

CITY OF UNALASKA  
UNALASKA, ALASKA

ORDINANCE 2020-01

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING UNALASKA CODE OF ORDINANCES § 3.44.020, AND § 3.44.030 (C) AND (D), CLARIFYING OVERTIME APPROVAL REQUIREMENTS AND SPECIFYING EMPLOYEES RECEIVING OVERTIME COMPENSATION FOR WORKING ON HOLIDAYS

BE IT ENACTED BY THE UNALASKA CITY COUNCIL as follows:

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

**Section 2: Effective Date.** This ordinance is effective upon adoption.

**Section 3: Amendment of § 3.44.020 OVERTIME PROCEDURES and § 3.44.030 TIME AND ONE-HALF OVERTIME**

Section 3.44.030 of the Unalaska Code of Ordinances is hereby amended to read as follows [additions are underlined and deletions are overstruck]:

§ 3.44.020 OVERTIME PROCEDURES.

Overtime payment will be received by all employees except for those employees who, by the nature of their work, are deemed by the city to be overtime exempt. All overtime records are subject to review by the City Manager. Department Directors will seek to minimize overtime wherever practicable. Overtime shall be scheduled as fairly and equally as practicable among employees, based first on qualifications to perform the work and secondly on seniority. All overtime shall be approved by the employee's supervisor.

§ 3.44.030 TIME AND ONE-HALF OVERTIME.

Overtime hours shall be paid and shall be defined as follows:

(A) Hours worked in excess of eight regular time hours worked in one day if working a five-day work week shall be paid at time and one-half. Hours worked in excess of ten regular time hours worked in one day if working a four-day work week shall be paid at time and one-half.

(B) Hours worked in excess of forty regular time hours of hours worked shall be paid at time and one-half. If an employee is compensated for a city holiday or for personal leave hours taken during the regular city work week, those hours of compensation for time worked shall not count as hours worked within the meaning of this section.

(C) For employees in regular full-time and regular part-time positions only, who are in pay status the day before and the day following a recognized city holiday listed in UCO 3.44.060, Hhours worked on such a holiday ~~recognized city holidays~~ shall be paid at time and one-half, in addition to holiday pay.

~~(D) All overtime must be approved by the supervisor and the Director prior to its performance.~~

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on March 10, 2020.

  
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Vincent M. Tutiakoff, Sr.  
Mayor

ATTEST:

  
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Marjie Veeder, CMC  
City Clerk



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## MEMORANDUM TO COUNCIL

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To: Mayor and City Council Members  
From: J. R. Pearson, Assistant City Manager  
Through: Erin Reinders, City Manager  
Date: March 10, 2020  
Re: Ordinance 2020-01, amending Unalaska Code of Ordinances § 3.44.020 and § 3.44.030 (C) and (D), clarifying overtime approval requirements and specifying employees receiving overtime compensation for working on holidays

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**SUMMARY:** The Department of Administration recently realized that Unalaska Code of Ordinances § 3.44.030 (C) did not specify the applicable employees receiving compensation when working on recognized holidays.

In addition, the recent financial audit revealed that § 3.44.030 (D) did not consider the fact that at times, such as during emergencies, pre-approval of overtime by the supervisor and Director is not always possible.

After the first reading on February 11, 2020, Council communicated concerns about how adequately the proposed amendment to § 3.44.030 (D) addressed the findings in the recent financial audit. After discussions among staff and City attorney, the amendment will address the primary finding in the audit regarding pre-approval of overtime; however, it would be more appropriate to address other concerns in an updated overtime policy.

**PREVIOUS COUNCIL ACTION:** Council adopted the current version of Chapter 3 of the Code of Ordinances on September 10, 2019.

**BACKGROUND:** The current version of § 3.44.030 (C) caused confusion concerning whether less than part time employees were entitled to compensation when working holidays.

The recent financial audit revealed that pre-approval of overtime by the supervisor and Department Director, as required by § 3.44.030 (D), did not always have supporting documentation indicating that it had been pre-approved. Further investigation determined that pre-approval of overtime is not possible in every instance.

This code change is part of a multi-pronged approach to address overtime usage as well as the finding (which related only to the documentation of overtime pre-approval). In order to better ensure proper management and documentation of our time and staffing and improve consistency throughout the organization we have taken two additional actions. One is updating the city-wide overtime policy, which dives deeper in to how we will implement code. This updated policy is included in your packets. The second is work on implementing an electronic time management system. This will replace our current antiquated paper-based system, and streamline approval processes and improve the consistency of documentation.

**DISCUSSION:** The amendment to § 3.44.030 (C) is needed to accurately define those employees who will be compensated when working on holidays. This amendment also supports § 3.44.090 Computation of Holiday Pay that defines those eligible for holiday pay. Please note

that employees who are in “pay status” are those who are not in leave without pay status prior and after the holiday. Employees who are not in leave without pay status remain in pay status through weekends or other normal days off as based on their work schedule.

An amendment was made to § 3.44.030 (D) and then moved to § 3.44.020. The amendment is needed because the language “prior to performance” is ambiguous and has historically been difficult to apply and document consistently. There are also times when pre-approval is impracticable (such as emergencies). Staff and the City Attorney believes that facilitating internal compliance would be more appropriately addressed in an updated administrative policy regarding overtime. Directors were removed from this section because approval of overtime is most frequently made by the supervisors. § 3.44.020 is the more appropriate location to insert the amended overtime approval requirement.

**ALTERNATIVES:** Council could decide not to adopt these amendments. However, there will be continued confusion about who is eligible for compensation while working on recognized City holidays. In addition, there would continue to be ambiguity about pre-approval of overtime and future financial audits would likely continue to note that this section of code is not being followed.

**FINANCIAL IMPLICATIONS:** None.

**LEGAL:** Staff consulted with the City Attorney, who provided suggestions to better communicate the intent of the amendments.

**STAFF RECOMMENDATION:** Staff recommends approval.

**PROPOSED MOTION:** I move to adopt Ordinance 2020-01.

**CITY MANAGER COMMENTS:** These proposed changes provide increased clarity for all employees. The specifics of these changes were developed in a coordinated effort between staff and the city attorney. I support this Ordinance.

**ATTACHMENTS:** Updated City Policy – 12.0614 Overtime.

	<b>Responsible Department:</b> Administration
	<b>Document Type:</b> POLICY & PROCEDURE
	<b>Number:</b> 12-0614
	<b>Title:</b> Overtime
	<b>Effective Date:</b> March 5, 2020
	<b>Re-evaluation Date:</b>
	<b>Reference:</b> UCO §3.44.020, §3.44.030, §3.44.040, §3.44.050

**PURPOSE:** To document the City's policy regarding overtime, and to provide overtime reporting and approval requirements.

**SCOPE:** Citywide non-exempt employees, supervisors, and Directors responsible for reporting overtime.

**DEFINITIONS:**

Fair Labor Standards Act (FLSA) – 1933 Federal law governing labor standards.

Non-exempt employees – Employees who are compensated on an hourly basis, subject to the rules of the Fair Labor Standards Act (FLSA).

Overtime – Hours worked in excess of 8 hours per day (or 10 hours per day if agreed in employee contract) or 40 hours per week. Types of overtime are listed below:

- Call-outs or Emergencies – Time worked as a result of call-outs or emergencies after normal work hours. It may not always be practicable to obtain supervisor approval for this type of overtime until after the work has started or has been completed.
- Incidental – Time worked after normal work hours that may be required as a result of needing to meet deadlines, critical work that could not be not completed during normal work hours, another employee calls in sick, or other incidents. Generally, this should be approved by the supervisor prior to performance.
- Scheduled Overtime – Overtime worked that was scheduled by the supervisor and it is understood that this was approved prior to performance.

**ATTACHMENTS:** None

**DETAILS:**

This policy shall be communicated to all employees and must be strictly enforced. Merely informing employees of the rule against unauthorized overtime is not sufficient.

**1. Statement of Policy**

- a. As a general rule of FLSA, the City of Unalaska must pay employees for whatever work the employer knowingly “suffers or permits” an employee to perform. This applies even if the work is conducted away from the employee’s usual work location and even if the work is not specifically requested or expected.
- b. Non-exempt employees are not to work before, beyond, or outside their normal hours, and are not to work overtime unless specifically authorized pursuant to UCO 3.44.020, 3.44.030, 3.44.040 and 3.44.050.

- c. Non-exempt employees shall report only the time worked, regardless if it was more or less than the normally scheduled work hours.
- d. Overtime shall be approved by the supervisor.
- e. Directors and supervisors shall conduct audits of employee time records on a regular basis.
- f. Directors and supervisors are responsible for the accuracy of employee time reporting and shall ensure that employees are accurately reporting their time worked and are only working the authorized amount of overtime. Employees submitting false information or working overtime without supervisor approval may be subject to discipline, up to and including termination.
- g. Directors and supervisors must be diligent in minimizing overtime and preventing the abuse of overtime. Applicable law makes it the duty of management to exercise its control and ensure that work is not performed that the employer does not deem necessary.
- h. Failure to adhere to this policy may result in disciplinary action.

## **2. Approval and Documentation of Overtime**

Approval of overtime is established when the supervisor and director approve submitted employee time records documenting overtime.

- a. The comments section of the time reporting system shall be used for overtime reporting. For those departments that require more overtime work, additional documentation may be submitted or maintained with the time records.
- b. Supervisors and Directors should assign overtime based on qualifications to perform the work, skillsets, or necessary certifications or licenses. Where qualifications are equal, seniority may be a factor in assigning overtime. Employee development and training should be encouraged so that the division is not dependent on a limited number of employees available to work overtime. When approving and documenting overtime, supervisors and Directors shall avoid showing favoritism in assigning overtime.
- c. When approving documented overtime, the supervisor and/or Director shall ensure that the following information is included:
  - i. Department and Division
  - ii. Employee name
  - iii. Date overtime worked
  - iv. Date overtime approved
  - v. Hours of overtime
  - vi. Description of work accomplished during the overtime
  - vii. Name of the supervisor or Director who approved the overtime
  - viii. Justification of each instance of overtime with an explanation of why it was needed and why it could not be done during normal work hours

Note: Overtime justification should include enough information to allow Directors to understand what work was performed and why it could not be performed during normal working hours. Statements such as "it has to be done" or "worked more than 8 hours" are not sufficient. Examples of appropriate justification include: emergency call outs after normal work hours,

another employee calls in sick, or completing a repair that brings critical services back online. Routine repairs and maintenance, and administrative work would not typically be justified overtime, except in some cases when firm deadlines must be met and other critical tasks prevented the work from being completed during normal work hours.

**APPROVED:**

**J R Pearson**

Digitally signed by J R  
Pearson  
Date: 2020-03-05 16:10:38

J. R. Pearson, Assistant City Manager



Erin Reinders, City Manager

3/5/2020

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Date

3/5/2020

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Date