

CITY OF NANAIMO

BYLAW NO. 7273

A BYLAW TO ESTABLISH THE TERMS AND CONDITIONS OF EMPLOYMENT FOR
OFFICERS AND EXCLUDED EMPLOYEES OF THE CITY

A Bylaw to establish terms and conditions of employment, including the appointment and termination, of its Officers and Excluded Employees.

The Council for the City of Nanaimo in open meeting assembled ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as "MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT BYLAW 2019 NO. 7273".

2. Definitions

In this Bylaw, unless the context otherwise requires:

"CITY" means the City of Nanaimo.

"COUNCIL" means the Council of the City of Nanaimo.

"EXCLUDED EMPLOYEE" means an employee of the City of Nanaimo who is either a manager, or is an employee who is excluded from the unionized bargaining unit and is not an Officer as set out below.

"EMPLOYER" means the City of Nanaimo.

"OFFICER" means persons holding the offices of the City of Nanaimo as set out in Sections 3 and 4 of the City's Officers Appointment and Delegation Bylaw.

3. Remuneration

3.1 The salaries for Officers and Excluded Employees shall be determined by the Chief Administrative Officer in accordance with the Exempt Salary Administration Policy, as amended from time to time.

4. Appointment and Promotion

- 4.1 The Chief Administrative Officer has the authority and responsibility for hiring, termination and restructuring decisions pertaining to all staff and all departments, subject to compliance with *Community Charter* requirements.
- 4.2 Appointment to any Officer position shall be made by the Chief Administrative Officer or designate.
- 4.3 Appointment to any Excluded Employee position shall be made by the Department Director responsible following consultation with the Chief Administrative Officer or designate, or by the Chief Administrative Officer.
- 4.4 Appointment to any Officer or Excluded Employee position shall be subject to a probation period of six months, which may be extended by mutual agreement.

5. Cancellation of Appointment Prior to Expiration of Probation Period

- 5.1 Where an employee of the City is appointed to any Officer or Excluded Employee position, and it is determined that the individual is to be terminated within the probation period, the following applies:
 - (a) The decision to terminate an Officer shall be made by Council in accordance with the provisions of the *Community Charter*.
 - (b) The decision to terminate an Excluded Employee shall be made by the responsible Department Director in consultation with the Chief Administrative Officer or designate.
 - (c) In either case, for internal appointments, the employee shall receive two months' notice of the City's intention to return the employee to their previous position. Should the City return the employee to their previous position prior to the expiry of two months, the City will continue to pay the employee at the salary of the higher rated position for up to two months.
 - (d) For external appointments, where prior to the expiry of the probation period the Employer decides to cancel the appointment and terminate the employment relationship, such termination shall be on one month's notice or salary in lieu of notice.
- 5.2 Section 5.1 (c) and (d) shall not apply when an Excluded Employee is terminated for cause.

6. Termination of Employment Beyond Probation Period

- 6.1 Termination of employment of any Officer having completed probation shall be made by Council in accordance with the provisions of the *Community Charter*.
- 6.2 Termination of employment of any Excluded Employee having completed probation shall be made by the responsible Department Director in consultation with the Chief Administrative Officer or designate, or by the Chief Administrative Officer.
- 6.3 Reasonable notice of termination of any Officer or Excluded Employee shall mean the length of notice or payment-in-lieu thereof as follows:
- (i) During the probation period, one month's notice or salary in lieu of notice;
 - (ii) Upon completion of the probation period, reasonable notice in accordance with common law.
- 6.4 The Council may, in its absolute discretion, grant additional pay in lieu of notice to any Officer or Excluded Employee.
- 6.5 In making exceptions, Council is to consider the judicial jurisprudence that includes length of service and other factors such as nature of position (e.g. junior vs. senior manager), age of the employee, salary and availability of comparable employment.
- 6.6 Officers and Excluded Employees are required to give the following minimum working notice of resignation from their employment:
- (i) Four weeks for Officers, and Excluded Employees at the Director level and above;
 - (ii) Three weeks for Excluded Employees at the Manager level;
 - (iii) Two weeks for all other Excluded Employees.
- 6.7 The Chief Administrative Officer may waive all or a portion of any notice period stipulated in section 6.6.

7. Suspension of Officers

The suspension of employment of any Officer shall be in accordance with the *Community Charter*.

8. Group Insurance Benefits

Officer and Excluded Employee benefits shall be provided in accordance with Schedule 'A' of this Bylaw and the terms and conditions of the group insurance policy.

9. Sick Benefits

Every Officer or Excluded Employee who is too ill or injured to attend work shall be entitled, during such illness or injury, to be absent from work on full salary using the sick leave entitlement as provided for in this Bylaw in accordance with Schedule 'A'.

10. Statutory Holidays

All Officers and Excluded Employees are entitled to receive the following Statutory Holidays with pay:

- New Year's Day
- Family Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- British Columbia Day
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day

11. Annual Vacation

11.1 Vacation entitlement for all Officers and Excluded Employees shall be as set out in Schedule 'A' of this Bylaw.

11.2 Annual vacations of Officers shall be scheduled with the approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable. Annual vacations of Excluded Employees shall be scheduled with the approval of the responsible Department Director.

11.3 All vacation entitlements must be used by the end of March of the year following the year in which the vacation entitlements are granted, subject to the following:

(a) Officers and Excluded Employees with vacation entitlements in excess of 20 days per year, and who have used a minimum of 15 days, have the option to:

(i) carry forward up to five (5) days' vacation to be reclaimed in subsequent years as time off; and/or

(ii) claim the balance as payment in lieu during the year in which it is granted at the rate of pay at which it is granted.

(b) No carry forward of vacation is permitted for Officers and Excluded Employees who have vacation entitlements of 15 days or less, or who have used less than 15 days, unless prior approval is received from the Chief Administrative Officer.

11.4 Vacation entitlement that has not been carried forward or paid out as in 11.3 above shall be paid out by the end of March of the year following the year in which the vacation entitlement was granted, and at the rate at which it was granted.

11.5 Vacation accrual shall be pro-rated for partial years of service, for absences on long-term disability, or for unpaid leaves of absence.

11.6 The maximum carry forward vacation bank allowable at any time shall be 30 days.

12. Subrogation Rights

Officers and Excluded Employees may use sick leave credits for time lost through accidental injuries, provided that if they should later make a claim or commence an action for damages against a third party in respect of such injuries, they shall include therewith a claim for loss of wages and shall reimburse the City to the extent that they recover in respect of the claim for loss of wages. After receipt of such monies, the City shall credit the Officer or Excluded Employee with the number of sick days equivalent thereto, and any resultant gratuity days to which they may be entitled.

13. Attendance at Meetings of City Council, Committees, Commissions and Advisory Bodies

The Chief Administrative Officer, General Managers and the Director of Legislative Services are expected to attend all meetings of the City Council, and meetings of Committees, Commissions and Advisory Bodies on request, except for approved absences. Other Officers and Excluded Employees are expected to attend meetings of City Council, Committees, Commissions and Advisory Bodies as required.

14. Payment of Overtime for Officers and Excluded Employees

14.1 Officers and Excluded Employees, excluding the Chief Administrative Officer, General Managers and Directors, shall be compensated for overtime at straight time, to a maximum of 240 hours per year.

14.2 Overtime will be compensated either by way of cash payment, time off, or a combination of cash payment and time off, with a maximum of 50 percent paid out and a minimum of 50 percent taken as accumulated time off.

14.3 Overtime for employees in Salary Bands 1-3 (Administrative Assistants) will be paid in accordance with the CUPE Collective Agreement overtime provisions.

15. Contract of Employment

Council may enter into a contract of employment with an Officer or Excluded Employee. Where the provisions of such contracts are inconsistent with the provisions of this Bylaw, the provisions of the contracts take precedent.

16. Repeal

"MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT BYLAW 2005 NO. 7000", and all amendments thereto, is hereby repealed.

PASSED FIRST READING: 2019-JUL-08
PASSED SECOND READING: 2019-JUL-08
PASSED THIRD READING: 2019-JUL-08
ADOPTED: 2019-JUL-22

L. E. KROG

MAYOR

S. GURRIE

CORPORATE OFFICER

SCHEDULE 'A'

GROUP INSURANCE BENEFITS AND LEAVE ENTITLEMENTS

1. Municipal Pension Plan

Municipal Pension Plan shall be provided in accordance with the *Public Sector Pension Plans Act* S.B.C. 1999, and amendments thereto, and the Canada Pension Plan.

2. Medical Plan

Medical coverage, including coverage for immediate family members, shall be provided by the Employer through the Medical Services Plan of B.C. at no direct cost to the Officer or Excluded Employee, to be effective on the first day of the month following the commencement of employment, or as permitted by Medical Services Plan regulations. For the purposes of this Bylaw, "immediate family members" shall mean the incumbent's spouse and dependent children.

3. Extended Health Benefits

Extended Health Benefits, including coverage for immediate family members, shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to be effective the first day of the month following the commencement of employment. Extended Health Benefits shall include 100 percent coverage for prescription drugs and a Vision Care Plan.

4. Dental Plan

A Dental Care Plan shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to be effective the first day of the month following the commencement of employment. The Dental Care Plan, which will pay up to reasonable and customary limits as outlined in the Dental Fee Guide, shall be as follows:

- (a) Plan 'A' Basic Restoration and Preventative Services - coverage to include Officer or Excluded Employee and immediate family members - 100 percent paid by the Dental Care Plan.
- (b) Plan 'B' Prosthetic Appliances and Crown and Bridge Procedures - coverage to include Officer and Excluded Employee and immediate family members - 80 percent paid by the Dental Care Plan.
- (c) Plan 'C' Orthodontics - coverage to include dependent children - 80 percent paid by the Dental Care Plan to a maximum of \$3500. (lifetime) per child.

5. Group Life Insurance

- 5.1 Group Life Insurance, including Accidental Death and Dismemberment coverage, shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to an amount equal to 2.5 times the annual salary, with a minimum amount of \$150,000 to be effective upon commencement of employment.
- 5.2 Upon termination of employment, the Officer or Excluded Employee has the option of purchasing personal life insurance by making application to the insurer within 30 days of the date of termination.

6. Long Term Disability Insurance (LTD)

- 6.1 All Officers and Excluded Employees shall be entitled to Long Term Disability Insurance to be effective on the 121st calendar day of illness, subject to any limits or conditions contained within the Plan.
- 6.2 Long Term Disability Insurance will provide wage protection at the rate of 70 percent of current salary to be effective upon the 121st day of illness. Monthly premiums to the Plan shall be paid 100 percent by the Employer.
- 6.3 Enrollment in the Plan shall be mandatory for all Officers and Excluded Employees. Officers and Excluded Employees on LTD shall have the option of having their benefits included in Schedule 'A' continue at the current cost-sharing arrangement for a period of up to two years.

7. Short Term Sick Leave

- 7.1 All Officers and Excluded Employees shall accumulate sick leave credits at the rate of one and one-half (1½) working days per month, cumulative to 120 work days (168 calendar days) to be used towards sick leave. Officers and Excluded Employees using earned sick leave credits shall be paid full salary.
- 7.2 Any unused annual sick leave standing to the credit of an Officer or Excluded Employee at the end of a calendar year shall be accrued to his/her credit to a maximum of 120 workdays.
- 7.3 Paid sick leave in excess of accrual may be granted in exceptional circumstances, if approved by the Chief Administrative Officer or designate.
- 7.4 Officers or Excluded Employees with a minimum of five (5) years continuous service, upon retirement, shall be paid a gratuity for the unused balance of sick leave, if any, due them at that time up to a maximum of 60 days. In the event of death of the Officer or Excluded Employee before retirement, a gratuity based on the unused balance of sick leave shall be paid to the Employee's named beneficiary or estate.

8. Annual Vacation

- 8.1 Subject to any special arrangement made at the time of appointment which must be approved by the Chief Administrative Officer, annual vacations shall be granted to Officers and Excluded Employees based on total unbroken City service as follows:
- a) During first calendar year of employment 20 days (pro-rated)
 - b) During second to fourth calendar years of employment . 20 days
 - c) During fifth to ninth calendar years of employment 25 days
 - d) During 10th to 19th calendar years of employment..... 30 days
 - e) During 20th to 29th calendar years of employment..... 35 days
 - f) During 30th or greater calendar years of employment 40 days
- 8.2 The Chief Administrative Officer, General Managers, and the Director of Legislative Services shall receive two additional weeks of vacation entitlement in recognition of overtime incurred.
- 8.3 Other Directors and the Fire Chief shall receive one additional week of vacation entitlement in recognition of overtime incurred.

9. Leave of Absence

- 9.1 Leave of Absence without pay may be granted to all Officers and Excluded Employees for reasonable periods, with the prior approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable.
- 9.2 Leave of Absence with pay may be granted for compassionate reasons, with the prior approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable.
- 9.3 Premium payments for Medical Services Plan, Extended Health and Dental benefits for Officers or Excluded Employees on Leave of Absence without pay shall be the sole responsibility of the Officer or Excluded Employee. Benefits based on active service will be suspended during the leave of absence.

10. Maternity/Adoption and Parental Leave

- 10.1 Officers and Excluded Employees, in the case of the natural/adopting mother or natural/adopting father, are entitled to a combined maternity/parental leave without pay for the total number of weeks dictated by the *Employment Standards Act*, as amended from time to time, before or after the birth or adoption of the child of the Officer or Excluded Employee.
- 10.2 Maternity or adoption leave may be extended up to a maximum of one additional year for health reasons of the mother, or newborn child.

10.3 Premium payments for all benefits shall continue to be paid by the Employer for Officers and Excluded Employees on maternity/adoption or parental leave.

11. Jury Duty

Any Officer or Excluded Employee who is summoned to perform Jury Duty shall be excused from attendance for work while performing such duties and shall be entitled to his or her full pay provided that he or she pays to the City all Jury fees to which he or she is entitled, except transport, accommodation and meal expenses.