

Introduced by: Acting City Manager Arnold
Introduction Date: November 14, 2023
Public Hearing Date: November 28, 2023
Action: Passed
Vote: 7-0

CITY OF BETHEL, ALASKA

ORDINANCE #23-19

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE 3.04, 3.16, 3.48, 3.60 TO ESTABLISH TELEWORK OPPORTUNITIES FOR NON-UNIONIZED EMPLOYEES

WHEREAS, because many executive level positions are vacant for significantly longer periods of time than expected, the City of Bethel is considering alternatives to the standard hiring practices to meet our current and future operational needs;

WHEREAS, current non-represented vacancies include:

- Planning Director (vacant for 15 months)
- City Manager (vacant for 4 months)
- Finance Director (vacant for 13 months)
- Deputy Finance Director (vacant for 5 months);

WHEREAS, over the last two months, the City has promoted these vacancies through expensive position announcements, promotional placements, and email blasts with reputable government employment sites and the following number of applications were received:

- 1 application for Finance Director
- 1 application for Planning Director
- 8 applications for Human Resources (advertised with telework opportunity);

WHEREAS, trends have resulted in a competitive hiring market where job seekers are in a strong bargaining position and have many employment options;

WHEREAS, local governments are limited in how flexible they can be in critical areas, specifically, negotiation of pay and benefits for employees, but also in providing teleworking opportunities and a fully flexible work schedule, which are attractive to many seeking employment;

WHEREAS, there is a significant talent gap for these public sector positions, as there aren't enough qualified and interested local candidates to fill these roles, and the City's salary and benefits packages are not competitive enough to attract people to apply for open positions;

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WHEREAS, by integrating teleworking opportunities for certain positions, the City can maximize the applicant pool, providing the municipality with more options;

WHEREAS, the salaries for employees living in Bethel are much higher than those in many other areas of the state and country, and the teleworking pay scales in this amendment mirror the State of Alaska's listing percent differential based on the teleworking location, and with the adoption of the scale, the City would benefit from salary savings when hiring employees under a teleworking agreement;

WHEREAS, when considering what positions and employees are appropriate for teleworking, the City's goal shall be to hire staff for leadership positions who can mentor and develop leadership skills of onsite staff to promote career advancement for Bethel residents to move into managerial roles;

WHEREAS, by establishing teleworking standards, the City is adapting to the national labor trend of remote work and identifying a possible solution to our growing vacancy issue, which is affecting municipal functions by reducing our access to a qualified labor pool;

NOW THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA,

Section 1. Classification.

Section 2 Amendment, of this ordinance is permanent in nature and shall be placed in the Bethel Municipal Code.

Section 3 Scale Adoptions, of this ordinance is permanent in nature but shall not be placed in the Bethel Municipal Code.

Section 2. Amendment. Bethel Municipal Code 2.50.190, Employment prohibited, is amended, old language is stricken, and new language is underlined.

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Chapter 3.04

DEFINITIONS

3.04.010 Definitions.

As used in this title:

- A. "Appointment" means those methods by which a person is designated to fill a specific vacant position.
- B. "At will" means an employment relationship that can be terminated by either the employee or the employer at any time for any reason or no reason, with or without notice.
- C. "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience or skill, and such other characteristics that the same title, the same test of fitness and the same range of compensation apply to each position in the group.
- D. "Classification" means the process of obtaining adequate position descriptions, gathering necessary additional information, making comparison with other position descriptions and with class specifications, etc., and, finally, of taking official action by allocating a position to a particular pay range.
- E. "Classification plan" means the orderly arrangement into classes of all positions in the city service, and a listing of class title, class codes and pay ranges assigned to each class.
- F. "Department" means a city department as authorized by municipal ordinance. Authorized departments are administration, finance, fire, police, public works, and community services.
- G. "Department head" means the highest supervisory position of a city department.

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H. "Discipline" means a procedure or action taken to correct deficient performance; or punishment for not following set policies and procedures; or an action taken against an employee to maintain order and control.

I. "Employee" means any person in the employ of the city who is not within the collective bargaining unit and whose activities are directed by the city.

J. "Examination" means objective evaluation of skills, experience, education and other characteristics demonstrating the ability of a person to perform the duties required of a position.

K. "Immediate family member" means:

1. The spouse of the person;
2. Another person cohabitating with the person in a conjugal relationship that is not a legal marriage;
3. A child, including a stepchild and an adoptive child, of the person;
4. A parent, stepparent, sibling, stepsibling, grandparent, aunt or uncle of the person; and
5. A parent, stepparent, sibling or stepsibling of the person's spouse.

L. "Manager" means the city manager or their designee.

M. "Personnel office" means that office designated by the city manager to take care of and be responsible for personnel matters within the city job service.

N. "Position" means the duties and responsibilities assigned to an employee requiring full-time or part-time employment.

O. "Primary duty station" means Bethel, Alaska.

P. "Promotion" means a change in status of an employee from a position of one (1) class to a position of another class having a higher salary range.

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Q.P. "Rehire" means an appointment into a position in the same class of positions from which the employee separated in good standing, or into a position in a parallel class.

R.Q. "Reinstatement" means replacement of an employee into a position in the same class occupied previously or a parallel class when there has been no break in service, for one (1) of the following reasons:

1. Timely return from military leave or as otherwise required by law;
2. Return of an employee from authorized injury leave or leave without pay.

S.R. "Relative" means any person who is related by marriage or blood to an applicant or employee.

T.S. "Separation" means cessation of the work relationship between the city and an employee for any reason including death, dismissal, layoff, resignation and retirement.

Ʀ. "Suspension" means an enforced unpaid leave for disciplinary reasons or pending investigation of charges made against an employee.

U. "Teleworking" means an arrangement where an employee conducts work activities during any regular, paid hours, from an alternative location from the primary duty station mutually agreeable to the employee and the city.

~~V.U "Temporary employee" means an employee appointed on a temporary or interim basis to a position and subject to the provisions of these rules.~~

W.V. "Supervisory" means being in the same chain of command.

Chapter 3.16 RECRUITMENT

Sections:

3.16.010 General policy.

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- 3.16.020 Recruitment.
- 3.16.030 Types of appointments.
- 3.16.040 Selection of current employees.

3.16.010 General policy.

- A. The personnel office shall recruit all candidates for employment.
- B. The most qualified applicant shall be appointed to a position without discrimination based on race, color, religion (creed), gender, gender expression or identity, age, national origin (ancestry), disability, marital status, sexual orientation, military status, political affiliation, or other statuses protected by law.

3.16.020 Recruitment.

The city manager, or city council where appropriate, may utilize any recruitment and referral source deemed appropriate to obtain the highest caliber employees to fill positions not within the collective bargaining unit. The city manager, or city council where appropriate, may utilize such notices, appraisals or examinations they find appropriate for effective recruitment of employees not within the collective bargaining unit.

3.16.030 Types of appointments.

~~A. *Provisional Appointment.* The city manager, or city council where appropriate, may fill a vacancy by means of a provisional appointment. A provisional appointment is temporary and shall expire when a regular appointment has been made, or it shall expire six (6) weeks from the date of such appointment.~~

~~B. *Regular Appointment.* A regular appointment is an appointment to a regular position. Regular appointment shall not apply to temporary positions.~~

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~~C. *Substitute Appointment.* A substitute appointment is one (1) that is made to a position which is going to be vacant for longer than sixty (60) calendar days because of an authorized leave of absence where the incumbent has reinstatement rights.~~

~~D. *Acting Appointment.* An acting appointment is made when a qualified employee may be required to serve temporarily in a vacant higher level position in which no qualified applicant is available for its filling, when an announcement of position is delayed, or the employee who has a regular appointment for this position is on approved leave of absence. This type of appointment gives the acting employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned. An employee who obtains an acting appointment shall not always be required to perform all of the duties and responsibilities assigned to the incumbent who holds a regular appointment to the position. The duties and responsibilities that are actually assigned to the employee who has obtained the acting appointment shall be determined by the city manager, or city council where appropriate.~~

~~An acting appointment of expected duration of at least five (5) working days requires that the acting employee be offered the lowest rate of pay for the position that they are acting in, or the next highest step, for the acting position range, that is above their current pay level, whichever is higher. [Ord. 05-15 § 2; Ord. 202 § 3.033, 1992.]~~

~~A. *Regular Full-Time.* A regular full-time position is one in which the required work is expected to be performed during the entire workday and requires 30 or more hours per week. An appointment to such a position occurs after an employee has satisfactorily completed the applicable probationary period.~~

~~B. *Regular Part-Time.* A regular part-time position is one in which the required work is expected to be performed during a portion of a workday, such as a morning, afternoon, or night shift. The work shall total at least 15 hours and but less than 30 hours per week. An appointment to such a position occurs after an employee has satisfactorily completed the applicable probationary period.~~

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C. *Temporary.* A temporary position is one established to provide city services for a period not to exceed the greater of six months in duration or the duration of a position funded by a one-time grant from the federal or state government on a temporary basis. A temporary employee may not be rehired into the same temporary position for thirty (30) calendar days.

D. *Seasonal.* A seasonal position is a position for which the customary annual employment is six months or less, and for which the period of employment begins each calendar year at approximately the same part of the year, such as summer or winter.

E. *Nonregular Hourly.* A nonregular hourly position is one needed to perform city services on a recurring basis, with the number of hours worked in a particular week varying from week to week. A nonregular hourly employee shall not work more than 119 hours per month. A person holding a nonregular hourly position is not covered by any of the terms of this title and is not entitled to any of the rights or benefits provided to employees under these rules unless expressly stated otherwise in specific provisions of these rules, or an individual employment agreement.

F. *Acting Assignment.* An acting assignment is one in which a current employee is temporarily assigned to act in a non-represented or executive level position. An acting assignment is made when an employee, although perhaps not fully qualified for the acting assignment, may be assigned some or all duties of a higher-level position. This type of assignment benefits the employee who may gain knowledge and skill in a higher-level position. Work performed in an acting assignment may be counted toward the experience requirement in meeting minimum qualifications for the class of position in which the employee was acting.

When an employee is temporarily assigned to work in an acting assignment position, the employee shall receive ten (10) percent above their current rate of pay for the duration of the assignment.

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Chapter 3.48

PAY

Sections:

- 3.48.010** **Pay rates.**
- 3.48.020** **Advancements within a pay range.**
- 3.48.030** **Overtime.**
- 3.48.040** **Effective date of changes in payroll actions.**
- 3.48.050** **Total remuneration.**

3.48.010 **Pay rates.**

A. *Wage Schedule.* All employees shall be paid commensurate with the pay range and the telework agreement location scale to which their position has been assigned.

B. *Starting Rate on Initial Employment.* Original appointment to any position shall be made at the entrance rate, and advancement from the entrance rate to the maximum rate within a pay range shall be by successive step. The city manager, or city council where appropriate, may approve initial compensation at a rate higher than the minimum rate in the range for the position when the needs of the service make such action necessary; provided, that any such exception is based on the applicant's experience and ability over and above the qualification requirements specified for the class, or a critical shortage of applicants exists. The basis for the request shall be in writing and approval for such shall be in writing prior to appointment.

C. *Reinstatement and Re-Employment of Employees.*

1. *Reinstatement as Required by Law.* Employment rights of employees shall be governed by applicable law.

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3.48.020 Advancements within a pay range.

A. *Annual Step Increase.* Employees shall have their performance reviewed annually. Their salaries may be advanced after an annual performance review to the next higher step within the range based upon their performance. Such advancement may be made annually until the employee has reached the maximum rate of the pay range for their position. Dates for such review and advancements shall be the employee's anniversary date and annually thereafter as adjusted by the number of calendar days that total leave without pay exceeds thirty (30) during the calendar year.

Annual step increases shall be within the city manager's, or where appropriate the city council's, sole and exclusive discretion, and shall be based on merit. A step increase must be earned and is not granted automatically. In determining whether or not to grant an annual step increase, the city manager, or city council where appropriate, shall give consideration to the objective evaluation of an employee's work performance, recorded on a performance evaluation report.

3.48.030 Overtime.

Employees who are not exempt from FLSA and are not within the collective bargaining unit shall be paid at one and one-half (1 1/2) times their regular rate of pay for all hours actually worked in excess of forty (40) hours in one (1) week.

3.48.040 Effective date of changes in payroll actions.

Nothing in this title shall prohibit retroactive pay approved by the city council or required because of administrative oversight or error as determined by the city manager.

Personnel action implementing any change in status or pay shall be effective upon approval of the city manager provided such changes are received by the payroll office at least ten (10) working days prior to the effective date.

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3.48.050 Total remuneration.

The pay rate determined for a position under this chapter shall represent the total remuneration for the employee, not including reimbursement for expenses approved by the city manager. Except as provided in this chapter, an employee shall not receive remuneration from any person other than the city for performance of their ordinary duties or any other additional duties which may be imposed upon them, or which they may undertake or volunteer to perform.

Chapter 3.60

TELEWORK

3.60.010 Guidelines

A. Teleworking is available to exempt and non-represented employees when approved by the supervisor, following review by the human resources director, and authorization by the city manager. This chapter does not apply to employees who work from home as a temporary or permanent reasonable accommodation approved by Human Resources and under the American with Disabilities Act. This chapter also does not apply to employees of the City Council or other employees subject to individual employment agreements.

B. Teleworking may be used wherever practicable. It is expected that there will be no disruption of service or decline in the quality and timeliness of internal or external services provided by the teleworking employee or the employee's assigned department as a result of the teleworking agreement. If an employee is not maintaining satisfactory work performance, the teleworking agreement may be cancelled or not renewed.

C. Teleworking arrangements must conform to all applicable State and local laws, regulations, and policies regarding employment.

D. Teleworking is not an employee benefit or right. Employee participation in teleworking must be voluntary and agreed to by both the employee and the City.

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3.60.020 Teleworking categories:

1. Routine in-state: Routine teleworking is when the arrangement occurs as part of a regular and ongoing schedule greater than 30 days. Routine teleworking occurs regularly in-state and requires a Telework Request and Agreement Form signed by the City Manager, Human Resources Director, and Department Director.

2. Routine out-of-state: In addition to BMC 3.60.020(1), an initial out-of-state telework arrangement must be reviewed and approved by the city attorney.

3. Situational: Situational teleworking is approved on a case-by-case basis, where the hours worked were not part of a previously approved, ongoing, and regular telework schedule and may relate to weather, illnesses, special work assignment, or inaccessibility of regular work site. These arrangements are episodic, unscheduled or intermittent, and should last no longer than 14 consecutive workdays, unless otherwise agreed upon by the City and the employee. These types of agreements require only department head approval and do not require a Telework Request and Agreement Form.

3.60.030 Telework Request and Agreement.

A. An employee engaged in routine telework must have an approved Teleworking Agreement prior to beginning a telework arrangement. Teleworking arrangements may be approved for an initial 6-month period. If the arrangement has proven to be successful, the terms and agreement may be approved for up to 12 months at a time. The department head or city manager may cancel or amend the telework agreement at any time.

B. Teleworking arrangements may be on a part-time or full-time basis.

C. Teleworking agreements should be considered only if mutually beneficial for the city and the employee.

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1. The city shall consider the following when determining which positions/job classifications may be eligible for teleworking:

- a. A high percentage of work can be conducted individually;
- b. Collaboration and communication with colleagues can be conducted virtually;
- c. Work does not require frequent in-person collaboration;
- d. Work output and quality is not impacted by location;
- e. Performance of the work is not dependent on specialty equipment, tools/materials and settings that cannot be reasonably accommodated remotely;

2. In deciding whether to approve an employee's request for teleworking, the supervisor shall consider the following factors:

- a. The position's suitability for teleworking in accordance with C.1 of this section; and
- b. The employee's demonstrated reliability, work ethic, and time management support suitability teleworking; and
- c. The mutual benefits to the city and the employee.
- d. An employee may not be eligible to participate in telework if the employee was formally disciplined for performance or conduct or was placed on a performance improvement plan during the previous 12 months.

D. Telework must be performed at the authorized site only and only during the authorized hours.

E. The employee must be actively working, available and accessible by email, phone, or other technology during their agreed upon work schedule. The employee is required to answer their work phone during work hours or respond to voicemail timely. Absences, which include unavailability during work hours, must be pre-approved. The employee must account for all time worked and use leave, as appropriate.

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F. The employee may be called into the office when necessary to meet operational needs. In such event, the department head should provide reasonable notice to the employee whenever possible.

1. An employee teleworking within Bethel will not be reimbursed travel costs if called into the office.

2. An employee teleworking outside of Bethel must have a travel authorization pre-approved. Authorized expenses for telework employees traveling to Bethel include only airfare and lodging. Per Diem, rental car, and incidentals are not authorized expenses paid by the City.

F. Teleworking is not intended to be a substitute for dependent care. Employees shall continue to make arrangements for child/dependent care to the same extent as if the employee was in the workplace. However, having a dependent at home will not prohibit an employee teleworking. Requests will be reviewed on a case-by-case basis. Supervisors may cancel TWAs for employees who use them to enable child/dependent care.

G. The employee will provide telework worksite ergonomic furniture and equipment and shall maintain a clean and safe working environment. Expenses incurred as a result of working a telework schedule will not be paid or reimbursed by the City, including but not me limited to: Usage fees for privately owned computers; maintenance or operating costs of the telework site; utility costs associated with the use of phone, internet, computer, or occupation of the home.

H. The City may provide an employee teleworking equipment such as laptop or phone.

I . An employee injured at the telework location during telework hours while performing work duties shall complete the Notice of Occupational Illness or Injury form as soon as possible but not later than three (3) days of the injury.

3.60.040 Pay

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A. An employee teleworking in Bethel, with Bethel as their primary residence, shall be paid in accordance with the wage scale for employees working at the primary duty station.

B. An employee teleworking outside of Bethel shall have their salary schedule based on the telework location. If an employee moves or changes their primary residence to another a community different from the initial telework agreement, they shall notify human resources and payroll to accommodate potential salary and tax withholdings changes.

C. An employee teleworking in Bethel may request short-term telework arrangements outside of Bethel. If the short-term arrangement exceeds 60 calendar days, the employee shall amend their telework agreement in accordance with subsection B of this section.

SECTION 3. Adoption. The Base Salary Scale shall be that adopted by the City Council under Ordinance 22-19:

Pay Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	
M1	\$66,089	\$67,741	\$69,435	\$71,171	\$72,950	\$74,774	\$76,643	\$78,559	\$80,523	
M2	\$86,844	\$85,940	\$88,089	\$90,291	\$92,548	\$94,862	\$97,234	\$99,664	\$102,156	
M3	\$100,495	\$103,007	\$105,582	\$108,222	\$110,927	\$113,700	\$116,543	\$119,457	\$122,443	
M4	\$116,665	\$119,581	\$122,571	\$125,635	\$128,776	\$131,995	\$135,295	\$138,677	\$142,144	
Pay Grade	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15	Step 16	Step 17	Step 18	Step 19
M1	\$82,536	\$84,599	\$86,715	\$88,882	\$91,104	\$93,382	\$95,716	\$98,109	\$100,652	\$103,076
M2	\$104,710	\$107,328	\$110,011	\$112,761	\$115,580	\$118,470	\$121,431	\$124,467	\$127,579	\$130,768
M3	\$125,504	\$128,642	\$131,828	\$135,154	\$138,533	\$141,996	\$145,546	\$149,185	\$152,914	\$156,737
M4	\$145,698	\$149,340	\$153,074	\$156,901	\$160,823	\$164,844	\$168,965	\$173,189	\$177,519	\$181,957

Base-13% shall apply to employees teleworking at or nearest to:

- Cantwell
- Delta Junction
- Toke
- Dillingham
- Fort Yukon
- McGrath
- Nome

Base -39% shall apply to employees teleworking at or nearest to:

- Cordova
- Kodiak
- Valdez

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Base -45% shall apply to employees teleworking at or nearest to:

- Auke Bay
- Douglas
- Juneau,
- Mount Edgecumbe
- Sitka

Base -47% shall apply to employees teleworking at or nearest to:

- Chena River
- Eielson Airforce Base
- Fairbanks
- Fort Wainwright

Base -50% shall apply to employees teleworking at or nearest to:

- Anchorage
- Chitna
- Cooper Landing
- Denali
- Eagle River
- Girdwood
- Homer
- Kanai
- Palmer
- Seward
- Skagway
- Soldotna
- Sutton
- Whittier

The City Manager shall use the teleworking employee's teleworking city data to determine location based pay appropriate for the job, and teleworking location while ensuring pay equity is maintained.

SECTION 4. Effective Date. This Ordinance shall become effective upon the passage by the Bethel City Council.

ENACTED THIS 28th DAY OF NOVEMBER 2023 BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.



Mark Springer, Mayor

ATTEST:



Lori Strickler, City Clerk