

**ORDINANCE NO. 009-23**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING CHAPTER 2.60 POMC, PERTAINING TO COMPENSATION FOR CITY COUNCIL MEMBERS PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, at the March 21, 2023, City Council work study session, the City Council reviewed and considered the compensation of council members; and

**WHEREAS**, the compensation of Port Orchard City Council members has not changed since 2014; and

**WHEREAS**, the City Council finds that the compensation of City Council positions should be kept commensurate with the demands of the position in order to promote qualified candidates to run for office; and

**WHEREAS**, the City Council finds that it is in the best interests of the City to convert the pay schedule for Councilmembers to the same bi-weekly pay schedule as all other City employees to reduce staff time required due to current, differing pay schedules; and

**WHEREAS**, the Washington State Constitution, Article XI, Sec. 8, provides that any change to the Council salary can only take effect at the start of the next term of office for that Council position; and

**WHEREAS**, the City Council finds adoption of these amendments to be in the best interest of the City and residents; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Amendment. The title of Section 2.60.010 of the Port Orchard Municipal Code is hereby amended to be "Compensation."

**SECTION 2.** Amendment. Port Orchard Municipal Code Section 2.60.010 is hereby amended to read as follows:

**2.60.010 Compensation.** City council members shall receive \$500 for each two week pay period, provided there shall be 26 pay periods per year. City council members will be paid in accordance with the regular payroll schedule for other City employees.

**SECTION 3.** Port Orchard Municipal Code section 2.60.020 is hereby amended to read as follows:

**2.60.020 Cost of living adjustment.** During each year of a City council member’s term, the Seattle-Tacoma-Bellevue CPI-U June to June index will be tracked. The cumulative total of the CPI effect on the council member’s salary will be applied at the beginning of next term of office for the position, provided that each annual CPI included in the cumulative total shall not be less than 0% or more than 4%.

**SECTION 4.** The salary modifications set out herein shall commence on January 1, 2024 as to council positions 1, 4, 5 and At Large, and on January 1, 2026 as to council positions 2, 3 and 6.

**SECTION 5. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 6. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 7. Effective Date.** This Ordinance shall take effect and be in full force and effect on January 1, 2024, as provided by law, provided further that the salary adjustments set out herein shall be effective as stated herein.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 9<sup>th</sup> day of May 2023.

DocuSigned by:  
*Rob Putaansuu*  
3B96492E3E5847D

Robert Putaansuu, Mayor

ATTEST:  
DocuSigned by:  
*Brandy Wallace*  
46A5A54BBD00418

Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Charlotte Archer*  
203701F25520457

Charlotte A. Archer, City Attorney

SPONSOR:

*[Signature]*

John Clauson, Councilmember

PUBLISHED: May 12, 2023  
EFFECTIVE DATE: January 1, 2024





## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Councilmember Salary  
**Meeting Date:** March 21, 2023  
**Time Required:** 60 minutes  
**Attendees:** Human Resources Director Debbie Lund  
City Attorney Charlotte Archer

**Action Requested At This Meeting:** Discussion and consensus as to a salary recommendation for councilmember terms beginning January 1, 2024, for action at a future meeting.

**Issue:** At the council’s request, staff has researched compensatory salary information from neighboring jurisdictions related to the salary paid for elected councilmember positions.

**Background:** The current councilmember pay was effective January 1, 2013. Councilmember pay has not increased since. Pay changes made by current councilmembers are effective at the beginning of the next term for each councilmember position. 4 council positions are up for election this fall. Any change in councilmember compensation would be effective January 1, 2024, provided that the action is completed prior to the November 2023 general election.

The Finance Committee reviewed the attached memo dated January 6, 2023, at their January 20, 2023 meeting and requested that the conversation be brought to the full council. *Please note, an error in the calculations on page 4 has been corrected.*

**Recommendation:**

1. Councilmembers are currently paid a monthly salary. The City pays bi-weekly. This creates a situation (two months a year) in which staff has to manually edit payroll to avoid overpaying councilmembers by paying them three times a month, rather than the usual two times a month. Therefore, staff would prefer a salary based on an annual amount that is evenly divisible by 26 (rather than 24).

2. Options explored by the Finance Committee.

**Option using historic salary study model:** The cities of Bainbridge Island, Bremerton, Gig Harbor and Poulsbo and Kitsap County are the historic comparable jurisdictions for the City of Port Orchard. For purposes of elected officials, Kitsap County is not a good comparable. Using the salaries for councilmembers from the other cities, the average pay is \$1,549.41 per month or \$18,592.92 per year. If the Port Orchard City Council uses this model, this would be an increase of \$6,592.92 per year, a 54.94% increase in salary.

**Historic summary:**

	<b>Current</b>	<b>Local Cities Average</b>
Per Bi-weekly Payday	n/a	\$715.11
Monthly	\$1,000.00	1,549.41
Annually	12,000.00	18,592.92

**Option 1:** Understanding the concern that the Bainbridge Island councilmember pay skews the average for the small sample, the attached January 6, 2023, memo shows the average of the comparable jurisdictions **without Bainbridge Island**.

This results in a monthly pay of \$1,065.87, or \$12,790.44 annually. This equates to \$491.94 per pay day when paid 26 times a year. This would be a \$790.44 increase (6.59%) over the current annual salary for a Port Orchard city council member.

**Option 1 summary:**

	<b>Current</b>	<b>Option 1</b>
Per Bi-weekly Payday	n/a	\$491.94
Monthly	\$1,000.00	1,065.87
Annually	12,000.00	12,790.44

**Option 2:** This option shown on the January 6, 2023, memo **excludes the high and low salaries (Bainbridge and Gig Harbor)** from the list of surrounding cities.

This results in a monthly pay of \$1,211.31, or \$14,535.72 annually. If this option is chosen, staff would ask that the annual salary be rounded to \$14,535.82 which equates to an even \$559.07 per pay day when paid 26 times a year. This would be a \$2,535.82 increase (21.13%) over the current annual salary for a Port Orchard city council member.

**Option 2 summary:**

	<b>Current</b>	<b>Option 2</b>
Per Bi-weekly Payday	n/a	\$559.07
Monthly	\$1,000.00	1,211.318333x
Annually	12,000.00	14,535.82

**Option “Aberdeen”:** The other item from the January 6, 2023, memo that drew attention was the City of Aberdeen model. Under this model, staff tracks the annual COLA increases provided to non-represented employees of the City. Once a council term expires, the accumulated COLA increases are applied to the salary for the newly elected councilmembers term. As shown on page 4 of the January 6, 2023, (corrected) memo, using this approach the newly elected 2024 councilmember monthly pay would be \$1,271.04, which equates to \$15,252.48 annually. If this option is chosen, staff would ask that the compensation policy be written so as to increase the amount to the nearest (greater) calculation that is evenly divisible by 26. In this case, that would be \$15,252.64 per year. This would be a \$3,252.64 increase (27.11%) over the current annual salary for a Port Orchard city council member.

**Option “Aberdeen” summary:**

	<b>Current</b>	<b>Option “Aberdeen”</b>
Per Bi-weekly Payday	n/a	\$586.64
Monthly	\$1,000.00	1,271.05333x
Annually	12,000.00	15,252.64

For your convenience, the chart below illustrates how these two options would compare with jurisdictions historically used in the City’s salary surveys.

<b>Jurisdiction</b>	<b>Annual Salary</b>
Bainbridge Island (2023)	\$36,000.00
<b>Port Orchard if Option Avg local cities (2024)</b>	<b>18,592.92</b>
Bremerton (2023)	17,071.44
<b>Port Orchard if Option “Aberdeen” (2024)</b>	<b>15,252.64</b>
<b>Port Orchard if Option 2 (remove high and low) (2024)</b>	<b>14,535.82</b>
<b>Port Orchard if Option 1 (w/o BI) (2024)</b>	<b>12,790.44</b>
Poulsbo (2023)	12,000.00
<b>Port Orchard (2023)</b>	<b>12,000.00</b>
Gig Harbor (2023)	9,300.00

**Alternatives:** Another method of establishing the pay of councilmembers is utilizing a Salary Commission made up of citizen volunteers. City Attorney Archer has attached a memo with more information on Salary Commissions.

**Relationship to Comprehensive Plan:** n/a

**Attachments:**

- 1) January 6, 2023 (corrected) memo to Finance Committee.
- 2) Updated Memo re Salary Commission.

**Follow-up Notes & Outcomes:**

**MEMORANDUM**

To: Finance Committee Members  
From: Debbie Lund, Human Resources Director *Debbie*  
Date: January 6, 2023 [Corrected]  
RE: Councilmember Pay Research

At the request of the City Council late last year, I have conducted salary research on councilmember pay. This memo is the result of that research and is intended to show a variety of data points for your consideration.

Using the same methodology as used in the 2020 Salary Study by an independent consultant, the average pay from surrounding jurisdictions would be considered for comparison purposes:

<b>Jurisdiction</b>	<b>2023 Monthly Salary</b>
Bainbridge Island	3,000.00
Bremerton	1,422.62
Gig Harbor	775.00
Poulsbo	1,000.00
Kitsap County	n/a
<b>Average</b>	<b>\$1,549.41</b>
<i>Port Orchard</i>	<i>1,000.00</i>

Based on comments/requests from some councilmembers, the following is also provided for your information.

**Option 1:** Exclude Bainbridge Island, the highest monthly salary:

<b>Jurisdiction</b>	<b>2023 Monthly Salary</b>
<del>Bainbridge Island</del>	<del>3,000.00</del>
Bremerton	1,422.62
Gig Harbor	775.00
Poulsbo	1,000.00
Kitsap County	n/a
<b>Average excl. Bainbridge</b>	<b>\$1,065.87</b>
<i>Port Orchard</i>	<i>1,000.00</i>

**Option 2:** Exclude both high and low from the data points, in this case, Bainbridge Island and Gig Harbor respectively. This results in just two data points for comparison.

<b>Jurisdiction</b>	<b>2023 Monthly Salary</b>
<del>Bainbridge Island</del>	<del>3,000.00</del>
Bremerton	1,422.62
<del>Gig Harbor</del>	<del>775.00</del>
Poulsbo	1,000.00
Kitsap County	n/a
<b>Average excl. Bainbridge and Gig Harbor</b>	<b>\$1,211.31</b>
<i>Port Orchard</i>	<i>1,000.00</i>

Due to the small sample, I expanded my review of Cities with populations nearest to Port Orchard. For this review, I excluded cities in King County as well as cities in Eastern Washington. The information below shows those six cities with populations nearest Port Orchard. 3 smaller and 3 larger.

<b>Jurisdiction</b>	<b>Population*</b>	<b>Population compared to PO</b>	<b>County</b>	<b>2023 Monthly Salary</b>
Ridgefield	13,640	(2,760)	Clark	650.00
Ferndale	15,970	(430)	Whatcom	715.00
Lynden	16,150	(250)	Whatcom	737.92
Aberdeen	17,040	640	Grays Harbor	465.00
Washougal	17,390	990	Clark	587.00+
Anacortes	17,880	1,480	Skagit	1,200.00
<i>Average</i>				<i>725.82</i>
<i>Port Orchard</i>	<i>16,400</i>			<i>1,000.00</i>

\* Per MRSC 2022 Washington City and Town Profiles  
 + Unable to obtain 2023 salary. Using AWC salary survey 2022.

The following represents other data points that could be considered. It should be noted that with such a small sample size, I cannot recommend a particular data point for use.

<b>Jurisdiction</b>	<b>Population*</b>	<b>Pay per capita</b>	<b>Meetings per month*</b>	<b>Pay Per meeting</b>
Bainbridge Island	25,060	0.1197	4	750.00
Bremerton	45,220	0.0315	Weekly	328.30
Gig Harbor	12,540	0.0618	2	387.50
Poulsbo	12,180	0.0821	3	333.33
<i>Average</i>		<i>0.0738</i>		<i>449.78</i>
<i>Avg excl. Bainbridge</i>		<i>0.0585</i>		<i>349.71</i>
<i>Avg excl. BI and GH</i>		<i>0.0568</i>		<i>330.82</i>
<i>Port Orchard</i>	<i>16,400</i>	<i>0.0610</i>	<i>3</i>	<i>333.33</i>

\* Per MRSC 2022 Washington City and Town Profiles

The City Council also referenced salary commissions. Of our core comparable cities, here is what I found.

<b>Jurisdiction</b>	<b>Salary Commission</b>
Bainbridge Island	Yes
Bremerton	Yes
Gig Harbor	Yes
Poulsbo	No
<i>Port Orchard</i>	<i>No</i>

**Other topics that may be of interest:**

**PERS Membership Criteria**

In order to be eligible for membership in PERS, an elected official must earn at least 90 times the state minimum wage each month. The 2023 state minimum wage is \$15.74.

$90 \times \$15.74 = \$1,416.60$ . The Washington minimum wage is adjusted annually based on the federal Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

**Increasing/Decreasing Councilmember Salaries**

Article 11, section 8 of the Washington state constitution prohibits the increase or decrease of an elected official's salary after his or her election or during his or her term of office. This prohibition, however, applies only to officials who set their own salary, as is the case with the City of Port Orchard councilmembers. Consequently, any increase or decrease in the salaries of those elected officials who set their own compensation may not take effect until their next term of office.

According to MRSC this means the City Council must complete action related to councilmember pay prior to the next November general election in which council positions are elected.

**Option for a Salary Commission.** The City Attorney was asked to provide information on a salary commission.

**Cost of Living Increase (COLA)**

Port Orchard City Councilmember salaries have not changed since 2013, when they were increased from \$771.24 to \$1,000 per month. MRSC (Municipal Research and Services Center) provides examples of municipal codes providing for an automatic annual salary increases for elected officials. The information on the next page is provided for illustrative purposes.



Year	COLA	Calculated Pay	Effective Date	
2014	2.0%	1,020.00	10/1/2014	
2015	1.6%	1,036.32	10/4/2015	
2016	0.6%	1,042.54	4/17/2016	
2017	2.0%	1,063.39	1/1/2017	
2018	2.5%	1,089.97	1/1/2018	
2019	2.25%	1,114.50	1/1/2019	
2019	1.05%	1,126.20	3/17/2019	
2020	2.3%	1,152.10	1/1/2020	<i>Corrected</i>
2021	2.0%	1,175.14	1/1/2021	<i>Corrected</i>
2022	4.0%	1,222.15	1/1/2022	<i>Corrected</i>
2023	4.0%	1,271.04	1/1/2023	<i>Corrected</i>

Please note that COLAs at the City of Port Orchard are *generally* tied to the Seattle-Tacoma-Bellevue CPI-U, which can differ from the federal CPI-W that is used for purposes of escalating the Washington state minimum wage.

**CPI related approaches**

Legal counsel would need to advise as to whether the council could elect to increase future councilmember pay using an annual or term-based COLA adjustment. If the council was interested in such an approach, one possible solution might be to tie any COLA increases to a fixed number or the COLA used for Washington’s minimum wage, therefore avoiding a COLA amount over which the council has control.

For example, the City of Lynden applies a fixed percentage of increase each year (3% per year from 2019 to 2025 under their current Ordinance).

The City of Aberdeen tracks a specific CPI and applies the cumulative total at the beginning of a councilmember’s elected term. In other words, CPI is tracked but not applied until a new term is started.

## MEMORANDUM

**TO:** City of Port Orchard City Council (Previously provided to Finance Committee)

**FROM:** Charlotte Archer, City Attorney

**DATE:** For March 2023 Work Study

**RE:** Procedures for Modifying Council Compensation

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### QUESTION AND SHORT ANSWER

The Port Orchard City Council has requested a legal analysis regarding the mechanisms that may be used to adjust compensation for elected officials, including but not limited to the establishment of an independent salary. Port Orchard, as an optional code city, has the lawful authority to set salaries for city council members one of two ways:

1. Adjustment of salary through the passage of an ordinance, provided said legislation may not take immediate effect; or
2. Establishment of an independent salary commission.

While city council members are constitutionally barred from raising their own salaries for a current term, a decision of a salary commissions could take effect immediately. Either method may provide for annual increases to counter inflation.

### AUTHORITY AND ANALYSIS

#### *1. General Legal Parameters for Setting Council Compensation.*

The Washington State Constitution provides sideboards for the methodology used to set compensation, either through independent ordinances or a salary commission. Article XI, Sec. 8 provides that the salary of any county, city, town, or municipal officers shall NOT be increased or diminished after his/her/their election, nor during the term of office. In essence, this provision means that no sitting city legislative body may pass an ordinance or provision which would either increase or decrease the compensation of its own members, because the change would not take place until the *following* subsequent legislative term. The portion regarding elections also makes it so that a sitting municipal legislative body cannot pass a lame-duck ordinance affecting the salaries of incoming, elected officials. Article XI, Sec. 8's language effectively requires a city council or similar body to pass an ordinance affecting their own compensation before an election if they wish for it to take effect the following term, at the earliest.

However, Article XXX, Sec. 1 of the Washington State Constitution impacts the ability of local officials to adjust salaries. Here, the section provides that “[t]he compensation of all elective and appointive state, county, and municipal officers **who do not fix their own compensation . . .** may be increased during their terms of office to the end that such officers and judges shall each severally receive compensation for their services in accordance with the law in effect at the time the services are being rendered” (emphasis added). In short, this addition to the state constitution allows the salaries of local officials to be raised so long as that determination comes from a separate source. Examples would be the city council approving a raise for a city clerk, or an independent salary commission approving additional compensation for city council members themselves (so long as the council had no influence on the raise).

As a mayor-council city, Port Orchard’s city council has the power to pass an ordinance amending the salaries of its city commission under RCW 35A.12.070. Any adjustment to the city council’s salary via this method would not take effect until the following subsequent legislative term, regardless of whether it is an increase or decrease.

## *2. Optional Salary Commission*

As an alternative to the traditional method of setting council compensation, pursuant to RCW 35.21.015 the City may establish an independent salary commission via an ordinance. The scope of the delegation of authority must be stated in the ordinance and where the council has delegated salary setting to a salary commission, they cannot act in derogation of that delegation unless and until the commission has been dissolved.

The members of the commission:

- Are resident volunteers selected by the mayor, with the confirmation of the city council;
- Serve for appointments not longer than two terms;
- May be removed during their terms of office for incapacity, incompetence, neglect of duty, malfeasance, or a disqualifying change of residence; and
- May not be an officer, official, or employee of the city or town, or any of their immediate family members.

The commission’s work is facilitated by staff who are required to provide the commission with all requested data and information relevant to their analysis. Commissions typically meet no more than once per year. Commission members may file any change in salary with the city clerk after membership is decided, and the change shall be incorporated into the city budget without further action, provided a salary decrease shall only take effect as to incumbent city elected officials at the beginning of their next subsequent term of office.

Note that salary commissions, as with all city-initiated workgroups staffed by resident volunteers, can sometimes be challenging to fill. Additionally, anecdotal data indicates that there is a substantial burden on staff to facilitate the commission’s meetings and collect, prepare and present the requested data. Among the agencies currently utilizing salary commissions to set council compensation are Bainbridge Island, Poulsbo, Bellingham, Auburn, Puyallup, and Kent. Notably, the City of Lynnwood created a salary commission in 2019, only to disband it 2021, citing as bases

for disbanding the significant staff time involved with the commission as well as a desire to ensure that council compensation was high enough to encourage more community members to run for office.

### 3. *Optional Automatic Salary Increase By Ordinance*

Alternatively, the City may also institute an automatic annual pay increase for councilmembers to combat inflation or economic factors. Generally, there is nothing that prohibits such a provision so long as it complies with the statutory and constitutional requirements above. If passed by an action of the city council themselves, it could take effect as early as the following subsequent terms of the members, and a salary commission could institute it immediately (potentially subject to a referendum by the people). An example of this approach is the City of Bellingham:

“A. Effective January 1, 2013, the annual salary for members of the city council shall be calculated as follows:

1. January 1, 2013, \$1,893 per month;
2. The annual salary for council members shall increase annually by three percent, beginning January 1, 2014.”