

Fire

Department

- Compensatory time
- Sick leave
- Vacation leave

Sec. 34-59. Workweek; overtime compensation; sick leave; vacation leave.

- (a) Definitions. Unless otherwise indicated, the following words shall, for purposes of this section, have the following meanings:
- (1) *Compensatory time* or *compensatory time off*. Hours during which eligible employees are not working and which are not counted as hours worked during the applicable workweek for purposes of overtime compensation and for which the employee is compensated at the employee's regular rate.
 - (2) *Eligible employee*. All classified members of the fire department subject to the provisions of articles 1269m and 1269p of the Revised Civil Statutes of Texas.
 - (3) *Overtime*. Dependent upon the duty assignment and work cycle of the firemen, overtime shall be that time worked in excess of either:
 - a. 40 hours in a workweek; or
 - b. An average number of hours of actual work per week over a calendar year of 46.7 hours as authorized by the provisions of article 1269p.
 - (4) *Regular rate of pay*. Regular rate of pay shall include:
 - a. Base pay;
 - b. Longevity pay;
 - c. Educational incentive pay;
 - d. Assignment pay; and
 - e. Higher classification pay where authorized.

The term "regular rate of pay" shall not include compensation excluded under Section 7(e) of the Fair Labor Standards Act of 1938, as amended, or the interpretative regulations and administrative or judicial opinions construing that section.
 - (5) *Workweek*. Dependent upon the duty assignment and work cycle of the fireman, the workweek shall be either:
 - a. Forty hours of actual work within the consecutive one hundred sixty-eight-hour period beginning with the dayshift Saturday; or
 - b. An average number of hours of actual work per week over a calendar year of 46.7 hours as authorized by the provisions of article 1269p.
 - (6) *Time actually worked* or *actual work*. The time the employee is actually on duty or on a council declared holiday, on authorized sick leave, vacation leave, compensatory time off, death in the family leave or any other authorized leave, provided that this is for the purpose of overtime calculations dealt with in this section only and not for purposes of determining compliance with article 1269p, section 6(D) of the Revised Civil Statutes of Texas, which shall be governed by state law. Hours spent by a fireman doing the work of an injured or ill fireman pursuant to section 26(h) of article 1269m shall not count as hours worked for purposes of overtime compensation. Hours worked in "substitution" pursuant to subsection (f) hereof shall not be counted as time actually worked for purposes of overtime compensation. Calculation of time actually worked shall commence upon the arrival of the fireman at his or her assigned place of duty for the particular duty day at the time established for the commencement of the work shift.
- (b) Eligible employees shall have a regularly scheduled workweek on a schedule established by the department. Any fireman whose duties involve either the extinguishment of fires or the delivery of emergency medical services shall be entitled to overtime pay for those hours in excess of the scheduled work cycle as established pursuant to article 1269p. Any fireman

whose duty assignment is not described by the foregoing shall be entitled to overtime pay for all time actually worked in excess of his or her forty-hour workweek.

- (c) The fire chief shall cause to be maintained accurate, complete and permanent records of all employee attendance and time actually worked during each workweek. He shall make reports of attendance and time actually worked as may be prescribed by the civil service commission. He shall certify the correctness of the reports. The reports shall be forwarded to the human resources department on a weekly basis.
- (d) All eligible employees shall be compensated for working overtime beyond their regularly scheduled workweek by the payment of either monetary compensation at the rate of 1½ times their regular rate of pay or compensatory time at the rate of 1½ hours for each overtime hour worked. The following shall apply to the payment of overtime compensation:
- (1) The fire chief or his designated subordinate shall verify that the overtime is needed to complete a required city service or operation.
 - (2) Upon request of the fireman, the fire chief may, in his discretion, grant compensatory time in lieu of cash payment for overtime. Where overtime is paid in cash it shall be paid in the pay period in which it is earned or as soon thereafter as is possible, taking into consideration both the work cycle and the payroll system used.
 - (3) Where the employee is granted compensatory time the following shall apply:
 - a. The number of hours of compensatory time which may be accumulated shall not exceed 480.
 - b. Accrued compensatory time which is given must be used within 365 calendar days from the date accrued, provided that it does not unduly disrupt departmental operations. The fire chief shall issue appropriate regulations governing the use of compensatory time.
 - c. Accrued compensatory time not taken within 365 days from the date of accrual shall be paid for, in cash, at the greater of:
 1. The employee's average regular rate of pay over the employee's last three years of employment by the city preceding the date of payment; or
 2. The employee's regular rate of pay as of the end of the pay period preceding the date of payment.Such payment shall be made in the pay period following expiration of the three hundred sixty-five-day period.
 - d. The fire department shall maintain detailed records of the accumulation and use of compensatory time on a form prescribed by the human resources director.
 - e. Accumulated compensatory time shall be used in accordance with the first-in-first-out (FIFO) accounting principle.
 - f. Any compensatory time accrued prior to April 15, 1986 and not used shall be carried on the records of the department until such time as it is used by the employee. The employee shall not be entitled to monetary compensation for any compensatory time accrued prior to April 15, 1986.
- (e) All classified firefighters of the fire department who are subject to the provisions of chapter 142 and chapter 143 of the Local Government Code shall be entitled to the same number of holidays or days in lieu thereof as are granted to all other employees of the city as provided below:
- (1) All holidays shall have an accrual value of eight hours. When a classified employee is unable to take the holiday, he or she shall have eight hours posted to his or her accrued holiday balance. When an accrued holiday day is taken in lieu of the regularly scheduled holiday, eight hours will be charged; however, its usage value will be dependent upon the shift worked by the classified employee at the time the day in lieu

of the holiday is taken. Any classified employee in the Emergency Operations Division assigned to the average of 46.7 hours per week work schedule shall receive 12 hours off for each holiday accrued. Classified personnel assigned to ten-hour work days shall receive ten hours of leave and all other classified personnel shall receive eight hours off for each holiday accrued.

- (2) Where a holiday falls on a regularly scheduled day off, any employee so affected shall accrue the holiday in the manner described in subsection (e)(1) above.
- (3) Employees in the Emergency Operations Division and assigned to the average of 46.7 hours per week work schedule who are normally scheduled to work on the actual dates of July 4th, December 24th, December 25th, and January 1st, as well as the following City approved Holidays (Martin Luther King Jr. Day, Memorial Day, Labor Day, Veteran's Day, Thanksgiving Day, and the day after Thanksgiving Day) shall accrue two holidays, provided the member is physically on-duty and completes the entire 24-hour shift, beginning at 0630 hours of the holiday in question. The holidays will accrue as two eight-hour accruals for the holiday shift worked.

Employees in the Emergency Operations Division, not normally scheduled to work, that are called in to work on the actual dates of July 4th, December 24th, December 25th, and January 1st, as well as the following City approved Holidays (Martin Luther King Jr. Day, Memorial Day, Labor Day, Veteran's Day, Thanksgiving Day) shall accrue one eight-hour accrual for the holiday shift worked.

- (4) Employees in the Emergency Operations Division and assigned to the average of 46.7 hours per week work schedule who are not normally scheduled to work, that are called in to work on the actual dates of July 4th, December 24th, December 25th and January 1st, as well as the following City approved Holidays (Martin Luther King Jr. Day, Memorial Day, Labor Day, Veteran's Day, Thanksgiving Day, and the day after Thanksgiving Day) shall be paid at the rate of time and one-half the hourly rate for actual hours worked during the 24-hour period beginning at 0630 hours of the holiday in question in lieu of the extra board straight time rate.
- (5) When a holiday occurs during any paid leave of absence (vacation, sick time, injury on duty, etc.), the holiday is considered to have not been observed and the holiday shall be accrued and that day's absence will be changed against paid leave.
- (6) Any classified employee who terminates his or her employment and has an accrued holiday leave-balance shall be paid for such holidays, not to exceed a total of 11 holidays. The limitation of 11 holidays shall not apply to a classified employee who leaves the classified service because of disability or death, and in such event, the employee, or his/her estate, shall be paid for all of the accrued holiday balance. All holidays for which payment is made upon termination, disability or death shall be valued at eight hours, regardless of the scheduled work hours or duties assigned to the firefighter at the time they were earned.
- (f) The fire chief shall prepare and issue administrative guidelines to implement the provisions of section 26(h) of article 1269m wherein firemen are authorized to voluntarily do the work of an injured or ill fireman.
- (g) If the fire chief elects to permit "substitution," as that term is used in the context of the Fair Labor Standards Act and as the practice is described by section 7 of article 1269p, he shall prepare and issue administrative guidelines to implement the provisions of section 7 of article 1269p subject to all applicable provisions of the Fair Labor Standards Act and the interpretations thereof.
- (h) The fire chief shall prepare and issue administrative guidelines regarding on-call status for firemen. Such guidelines shall be structured so as to limit the number of firemen on-call to a number reasonably required to meet the needs of the department. Further, such policy shall conform with the standards pertaining to overtime pay for on-call time under the Fair Labor Standards Act of 1938, as amended, and the interpretations thereof.

- (i) Employees of the fire department classified pursuant to article 1269m of the Revised Civil Statutes of Texas, shall be allowed sick leave consistent with the provisions of section 26(b) (a) of article 1269m and Ordinance No. 84-1962, as amended. When a sick day is taken, its value will be dependent upon the shift or duty assignment held by the fireman at the time the day is taken. Any fireman engaged in fighting fires or the actual delivery of emergency medical services shall receive 12 hours off for each sick day taken. All other classified personnel shall receive eight hours off for each sick day taken. Officers and employees whose absences on authorized sick leave are for periods other than a full working day as defined herein shall be assessed sick leave in proportion to the number of full working days or fraction thereof they are absent.
- (j) Officers and employees of the fire department classified pursuant to article 1269m of the Revised Civil Statutes of Texas, shall earn 15 days of vacation with pay per year to be accrued at a rate of 1¼ days per month. After 15 years of service employees shall be entitled to a vacation according to the following schedule:

16 years	16 days
17 years	17 days
18 years	18 days
19 years	19 days
20 years	20 days
21 years	21 days
22 years	22 days
23 or more years	22 days

When a vacation day is taken, its value will be dependent upon the shift held by the fireman at the time the day is taken. Any fireman engaged in fighting fires or the actual delivery of emergency medical services shall receive 12 hours off for each vacation day taken. All other classified personnel shall receive eight hours off for each vacation day taken. Officers and employees whose absences on authorized vacation leave are for periods other than a full working day as defined herein shall be assessed vacation leave in proportion to the number of full working days or fractions thereof they are absent.

(Code 1968, § 18-20; Ord. No. 73-2079, § 1, 11-21-73; Ord. No. 74-2184, § 1, 12-17-74; Ord. No. 77-2411, § 1, 11-22-77; Ord. No. 79-1035, § 1, 6-21-79; Ord. No. 80-2873, § 1, 9-30-80; Ord. No. 81-1319, § 1, 7-8-81; Ord. No. 86-489, § 1, 4-9-86; Ord. No. 86-517, § 1, 4-15-86; Ord. No. 92-1412, § 1, 10-28-92; Ord. No. 94-189, § 1, 2-23-94; Ord. No. 94-1005, § 1, 9-21-94; Ord. No. 96-1290, §§ 25, 26, 12-4-96; Ord. No. 98-669, § 1, 8-19-98)