



CITY OF WASILLA

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COUNCIL MEMORANDUM 96- 77

From: John T. Felton, Public Works Director/City Engineer

Date: August 7, 1996

Subject: Revisions to Title 3 WMC with regards to Overtime

During the July 22, 1996 meeting, the Council directed the Administration to make changes to Title 3 of the WMC. The changes are presented for consideration in Ordinance Serial Number 96-40.

The change to 3.20.110 C. is a grammatical one. The Public Works Department has people on stand-by and people on Call Stand-by. The stand-by people are not compensated unless they are called into work. The person on Call Stand-by is compensated and the subject of this paragraph. The strike out makes this paragraph equal to the following, D, paragraph, in that any employee ordered to work on Holidays or weekends is compensated at 1-1/2 times their normal rate of pay.

The change to 3.20.100D makes the change directed by the Council for any work in excess of the normally schedule work.

The change to 3.25.020 A.2. corrects a typographical error. The ten hour shift normally means ten hours of work with a one hour unpaid lunch. It was never meant to be ten hours on the clock with a paid lunch.

The change in 3.25.070 B. Again makes the distinction of work outside of the normal scheduled shift. The addition of "regularly scheduled" time was required so that there could be no "double dipping" of hours worked. In other words, overtime hours do not count towards the forty hours in a work week. The reference to 3.25.010 was added as this section was in conflict with 3.25.010. The 3.25.010 is the norm for the City and should be the basic reference. There are Departments that have shift work that normally works on Saturday and Sunday. These employees work a different "week". For this reason, the last sentence was added to give the Department heads the needed flexibility to staff their particular needs.

RECOMMENDATION:

The Administration recommends that the Council Introduce Ordinance Serial Number 96-40 and schedule it for Public Hearing at the next regularly scheduled meeting.



John T. Felton
Public Works Director/City Engineer

NOTES TO DECISIONS

Employees covered by and exempt from Fair Labor Standards Act. — AS 23.10.050 — 23.10.150 apply to both employees covered by the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and those who are, because of insufficient connections to interstate commerce, exempt from the Fair Labor Standards Act. *Webster v. Bechtel, Inc.*, 621 P.2d 890 (Alaska 1980).

Prisoners excluded from operation of chapter. — See *McGinnis v. Stevens*, 543 P.2d 1221 (Alaska 1975).

Applied in Alaska Int'l Indus., Inc. v. Musarra, 602 P.2d 1240 (Alaska 1979).

Cited in Dresser Indus., Inc. v. Alaska Dep't of Labor, 633 P.2d 998 (Alaska 1981), cert. denied, 455 U.S. 1019, 102 S. Ct. 1716, 72 L. Ed. 2d 137 (1982).

Collateral references. — Who is employed in "executive or administrative capacity" within exemptions from minimum wage and maximum hours provisions of Fair Labor Standards Act. 40 ALR2d 332.

Who is employed in "professional capacity," within exemption, under 29 USCS

§ 213(a)(1), from minimum wage and maximum hours provisions of Fair Labor Standards Act. 77 ALR Fed. 681.

Employee training time as exempt from minimum wage and overtime requirements of Fair Labor Standards Act. 80 ALR Fed. 246.

Sec. 23.10.060. Payment for overtime. (a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) an employee of an employer engaged in the business of operating taxicabs;

(8) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(9) an employee employed as a seaman;

(10) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(11) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(12) casual employees as may be liberally defined by regulations of the commissioner;

(13) an employee of a hospital whose employment includes the provision of medical services;

(14) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(15) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime;

(16) an individual employed as a line haul truck driver for a trip that exceeds 100 road miles one way if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section. (§ 3 ch 171 SLA 1959; am § 1 ch 3 SLA

Revisor' this section reflect the graphs.

Effect o amendment sections; in acting in a male or female employee" in the second paragraphs the remain section (d) (d)(16); an throughout.

Opinions Fair Labor §§ 201-219 the AS 23 question of excluded from rective of the Att'y Gen.

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