

1 **ORDINANCE NO. 160313**

2 **An ordinance of the City of Gainesville, Florida, amending the Code of**  
3 **Ordinances related to employee benefits; by deleting Chapter 2, Article VII,**  
4 **Division 2 titled Compensation in the Event of Catastrophic Conditions and**  
5 **Mutual Aid Assistance; providing directions to the codifier; providing a**  
6 **severability clause; providing a repealing clause; and providing an**  
7 **immediate effective date.**

8 **WHEREAS,** notice was given as required by law that the text of the City of Gainesville  
9 Code of Ordinances be amended; and

10 **WHEREAS,** at least ten (10) days' notice has been given once by publication in a  
11 newspaper of general circulation notifying the public of this proposed ordinance and of public  
12 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of  
13 Gainesville; and

14 **WHEREAS,** public hearings were held pursuant to the notice described above at which  
15 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

16 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
17 **CITY OF GAINESVILLE, FLORIDA:**

18 **Section 1.** Chapter 2, Article VII, Division 2 of the Code of Ordinances of the City of  
19 Gainesville is deleted in its entirety as follows. Except as amended herein, the remainder of  
20 Chapter 2., Article VII., remains in full force and effect.

21 **Article VII. – Employee Benefits**

22 **~~Division 2. — Compensation in the Event of Catastrophic Conditions and Mutual Aid~~**

23 **~~Assistance~~**

24 **~~Sec. 2-466. — Application.~~**

25 ~~This division applies to all FLSA overtime exempt regular employees not~~  
26 ~~otherwise covered by collective bargaining agreements (eligible employees).~~

1 ~~Sec. 2-467.—Definitions.~~

2 ~~As used in this division, unless the context clearly requires otherwise, the following~~  
3 ~~words and terms shall have the meaning ascribed:~~

4 ~~*Incident:* Any condition which constitutes a civil emergency or catastrophic condition,~~  
5 ~~when so determined by the appropriate Charter officers.~~

6 ~~*Incident period:* The time interval, as designated by the appropriate Charter officers,~~  
7 ~~during which the incident occurs.~~

8 ~~*Major disaster:* Any natural catastrophe (including any hurricane, tornado, storm, high~~  
9 ~~water, wind driven water, landslide, mudslide, snowstorm, or drought), or regardless of cause,~~  
10 ~~any fire, flood, or explosion.~~

11 ~~Sec. 2-468.—Civil emergency or catastrophic conditions involving city facilities or operations.~~

12 ~~If it is determined that civil emergency or catastrophic conditions exists or are imminent~~  
13 ~~(incident), including, but not limited to, riots, civil disorders, major disasters, or similar~~  
14 ~~catastrophes, exempt employees of the city who perform services on or for city facilities or~~  
15 ~~operations related thereto may be required to work hours significantly in excess of their regularly~~  
16 ~~scheduled workweek.~~

17 ~~Sec. 2-469.—Incident period(s), level of compensation.~~

18 ~~(a) — If an eligible employee works in excess of 84 hours in any seven consecutive days during~~  
19 ~~an incident period, the employee shall be compensated as provided in subsection (b) for~~  
20 ~~the hours worked in excess of 84 during the first such seven-day period in a fiscal year. In~~  
21 ~~the event other incidents occur during the same fiscal year, eligible employees shall be~~  
22 ~~compensated as provided in subsection (b) for hours worked in excess of 44 in any seven~~  
23 ~~consecutive day period during such incident period(s).~~

24 ~~(b) — The Charter officer(s) who has made the determination that an incident has occurred shall~~  
25 ~~compensate eligible employees in a lump sum amount, as further provided in section 2-~~  
26 ~~473, as follows:~~

27 ~~Senior Managers<sup>[23]</sup> — Not eligible.~~

28 ~~Middle Managers\* — Straight time.~~

29 ~~Managers\* — Time and one-half.~~

30 ~~Administrative and Professionals — Time and one-half.~~

31 ~~Sec. 2-470.—Payments excluded from base salary and benefit calculations.~~

1           The lump-sum payments made pursuant to this division will not be subject to deductions  
2 (i.e. 401a, 457, RHS plans) unless required by law (i.e. payroll, taxes), nor be included in the  
3 calculation of any base salary or fringe benefit (i.e., pension earnings, longevity). In accordance  
4 with F.S. § 166.021(7), such payments may not be included in an eligible employees' regular  
5 base rate of pay and may not be carried forward in subsequent years.

6 ~~Sec. 2-471. — Administrative leave; holiday.~~

7 (a) — ~~Hours worked in excess of the regularly scheduled workweek during an incident period~~  
8 ~~of a declared major disaster or emergency as described in 44 CFR § 206, that are not~~  
9 ~~compensated for with a lump-sum payment, shall be compensated for by the granting of~~  
10 ~~administrative leave, pursuant to Policy 22, to the extent that such is available for each~~  
11 ~~affected eligible employee.~~

12 (b) — ~~Some or all of the hours worked during an incident not described in (a) above, that are~~  
13 ~~not compensated for (i.e., hours 40 — 84) with a lump-sum payment, may be~~  
14 ~~compensated for by the granting of administrative leave in accordance with Policy 22.~~

15 (c) — ~~In the event that a designated city holiday occurs during an incident period, Charter~~  
16 ~~Officers are authorized to provide eight hours of administrative leave, for each such~~  
17 ~~holiday, to those eligible employees who worked thereon. Said hours of administrative~~  
18 ~~leave, if granted, are in addition to those otherwise allowed under Policy 22.~~

19 (d) — ~~Hours worked, for which administrative leave is granted, shall not be compensated for by~~  
20 ~~lump-sum payments, nor except for hours described in subsection (a) above, be counted~~  
21 ~~in determining whether an employee has worked the excess hours (>84;44) described in~~  
22 ~~section 2-469.~~

23 ~~Sec. 2-472. — Mutual aid assistance.~~

24           ~~When the appropriate Charter officer authorizes a mutual aid response to a natural~~  
25 ~~disaster, or for emergency relief efforts, involving any non-city facilities or operations in other~~  
26 ~~jurisdictions, the lump-sum payment for all eligible employees will be at the rate of time and~~  
27 ~~one-half for all hours worked over the eligible employee's normal workweek schedule.~~

28 ~~Sec. 2-473. — Payment.~~

29           ~~Lump-sum payments for hours worked in incidents described in subsection 2-471(a) and~~  
30 ~~section 2-472 shall be made as soon as feasible after the work has been performed and accounted~~  
31 ~~for. Lump-sum payments for hours worked in incidents described in subsection 2-471(b) shall~~  
32 ~~only be made after the determination required by section 2-468 has been ratified by the city~~  
33 ~~commission, and if such notification does not occur, no lump-sum payments shall be due or~~  
34 ~~made.~~

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**Section 2.** It is the intent of the City Commission that the provisions of Section 1 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or relettered in order to accomplish such intent.

**Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.


**Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

**Section 5.** This ordinance shall become effective immediately upon adoption.

**PASSED AND ADOPTED** this 5th day of January, 2017.

  
\_\_\_\_\_  
LAUREN POE  
MAYOR

Attest:

  
\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

Approved as to form and legality:

  
\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

This ordinance passed on first reading this 15th day of December, 2016.

This ordinance passed on second reading this 5th day of January, 2017.