



The Corporation of the City of Penticton

Officers and Delegation of Authority

No. 2018-75

Consolidated for convenience only

Amended by:
Bylaw No. 2019-35

On:
October 1, 2019

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The Corporation of the City of Penticton

Bylaw No. 2018-75

A Bylaw to provide for the appointment of Officers and to prescribe the powers, duties and responsibilities of such Officers and Employees including the Delegation of Authority by Council.

WHEREAS the City of Penticton must by bylaw, under Section 146 of the *Community Charter*, establish officers' positions having responsibility under Sections 148 and 149 of the *Community Charter*;

AND WHEREAS the City of Penticton may, by bylaw, confer on an officer position the chief administrative responsibility for the City under Section 147, of the *Community Charter*;

AND WHEREAS pursuant to Section 154 of the *Community Charter*, Council, may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to its officers and employees;

AND WHEREAS Council wishes to delegate to its officers and employees certain powers, duties and functions;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the City of Penticton in open meeting assembled, hereby ENACTS AS FOLLOWS:

Title:

This bylaw may be cited as the "Officers and Delegation of Authority Bylaw No. 2018-75".

Interpretation

1. Except as otherwise defined in this bylaw, words or phrases herein shall be construed in accordance with their meanings under the *Community Charter*, *Local Government Act*, and *Interpretation Act*, and other legislation as the context and circumstances may require. A reference to a statute refers to a statute of the Province of British Columbia, and a reference to any statute, regulation or bylaw refers to that enactment, as amended or replaced from time to time.
2. Words in the singular include the plural and gender specific terms include both genders and corporations. Headings in this bylaw are for convenience only and must not be construed as defining, or in any way limiting the scope or intent of this bylaw.

Establishment of Statutory Officer Positions

3. The persons holding the following positions are established as Statutory Officers of the City of Penticton under Section 146 and the following provisions of the *Community Charter*:
 - a. Chief Administrative Officer, pursuant to Section 147;
 - b. Corporate Officer, pursuant to Section 148; and
 - c. Chief Financial Officer, pursuant to Section 149.
4. The selection of the Chief Administrative Officer shall be made by Council.

5. The selection of the Corporate Officer and the Chief Financial Officer shall be made by the Chief Administrative Officer.
6. The selection of the Acting Chief Administrative Officer shall be made by the Chief Administrative Officer. In the event of incapacitation of the Chief Administrative Officer or vacancy in that position, the selection of the Acting Chief Administrative Officer shall be made by Council.
7. The delegation under this Bylaw will apply to staff who assume or are appointed the responsibility of the Statutory Officers noted in this bylaw while those individuals are absent.

Powers and Duties of the Chief Administrative Officer

8. The Chief Administrative Officer for the City of Penticton has the following duties, powers and functions:
 - a. carrying out the powers, duties and functions specified in Section 147 of the *Community Charter* and other provisions applicable to the Chief Administrative Officer in other enactments;
 - b. selecting Statutory Officers and department heads and coordinating, motivating, directing and supervising these key officials and prescribing their duties and responsibilities;
 - c. determining compensation of non-union employees and officers in accordance with the corporate policies and budgets established by Council;
 - d. appointing, promoting, disciplining, suspending or terminating any employee of the City, subject to any contract of employment or collective agreement in force, other than Statutory Officers;
 - e. subject to Council approval, negotiating all collective agreements;
 - f. developing and recommending for Council approval, policies dealing with non-administrative matters as directed by Council, and may initiate such policies for consideration by Council;
 - g. implementing all Council approved policies and directives;
 - h. developing, approving, and implementing policies, procedures and practices dealing with administrative matters;
 - i. preparing and submitting such reports and recommendations as may be required by Council;
 - j. hiring and retaining legal counsel on behalf of the City;
 - k. taking whatever legal actions or measures deemed necessary in response to an Emergency;
 - l. the authority to assign additional responsibilities to an officer, including acting on behalf of another officer in his/her absence;
 - m. the authority to assign to other appointed officers and employees of the City any powers, duties or functions assigned to the Chief Administrative Officer under this bylaw to achieve more efficient and effective administration of the City's affairs;
 - n. designating an Acting Chief Administrative Officer to act in his or her absence when the Chief Administrative Officer is absent.

Powers and Duties of the Corporate Officer

9. The Corporate Officer is assigned responsibility for the corporate administration of the City, including carrying out the powers, duties and functions of the corporate officer as set out in Section 148 of the *Community Charter* and other provisions applicable to the corporate officer in other enactments.

Council hereby delegates to the Corporate Officer all duties, powers and functions of Council to consolidate any of the City's bylaws by adding all amendments made to it, omitting any provision that has been repealed or has expired, and placing on the consolidated bylaw a statement that the bylaw is consolidated for convenience only.

Powers and Duties of the Chief Financial Officer

10. The Chief Financial Officer is assigned the responsibility of financial administration for the City, and carrying out the powers, duties, and functions specified in Section 149 of the *Community Charter* and other provisions applicable to the financial officer in other enactments.

Powers and Duties Related to Land Administration

11. The Mayor or Councillor designated as the member responsible for acting in the place of Mayor and Corporate Officer or Deputy Corporate Officer are hereby authorized to execute the following documents and agreements on behalf of the City:
 - a. Statutory Rights of Way or Discharge thereof;
 - b. Covenants or Discharge thereof;
 - c. Easements or Discharge thereof;
 - d. Encroachment Agreements or Discharge thereof;
 - e. Legal Plans;
 - f. Latecomer Agreements;
 - g. Early Registration Agreements;
 - h. Real Estate Lease and Licence to Use renewals, where the minimum increase in rate is equal to the change in CPI;
 - i. New Lease Agreements that have an annual market lease rate of less than \$2,000;
 - j. Transfers of Leases or Licences to new owners, under the same conditions, unless agreement specifically requires Council approval;
 - k. Tenancy Agreements at market value.

Powers and Duties Related to Engineering Agreements

12. The Mayor or Councillor designated as the member responsible for acting in the place of Mayor and Corporate Officer or Deputy Corporate Officer are hereby authorized to execute the following documents and agreements on behalf of the City:
 - a. Building Permit Service Agreements (or as otherwise titled);
 - b. Works and Services Warranty Agreements;
 - c. Subdivision Early Registration Agreements.

Powers and Duties of the Human Resources Manager

13. The Human Resources Manager is assigned the responsibility to enter into the following types of contracts:
 - a. Offers of Employment – temporary and permanent / union and non-union;
 - b. Collective Agreements – once approved/ratified by Council;
 - c. Grievance Settlements;
 - d. Benefit Provider Agreements – Health and Dental;
 - e. Employee Assistance Program Agreement.

Delegation of Persons Holding Statutory Officer Positions

14. Where this bylaw delegates a power, duty or function to a named position, the delegation is to the person who holds the position, the equivalent of that position and to any person who is from time to time the deputy of that person.

No delegation by Persons Holding Statutory Officer Position

15. A person to whom a power, duty or function has been delegated under this bylaw has no authority to further delegate to another person any power, duty or function that has been delegated in this bylaw unless that person is in an acting position while that person is away.

Suspension and Termination of Statutory Officers

16. Suspension of a Statutory Officer shall be in accordance with Section 151 of the *Community Charter*.
17. Termination of employment of any Statutory Officer shall be made in accordance with Section 152 of the *Community Charter*.

Appointment to Two or More Positions

18. Nothing in this Bylaw shall prevent the appointment of the same person to two or more offices or positions.

Signing Authorization

19. Except for specific provisions in this Bylaw, any contract, agreement, debenture, plan or other document or instrument to be executed or approved, or terminated by the City related to ordinary business of the City shall be addressed as follows:
 - a. If the value is under \$100,000 (and if applicable in alignment with the Purchasing/Procurement Policy of Bylaw Authority thresholds or as it might otherwise be known, and as may be amended from time to time) execution may be by the: Procurement Manager and a General Manager, Division Director or Department Manager;
 - b. If the value is over \$100,000, (and if applicable in alignment with the Purchasing/Procurement Policy or Bylaw Authority as above) and the expenditure has been approved by Council through the budget process, is awarded if applicable in alignment with the Purchasing/Procurement Policy or Bylaw Authority thresholds (as above) and the award is being made to the lowest bidder or highest ranked proponent, the contract, agreement or other document execution may be by the Chief Administrative Officer and the Chief Financial Officer or if delegated by the Chief Administrative Officer any two of the following: Chief Financial Officer, General Manager, Division Director, Department Manager or Corporate Officer;
 - c. If the value is over \$100,000, a budget amendment is required and/or award is not to the lowest bidder or highest ranked proponent, following receipt of a resolution of Council, execution may be by the Chief Administrative Officer or Corporate Officer and the Chief Financial Officer.

For payments, any expense over \$75,000 will be approved by the Chief Financial Officer.

Signing authorization includes but is not limited to:

- Development Servicing Agreements;
- License of Occupation Agreements (except within defined Parks noted under the Parks Protection and Use Bylaw);
- Renewal of Management Agreements;
- Debentures;
- Contracts for Goods or Services;
- Renewal of Mutual Aid or other Cross Municipal Agreements;
- Settlement Agreements (for routine claims up to a maximum of \$5000).

Any non-ordinary agreement shall be executed by the Mayor and Corporate Officer with Council resolution.

Any contract change order shall be addressed as follows:

- If the value is under \$100,000 and the change is within the scope of what was described in the budget or presented to Council, subsequent to the budget amendment approval, if required, by the Chief Financial Officer, execution of change may be by the Procurement Manager and a General Manager, Division Director, or Department Manager;
- If the value is between \$25,000 and \$100,000 and the change is not within the scope of what was described in the budget or presented to Council, following receipt of a resolution of Council, execution may be by the purchasing manager and a General Manager, Divisional Director or Department Manager;
- If the value is less than \$25,000 and the change is not within the scope of what was described in the budget or presented to Council, following approval of the budget amendment by Chief Financial Officer, execution may be by the Procurement Manager and a General Manager, Divisional Director or Department Manager;
- If the value is over \$100,000, following receipt of a resolution of Council, execution may be by the Chief Administrative Officer or Corporate Officer and the Chief Financial Officer.

Power to Enter and Inspect Property

- Without limiting the authority of an officer or an employee of the City under any other bylaw, an officer or employee of the City appointed to enforce one or more bylaws of the City are hereby authorized to enter, at all reasonable times, on any property subject to the regulations of the Council, to ascertain whether the regulations are being observed.

Delegation of Purchasing Authority

- Council hereby delegates all of the powers, duties and functions of Council to authorize the execution of contracts and/or purchases of goods and services on behalf of the City to the Chief Administrative Officer and Department Heads or their delegates for the provision of goods and services or other City activities, works or services that are ordinary to the business of the City, subject to the limitations on that delegated authority set out in City's Purchasing or Procurement Policy or Bylaw as adopted by Council and amended from time to time. This section does not authorize the execution of any agreement that requires elector approval under section 175 of the *Community Charter*, whether as a result of the stated term of the agreement or any provision for extension or renewal.

Amendments to Titles

22. For the purposes of this Bylaw, where a staff position or committee is identified by title within this Bylaw or the Associated Bylaws, and should the name of that position/committee or details of the duties of that position/committee change, the rights, duties and obligations of the former position/committee under the Bylaw will transfer to the new position/committee title if the role of that staff position/committee is similar in authority and responsibility.

Decision Not to Exercise Delegated Authority

23. Where a committee, officer, or employee holding a position with delegated authority pursuant to this Bylaw decides not to exercise their delegated authority under this Bylaw or the Associated Bylaws noted below, in their sole discretion and for reasons of complexity, visibility or any other circumstance, the matter will be considered by Council.

Severability

24. If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the bylaw.

Other Associated Bylaws

25. The following bylaw should be referred to in reference to this bylaw:
- Penticton Development Procedures and Delegation Bylaw No. 2010-92 as amended from time to time.

Repeal

26. Upon adoption of this bylaw “The City of Penticton Officers Bylaw No. 2010-91” and “Document Execution Bylaw No. 2013-33” and all amendments thereto are hereby repealed.

Delegation of Authority

27. Council hereby delegates its authority under section 38 of the *Community Charter* to control traffic on a highway or to temporarily restrict or prohibit all or some types of traffic on a highway to the City Engineer or Development Infrastructure Manager; this includes road closure permits for infrastructure construction, building construction, material storage, parades, races, fundraisers and events. **(Bylaw No. 2019-35)**

READ A FIRST time this	2	day of	October, 2018
READ A SECOND time this	2	day of	October, 2018
READ A THIRD time this	2	day of	October, 2018
ADOPTED this	30	day of	October, 2018

Original signed by

Andrew Jakubeit, Mayor

Original signed by

Dana Schmidt, Corporate Officer