



Subject/Title
Pay Deductions Policy
Work Absences – Exempt Employees

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Code Number

HR21

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City Manager

Human Resources

Responsible Key Business

Objective:

To establish the City’s policy prohibiting improper pay deductions and identify permissible pay deductions for work absences specified in the Fair Labor Standards Act (“FLSA”) to include a reporting procedure for employees who feel that improper deductions have been made; provide for reimbursement to employees for any improper deductions; and reaffirm the City’s good faith commitment to comply with all related provisions contained in the FLSA.

Policy:

It is the City’s policy to comply with the salary basis requirements of the FLSA. Therefore, the City prohibits all managers from making improper deductions from the salaries of exempt employees. Employees should be aware of this policy and that the City does not allow deductions that violate the FLSA.

Responsibilities and References:

Fair Labor Standards Act

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.

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. Certain computer employees are also exempt. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis. 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 FLSA regulations.

Salary Basis Requirement

Being paid on a “salary basis” means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee’s work. Subject to the 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. If an employer makes deductions from an employee’s predetermined salary, i.e., because of operating requirements of the business, that employee is not 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.

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Permissible Deductions from Pay

Deductions from an exempt employee's pay for work absences are permissible under the following circumstances:

- The employee is absent from work for one or more full days for personal reasons other than sickness or disability;
- The employee is absent from work for one or more full days due to sickness or disability if the deduction is made in accordance with the City's policy or practice of providing compensation for salary lost due to illness;
- The employee is absent for personal reasons or because of illness or injury of less than one day when leave is not used or has been exhausted;
- The employee is absent due to a budget-required furlough;
- To offset amounts employees receive as jury or witness fees, or for military pay;
- The employee receives an unpaid disciplinary suspension of one or more full days imposed in good faith for workplace conduct rules;
- The employee is absent from work for either a partial day or a full day for penalties imposed in good faith for infractions of safety rules of major important significance; or
- The employee is absent from work for either a partial day or a full day during a week in which the employee takes unpaid leave under the Family and Medical Leave Act.

Also, the City is not required to pay the full salary in the first or last week of employment.

Employee Responsibility

The City makes every effort to ensure its employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes happen and are called to the City's attention, the necessary corrections will be made. All employees should review their pay stub when received, via hard copy or electronically in the City's payroll software, to make sure that it is correct. If an employee believes a mistake has occurred, or if there are any questions, the employee should use the reporting procedure outlined below.

Reporting Procedure

If an employee believes that an improper deduction has been made to his or her salary, this information should immediately be reported to the City's Compensation Manager in the Human Resources Department at 704-336-5700. Any complaint will be resolved within a reasonable time given all of the facts and circumstances. If an investigation reveals that an employee was subjected to an improper deduction from pay, he or she will be reimbursed, and the City will take whatever action it deems necessary to ensure compliance with the salary basis test in the future.