

**RULE 9**  
**PAY ADMINISTRATION**  
(Effective April 1, 2006; Rules Revision Memos 7C and 9C)

Purpose statement

The purpose of this rule is to explain the establishment and administration of pay practices, except merit increases, and hours of work.

Section 9-5 Definitions

- A. Classification series: The arrangement in sequence of classes that are alike in the kind but not in level. For the purposes of a market adjustment within the salary range, a classification series shall include first line supervisors and lead workers. (Revised effective April 1, 2006; Rules Revision Memo 9C)
- B. Demotion: An appointment of an employee to a position in a classification in which the entry rate of the pay grade of the new classification is lower than the entry rate of the classification previously held.
- C. Employee Internship Appointment: An appointment of an employee to an entry level position in a new classification in accordance with the provisions of the Employee Internship program established by the Career Service Personnel Director ("Personnel Director").
- D. Entry Rate: The first step in a pay range.
- E. Market Conditions: Factors and trends in the market as determined by a compensation analysis that may affect compensation rates such as the supply and demand of workers.
- F. Promotion: An appointment of an employee to a position in a classification in which the entry rate of the pay range for the new classification is higher than the entry rate of the pay range for the employee's current classification.
- G. Re-allocation: The formal process of assigning an existing position to its proper classification on the basis of the duties performed and the responsibilities exercised. (Revised effective May 3, 2006; Rules Revision Memo 8C)
- H. Promotional re-instatement: A promotion of an employee resulting from certification from a re-instatement list.
- I. Re-instatement: An appointment of a laid off employee resulting from certification from a re-instatement list.

- J. Re-promotion: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same entry rate or an intervening entry rate as the former classification. Appointments that meet the definition of a promotional re-instatement are not re-promotions.
- K. Transfer: For the purposes of these rules, an appointment of an employee to one classification from another, if the entry rate of the pay range for the new classification is the same as the entry rate of the pay range for the classification previously held.

#### Section 9-6 Designees

Appointing authorities, including the Personnel Director, may delegate any authority given to them under this rule to a subordinate employee.

#### Section 9-10 Pay practices

- A. Pay practices include, but are not limited to items such as pay when first employed, changes in pay resulting from changes in position or classification, differentials, overtime pay, standby pay, and merit increases.
- B. The kind and level of pay practices for Career Service employees shall be determined by the Career Service Board ("Board") following a survey of other employers or based on the City's needs.
- C. Applicability to Deputy Sheriffs: None of the provisions of this Rule 9 shall apply to employees who hold positions in classifications in the Undersheriff pay schedules.

Section 9-20 Pay When First Employed

(Revised effective May 20, 2008; Rule Revision Memo 28C)

- A. An appointing authority may set pay for a new employee at a step higher than the entry rate (but not to exceed the last step of the applicable pay schedule) if necessary to obtain the services of an unusually well-qualified person. The decision to appoint at a step higher than the entry rate shall be based on any or all of the following factors:
1. Market conditions;
  2. Related experience;
  3. Previous work record;
  4. Specialization of education;
  5. Salary history;
  6. Quality/quantity of education.

In any event, qualifications of the new employee should exceed the minimum qualifications stated in the classification specification, and internal equity shall be considered.

- B. The appointing authority shall submit documentation with the Personnel Action Form documenting the justification for hiring an employee at or above step "11" in a non-exempt pay schedule or at or above step "13" in an exempt pay schedule.

Section 9-30 Changes in Classification and Pay

A change in an employee's classification may occur through promotion, transfer, demotion, Employee Internship Appointment, re-allocation, or re-instatement.

9-31 Promotion and re-promotion

(Revised effective May 20, 2008; Rule Revision Memo 28C)

- A. Upon promotion an employee's pay shall be set at the closest matching step in the new pay grade to a six and nine-tenths percent (6.9%) increase, except that under appropriate circumstances, the provisions of subsection 9-31 B. may be applied. If there is no step in the new pay range that exactly matches the employee's pay with a 6.9% increase, the pay shall be set at the step in the new pay range that is closest to the amount of the 6.9% increase, even if this results in an increase of less than 6.9%. In no event shall the pay upon promotion be lower than the entry rate or exceed the last step of the pay range for the new classification.

- B. The appointing authority may designate the pay upon promotion at a rate higher than six and nine-tenths percent (6.9%) to obtain the services of an unusually well-qualified candidate. The decision to set pay upon promotion at a rate higher than 6.9% shall be based on any or all of the following factors:
1. Internal equity;
  2. Market conditions;
  3. Related experience;
  4. Previous work record;
  5. Specialization of education;
  6. Salary history;
  7. Level of responsibility accepted;
  8. Quality/quantity of education.
- C. The appointing authority shall submit documentation with the Personnel Action Form documenting the justification for increasing pay upon promotion by more than the amount allowed under the provisions of subsection 9-31 A.
- D. Within the short range pay schedule the employee's pay shall be set at the closest matching step in the new pay grade to a five percent (5%) increase not to exceed the highest step of the pay range for the new classification. If there is no step in the new pay range that exactly matches the employee's pay with a 5% increase, the pay shall be set at the step in the new pay range that is closest to the amount of the 5% increase, even if this results in an increase of less than 5%.
- E. Demotion and subsequent re-promotion:
1. If an employee demotes without a loss in pay, that employee is not eligible for an increase in pay upon re-promotion if such re-promotion occurs within twelve months following the date of the demotion.
  2. In all other circumstances, an employee being re-promoted will have their pay set under the provisions of subsection 9-31 A.

### 9-32 Transfers

When an employee transfers, the employee shall receive the same pay as before the transfer, unless that would be more than the last step of the new pay range. In that case the employee's pay shall be set at the last step of the new pay range.

### 9-33 Demotion

#### A. Voluntary demotion:

1. A voluntary demotion is a demotion initiated through the request or application of an employee.
2. When an employee voluntarily demotes, pay shall be set by the appointing authority and shall not be decreased by more than six and nine-tenths percent (6.9%), unless doing so is necessary to keep the employee's pay from exceeding the last step of the pay range of the new classification. Before the pay can be set at a pay rate higher than the employee's current pay rate, the Personnel Director's prior approval will be required.

#### B. Demotion in lieu of lay-off: Upon a demotion in lieu of lay-off, the pay shall be maintained at the level received before the demotion, or at the last step of the pay range in the new classification, whichever is lower. If the level received before the demotion does not correspond to a step in the new pay range, the closest higher step shall be paid.

#### C. Involuntary demotion:

1. An involuntary demotion is a demotion initiated:
  - a. Through disciplinary action in accordance with Rule 16 DISCIPLINE AND DISMISSAL; or
  - b. In lieu of disqualification in accordance with Rule 14 SEPARATION OTHER THAN DISMISSAL; or
  - c. In lieu of separation during employment probation in accordance with Rule 5 APPOINTMENTS AND STATUS.
2. When an employee is involuntarily demoted, pay shall be set by the appointing authority. At least a six and nine-tenths percent (6.9%) reduction shall be required.

#### D. In no event shall the pay upon demotion be lower than the entry rate or exceed the last step of the pay range for the new classification.

#### 9-34 Employee Internship Appointment

When a current Career Service employee accepts an Employee Internship Appointment, pay shall be set by the appointing authority. Any step between step "1" and step "9" of the non-exempt pay schedule or step "11" of the exempt pay schedule may be designated. In no event shall the new pay be lower than the entry rate or higher than step "9" of the non-exempt pay schedule or step "11" of the exempt pay schedule for the new classification.

#### 9-35 Re-allocation

- A. When a position is re-allocated to another classification, the incumbent's pay shall be set at a step that is closest to that employee's existing rate of pay without losing pay. If the employee's pay is higher than the last step of the pay range of the new classification, the employee's pay shall remain at the employee's existing rate of pay until such time that either:
1. The employee changes positions; or
  2. The pay range of the new classification catches up to the employee's rate of pay when the pay range is adjusted.

In no event shall the employee receive less than the entry rate of the pay range of the new classification.

- B. When an employee meets the requirements to progress to a higher classification in a current delegated progressive classification series and the Personnel Director approves the progression to the higher classification, the employee's pay shall be set at a step that reflects a two and one quarter percent (2.25%) increase in pay. In no event shall the employee receive less than the entry rate of the pay grade of the new class.
- C. When a classification is changed to a different occupational group, pay grade, and/or pay range as the result of a re-allocation as described in Rule 7 CLASSIFICATION, the pay for employees in that classification shall be set at the step in the new pay range that is closest to the employees' current rate of pay without a loss in their current pay. In no event shall an employee receive less than the entry rate of the new pay range.

#### 9-36 Re-instatement Appointment or Promotional Re-instatement Appointment

Upon re-instatement or promotional re-instatement, either after lay-off or after demotion in lieu of lay-off, an employee's pay shall be set at the rate of pay the employee received immediately prior to such lay-off or demotion in lieu of lay-off. If payment at this rate would result in a decrease in pay for a current City employee, the pay rate shall be set at the pay step closest to the employee's present rate of pay, without a loss in pay. In no event shall the pay rate be lower than the entry rate of the pay range.

Section 9-40 Work Assignment Outside of Job Classification  
(Revised effective May 20, 2008; Rule Revision Memo 28C)

- A. An appointing authority may temporarily assign the duties of a vacant position in a higher level classification to an employee in a lower level classification for a period of one year in accordance with the criteria established in this rule. Assignments for periods longer than one year require the approval of the Personnel Director.
- B.
  - 1. Employees are eligible for additional pay for such assignments when they have been assigned all of the duties and responsibilities of the vacant position in the higher level classification;
  - 2. Additional pay for work outside of an employee's job classification shall start at the beginning of the work week following the fifteenth day of the temporary assignment, and continue for the duration of the assignment.
- C. The employee shall receive additional pay equal to six and nine-tenths percent (6.9%) above his or her regular base pay, unless the employee is receiving equipment differential.
- D.
  - 1. The employee's job classification will not change as a result of a temporary assignment of higher level job duties and responsibilities. Employees receiving additional pay for working outside of their assigned classification shall not be eligible for re-allocation to the higher level classification.
  - 2. If an employee's Merit Date falls within the period of the temporary assignment and the employee receives a merit increase, the pay for the work assignment outside of job classification shall be re-calculated based on the employee's base pay with the merit increase. The re-calculated pay shall be effective as of the date of the merit increase.
- E. Upon completion of the temporary assignment, the employee's pay shall return to the employee's base pay prior to the temporary assignment, including any merit increase awarded during the temporary assignment.
- F. Pay for work outside of an employee's job classification does not impact subsequent pay for promotion, demotion or any other personnel action.

## Section 9-50 Recruitment and Retention Pay

A. Recruitment premium (Revised effective May 20, 2008; Rule Revision Memo 28C):

A department or agency may pay a one-time premium of up to \$4,000 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The request must be approved by the Budget and Management office prior to extending the bonus offer. The candidate will be eligible to receive this bonus upon the completion of employment probation.

B. Relocation premium (Revised effective May 20, 2008; Rule Revision Memo 28C):

A department or agency may pay relocation costs of up to \$7,500 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The individual receiving the relocation assistance must stay employed by the city for two (2) years. If the individual voluntarily terminates employment prior to serving two (2) years, he or she must repay part of the relocation pay. The basis for repayment shall be pro-rated for each month of service. The Budget and Management office must approve relocation pay and the employee receiving such pay shall sign a form acknowledging their acceptance of the terms of this rule.

C. Counter offer:  
(Revised effective May 20, 2008; Rule Revision Memo 28C)

1. A counter offer may be made for any of the reasons listed below:
  - a. To retain an employee whose skills, knowledge or abilities are deemed essential to the mission of the City or a department or agency;
  - b. To avoid recruiting and training costs when those costs clearly exceed the costs of a counter offer;
  - c. When it has been determined that turnover rates in a classification exceed the calculated turnover rate for that occupational group or classification and pay has been determined to be a significant cause; or
  - d. When the vacancy rate within a classification reaches a level where additional loss of personnel may interfere with the City's ability to provide adequate levels of services to the public.
2. An appointing authority may make a counter offer to an employee when the following conditions have been met:
  - a. The base salary and employee benefits the employee will receive at the prospective employer is greater than the base salary and employee benefits the employee is currently receiving from the City;
  - b. The counter offer does not exceed the highest step in the pay range the employee occupies at the time the offer is extended;
  - c. The prospective employer is not a department or agency of the City; and
  - d. The appointing authority has verified the authenticity of all job offers which constitute the basis for a counter offer.
3. The appointing authority shall submit a copy of the written offer of employment from the prospective employer with the Personnel Action Form.

D. Interim market adjustments

1. The Board, following a public hearing, may make a market adjustment in a pay practice, or create a temporary pay practice, if the Board finds that all of the following conditions exist:

- a. Numerous vacancies exist in the classification(s) that will be affected by the proposed pay practice;
  - b. Recruitment has not been effective;
  - c. Retention rate is low; and
  - d. Market driven personnel shortages in the classification(s) are causing difficulty in fulfilling an essential mission of the City.
2. An interim market adjustment shall remain in effect for up to one (1) year. Nothing in this subsection prevents a new market adjustment from being established for the same classification(s), provided that all of the requirements of the previous subsection are met.

E. Pay adjustment within the salary range

1. An appointing authority may adjust pay for an existing employee, within that employee's current salary range, if the purpose is to eliminate pay inequity created by market conditions, so long as the existing employee's pay is being compared with the pay of a subsequent hire in the same department or agency who is:
  - a. In the same classification; or
  - b. In the same classification series or
  - c. In a classification in the same occupational group within the same career path performing similar types of duties; or
  - d. Subordinate to the existing employee in the existing employee's chain of command.  
(Revised effective May 20, 2008; Rule Revision Memo 28C)
2. Employees in or above the classification of Manager 1 are not eligible for this pay adjustment.
3. A pay adjustment within the salary range requires the approval of the Personnel Director. The effective date of any such pay adjustment shall be the beginning of the work week following approval by the Personnel Director.

## Section 9-60 Differential Pay Practices

### 9-61 Shift Differential

(Revised effective September 14, 2008; Rules Revision Memo 31C)

- A. Employee eligibility:
1. Employees in classifications in non-exempt pay schedules are eligible for shift differential, unless the employee is eligible for the health care differential as provided in this Rule 9 PAY ADMINISTRATION.
  2. Employees in classifications in exempt pay schedules are not eligible for shift differential, unless the employee is in a classification:
    - a. In which the Board has approved overtime based on community practice (unless also eligible for the health care differential as provided in this Rule 9 PAY ADMINISTRATION); or
    - b. Which is a first-line supervisory classification in which the employee's primary duties include the direct supervision of employees who have no subordinate supervisors and are receiving shift differential for the time the employee is supervising them.
  3. Employees in classifications in the short range or community rate pay schedules are not eligible for shift differential.
  4. The Personnel Director, upon the request of an appointing authority, may allow a department or agency to exclude otherwise eligible employees from receiving shift differential based on community practice. Requests based on other reasons require submission by the Personnel Director to and approval by the Board.
- B. The following rates shall be paid for shift differential:
1. Night rate: Twelve percent (12%) of the current hourly rate of pay.
  2. Evening rate: Seven percent (7%) of the current hourly rate of pay.
- C. Shift differential shall be paid for all hours worked by an eligible employee in a work day under the following conditions:
1. If at least half of the hours worked occur between 11 p.m. and 7 a.m. the employee shall receive the night rate;

2. If at least half of the hours worked occur between 3 p.m. and 11 p.m. the employee shall receive the evening rate, unless the other half of the hours worked occur between 11 p.m. and 7 a.m., in which case the employee will receive the night rate.
  3. If neither subsections 1 or 2 are applicable, but at least half of the hours worked occur between 3 p.m. and 7 a.m., the employee shall receive the applicable rate for the period in which a majority of the hours occur. If these hours are evenly divided between 3 p.m. and 11 p.m. and 11 p.m. and 7 a.m., the employee shall receive the night rate.
- D. Shift differential shall not be paid during any period of paid or unpaid leave.

9-62 Equipment Differential

A. Eligibility:

1. Equipment differential shall be paid to employees who are temporarily assigned to operate equipment, which is at a higher level classification than the employee's current classification, and who are not receiving additional pay for a work assignment outside of job classification.
  2. Employees in on-call positions and in classifications listed in the short-range pay schedule shall be entitled to equipment differential.
- B. Equipment differential shall be paid under the following conditions:
1. The equipment being operated is on the Board's approved equipment list for payment of equipment differential.
  2. Assignment in the higher level classification must last for less than thirty (30) days. If all authorized limited positions for a term of nine (9) months or less are filled, the thirty-(30) day limit is waived.
- C. The pay shall be ten percent (10%) of the current hourly rate of pay for each hour worked in the next higher level classification. The pay shall be fifteen percent (15%) of the current hourly rate of pay for each hour worked in the second higher level classification and above.
- D. The total base pay for any pay period, excluding overtime and shift differential, shall not exceed the last step of the higher level classification.

9-63 Health Care Differential

- A. Career Service employees who are employed by Denver Health and Hospital Authority (“DHHA”) in classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups are eligible for health care differentials paid to comparable classifications at DHHA.
- B. The differentials, eligibility criteria and rates shall be established by DHHA.

9-64 Standby Pay

(Revised effective July 25, 2006; Rules Revision Memo 11C)

- A. Appointing authorities may schedule employees to be on standby duty only when there is a reasonable anticipation that the employee will have to respond and perform work immediately. Eligible employees shall receive an amount equal to one and one half (1 1/2) hours of work at the employee’s straight time hourly rate for each eight hours the employee is on standby duty.
- B. To be eligible for standby pay, the employee must be:
  - 1. Eligible for overtime under the Fair Labor Standards Act (“FLSA”) or under subsections A, B or D of Rule 9-93 Overtime Exceptions;
  - 2. Scheduled to be available by pager, cellular phone, or telephone;
  - 3. Required to respond to a call and perform work within a designated amount of time not to exceed two hours;
  - 4. In a non-impaired condition that allows the employee to safely perform job duty assignments; and
  - 5. Subject to disciplinary action if he or she does not respond to the call within the designated amount of time.
- C. When an eligible employee on standby is required to perform work, standby pay will be suspended and the employee will be paid basic pay or overtime pay, as appropriate, for the period the employee actually performs work.
- D. An employee who merely carries a cellular telephone or pager as a routine part of his or her job duties is not eligible for standby pay unless all of the conditions set forth in subsection B of this rule are met.

9-65 Call Back Pay

- A. Overtime eligible employees required by the appointing authority to report back to the work site shall be paid a minimum amount equal to two (2) hours of work at the employee’s scheduled rate of pay from the time the employee begins work.
- B. Employees who work more than two hours shall be paid for the actual time worked.

9-66 Bilingual Services Differential

(Revised effective April 1, 2008, Rule Revision Memo 25C; and May 20, 2008, Rule Revision Memo 28C)

- A. An appointing authority may pay an employee bilingual services differential if the following conditions have been met:
1. The appointing authority has determined that the employee's position requires that the employee use bilingual skills thirty-five percent (35%) or more of the time;
  2. The classification specification for the employee's classification does not require bilingual skills for all incumbents of that classification; and
  3. The employee demonstrates a proficiency in the second language, according to procedures established by the Personnel Director.
- B. The effective date of the bilingual services differential shall be the beginning of the first work week following receipt of an appointing authority's request to determine bilingual proficiency by CSA, or following the employee's demonstration of proficiency in a second language, whichever date is later.
- C. Employees who are eligible for bilingual services differential shall receive a differential based on the level of proficiency demonstrated by that employee:
1. Fifty dollars (\$50) per pay period for basic conversational skills;
  2. Seventy five dollars (\$75) per pay period for proficiency in the language in both speaking and writing or reading; and
  3. One hundred dollars (\$100) per pay period for expert proficiency in the language which includes translation skills.
- D. Employees in part time positions shall have bilingual differential pro-rated as follows, based on the amount of hours actually worked in a pay period:

	<u>BASIC</u>	<u>MID-LEVEL</u>	<u>EXPERT</u>
80 hours or more	\$50.00	\$75.00	\$100.00
60-79 hours	\$37.50	\$56.25	\$ 75.00
40-59 hours	\$25.00	\$37.50	\$ 50.00
20-39 hours	\$12.50	\$18.75	\$ 25.00
Less than 20 hours	\$ 5.00	\$10.00	\$ 15.00

- E. When an employee changes positions and the language skills are not a requirement of the new position, the bilingual services differential shall cease.

9-67 Golf Lesson Stipend

(Effective March 12, 2007; Rule Revision Memo 16C)

A. The Manager of Parks and Recreation may allow eligible employees to receive a Golf Lesson Stipend for lessons conducted at City-owned golf facilities, subject to the following conditions :

1. The employee must be in a position that is exempt from overtime under the FLSA.
2. The employee must either be enrolled in the Professional Golf Association (PGA) or Ladies Professional Golf Association (LPGA) apprenticeship program, or have a valid PGA or LPGA membership.
3. The Department of Parks and Recreation retains the right to revoke eligibility for the stipend for any business-related reason, at any time.
4. The employee has the responsibility for the following;
  - a. Selling and booking the lesson;
  - b. Collecting the fees; and
  - c. Conducting the lesson.
5. All lessons must be entered into and tracked by the golf course's point of sale system, or other tracking system as specified by management.
6. All lessons must be conducted at a time that does not interfere with the employee's job duties. The employee is responsible for completing their assigned schedule each week, not including time spent teaching lessons. The only compensation the employee will receive for time spent teaching golf lessons is the Golf Lesson Stipend.
7. Golf Lesson Stipends will be considered as compensation and included as reportable income.  
(Revised effective May 20, 2008; Rule Revision Memo 28C)

B. Amount of Stipend

1. The City shall retain sixteen percent (16%) of the fee charged.
2. The City portion of the fee will include the cost of golf balls.
3. Eighty-four percent (84%) of the fee will be paid to the employee as a Golf Lesson Stipend.
4. Stipends will be paid on collected revenue only.

9-68 Heavy Equipment Mechanic Trainer Differential  
(Effective June 23, 2008; Rule Revision Memo 29C)

- A. A Heavy Equipment Mechanic (“HEM”) who is assigned HEM trainer duties by an appointing authority shall be eligible for a differential of \$2.25 per hour for all time spent performing HEM trainer duties (but not to exceed four hundred hours per calendar year).
- B. The appointing authority shall select eligible HEM trainers through a formal process that shall include submission of an application, a formal interview, and demonstration and evaluation of technical skills.
- C.
  - 1. The appointing authority shall provide a training plan which shall include the criteria that will be used for selecting HEM trainers to the Personnel Director for approval.
  - 2. The appointing authority shall provide the name(s) of any eligible employee(s) to the CSA prior to payment of the differential.
- D. An appointing authority may terminate the assignment of training duties to an employee at any time. The appointing authority shall notify the CSA when an employee is no longer assigned training duties.

Section 9-70 Hours of Work

9-71 Standard Work Week

- A. The five (5) day forty (40) hour week shall be the standard work week for employees of the Career Service.
- B. Standard work hours shall be eight (8) hours per day, excluding the meal period. In certain cases, because of the character of the work, it may be necessary for an employee to be required to eat a meal while working. When the meal period is spent predominantly for the benefit of the City, the employee shall be paid for the entire meal period. (Effective October 10, 2008; Rules Revision Memo 32C)
- C. Appointing authorities shall be responsible for establishing daily work schedules.
- D. The work week shall begin on Sunday and end on Saturday unless otherwise designated by the appointing authority.

9-72 Posting of Changes In Work Schedules

(Re-numbered October 10, 2008; Rules Revision Memo 32C)

- A. If work schedules are changed, such schedules shall be posted sufficiently in advance of rotation so that the affected employees are fully informed. However, appointing authorities may require an employee to arrive early or stay beyond his or her regular work schedule or return to work to provide essential City services without such notice. The determination of an essential City service shall be at the discretion of the appointing authority.
- B. Employees are permitted to request a temporary change in daily work schedules in order to accommodate personal needs. Appointing authorities have the discretion to grant this request based on the business needs of the department or agency.

9-73 Interruption of Work and Pay During City-wide Emergency

(Effective June 8, 2007; Rules Revision Memo 20C: Re-numbered October 10, 2008; Rules Revision Memo 32C)

- A. An employee who is excused from work for the day or any part of the day when the work program is interrupted (e.g., because of weather) shall be considered to have worked the number of hours included in his or her regular daily schedule. An on-call employee who is called to work and not assigned because of an interruption or change in the work program shall be considered to have worked two (2) hours on that day.
- B. Work Interruptions during a Citywide Emergency Declared by the Mayor

In addition to pay for the interrupted work hours, employees who work during the hours of a City-wide emergency declared by the Mayor are eligible for compensation for working during hours attributed to the emergency condition as follows:

- 1. Non-exempt employees shall also receive pay for the actual time they work during the City-wide emergency. For purposes of determining if an employee is entitled to overtime, the work hours interrupted by the City-wide emergency shall be counted as time worked in addition to time actually worked and other amounts, such as paid holidays, periods of paid leave, or any discharge of compensatory time, as provided by the overtime provisions of this rule.

2. a. An employee exempt from overtime shall be paid at the straight time hourly rate for each hour worked that was related to the emergency. Interrupted work hours during a City-wide emergency count as time worked and exempt employees eligible for overtime in accordance with 9-93 Overtime Exceptions will be compensated for hours beyond forty (40).
- b. City-wide emergency pay may be paid in either cash or compensatory time off, at the discretion of the appointing authority. Compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. All accrued compensatory time shall be used by September 30<sup>th</sup> of each calendar year or paid in cash by the final pay period in October of that year.
3. Employees who were on other leave such as vacation, compensatory time, sick, or leave without pay must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted.
4. Employees who telecommute must have prior written approval to telecommute from their appointing authority or designee. The written approval shall include the employee's assignment while telecommuting. An employee must demonstrate that he or she accomplished the assignment in accordance with the written approval.

#### Section 9-80 Special Work Schedules

- A. Deviations from the standard workweek, eight (8) hour work-day or designation of special work schedules may be made so long as they are in accordance with the provisions of this subsection. The appointing authority must provide written notification to the Personnel Director of any change to the standard workweek or the designation of special work schedules for employees.
- B. Establishment:
  1. When the work program of a department or agency is such that the interests of the City as well as the efficiency of the organization can better be served by a special work schedule, the appointing authority may establish one for specified units, individual employees, or the entire agency.
  2. Employees affected by the proposed schedule should be consulted concerning their preferences prior to the establishment of the special work schedule, and their wishes should be recognized wherever possible. The final determination shall be within the discretion of the appointing authority.

3. When an appointing authority determines that the special work schedule has not served the best interests of the City, the appointing authority may discontinue the special work schedule and shall provide written notification to the Personnel Director.

C. Ten hour schedule:

Under a ten hour schedule, employees are scheduled to work ten (10) hours per day, four (4) days per work week. Days off shall be scheduled consecutively wherever possible, provided, however, that one of the three (3) days off may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

D. Nine/eighty schedule:

Under a nine/eighty schedule, employees are scheduled to work nine (9) hours per day, four (4) days per work week, and four (4) hours on one day of the work week. The start and end date of the work week must be changed so that the work week does not contain more than forty (40) hours of scheduled work. This is accomplished by having the work week begin in the middle of the day on which the four (4) hour shift is scheduled, and end in the middle of that day a week later. This day is the flex day, upon which the employee will work eight (8) hours every other week, and will have off the rest of the time. Days off shall be scheduled consecutively wherever possible, provided, however, that the flex day may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

E. Alternate work schedules:

The appointing authority may establish an alternate work schedule when neither the standard work week nor any of the special work schedules set forth in this subsection permit the department or agency to provide necessary services.

F. Holiday pay: (Effective March 4, 2009; Rules Revision Memo 36C)

In a week in which a holiday occurs, employees receive eight hours of holiday leave and are expected to work for thirty-two (32) hours. If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

1. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time or earned vacation leave. Employees serving a probationary period after employment appointment shall be entitled to use earned vacation leave for this purpose only, upon completion of one (1) calendar month of service;
2. The employee may work additional hours within the work week; or
3. The employee may take the hours as leave without pay.

G. Telecommuting:

1. Telecommuting is the practice of working at home or from a site other than a department or agency's central workplace. It is a work alternative which appointing authorities may offer to or require of employees.
2. Telecommuting is not an employee benefit but an alternative method of meeting the City's needs. Telecommuting is a privilege and an appointing authority has the right to refuse to make telecommuting available to an employee and to terminate a telecommuting arrangement at any time.
3. Employees may express a desire not to telecommute and appointing authorities should consider employees' wishes along with the needs of the City in making a final determination.
4. Permission to telecommute shall be conditioned on compliance with the telecommuting guidelines established by the Personnel Director (see Appendix).

Section 9-90 Overtime

9-91 Policy

- A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation, subject to the following exceptions:
  1. Non-career employees working for seasonal recreational establishments that do not operate for more than seven months in any calendar year shall be exempt from overtime pay and shall be paid the straight time hourly rate for all hours worked in a work week, including all hours worked in excess of forty (40) hours per week.
  2. Non-career employees whose rates of pay are set by the community rate schedule established by ordinance shall be paid overtime according to that schedule. If the community rate schedule makes no provisions for overtime, such employees shall be paid overtime in accordance with Subsection 9-100.
- B. If a paid holiday, a period of paid leave, or discharge of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime. Time spent taking courses outside of the normal work day shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the City has required the employee to take the course.
- C. Leave without pay shall not count as time worked.

- D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.
- E. For the purposes of this rule, an emergency shall include the following events: fire, flood, catastrophe, severe weather conditions that impact public safety or essential services; other unforeseeable emergency where a station must be staffed and another employee is not available for work; or an occurrence affecting the general public which requires immediate action. A declared emergency shall mean an emergency declared by the Mayor or an appointing authority that complies with the definition of emergency stated above.

9-92 Criteria for Authorizing Overtime Work:

- A. Overtime work shall be authorized to provide essential City services when such services cannot otherwise be provided by regular or special work schedules. Except in cases of emergency, overtime work shall be authorized and assigned in advance by an employee's supervisor or other designated individual. Working unauthorized overtime may be grounds for discipline, up to and including dismissal.
- B. When an employee has been assigned work outside of his or her normal work schedule, such overtime shall be subject to the same reporting requirements as regular work hours. Failure to report for such work may be cause for disciplinary action, up to and including dismissal.

9-93 Overtime Exceptions:

Employees in overtime exempt classes as defined by the FLSA shall not receive overtime pay, except in the following situations:

- A. Based on community practice, the Personnel Director may recommend an exception to the overtime exclusion for a designated classification or classifications to the Board for approval.
- B. Career Service employees who work for the DHHA in exempt classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups, when comparable classifications in the DHHA personnel system have been granted an exception to the overtime exclusion by the DHHA.
- C. Upon the request of an appointing authority, the Personnel Director may grant an exception to overtime exclusion for a specified period of time when the employee will provide services for the City during declared emergency conditions. Such exception shall apply to a position or group of positions within a classification where the working conditions are distinctly different than working conditions of other positions in the same classification and shall apply to the hours attributed to the emergency condition.

- D. Based on community practice, overtime shall be paid only under the circumstances outlined below to incumbents in the FLSA overtime exempt, first level supervisory classes approved by the Board:
1. Scheduled overtime occurring in a holiday week;
  2. Overtime related to after-hour emergency response duties;
  3. Publicly scheduled events requiring infrastructure support; and
  4. Snow removal activities.

#### Section 9-100 Payment for Overtime

A. Employees in salaried positions: Employees in positions in which annual salaries are established who are eligible to receive overtime pay and who work overtime shall receive overtime compensation as follows:

1. Non-exempt employees: The overtime rate shall be at the rate of one and one-half (1 ½) times the regular rate of pay applicable to that position.
  - a. The regular rate of pay shall be computed as follows:
    - (i) Determine the weekly rate of pay in accordance with the FLSA by dividing the annual salary by 52; then
    - (ii) Total the weekly rate of pay plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee is regularly scheduled to work during a non-holiday week.
  - b. Compensatory time:
    - (i) Overtime compensation may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department or agency's overtime compensation policy. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall be paid at the employee's regular rate for such overtime in cash. All accrued compensatory time shall be used by March 31st or paid out in cash by the final pay period of April of that year (Revised effective September 18, 2009; Rules Revision Memo 41C).

(ii) Payment for accrued compensatory time on separation: An eligible non-exempt employee who has accrued compensatory time in accordance with this section shall receive payment for the unused portion of such accrual when the employee is separated from the Career Service. The rate of compensation for such payment shall be the larger of the following:

- 1) The average regular rate received by such employee during the last three years of the employee's employment; or
- 2) The final regular rate received by such employee.

2. Exempt employees eligible to receive overtime: The overtime rate shall be:

- a. (i) At the rate defined in subsection 9-100 A.1. if eligible under subsection 9-93 A.
  - (ii) At the rate established by the DHHA for comparable positions if eligible under subsection 9-93 B.
  - (iii) At the straight time hourly rate of pay applicable to that position, if eligible under subsection 9-93 C., where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position; and
  - (iv) At the rate of one and one-half (1 ½) times the hourly rate of pay applicable to that position if eligible under 9-93 D., where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position.
- b. How paid: Overtime compensation for eligible exempt employees shall be paid in cash. Exempt employees eligible for overtime shall not accrue or use compensatory time in lieu of pay, except for Holiday Compensatory Time as defined in this rule.

B. Employees in hourly positions: Non-exempt employees in positions that receive an hourly rate and work overtime shall receive compensation at the rate of one and one-half (1 ½) times the regular rate of pay applicable to the position.

1. The regular rate of pay shall be computed as follows:

- a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.
- b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.

2. How paid: Earned overtime compensation for employees in hourly positions shall be paid in cash.

9-101 Holiday Compensatory Time for Overtime Exempt Employees:

An employee who is exempt from overtime and who is:

- A. Scheduled to work on a holiday, or
- B. Scheduled to work on his or her regularly scheduled day off in a week when a holiday occurs

Shall be given straight time holiday compensatory time off for the holiday in addition to pay for the time worked. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by September 30<sup>th</sup> of each calendar year or paid out in cash by the final pay period of October of that year.

Section 9-110 Record Keeping

(Revised effective April 1, 2008; Rule Revision Memo 26C)

- A. Responsibility for maintaining time and compensation records may be vested in the Department of Finance, the Career Service Authority ("CSA"), or the agencies, as may be agreed among them from time to time.
- B. The content of these records shall be governed by guidelines established by CSA (see Appendix).
- C. These records shall be retained for a minimum of six (6) calendar years, in a location where they would be available for inspection within seventy-two (72) hours from the date when requested by the Wages and Hours Administrator or designees.

## **APPENDIX 9.A.**

### **TELECOMMUTING GUIDELINES (REFERRED TO IN RULE 9-80 G.)**

- A. The position for which telecommuting is proposed shall be suitable for such an assignment, with the ability to provide high quality service to the public while telecommuting being the most significant determining factor.
- B. There shall not be any disruption of service or decline in the quality of services provided by the department or agency to the public as a result of telecommuting.
- C. No employee may telecommute unless their most recent performance rating is "Successful" or higher.
- D. If an employee subsequently receives a performance rating of "Needs Improvement", the employee's authorization to telecommute shall cease.
- E. The employee shall agree not to engage in employment activities other than for the agency or department during telecommuting hours.
- F. The employee must designate a primary workspace at home that is maintained in safe condition, free from hazards. As an extension of the City's work site, the same insurance and workers' compensation coverage applies.
- G. When the employee uses his or her own equipment, the employee is responsible for maintenance and repair of that equipment.
- H. The employee will take all necessary precautions to secure department or agency information and equipment in his or her home and to prevent unauthorized access to any department or agency system or information.
- I. Employees must receive prior written approval to telecommute from their appointing authority.
- J. An employee's status, benefits, compensation, and work responsibilities shall not change due to telecommuting.
- K. Representatives from the City's Office of Technology Services, CSA, and Workers' Compensation section, a designated City supervisor or the individual appointed by the employee's appointing authority for such purpose may inspect an employee's home for a business purpose related to this program upon giving reasonable notice to the employee.
- M. The employee must at all times be accessible to the workplace via cellular phone, e-mail, or other means of direct communication and be able to report to work when notified or to respond immediately to communications from other staff, supervisors, managers or clients.
- N. An employee who is granted telecommuting privileges must demonstrate that his or her productivity has been equal to or greater than his or her productivity before telecommuting was authorized.

- O. A telecommuting employee's home address and telephone number shall remain confidential and will not be released by the agency or department.
- P. The amount of time the employee is expected to work per day or pay period will not change as a result of telecommuting.
- Q. Training will be available from the CSA for all employees, supervisors and managers interested in telecommuting.
- R. Any abuse of the telecommuting privileges will be investigated and may result in corrective action, up to and including dismissal.
- S. Equipment provided by the City to the employee shall be immediately returned when telecommuting is stopped or the employee separates from employment with the City.
- T. Employees may not grieve or appeal a decision to allow or not allow telecommuting unless there is alleged discrimination.

**APPENDIX 9.B.  
GUIDELINES REGARDING TIME AND COMPENSATION RECORDS  
(REFERRED TO IN RULE 9-110)**

The following information shall be kept on time and compensation records for all employees, to the extent applicable:

- A. Name in full (same as shown on social security card);
- B. Identification number;
- C. Home address, including the zip code;
- D. Date of birth, if under 19;
- E. Sex;
- F. Classification;
- G. Time of day and day of the week on which the employees work week begins. If the employee is part of a work force all of whose workers have a work week beginning at the same time on the same day of the work week, a single notation of the time of the day and beginning day of the work week for the whole work force of the agency or unit will suffice. If, however, any employees or group of employees has a work week beginning or ending at a different time, a separate notation shall then be kept for that employee or group of employees;
- H. Hourly rate of pay for part-time, on-call, and non-exempt employees;
- I. Payroll period (i.e. bi-weekly);
- J. Amount and nature of each payment, such as tool and mileage allowances, excluded from the overtime rate of pay for non-exempt employees;
- K. Hours worked each work day and total hours worked each work week (for purposes of this clause, a "work day" shall be any consecutive 24 hours);
- L. Total daily or weekly straight-time earnings (including salaries, differentials, and standby);
- M. Total of daily and weekly-overtime payments;
- N. Total additions to or deductions from wages paid during each pay period; additionally, a record of the dates, amounts, and nature of the items which make up the total additions and deductions shall be maintained in individual employee accounts;
- O. Total wages paid each pay period;
- P. Date of payment and the pay period covered by the payment; and
- Q. Basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment, including fringe benefits.