

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2023-08

AMENDING 'EXECUTIVES' CHAPTER 3.56 BY REMOVING CHAPTER 3.56.040 LEAVE AND REVISING CHAPTER 3.56.02 RECRUITMENT AND APPOINTMENT TO ALLOW THE CITY MANAGER TO NEGOTIATE PERSONAL LEAVE FOR EXPERIENCED PROFESSIONAL CANDIDATES WHO ARE CONSIDERING EXECUTIVE EMPLOYMENT WITH THE CITY OF UNALASKA.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UNALASKA, as follows:

Section 1: Classification. This Ordinance is a Code Ordinance.

Section 2: Amendment of Section 3.56.020 RECRUITMENT AND APPOINTMENT. Section 3.56.020 of the Unalaska Code of Ordinances is hereby amended to read as follows. [New language is underlined; and deleted language is ~~everstruck~~.]

§ 3.56.020 RECRUITMENT AND APPOINTMENT.

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave, offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee's first anniversary date.

Section 3: Amendment of Section 3.56.040 LEAVE. Section 3.56.040 of the Unalaska Code of Ordinances is hereby amended to read as follows. [New language is underlined; and deleted language is ~~everstruck~~.]

§ 3.56.040 LEAVE.

The provisions of Chapter 3.52 shall govern leave for executive employees, subject to the provisions of 3.56.020.

Section 4: Effective Date. This ordinance is effective upon passage.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on August 8, 2023.

Vincent M. Tutiakoff, Sr.
Mayor

ATTEST:

Estkarlen P. Magdaong
Acting City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: William Homka, City Manager
Date: August 8, 2023
Re: Ordinance 2023-08: Amending 'Executives' Chapter 3.56 by removing Chapter 3.56.040 Leave and revising Chapter 3.56.02 Recruitment and Appointment to allow the City Manager to negotiate personal leave for experienced professional candidates who are considering executive employment with the City of Unalaska.

SUMMARY: Administration is working with Human Resources to fill key executive positions with the City (Department Directors). External candidates have asked if personal leave is negotiable. Chapter 3.56 "Executives" authorizes the City Manager to negotiate compensation, moving allowance and sign on bonuses as part of the recruitment process. However, Chapter 3.56.040 "Leave" refers back to the City's personal leave accrual plan in Chapter 3.52.010, meaning that personal leave accrual is equal for all employees.

DISCUSSION: On July 25, 2023, proposed Ordinance 2023-08 was introduced to Council because three candidates for department director positions inquired about additional leave time at the beginning of their employment with the City. Council did not appear supportive of the change, and expressed concerns about how the change in leave policy for directors might affect the morale of existing employees, directors and otherwise. Specifically, Council expressed that the proposed ordinance seemed unfair to current employees who earn personal leave under the current plan. Another question was if the policy would include all Title 3 employees and/or represented employees. Council voted to move the ordinance to public hearing and second reading tonight, and requested more information.

Perhaps there might be a middle ground that helps the City's recruitment efforts and is fair to all City employees. The three director candidates are all former City employees with service ranging between 3 and 22 years. An alternative would be to amend code to allow returning former employees to receive credit for prior service as it relates to accrual of personal leave. Meaning that returning employees would enter the leave plan at the level where they left off, essentially crediting them for prior service as it relates to accrual of personal leave.

If Council supports this alternative, a new ordinance would be introduced at a future meeting. While code allows for amendment of an ordinance between first and second readings, this alternative is completely different than proposed Ordinance 2023-08 and should be considered anew. Staff also needs time to craft the ordinance and work with the City attorney on proper wording.

ALTERNATIVES: As always, Council may adopt, amend or reject a proposed ordinance. Council's discussion on July 25 revealed little to no support of the proposed ordinance. Because Council voted to schedule the ordinance for second reading tonight, a vote must be taken.

If Council is interested in the alternative set out in the discussion, staff will work to prepare a new ordinance for consideration.

FINANCIAL IMPLICATIONS: None

LEGAL: None

PROPOSED MOTION: Second reading - I move to adopt Ordinance 2023-08.

CITY MANAGER COMMENTS: This is a Council decision, and guidance is requested as to the proposed alternative.

ATTACHMENT: July 25 staff memo.

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: William Homka, City Manager
Date: July 25, 2023
Re: Ordinance 2023-08: An Ordinance of the Unalaska City Council amending Unalaska Code of Ordinances § 3.56 Executives to allow the City Manager to negotiate the amount of personal leave for new executive level employees

SUMMARY: The Administration is working with Human Resources to fill key executive positions with the City. External candidates have asked if personal leave is negotiable. Chapter 3.56 'Executives' authorizes the City Manager to negotiate compensation, moving allowance and sign on bonuses as part of the recruitment process. However Chapter 3.56.040 'Leave' refers back to the city's personal leave accrual plan in Chapter 3.52.010.

DISCUSSION:

Paid time off (PTO) is becoming as important as income for more experienced and executive level candidates. All city employees (regular and executive) are subject to the City's personal leave plan per Chapter 3.56.040 Leave. All new employees accrue PTO at the same rate, regardless of experience. The City Manager cannot use personal leave as a recruitment tool to fill executive positions. The following is from Chapter 3.52.010 Leave:

Personal Leave Accrual Plan

- A. All regular full-time employees who are eligible to accrue leave, shall accrue personal leave at the rate of:
 1. First and second years of service beginning on the date of hire and ending on the date before the second anniversary date, 16 hours per month.
 2. Third and fourth years of service beginning on the third anniversary date and ending on the day before the fourth anniversary date, 20 hours per month.
 3. Fifth and sixth years of service beginning on the fourth anniversary date and ending on the date before the sixth anniversary date, 24 hours per month.
 4. Seventh and eighth years of service beginning on the sixth anniversary date and ending on the date before the eighth anniversary date, 28 hours per month.
 5. Ninth year of service and beyond beginning on the eighth anniversary date and ending on the date of separation from city service, 32 hours per month.

- B. Accrued unused personal leave shall not exceed 768 hours. Once any employee has accrued 768 hours of unused personal leave, the employee shall stop accruing personal leave until the employee's accrued unused personal leave is less than 768 hours.

Table 1: Unalaska Employee Personal Leave Plan illustrates the City's PTO in terms of hours per year and as 40 hour weeks. The administration prefers to fill executive positions with candidates having significant experience but we only offer paid time off at the entry level. Staff proposes to amend Chapter 3.56.040 by deleting the reference to Chapter 3.52.010 Personal Leave Plan and adding language to authorize the City Manager to negotiate personal leave for executives based on a candidate's professional experience.

Table 1: Unalaska Employee Personal Leave Plan

Chapter 3.56.040 Personal Leave Plan			
Years	Hr/month	hr/year	# 40 hr weeks
1 & 2	16	192	4.8
3 & 4	20	240	6
5 & 6	24	288	7.2
7 & 8	28	336	8.4
9 +	32	384	9.6

Text Amendment

Unalaska City Code requires ordinances to have two readings and one public hearing with the City Council prior to a decision. Staff has prepared the text amendment, with new language underlined and deleted language shown with ~~strike thru~~. This text change is not complicated and only affects two sections: Section 3.56.020 Recruitment and Appointment and Section 3.56.040 Leave.

§ 3.56.020 RECRUITMENT AND APPOINTMENT.

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave for an experienced candidate so it is attractive to a candidate that would be leaving a position with significantly more leave; offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee’s first anniversary date.

§ 3.56.040 LEAVE.

~~—The provisions of Chapter 3.52 shall govern leave for executive employees.~~

Chapter 3.56 Executives is included with this report as Attachment 1. The amendment eliminates Section 3.56.040 Leave and its cross reference to Section 3.52.010. Section 3.56.020 Recruitment and Appointment will add personal leave as a negotiable recruitment tool for the City Manager to use while negotiating employment offers for experienced executive candidates.

ALTERNATIVES: Council may adopt, amend or reject Ordinance 2023-08.

FINANCIAL IMPLICATIONS:

LEGAL:

PROPOSED MOTION: I move to adopt Ordinance 2023-08...

STAFF RECOMMENDATION: Staff recommends adoption of this amendment.

CITY MANAGER COMMENTS: I support this amendment.

One (1) attachment

ATTACHMENT 1:

CHAPTER 3.56: EXECUTIVES

Section

- 3.56.010 Classification
- 3.56.020 Recruitment and appointment
- 3.56.030 Compensation
- 3.56.040 Leave
- 3.56.050 Dismissal, demotion and suspension
- 3.56.060 Demotion upon request
- 3.56.070 Exception to rules
- 3.56.080 Severance pay
- 3.56.090 Resignation

§ 3.56.010 CLASSIFICATION.

Executive positions shall be included in the classification plan and allocated to an executive pay level as defined in the pay plan. Should the City Manager reassign the duties of an executive position in such a manner as to necessitate placement at a higher or lower executive pay level, such action shall require approval of the City Council.

§ 3.56.020 RECRUITMENT AND APPOINTMENT.

Executive positions by their nature and complexity are not subject to the normal procedures of recruitment and selection applicable to classified service positions. The City Manager may utilize any appropriate recruitment and referral sources and techniques, including, but not limited to: negotiating the amount of leave for an experienced candidate so it is attractive to a candidate that would be leaving a position with significantly more leave; offering a lump sum payment of a hiring bonus not to exceed \$10,000 less applicable withholdings to obtain the highest caliber employees for these positions and may appoint whomever the City Manager has determined can best discharge the duties of an executive position at their discretion. Any lump sum payment shall be contingent on agreement of the employee to reimburse the full amount of the incentive payment if the employee resigns before the employee's first anniversary date.

(Am. Ord. 2006-22, passed 12-12-06; Am. Ord. 2019-10, passed 9-10-19)

§ 3.56.030 COMPENSATION.

(A) Executive positions are assigned to an executive pay level based on the relative responsibility of the position.

(B) Executive employees shall be evaluated annually. The employee's performance must be rated at least satisfactory in order to be eligible for consideration of a wage increase on July 1 (or as otherwise provided for as defined in § [3.40.080](#) following the annual evaluation. The granting of an annual wage increase is a merit increase based on performance and not an automatic longevity increase. Merit wage increases for executive employees shall be provided only if the City Council by non-code ordinance adopted during consideration of the annual budget has authorized merit wage increases. Said increases shall be limited to the amount provided by the City Council. When an executive employee reaches the maximum pay rate in their pay range or if the percentage increase granted to other employees who are still within their pay ranges will cause the executive employee to reach or exceed the maximum pay rate in their pay range, merit increases equal to one-half the percentage increase granted to other employees who are still within their pay ranges may be granted annually on July 1. During the first year of employment, an executive employee will be advanced to a higher pay level on the July 1 following the date of hire only if the employee's date of hire is before April 1.

(C) With the exception of a hiring bonus, cost of living adjustments, merit increases, and travel allowance authorized by City Council, bonuses and special merit awards are not available to executive employees.

(D) The negotiated salary and any hiring incentive for executive employees shall be reported to the City Council upon the acceptance of the offer letter.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2006-22, passed 12-12-06; Am. Ord. 2019-10, passed 9-10-19)

~~§ 3.56.040 LEAVE.~~

~~—The provisions of [Chapter 3.52](#) shall govern leave for executive employees.~~

§ 3.56.050 DISMISSAL, DEMOTION AND SUSPENSION.

(A) Employees occupying an executive position are appointed by the City Manager, and serve at the Manager's discretion. The City Manager may dismiss, demote or suspend any employee occupying an executive position for any reason with or without just cause.

(B) Any dismissal, demotion or termination of an executive employee without cause will be taken only after first placing the executive employee on paid leave for a period of up to five days during which time the City Manager shall consult with the City Attorney and any dismissal, demotion or termination with cause will be taken only after: 1) provision of a written statement of reasons for termination with cause to the executive employee at least five (5) days before the effective date of termination; and 2) consultation with the City Attorney and City Council in executive session with the City Manager present unless the executive employee requests a public discussion. The executive employee will be provided an opportunity to respond to the statement of reasons both in writing and in person either in a public session or an executive session at the employee's option. The final decision on dismissal of an executive employee will be made by the City Manager.

(C) An executive employee who is demoted to a classified service position shall serve a probationary period.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2019-10, passed 9-10-19)

§ 3.56.060 DEMOTION UPON REQUEST.

An executive employee who previously held status in the classified service and who requests demotion, may be placed in a vacant classified position at the same or a lower level position than the one in which status was previously held.

§ 3.56.070 EXCEPTION TO RULES.

The requirements of this chapter apply fully to all executive employees and are the only rules, other than the sections listed in § 3.04.040, which apply to executive employees except as otherwise provided by this title.

(Am. Ord. 2019-10, passed 9-10-19)

§ 3.56.080 SEVERANCE PAY.

(A) An executive employee who is dismissed without just cause shall receive severance pay in an amount up to 12 weeks of the executive employee's pay rate at the time of dismissal.

(B) The City Manager shall report all instances in which severance pay is granted to the City Council in a public document.

(Am. Ord. 99-01, passed 3-9-99; Am. Ord. 2019-10, passed 9-10-19)

§ 3.56.090 RESIGNATION.

(A) An executive employee who desires to resign shall give at least 30 days written notice to the City Manager.

(B) An executive employee may withdraw their resignation only with the approval of the City Manager.