



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

A BY-LAW OF THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, TO ESTABLISH THE CONDITIONS OF EMPLOYMENT FOR EXCLUDED EMPLOYEES, PASSED PURSUANT TO SECTION 48 OF THE *CITIES, TOWNS AND VILLAGES ACT*, S.N.W.T. 2003, c.C-22

WHEREAS, the Council of the Municipal Corporation of the Town of Fort Smith, in the Northwest Territories deems it necessary to establish the terms and conditions of employment for the employees not covered under the collective agreement between Town and Public Service Alliance of Canada;

NOW THEREFORE, the Council of the Municipal Corporation of the Town of Fort Smith, at a duly assembled meeting enacts as follows:

1. SHORT TITLE

That this By-law be cited as the "Excluded Employment By-law".

2. INTERPRETATION

In this By-law, unless the context otherwise requires:

- (a) "Act" means the *Cities, Towns, and Villages Act*, being Chapter C-22 of the Statutes of the Northwest Territories, 2003, as amended;
- (b) "Council" means the duly elected representative of the Town of Fort Smith;
- (c) "Day" means the working day between the hours of 08:30 and 17:00;
- (d) "Day of Rest" means a day on which the Employee is not ordinarily required to perform the duties of the position;
- (e) "Dismissal" means termination of employment for cause, without cause, or rejection on probation;
- (f) "Employee" means the person appointed to a position which is not included in the collective agreement between the Town of Fort Smith and the Public Service Alliance of Canada and which is not the Senior Administrative Officer;
- (g) "Employer" means the Town of Fort Smith;
- (h) "Half Day" means the A.M. or P.M. of a normal working day;
- (i) "Holiday" means the twenty-four hour period commencing at 12:01 a.m. of a day designated as a paid holiday in this By-law;
- (j) "Immediate Family" means the spouse, common-law spouse, father, mother, brother, sister, child, father-in-law, mother-in-law, grandparents, grandchild, son-in-law, daughter-in-law, sister-in-law, brother-in-law, step mother, step father and any relative permanently residing in the Employee's household or with whom the Employee permanently resides;
- (k) "Mayor" means the Mayor, acting pursuant to Section 38 of the Act;



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

- (l) “Probation” or “Probationary Period” means a period of six (6) months or longer from the day upon which the excluded employee is hired. The excluded employee’s probationary period will be set out in the Town’s letter of offer to the excluded employee;
- (m) “Senior Administrative Officer” or “S.A.O” means the Senior Administrative Officer as described in the Act and the term “Senior Administrative Officer” or the designation “S.A.O.” may be used interchangeably herein;
- (n) “Town” means the Municipal Corporation of the Town of Fort Smith, in the Northwest Territories.

3. DISCRIMINATION

The Town agrees that there shall be no discrimination, interference, restriction or coercion exercised or practised against the excluded employees in respect to race, color, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity, marital status, family affiliation, political belief, political association, social condition, conviction for which a pardon has been granted or for the excluded employee exercising his or her rights under this By-law.

4. CONFLICT OF PROVISIONS

Where there is any conflict between the provisions of this By-law and any other By-law, regulation, direction or other instrument dealing with the terms and conditions of employment issued by the Employer, the provisions of this By-law shall prevail.

5. OUTSIDE EMPLOYMENT

- (a) The excluded employee shall notify the Senior Administrative Officer prior to taking on any:
 - 1. business or other employment; or
 - 2. any volunteer, community service, society, board or Band Council involvement.
- (b) An excluded employee shall not engage in any of the activities identified in article 5(a) if such activities interfere with the excluded employee’s duties with the Employer or a conflict of interest exists with the excluded employee’s duties with the Employer.

6. GRIEVANCE PROCEDURE

- (a) Excluded employees may file a grievance in writing, with respect to an interpretation or application of any term and condition of this By-law or disciplinary action taken, to the Senior Administrative Officer within ten (10) calendar days of the event giving rise to the grievance or disciplinary action.
- (b) The Senior Administrative Officer, upon receipt of the written grievance, shall investigate and conduct a hearing if necessary. A decision shall be rendered within twenty (20) calendar days following the investigation or hearing.
- (c) If the excluded employee does not agree with the decision of the Senior Administrative Officer, the excluded employee may appeal the decision in writing to the Corporate Services Standing Committee.



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

- (d) The Corporate Services Standing Committee, upon receipt of the written appeal, shall investigate and conduct a hearing if necessary. A decision shall be rendered within twenty (20) calendar days following the investigation or hearing. The decision of the Corporate Services Standing Committee shall be final.
7. **PROBATION**
- (a) All excluded employees, on initial appointment, shall be subject to a six (6) month Probationary Period, or such longer period as may be specified in the excluded employee's letter of offer.
 - (b) The term of the Probationary Period may be extended, before its expiry for an additional six (6) months by the Senior Administrative Officer. A Probationary Period may not be extended by more than six (6) months and is limited to one extension.
 - (c) Should an excluded employee be dismissed without cause while on Probation, he/she shall be entitled to two weeks' salary in lieu of notice. Should an excluded employee be dismissed with cause while on Probation, he/she shall not be entitled to any notice or payment in lieu of notice.
8. **PERFORMANCE REVIEW AND APPROVAL**
- (a) A performance appraisal shall be completed on each excluded employee by the Senior Administrative Officer at least one (1) month prior to the completion of the initial Probationary Period.
 - (b) The Senior Administrative Officer shall, following the successful completion of the Probationary Period by the excluded employee, complete yearly performance appraisals, on or around the anniversary of the excluded employee's date of hire.
9. **DISCIPLINE**
- (a) The excluded employee may be given written warnings, and/or suspended without pay, by the Senior Administrative Officer. A meeting with the excluded employee is not required before discipline, including termination of employment, may be imposed.
 - (b) Where the excluded employee is required to attend a meeting where a disciplinary decision concerning him or her, including termination of employment, is to be taken, the employee shall be given twenty-four (24) hours notice of the disciplinary meeting.
 - (c) Where the excluded employee is being suspended or terminated, the excluded employee shall be notified in writing of the reason for such suspension or termination.
 - (d) The excluded employee shall not be terminated except by notice in writing together with the reasons therefore, in sufficient detail that the employee may defend him or herself.
10. **TERMINATION**
- (a) An excluded employee resigning shall give a minimum of two (2) weeks' notice in writing to the Senior Administrative Officer.



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

- (b) Other than for cause, under no circumstance will an excluded employee be terminated after successful completion of the Probationary Period, without one (1) month notice or salary in lieu of notice.

11. PAYMENT ON TERMINATION

- (a) After successful completion of the Probationary Period, the excluded employee shall be paid, on resignation, an amount equal to two (2) weeks' salary for each completed year of employment or portion thereof to a maximum of sixteen (16) weeks' pay and any earned unused leave entitlements.
- (b) After successful completion of the Probationary Period, an excluded employee who is dismissed without cause shall be paid, in addition to the notice or salary in lieu of notice set out in article 10(b), an additional amount equal to two (2) weeks' salary for each completed year of employment or portion thereof to a maximum of sixteen (26) weeks' pay. In addition the employee shall be paid any earned but unused leave entitlements.
- (c) An excluded employee who is dismissed for cause shall not be entitled to any payment other than any earned but unused leave entitlements.

12. REMUNERATION

The excluded employees shall be paid:

- (a) At the level indicated in their offer of employment;
- (b) An annual Northern Allowance of \$7715.79 which shall be paid bi-weekly;
- (c) Upon receipt of a satisfactory performance appraisal, the employee will receive a salary increment increase as per the pay grid detailed in their letter of offer.

13. BENEFITS

(a) Designated Paid Holidays

1. The following days shall be designated paid holidays:

- (i) New Year's Day
- (ii) Good Friday
- (iii) Easter Monday
- (iv) Victoria Day
- (v) National Aboriginal Day
- (vi) Canada Day
- (vii) The first Monday in August
- (viii) Labour Day
- (ix) Thanksgiving Day
- (x) Remembrance Day
- (xi) Christmas Day
- (xii) Boxing Day and
- (xiii) Any day or half-day declared a Civic Holiday by the Town.

2. Where a day that is a designated paid holiday falls within a period of leave with pay, the designated paid holiday shall not count as a day of leave.

3. When a designated paid holiday occurs on a Saturday or Sunday, the holiday shall be observed on the first working day following the Saturday or Sunday.



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

(b) Annual Leave

1. An excluded employee who has earned at least ten (10) days' pay for each calendar month of a fiscal year shall earn annual leave at the following rates:
 - (i) one point five (1.5) days each month until the month in which the anniversary of the third (3rd) year of continuous service is completed (18 days);
 - (ii) one point nine two (1.92) days each month commencing in the month after completion of three (3) years of continuous service and ending in the month that eight (8) years of continuous employment is completed (23 days);
 - (iii) two point two five (2.25) days each month commencing in the month after completion of eight (8) years of continuous service and ending in the month that fifteen (15) years of continuous employment is completed (27 days);
 - (iv) two point five (2.5) days each month commencing in the month after completion of fifteen (15) years of continuous service and ending in the month that twenty (20) years of continuous service is completed (30 days);
 - (v) two point nine two (2.92) days each month commencing in the month after completion of twenty (20) years of continuous service (35 days).
2. Any excluded employee recruited directly from a position with the federal government, territorial government, provincial government or municipal government, and who the Senior Administrative Officer determines has directly-related experience, may be granted credit for those years of service for the purpose of calculating annual leave.
3. Excluded employees may, on the approval of the Senior Administrative Officer, carry over from one year to the next any unused annual leave not exceeding one (1) year of entitlement. Annual leave carried over which exceeds the one (1) year entitlement shall be paid out at the end of the year.
4. Prior to taking annual leave, the excluded employee must obtain approval from the Senior Administrative Officer. The Senior Administrative Officer may approve annual leave for the excluded employee depending on operational requirements.
5. Applications for annual leave shall be approved, subject to operational requirements, on the basis of leave credits earned.
6. Two (2) additional days of winter leave will be granted to excluded employees, provided that said leave is taken during the period of October 1 to April 30 and provided a minimum of five (5) days leave is liquidated for each winter leave day. The leave used in this calculation may consist of annual, lieu or designated holidays.

(c) Sick Leave

1. Excluded employees shall earn sick leave credits at the rate of one and one-quarter (1.25) days for each calendar month for which the employee received pay for at least ten (10) days.
2. Sick leave earned but not used by the excluded employee shall accumulate from year to year, to a maximum of one hundred and twenty (120) days.



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

3. The Senior Administrative Officer may approve sick leave for the excluded employee, of up to three (3) working days without a medical certificate. Sick leave in excess of three (3) working days may be approved only upon the submission of a medical certificate.

(d) Special Leave

Excluded employees shall accumulate five (5) special leave days per year. Special leave shall not be carried over. Special leave may be used for the following:

1. Bereavement Leave

The excluded employee may be granted up to five (5) days of special leave on the death of an immediate family member.

2. Wellness Leave

Employees shall be entitled to one (1) day of sick leave or special leave per calendar year, at the employee's request, to promote wellness and maintain a good physical and mental health. Such leave may not be combined with any other type of leave.

3. Medical Travel Leave

An Employee who is proceeding to a medical centre or accompanying a dependant who is proceeding to a medical centre shall be granted leave with pay for the lesser of three (3) days to the actual time taken to travel from Fort Smith to the medical centre and return. The employee shall provide proof of an appointment in the form required by the Employer.

4. Birth or Adoption of his or her Child

The excluded employee may be granted up to three (3) days of special leave on the birth or adoption of his or her child.

5. Pregnancy Leave/ Parental Leave

As per Collective Agreement.

6. Court Leave

The excluded employee shall be granted special leave if serving as a juror or witness in a court action, provided such court action is not occasioned by the excluded employees' private affairs.

7. Compassionate Leave

The excluded employee may be granted up to eight (8) weeks' of compassionate care leave, five (5) days of which shall be special leave to provide care for a critically ill family member, in accordance with the provisions of the *Employment Standards Act* of the Northwest Territories.

8. Immediate Family Leave

The excluded employee may be granted up to five (5) days special leave when a member of the immediate family becomes ill and the excluded employee is required to care for the sick person.

9. Other Leave

The excluded employee may be granted up to five (5) days special leave where special circumstances not directly attributable to the excluded employee prevent his/her reporting to duty, including serious household or domestic emergencies.



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

10. Domestic Violence Leave

The Employer shall grant leave with pay, up to maximum of three (3) days per calendar year, to an employee who is experiencing domestic violence. This leave may be taken as consecutive or single days or as a fraction of a day, without prior approval, to attend to necessary activities to support the employee's health, safety, and security.

11. Casual Leave

The excluded employee may be granted special leave up to a maximum of one (1) day per occurrence for an appointment with (or to accompany an immediate family member to) a doctor, dentist, lawyer, school authorities or adoption agencies.

(e) Insurance Plan

The excluded employee shall participate in the Group Health Insurance Plan as provided to the staff of the Municipal Corporation.

(f) Pension Plan

The excluded employee shall enroll in a Pension Plan provided through the Northern Employee Benefits Services.

14. OVERTIME

(a) Excluded employees may be required to work overtime as required in order to ensure public safety, the protection of assets, and continuity of operations.

(b) An excluded employee shall be granted ten (10) days of paid leave in lieu of overtime.

(c) When an excluded employee is required to work on a designated paid holiday, the excluded employee shall be granted an additional one (1) day of paid leave in lieu of overtime.

(d) All overtime worked will be compensated in accordance with articles 14(b) and (c).

(e) The Senior Administrative Officer reserves the right to allocate additional paid leave in lieu of overtime in extraordinary circumstances.

15. MODIFICATIONS TO TERMS AND CONDITIONS

(a) The Senior Administrative Officer may, on review of the existing terms and conditions in this By-law, or on the request of the excluded employee, review the terms and conditions in this By-law and recommend amendments to this By-law to Council.

(b) Amendments to the terms and conditions of the employment of excluded employees must be made by amendment to this By-law or by separate by-law.

16. CIVIL LIABILITY

If an action or proceeding is brought against the excluded employee for an alleged wrong doing committed by the employee in the performance of his or her duties:



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020**

- (a) the excluded employee, upon being served with any legal process, or upon receipt of any action or proceeding as hereinbefore referred to be commenced against him or her shall advise the Senior Administrative Officer of any such notification or legal process;
- (b) the Town shall pay any damages or costs awarded against the excluded employee in any action or proceedings and all legal fees, provided the conduct of the excluded employee, which gave rise to the action, did not constitute gross misconduct or neglect of duty in the performance of their employment;
- (c) the Town shall pay any sum required to be paid by the excluded employee in connection with the settlement of any claim made against the excluded employee if such settlement is recommended to Council, by the Senior Administrative Officer, before the settlement is finalized; provided the conduct of the excluded employee, which gave rise to the action, did not constitute gross misconduct or neglect of duty in the performance of their employment.

Upon the excluded employee notifying the Senior Administrative Officer in accordance with article 16(a), the Town shall appoint legal counsel. The Town accepts full responsibility for the conduct of the legal action and the excluded employee agrees to co-operate fully with the appointed legal counsel.

17. PROFESSIONAL DEVELOPMENT

- (a) Professional Memberships
The Town will support the involvement or membership in a professional association, where benefit will be derived to both the Town and the excluded employee. The Town, subject to the approval of the Senior Administrative Officer, will pay the annual membership directly to the organization.
- (b) Education Leave
An excluded employee may, on the recommendation of the Senior Administrative Officer and approved by Council, be granted paid educational leave to attend a course, seminar, meeting or lecture relevant to the excluded position. If the request is approved, tuition will be paid directly to the organization. The excluded employee will be required to (i) submit proof of successful completion of the education leave or (ii) repay the full amount of the education leave.

18. DURATION

The provisions of this By-law shall remain in force and effect until such time it is amended or repealed.

19. REPEAL

Bylaw 963 is hereby repealed.

20. EFFECT

This By-law shall come into force and effect upon third reading thereof.



THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 1020

READ A FIRST TIME THIS 17 DAY OF August, 2021 A.D.

READ A SECOND TIME THIS 17 DAY OF August, 2021 A.D.

READ A THIRD TIME THIS 21 DAY OF September, 2021 A.D.


MAYOR


SENIOR ADMINISTRATIVE OFFICER

I hereby certify that this bylaw has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the bylaws of the Municipal Corporation of the Town of Fort Smith.


SENIOR ADMINISTRATIVE OFFICER