



MEMORANDUM

Office of the City Attorney

Legistar No. 040961

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: MARCH 14, 2005

FROM: Marion J. Radson, City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-05-32

An Ordinance of the City of Gainesville, Florida creating Division 2 of Article VII of Chapter 2 of the Code of Ordinances, relating to compensation in the event of a civil emergency or catastrophic conditions, or mutual aid, providing for definitions, eligibility, amount and forms of compensation, directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date.

Recommendation: The City Commission adopt the proposed ordinance.

The City Commission at its meeting of February 28, 2005, authorized the City Attorney's Office to draft and the Clerk of the Commission to advertise an ordinance amending Chapter 2 of the Gainesville Code of Ordinances authorizing the award of Supplemental Compensation to Administrative, Professional, and Managerial Employees under certain limited circumstances, providing a severability clause, and providing a retroactive effective date, based upon a policy prepared by staff.

Prepared by:

Charles L. Hauck,
Assistant City Attorney

Submitted by:

Marion J. Radson,
City Attorney

CLH/cgow

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ORDINANCE NO. 040961
0-05-32

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5 An Ordinance of the City of Gainesville, Florida creating
6 Division 2 of Article VII of Chapter 2 of the Code of
7 Ordinances, relating to compensation in the event of a civil
8 emergency or catastrophic conditions, or mutual aid,
9 providing for definitions, eligibility, amount and forms of
10 compensation, directions to the codifier; providing a
11 severability clause; providing a repealing clause; and
12 providing a retroactive effective date.
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16 **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper of
17 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the
18 Auditorium of City Hall in the City of Gainesville; and

19 **WHEREAS**, a Public Hearing was held pursuant to the published notice described at
20 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
21 heard;

22 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
23 **CITY OF GAINESVILLE, FLORIDA:**

24 **Section 1.** That Division 2 of Article VII "Employee Benefits" of Chapter 2 of the Code of
25 Ordinances is hereby created and added to read as follows:

26 **DIVISION 2. COMPENSATION IN THE EVENT OF CATASTROPHIC CONDITIONS**
27 **AND MUTUAL AID ASSISTANCE.**

28 **Sec. 2-466. Application.**

29 This Division applies to all FLSA overtime exempt regular employees not otherwise covered by
30 collective bargaining agreements (eligible employees).

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

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1 **Sec. 2-467. Definitions.**

2 As used in this Division, unless the context clearly requires otherwise, the following words and
3 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 **Section 2-468. Civil emergency or catastrophic conditions involving City Facilities or**
12 **Operations.**

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

18 **Section 2-469. Incident period(s), level of compensation.**

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

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1 employees shall be compensated as provided in subsection (b) for hours worked in excess of
2 forty-four in any seven consecutive day period during such incident period(s).

3 (b) The Charter Officer(s) who has made the determination that an incident has
4 occurred shall compensate eligible employees in a lump sum amount, as further provided in
5 Section 2-473, as follows:

6 Senior Managers* – Not eligible.

7 Middle Managers* – Straight time.

8 Managers* – Time and one-half.

9 Administrative and Professionals – Time and one-half.

10 (*as classified in the Affirmative Action Plan)

11 **Section 2-470. Payments excluded from base salary and benefit calculations.**

12 The lump sum payments made pursuant to this Division will not be subject to
13 deductions (i.e. 401a, 457, RHS plans) unless required by law (i.e. payroll, taxes), nor be
14 included in the calculation of any base salary or fringe benefit (i.e., pension earnings, longevity).
15 In accordance with Section 166.021(7), Florida Statutes 2004, such payments may not be
16 included in an eligible employees' regular base rate of pay and may not be carried forward in
17 subsequent years.

18 **Section 2-471. Administrative leave; holiday.**

19 (a) Hours worked in excess of the regularly scheduled workweek during an incident
20 period of a Major Disaster as described in 44 CFR §206, that are not compensated for with a
21 lump sum payment, shall be compensated for by the granting of administrative leave, pursuant to
22 Policy 22, to the extent that such is available for each affected eligible employee.

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1 **(b) Some or all of the hours worked during an incident not described in (a) above, that**
2 **are not compensated for (i.e., hours 40 – 84) with a lump sum payment, may be compensated for**
3 **by the granting of administrative leave in accordance with Policy 22.**

4 **(c) In the event that a designated City holiday occurs during an incident period,**
5 **Charter Officers are authorized to provide eight hours of administrative leave, for each such**
6 **holiday, to those eligible employees who worked thereon. Said hours of administrative leave, if**
7 **granted, are in addition to those otherwise allowed under Policy 22.**

8 **(d) Hours worked, for which administrative leave is granted, shall not be**
9 **compensated for by lump sum payments, nor except for hours described in subsection (a) above,**
10 **be counted in determining whether an employee has worked the excess hours (>84; 44) described**
11 **in Section 2-469.**

Section 2-472. Mutual aid assistance.

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

Section 2-473. Payment.

18 **Lump sum payments for hours worked in incidents described in Sections 2-471(a) and 2-472**
19 **shall be made as soon as feasible after the work has been performed and accounted for. Lump**
20 **sum payments for hours worked in incidents described in 2-471(b) shall only be made after the**
21 **determination required by Section 2-468 has been ratified by the City Commission, and if such**
22 **notification does not occur, no lump sum payments shall be due or made.**

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1 **Section 2.** It is the intention of the City Commission that the provisions of Sections 1
2 through 5 of this Ordinance shall become and be made a part of the Code of Ordinances of the
3 City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
4 renumbered or relettered in order to accomplish such intentions.

5 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
6 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
7 the validity of the remaining portions of this ordinance.

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

10 **Section 5.** This ordinance shall be effective August 1, 2004.

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12 **PASSED AND ADOPTED** this _____ day of _____, 2005.

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PEGEEN HANRAHAN,
MAYOR

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18 ATTEST:

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Approved as to form and legality

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KURT M. LANNON

22 CLERK OF THE COMMISSION

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MARION J RADSON, CITY ATTORNEY

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25 This Ordinance passed on first reading this _____ day of March, 2005.

26 This Ordinance passed on second reading this _____ day of April, 2005.

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29 H:\Charlie Hauck\Ordinances\0-05-32 (overtime pay) DOC