


## APPENDIX C

	COUNCIL POLICY	
	No.xx	
CHAPTER:		
SECTION: Human Resources		
SUBJECT: Terms and Conditions of Employment – Officers and Exempt Employees		
AUTHORIZED BY: City Council		
EFFECTIVE DATE: TBD		REVISION DATE: August 31, 2018

### 1. PURPOSE

The purpose of this policy is to outline terms and conditions of employment for officers and exempt employees.

### 2. POLICY STATEMENT

The City is committed to ensuring competitive, fair and equitable terms and conditions of employment for officers and exempt employees.

### 3. APPLICATION AND RESPONSIBILITY

This policy applies to all officers and exempt employees. This policy does not apply to employees of the Victoria Police Board.

If a person employed by the City as a member of the bargaining unit ceases to be a member of the bargaining unit and becomes an officer or exempt employee, this policy applies to that person and all matters related to the seniority of that person must be calculated as if that person's employment was always governed by this policy, including that person's entitlement to annual holidays, sick leave, pension rights and similar matters.

This policy does not prevent the Council from authorizing the execution of a contract between the City and an officer or exempt employee. If a provision of this policy is inconsistent with a provision of an executed contract between the City and an officer or exempt employee, the contract provision prevails.

### 4. DEFINITIONS

**Exempt employee** means a person employed by the City who is not a member of a bargaining unit for which a bargaining agent has been certified under the *Labour Relations Code* of British Columbia, and who is in a position that is not that of an officer.

**Officer** means a person employed by the City who is designated as an officer under the Officer's Bylaw.

**Statutory holiday** has the same meaning as "holiday" in the Interpretation Act, includes a Saturday, and includes a day that is declared by the Council to be a day on which the City Hall is closed to the public, except when the closure is due to a strike by or a lockout of any City officers or employees.

**Working day** means a day that is not a statutory holiday.

## **5. PROCEDURES**

### **Appointments**

Council must appoint officers in consultation with the City Manager.

The City Manager may appoint a person to act during the absence, vacation, disability, or incapacity of an officer and may revoke the appointment at any time. During the period of such an appointment, the person appointed has all the powers and duties of the officer whom the person replaces but does not have the rights or privileges given to the officer as described under Section 152 of the *Community Charter*.

The City Manager may appoint, suspend and terminate the employment of any person employed by the City other than the employment of an officer. The City Manager must consult with an officer before appointing employees for whom that person is responsible.

### **Probationary Period**

Each officer and exempt employee must serve a probationary period of six months before being eligible for appointment to the permanent staff. A probationary period may be extended by an additional period of not more than three months. During the probationary period the Council may dismiss an officer on its own initiative or upon recommendation of the City Manager; and the City Manager may dismiss an exempt employee.

An officer or an exempt employee must be appointed to the permanent staff where that person concludes the probationary period without being dismissed or suspended.

### **Dismissal**

The dismissal of an officer is governed by S. 152 of the *Community Charter*.

The dismissal of an officer by Council is effective as soon as the resolution for the dismissal is adopted at a Council meeting, or at a later time set out in the resolution.

The City Manager may dismiss an exempt employee without notice for cause, or on reasonable notice without cause.

A dismissal by the City Manager is effective as soon as a written dismissal notice has been delivered to the exempt employee being dismissed, or at a later time set out in the notice.

An officer or exempt employee who is dismissed may be given compensation in place of reasonable notice.

### **Suspension**

The employment of an officer or exempt employee may be suspended by the Mayor in accordance with Section 151 of the *Community Charter*. The employment of an officer or exempt employee may be suspended by the Council on the recommendation of the City Manager.

The employment of an exempt employee may be suspended by the City Manager.

A suspension must not be for longer than 60 days, including statutory holidays. However, where an officer or exempt employee has been formally charged in court with the commission of a criminal offence, that person's suspension may continue until 15 days after the final determination of the criminal proceedings.

If an officer or an exempt employee is reinstated after a period of suspension without pay, that period must be excluded from a computation for any purpose of that person's length of service and benefits.

### **Resignation**

An officer may resign by giving at least 60 days' written notice to the City Manager; however the City Manager or the Council may accept a notice of less than 60 days or a verbal notice. The City Manager must notify the Mayor and Council on receipt of an officer's resignation.

An exempt employee may resign by giving at least 30 days' written notice to the head of that exempt employee's department; however the head of the department or the City Manager may accept a notice of less than 30 days or verbal notice. The head of that exempt employee's department must notify the City Manager on receipt of an exempt employee's resignation.

### **Duties**

An officer must perform the duties set out in the Officers Bylaw.

An exempt employee must perform the duties assigned by the Council, the City Manager and the head of the exempt employee's department subject to any duties imposed on the exempt employee by an enactment.

## **6. COMPENSATION AND BENEFITS**

### **Regular Pay**

Officers and exempt employees must be paid salaries in accordance with the *Compensation Policy – Officers and Exempt Employees* in force at the date of adoption of this Policy and with all modifications made to that Compensation Policy by a resolution of the Council.

### **Pay for Temporary Assignments**

An officer or exempt employee who is temporarily assigned for longer than one month to the duties of a person who:

- a) is in a position which has a higher minimum rate of pay than the position of the officer or exempt employee; and
- b) is not absent because of a vacation

must be paid an additional amount of pay equal to the difference between the normal pay of the officer or exempt employee and the next higher pay level for the position for which the duties are assigned. The additional amount of pay must not be included in a calculation of the annual vacation or other benefit of the officer or exempt employee temporarily receiving the additional pay.

### **Pay While on WorkSafe BC**

An officer or exempt employee must continue to receive full normal pay if that person while performing that person's duties, suffers an injury of a kind for which compensation is provided under the *Workers Compensation Act* of British Columbia, and does not receive compensation under the *Workers Compensation Act*.

An officer or exempt employee must reimburse the City an amount equal to the compensation that the officer or exempt employee receives under the *Workers Compensation Act* for a period for which that person also received normal pay from the City.

### **Vacation**

A statutory holiday must not be included in the computation of the length of an officer's or exempt employee's absence from work because of an annual vacation.

Until December 31 of the year in which a person becomes an officer or exempt employee, that person is entitled to be paid annual vacation leave prorated to the number of weeks remaining in the calendar year.

After December 31 of the year in which a person starts employment as an officer, or exempt employee, that person is entitled to be paid annual vacation leave equal to the following number of working days in each calendar year of service:

- 20 working days in each of the first 7 years of employment following the year in which employment started;
- 25 working days in each of the next 8 years of employment following the period of employment set out above;
- 30 working days in each year after the periods of employment set out above.

The annual vacation entitlement for the final year of employment of an officer or exempt employee must be abated in proportion to the length of that person's employment in that year.

If an officer or exempt employee has not used the annual vacation entitlement for the final year, that person must be paid the amount of the person's salary that proportionally represents the unused vacation time.

If an officer or exempt employee has used more than the annual vacation entitlement for the final year, that person must refund to the City an amount of the person's salary that proportionally represents the excess time.

An officer may take annual vacation leave only at times approved by the City Manager. An officer must not accumulate annual vacation leave beyond the calendar year when the leave is due except with the City Manager's written approval.

An exempt employee may take annual vacation leave only at times approved by the head of the exempt employee's department. An exempt employee must not accumulate annual vacation leave beyond the calendar year when the leave is due except with the City Manager's approval.

### **Long Service Vacation**

An officer or exempt employee who has completed 30 years of continuous service is entitled to one calendar month of paid leave (inclusive of statutory holidays) in addition to that person's normal annual vacation leave.

In this section, "continuous service" means the whole of the time that a person is in the City's service as an officer, exempt employee or employee who is a member of a bargaining unit combined.

The paid leave referred to in this section may be taken later than one year before that person's retirement only with the City Manager's approval.

### **Unpaid Leave**

In special circumstances the City Manager may grant to an officer or exempt employee unpaid leave of absence in addition to or in place of that person's annual vacation entitlement.

### **Jury Duty**

An officer or an exempt employee who is summoned to perform jury duty must be excused from work with full pay while performing that duty. Officers and exempt employees are not entitled to receive full pay for jury duty if they do not pay to the City all jury fees that they receive, excluding fees for transportation, accommodation and meals.

### **Testifying in a Civil or Criminal Action**

Officers and exempt employees are entitled to receive pay for an absence from work for the purpose of testifying in a civil or criminal action only if the action involves:

- a prosecution for the benefit of the City,
- a civil action in which the City is involved, or
- a civil action in which that person is called to testify in the capacity of a City officer or exempt employee; and
- they pay to the City all witness fees that they receive, excluding fees for transportation, accommodation and meals.

### **Supplementary Employment Insurance Benefits**

The SEIB Plan is intended to supplement the Employment Insurance benefits received by an employee while they are temporarily unable to work as a result of giving birth. Birth mothers who are entitled to maternity leave and who have applied for and are in receipt of Employment Insurance benefits are eligible to receive SEIB Plan payments. Subject to the approval of the Employment Insurance Commission, parents who, due to the death or total disability of the birth mother, have applied for and are in receipt of Employment Insurance maternity benefits are eligible to receive SEIB Plan payments.

The SEIB Plan payment is based on the difference between the Employment Insurance benefit and any other earnings received by an employee and one hundred percent (100%) of their gross weekly earnings and is paid for the first seventeen (17) weeks, which includes the two (2) week Employment Insurance waiting period, and provided the employee continues to receive Employment Insurance benefits. Should an employee resign prior to the expiration of their maternity or parental leave, or fail to remain in the active employ of the City for at least six (6) months after their return to work, the City shall recover monies paid pursuant to the SEIB Plan on a pro-rated basis.

The Plan meets the requirements of Section 38 of the Employment Insurance Regulations, specifically that, when combined with an employee's weekly employment Insurance benefit, the payment will not exceed the claimant's normal weekly earnings from employment and an employee's accumulated leave credits will not be reduced. Income tax rules or regulations may require a payback of Employment Insurance earnings depending up on the tax rules in effect at the time an employee is receiving benefits. Under this SEIB Plan the City does not guarantee any specific level of earnings but rather is liable only for the payment of the benefit as described above. The City, under no circumstance, will be responsible for any payback arising from changes to or the application of the tax regulations.

**Sick Leave**

An officer or exempt employee who is too ill to attend work is entitled to be absent from work with full pay in accordance with the following schedule:

1st year	12 working days prorated based on the number of weeks remaining in the calendar year in which employment as an officer or exempt employee commences
2nd through 5th year	12 working days per year
6th through 15th year	18 working days per year
after 15th year	24 working days per year

A statutory holiday must not be included in the computation of the length of an officer's or exempt employee's absence from work because of sick leave.

An officer or exempt employee who has not used that person's full sick leave entitlement as set out above, may accumulate:

- a) 100% of the unused sick leave in the first 5 years of employment; and
- b) 50% of the unused sick leave in the 6th and subsequent years of employment.

If an officer or exempt employee has accumulated unused sick leave entitlement, that entitlement must be applied first in the year following the year in which it was accumulated and, if unused, applied next in subsequent years. An officer or exempt employee absent from work because of illness must receive full pay in accordance first, with the entitlement set out above for the year when ill, and next with the accumulated unused sick leave entitlement set out above.

**Long Term Disability**

The City must maintain a group long term disability plan in which participation is mandatory for all officers and exempt employees of the City.

The disability plan must provide for a maximum period of 17 weeks before benefits are paid; and benefits of at least 50% of the officer's or exempt employee's pay.

**Death Benefit**

If an officer or exempt employee dies while in the City's service, the City must pay the officer's or exempt employee's estate, or to a person nominated in writing by the officer or exempt employee, a sum calculated by applying the officer's or exempt employee's rate of pay, at the date of the death, to a period of 6 weeks.

**Group Health Insurance, Extended Health, Dental Care**

The City must make available, and an officer or exempt employee may participate in a group health insurance scheme, an extended health insurance scheme and a dental care plan.

**Group Life Insurance**

The City must maintain a group life insurance plan in which participation is mandatory for all officers or exempt employees of the City.

**Benefit Premiums**

The premiums for a plan or scheme for disability, health insurance, dental care, life

insurance and similar plans and schemes may be paid in any of the following ways, as directed by a resolution of the Council:

- a) by the City;
- b) by officers and exempt employees; or
- c) jointly by the City and officers and exempt employees.

### **Retirement**

The City must pay to an officer or exempt employee who retires after having reached the minimum retirement age set out in the *Public Sector Pension Plans Act* a sum of money equal to one calendar month's basic salary at the rate applicable to the officer or exempt employee at the time of retirement.

An officer or exempt employee must not retire later than the last day of the month in which that person reaches the maximum retirement age set out in the *Public Sector Pension Plans Act*. Notwithstanding this requirement, the Council by resolution may extend the term of employment of an officer or exempt employee for not more than 6 months at any one time.

This section does not deprive an officer or exempt employee of the right to retire at any time after that person's minimum retirement age set out in the *Public Sector Pension Plans Act*.

### **Additional Benefits**

This Policy does not preclude the Council from providing benefits to officers and exempt employees in addition to the benefits provided for in this Policy.

## **7. DISPUTE RESOLUTION**

### **Disagreement with this Policy**

An officer who disagrees with the City's terms and conditions for that person's employment or with the City's interpretation of this Policy, may submit the disagreement to the Council for a decision resolving the disagreement, which decision is final.

An exempt employee who disagrees with the City's terms and conditions for the exempt employee's employment or with the City's interpretation of this Bylaw, may submit the disagreement to the City Manager for a decision resolving the disagreement, whose decision is final.

## **8. REFERENCES**

Council Policy: *Compensation – Officers and Exempt Employees*  
Human Resources Policies  
Finance Policies

## **REVISION HISTORY**