

**“ The City of Heritage ”**



**ULUNDI MUNICIPALITY  
OVERTIME POLICY**

## **ULUNDI MUNICIPALITY: OVERTIME POLICY**

### **1. OBJECTIVE**

The objective of this policy is to provide additional guidance in the administration and management of overtime work by council employees and the payment thereof as provided for in the Basic Conditions of Employment Act 1997, (Act no 75 of 1997) and the Conditions of Service Divisional Conditions of Service Collective Agreement applicable to all Ulundi Municipality employees.

### **2. DEFINITION**

***“Basic Conditions of Service:***

***Earning Threshold*** to the earning threshold determined by Minister of Labour in terms of Sec 6(3) of the Basic Conditions of Employment Act No 75 of 1997, as amended – Government Gazette Notice No R300, 14 March 2008.

***‘Overtime’*** means the time that an employee works during the day or week in excess of ordinary hours of work.

***“Emergency work”*** refers to that work must be done without delay because of circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work. Emergency work excludes the performance routine maintenance work outside normal working hours.

**” Earning”** means gross pay before deductions.

**“Shift worker”** is an employee engaged in schedule continuous process which activity is deemed to be one in which continuous working by means of daily shifts is necessary.

**“Remuneration”** means compensation in money or time off for overtime worked.

### **3. SCOPE AND APPLICATION**

3.1 The policy should be applied by taking into consideration the stipulation in the BCEA as well the Divisional Conditions of Service Collective Agreement

3.2 The policy will cover all employees within the Municipality.

### 3.3 BCEA Provisions:

The maximum number of hours an employee may be able to work in terms of the Basic Conditions of Employment Act, 1997(No. 75 of 1997), on Regulation of working time refers:

1. Subject to this Chapter, an employer may not require or permit an employee to work :-
  - (a) Overtime except in accordance with an agreement: (b) More than ten hours overtime per week.
2. An agreement in terms of subsection above may not require or permit an employee to work more than 12 hours on any day.
3. An employer must pay an employee at least one – half times the employee’s wage for overtime worked.
4. Despite subsection (2), an agreement may provide for an employer to :-
  - (a) Pay an employee not less than the employee’s ordinary wage for overtime worked and grant the employee at least 30 minutes time off on full pay for every hour of overtime worked; or
  - (b) Grant an employee at least 90 minutes paid time off for each hour of overtime worked.
5. (a) An employer must grant paid time off subsection (3) within one month of the employee becoming entitled to it.
  - b) An agreement in writing may increase the period contemplated by Paragraph (a) to 12 months.
  - c) That in line with the cost containment measures and effective overtime management, the Head of Departments must note that the Municipality will no longer pay the overtime excessive of R2500.00 per month.
  - d) That the signing of attendance registers and overtime claim forms will continue in order to provide proof of overtime worked and time off taken in line with overtime policy.
6. An agreement concluded in terms of subsection (a) above with an employee when the employee commences employment or during the first three months of employment, lapses after one year.

Senior managerial employees as defined in the Basic Conditions of employment Act, including any employee earning more than the threshold amount as published by the Department of Labour do not qualify for any overtime payment.

3.3.1 employees earning in excess of the BCEA threshold as determined from time to time will generally not qualify to be remunerated for overtime worked.

It is however acknowledged that it may be necessary in respect to some posts that earn in excess of the BCEA threshold to be paid or be granted time off for overtime worked.

3.3.2 The payment of earning in excess of the threshold is not illegal but must be negotiated with the employees earning in excess of the threshold.

3.4 The agreement to pay employees that earn in excess of the threshold may provide payment that is less than applicable in terms of the normal provisions of the overtime in the BCEA.

3.5 If employees fall under the Divisional Conditions of Services Collective Agreement and if agreement is reached at municipal level to pay these employees then application must be made to the SALGBC Divisional Exemption Committee to pay these employees.

3.6 The application for such exemption must comply with the following:

3.6.1 Council resolution supporting the application.

3.6.2 Local Labour Forum agreement that support application.

3.6.3 Budgetary provision for such payment of overtime

3.6.4 Identification of post to be paid with motivation why such post must be paid.

3.7 Where no collective agreement exists to regulate the payment for employees earning in excess of threshold then parties at municipal level in terms of the payment and such be regulated in policy

### **3.8 Divisional Conditions of Services collective agreement**

The collective agreement regulates the payment of overtime and stipulate as follows:

3.8.1 "Overtime not be applicable to

3.8.1.1 Senior managerial employees as defined in the BCEA.

3.8.1.2 Employees working less than 234 hours per month.

3.8.1.3 Employees earning in excess of **R261 748.45** remuneration per annum as determined from time to time in terms of the Basic Conditions of Employment Act 75 of 1997

3.8.2 Overtime to be regulated and applicable as per Section 10 of the BCEA

3.8.3 Overtime to be paid or if agreed to by the employee, time off to be granted to employees in terms of BCEA.

3.8.4 Overtime to be approved in writing by the Municipal Manager or Managers reporting to the Municipal Manager prior to such overtime being worked.

3.8.5 Any municipality that wishes to pay overtime to employees earning in the excess of the threshold of **R261 748.45** per annum may apply to the KZN Division of SALGBC for exception." Employees earning less than the threshold will be fully remunerated for overtime worked.

#### **4. SPECIAL CONDITIONS**

4.1 Overtime work is subject to the provisions of the Basic Conditions of Employment Act 75 of 1997 and collective agreement or policy approved by council. In case of conflict between this policy and the provisions of the Basic Conditions of Employment Act, the provisions of the Act will prevail.

4.2 Overtime work is subjected to prior written approval by a component authority and no overtime may be worked without such written approval being obtained, except in case of work related emergency situations where work has to be done without delay owing to circumstances for which the employer could not reasonably have expected to make provision for and which cannot be performed by employees during their ordinary hours of work.

4.3 For emergency overtime the competent authority may give verbal approval to the working of such overtime provided such approval is followed-up with written confirmation. Written standing approval may be granted where justified by operational requirements.

4.4 Only Municipal Manager and Managers directly accountable to the Municipal Manager in terms of Divisional Conditions of Service may approve overtime and where no collective agreement is applicable then only officials with delegated authority may approve overtime work and overtime payment subjected to such employees approving overtime not being entitled to overtime payment.

4.5 Overtime only commences after completion of an employee's ordinary weekly working hours. Approved overtime will be regarded as part of the completed ordinary working hours and not as short time.

4.6 Overtime can only be claimed for actual hours worked and exclude travelling time except for standby staff. Overtime for the latter starts from the time of call out.

4.7 In the case of the call out for the emergency overtime only employees working at the scene of the incident be paid and not any employee that provided some guidance but were not at the scene of incident.

4.8 No overtime will be paid for attendance of training, conferences functions/prize giving etc.

4.9 The rotation of employees to work overtime is preferred as opposed to constantly allowing employees to work overtime within a unit or department as this creates dependence on overtime and could lead to abusive practises.

4.9 Management is responsible to at least quarterly monitor the cost of overtime in regard to emergency and normal overtime and the reasons and to introduce steps to curtail and reduce the cost of overtime worked. The regular monitoring of overtime be done to curtail cost for the municipality in terms of the quarterly reports in terms of cost. The report to clearly distinguish between ordinary overtime worked and emergency overtime.

4.10 No employee to be paid for any ordinary overtime worked in excess of the maximum permissible overtime of 10 hours per week in terms of the BCEA unless a collective agreement is concluded that allows for maximum of 12 hours.

4.11 Where supervisors and the relevant managers allow employees to work in the excess of the maximum number of permissible hours then such Managers and Supervisors to be held responsible for such contravention of the BCEA and the Municipal Manager may take disciplinary action against such supervisors or managers.

## **5. TIME OFF IN- LIEU OF OVERTIME**

5.1 Time off in lieu of payment for overtime shall be granted if agreed by the parties in the event that the municipality cannot afford to pay employees for overtime worked.

5.2 Application for the time off lieu of payment for overtime worked shall be made on a prescribed application form.

5.3 Time off in lieu of payment for overtime worked cannot be encashed and upon termination of service this specific leave can also not be encashed.

5.4 Time off in lieu of payment for overtime worked must be taken within 6 months from date of accrual. Time off not taken within 6 months will be forfeited. This 6 month period may, for operational reasons, be extended to a maximum of 12 months by the Municipal Manager on good motivational grounds by the responsible Manager.

5.5 Every employer must regulate the working time of each employee as outlined in Chapter 2 of the Basic Conditions of Employment Act.

## **6. OVERTIME WORK ON PUBLIC HOLIDAYS**

6.1 Payment or time off in lieu of payment to eligible employment for work on Public Holidays will be dealt with in terms of the Basic Conditions of Employment Act 75 of 1997.

## **7. OVERTIME WORK ON SUNDAYS**

7.1 Payment or time off lieu of payment to eligible employees for work on a Sunday will be dealt with in terms of the Basic Conditions of Employees Act 75 of 1997.

7.2 Where Sundays become normal working days then the employees will be paid at time and half as opposed to double time in terms of the BCEA.

## **8. ADMINISTRATIVE MEASURES FOR MANAGING AND CONTROL OF OVERTIME AND WORK ON SUNDAYS AND PUBLIC HOLIDAYS.**

8.1 Each Manager is responsible and accountable to constantly monitor and review the provisions for overtime on his/her budget and to ensure that trends are noted early; funds are adequate; over expenditure is noted, justified and provided for timeously.

8.2 No payment of overtime will be done where no budgetary provision exist for such overtime to be worked. The authorizing bodies must determine whether the information on the overtime form is accurate and correct before they authorized the form for payment/time off.

8.3 Attendance registers, time sheets and overtime approval forms, which should indicate dates, starting and ending times must be kept as source for three years in respect of all employees who qualify for overtime payment or time off in terms of this policy. Attendance register/time sheet serve as source documents to complete overtime sheets. (Find attached the forms to be used)

8.4 All employees have to complete and sign an attendance register/ time sheet on a daily basis. Line Managers/ Supervisors have to check and sign such attendance register/time sheets which are signed/approved by the competent authority must be submitted to the pay office on a monthly basis.

## **9. COMPENSATION FOR OVERTIME AND WORK ON SUNDAYS AND PUBLIC HOLIDAYS**

9.1 Qualifying employees may be remunerated either in monetary or by means of time off in lieu of payment with their salaries of the following months.

## **10 IMPLEMENTATION DATE**

10.1 This policy will be implemented after approval and the consultation process with all appropriate structure of Council.