stay within a specific distance to the Town of Davidson and called back to work more than an average of two times per day.

(3) Compensability

Employees “engaged to wait” otherwise known as “on-call” will be compensated for their time at the employee’s regular hourly rate and subject to all FLSA overtime provisions.

C. Eligibility

(1) Non-Exempt Employees:

Employees will be made aware immediately if their status changes to “waiting to be engaged” otherwise known as “**standby.**” Time will not be compensated.

Furthermore, employees will be made aware immediately if their status changes to “engaged to wait” otherwise known as “**on call.**” Furthermore, the employees will be compensated for time at the employee’s regular hourly rate and subject to all FLSA overtime provisions.

(2) Exempt Employees:

Employees will be made aware immediately if their status changes to “waiting to be engaged” otherwise known as “**standby.**” Time will not be compensated.

Employees will be made aware immediately if their status changes to “engaged to wait” otherwise known as “**on call.**” Furthermore, the employees will be not be compensated for time unless extenuating circumstances exit and subject to the Town Managers discretion.

D. Employee Expectations

The Town provides a continuous twenty-four hour a day, seven day a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

IV. DEFINITIONS

A. Waiting to be Engaged – “Stand By”: If an employee who is on-call is able to use his or her time freely and is not performing a specific assigned task, that employee is considered “waiting to be engaged” otherwise known as “stand-by.” The employee can be available by telephone if needed; however, since he or she is waiting (off-duty), the employee is not compensated for that time.

B. Engaged to Wait – “On-Call”: When an employee is required to stay at the workplace or is so near to the workplace the he or she cannot use his or her time freely, the employee is “engaged to wait (on-duty)” otherwise known as “on-call” and the employee is compensated for the time.

C. Exempt Employee: An exempt status employee is one who is not covered by the minimum wage and overtime pay provisions under the Fair Labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

D. Employee, Non-Exempt: An employee who is covered by the minimum wage and overtime pay provisions under the Fair Labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

VI. SCOPE

As of October 23, 2017 this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION



Jamie Justice
Town Manager