



CITY OF MOOSE JAW

ADMINISTRATIVE REVIEW BYLAW

Bylaw No. 5200

Date of Passage November 10, 2003
(effective date November 10, 2003)

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

BYLAW NO. 5200

A BYLAW OF THE CITY OF MOOSE JAW TO ESTABLISH AN ADMINISTRATIVE REVIEW BODY FOR THE CITY OF MOOSE JAW

WHEREAS section 8 of *The Cities Act*, S.S. 2002, c.C-11.1, provides, in part, as follows:

“**8(1)** A city has a general power to pass any bylaw for city purposes that it considers expedient in relation to the following matters respecting the city:
(a) the peace, order and good government of the city;”

AND WHEREAS section 362 of *The Cities Act*, S.S. 2002, c.C-11.1, provides, in part, as follows:

“**362(2)** A council shall, by bylaw, establish an administrative review body and determine the procedures of its administrative review body.
(3) A bylaw passed pursuant to subsection (2) must address all of the following:
(a) the establishment of the administrative review body including:
(i) the number of members of the administrative review body, which may be one;
(ii) any criteria that are to be used in selecting and appointing members of the administrative review body;
(iii) the term of office of members of the administrative review body;
(iv) the rate of remuneration of, and the rate of reimbursement for expenses incurred by, members of the administrative review body;
(b) the procedures to be followed by the administrative review body;
(c) the reporting procedures and requirements of the administrative review body, including any terms of reference or guidelines for the preparation or content of the administrative review body’s reports;
(d) any other matters or things respecting the administrative review body that the council considers necessary.”

AND WHEREAS it is deemed expedient and in the public interest to establish an administrative review body for the City of Moose Jaw and to determine the procedures of that body as set forth herein;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

Short Title

1. This Bylaw may be cited as the Administrative Review Bylaw.

Purpose

2. The purpose of this Bylaw is to establish an administrative review body for the City of Moose Jaw, to be known as the “Office of Administrative Review”, and to determine the procedures and reporting requirements of that body.

Definitions

3. In this Bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter inconsistent therewith:

- (a) the word “**City**” means the Municipal Corporation of the City of Moose Jaw or, where the context requires, the geographical area within the city limits of the City of Moose Jaw;

- (b) the term “**City Administration Bylaw**” means Bylaw No. 5175, a Bylaw of the City of Moose Jaw to provide for the administration of the Municipal Corporation and to set forth the duties and powers of designated officers, as amended from time to time;

- (c) the term “**City Clerk**” means the person appointed as the City Clerk for the City of Moose Jaw and includes any duly authorized representative or designate of such person;

- (d) the term “**City Council**” means the elected officials of the City of Moose Jaw;

- (e) the term “**City Manager**” means the person appointed by City Council as the City Manager for the City of Moose Jaw and includes his/her duly authorized representative or designate;

- (f) the term “**Controlled Corporation**” means a controlled corporation within the meaning of *The Cities Act*;

- (g) the term “**Department Head**” means the Department Head within the meaning of the City Administration Bylaw;

- (h) the term “**Executive Committee**” means the Executive Committee within the meaning of the Procedure Bylaw;
- (i) the word “**Mayor**” means the elected Mayor of the City of Moose Jaw;
- (j) the term “**Procedure Bylaw**” means Bylaw No. 5176, Bylaw of the City of Moose Jaw governing the proceedings of City Council and any Committees established by City Council for the administration of the business of City Council, as amended from time to time;
- (k) the term “**Remuneration Bylaw**” means Bylaw No. 5088, a Bylaw of the City of Moose Jaw to provide for the remuneration of members of City Council, as amended from time to time;
- (l) the word “**Review Officer**” means the person appointed by City Council, from time to time, to perform the duties and exercise the authority of the Office of Administrative Review for the City of Moose Jaw.

Administrative review body established

- 4(1) An administrative review body for the City, to be known as the “Office of Administrative Review”, is hereby established.
- (2) The Review Officer shall be a person to be appointed in accordance with the terms of this Bylaw.
- (3) The Review Officer shall exercise the authority and perform the duties set forth in section 362 *The Cities Act* and the provisions of this Bylaw.

Appointments and eligibility to hold office

- 5(1) Subject to subsection (2), City Council shall appoint a person to exercise the authority and perform the duties of the Review Officer and such appointment shall continue for a two (2) year term or until a successor is appointed.
- (2) City Council shall not appoint any person pursuant to subsection (1) who is ineligible for appointment to that Office pursuant to the provisions of *The Cities Act* and, without limiting the generality of the foregoing, the following persons are ineligible for appointment:
 - (a) a member of City Council;
 - (b) a member of an advisory or other committee established by City Council;

- (c) an employee, officer or agent of the City;
 - (d) an employee or officer of a Controlled Corporation;
 - (e) a business partner, spouse, parent or child of a person mentioned in clauses (a), (b), (c) or (d).
- (3) In the event a complaint arises and the persons appointed pursuant to subsection (1) is unable to perform the duties of Office or is temporarily absent from the City, the Mayor may appoint a person to investigate and report on that complaint in accordance with the provisions of this Bylaw.

Oath of Office, re: Review Officer

6. Every person appointed as the Review Officer, before undertaking the duties of Office, shall, in addition to any requirements set forth in *The Cities Act*, make and subscribe a declaration of office, in the form set forth in Schedule “A”, before the City Solicitor.

Remuneration and expenses

- 7(1) The Review Officer shall be:
- (a) paid daily remuneration, while performing the duties of the Review Officer, in the amount that is two (2) times the daily *per diem* for members of City Council pursuant to the Remuneration Bylaw;
 - (b) reimbursed for travel, food, lodging and any other out-of-pocket expenses incurred on any business of the Review Officer.
- (2) All claims for expenses pursuant to subsection (1) shall comply with, and shall be reimbursed in accordance with, the procedures set forth in the City of Moose Jaw’s Travel Expense Policy.

Jurisdiction

8(1) Subject to subsection (2), the Review Officer may, upon receiving a complaint or at the request of City Council or the City Manager, investigate and report on any matter pertaining to the administration of the City, of any agency of the City, or of any Controlled Corporation of the City.

(2) The Review Officer shall not investigate or report on any matter, decision, act or omission which is excluded from the jurisdiction of an administrative review body pursuant to section 362 of *The Cities Act* and, without limiting the generality of the foregoing, the Review Officer shall not investigate or report on:

(a) any matter for which an appeal process is already established by *The Cities Act* or any other Act or law (such as matters within the jurisdiction of the Development Appeals Board, the Board of Revision and the Property Maintenance Appeal Board);

(b) any decision, recommendation, act or omission of:

(i) City Council;

(ii) a Standing, advisory or other committee established by City Council;

(iii) the board of a Controlled Corporation of the City;

(iv) a person acting as a lawyer for the City.

(3) The Review Officer shall not investigate any matter after the expiry of twelve (12) months from the day on which the complainant should have been aware of the incident complained of.

Complainants and procedure

9(1) Subject to section 8, any person or group of persons affected by a matter of administration or a decision taken by the City, an agency of the City, or a Controlled Corporation of the City may file a complaint, in writing, with the City Manager.

(2) Upon receipt of a complaint pursuant to subsection (1), the City Manager shall:

(a) inform the person making the complaint of the procedures that will be followed;

(b) promptly transmit the complaint to the Review Officer and provide a copy to the Department Head responsible for the matters, decisions, act or omission complained of;

(c) inform members of City Council of the existence of the complaint, together with a description of the general nature of the complaint.

(3) In the event the concerns of the complainant involve a decision, recommendation, act or omission of the City Manager, the complaint shall be filed with the Mayor, who

shall transmit the complaint to the Review Officer, provide a copy to the City Clerk, inform the other members of City Council of the existence of the complaint, together with a description of the general nature of the complaint.

(4) Following the transmittal of a complaint to the Review Officer, the City Manager or City Clerk, as the case may be, shall prepare or cause the preparation of a report respecting the substance of the complaint for transmittal to the Review Officer.

Duties and powers of the Review Officer

10(1) Where the Review Officer receives a complaint pursuant to section 9, the Review Officer shall:

- (a) record the complaint received;
- (b) obtain from the complainant such information respecting the complaint as the Review Officer deems appropriate;
- (b) if necessary, advise and assist the complainant respecting the procedures that will be followed in investigating the complaint.

(2) In addition to the discretion provided pursuant to section 362 of *The Cities Act*, the Review Officer may refuse to investigate, or to suspend any further investigation, where:

- (a) in the Review Officer's opinion, the complaint is frivolous, vexatious or not made in good faith;
- (b) in the Review Officer's opinion, the complaint relates to a matter for which a more appropriate forum exists to investigate and hear that complaint (such as through the Saskatchewan Police Complaints Investigator);
- (c) during the course of investigation, the concerns of the complainant have been resolved and/or further investigation is unnecessary.

(3) In investigating a complaint, the Review Officer shall have all the powers conferred on a commissioner pursuant to *The Public Inquiries Act* and, without limiting the generality of the foregoing, the Review Officer may:

- (a) interview and take statements from witnesses, including employees and officers of the City, agents of the City or employees or officers of any Controlled Corporations of the City;

- (b) request access to any file, document or other material in the possession of the City, any agency of the City, or any Controlled Corporation of the City;
 - (c) try to resolve any problem raised in a complaint through use of negotiation, conciliation, mediation or any other non-adversarial approach.
- (4) The Review Officer shall be granted access to all files, documents and other materials in the possession of the City, any agency of the City or any Controlled Corporation of the City, including any files, documents or other materials for which confidentiality or privilege may be claimed by the City.

Confidentiality of complaints and information obtained.

11(1) The reports prepared by the Review Officer pursuant to sections 12 and 14 shall be a matter of public record.

(2) The particulars of all complaints and all information obtained by the Review Officer through investigation shall be confidential and shall be kept confidential unless the release of that information is authorized in accordance with the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act*.

Findings and recommendations respecting a complaint

12(1) Upon concluding his/her investigation of a complaint, the Review Officer shall prepare a report containing his/her findings and recommendations, which report shall be placed, by the City Clerk, on the agenda of the next ensuing meeting of the Executive Committee.

(2) A copy of a report prepared pursuant to subsection (1) shall be transmitted to the City Manager and to the Department Head responsible for the matter, decision, act or omission complained of.

Referrals from City Council or City Manager

13(1) City Council, any Standing Committee of City Council, or the City Manager may refer any matter to the Review Officer for investigation and report.

(2) The provision of this Bylaw respecting a public complaint shall apply, *mutatis mutandis*, to a matter referred to the Review Officer pursuant to subsection (1).

Annual report

14. The Review Officer shall, in each calendar year, prepare and submit to members of City Council a report on the business of the Moose Jaw Administrative Review Office for the preceding year, showing, *inter alia*, the number and general nature of complaints received in the preceding year, together with the disposition or resolution of those complaints.

Review Officer not compellable

15. The Review Officer is not compellable in any civil proceedings:

- (a) to testify with respect to any information obtained in the discharge of his/her duties; or
- (b) to produce any files, documents or other material obtained through investigation or relating to the business or proceedings of the Review Officer.

Coming Into Force

16. This Bylaw shall come into force on the day of its final passing.

PASSED AND ENACTED ON THE 10TH DAY OF NOVEMBER, A.D. 2003.

(sgd) "Al Schwingamer"

MAYOR

(Seal)

(sgd) "Steven Schiefner"

CITY CLERK

READ a first time the 10th day of November, A.D. 2003

READ a second time the 10th day of November, A.D. 2003

READ a third time the 10th day of November, A.D. 2003

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SCHEDULE "A"

Declaration of Review Officer

I, _____, having been appointed to the Office of Administrative Review for the Municipal Corporation of the City of Moose Jaw,

DO SOLEMNLY PROMISE AND DECLARE:

- 1. That I will truly, faithfully and impartially, to the best of my knowledge and ability, perform the duties of my Office;
- 2. That I will faithfully observe all requirements of The Cities Act or any other statute or law.
- 3. That I will be vigilant and active in causing the laws governing the City of Moose Jaw to be duly executed and obeyed;
- 4. THAT I will not disclose any confidential information that may come to my attention except in the performance of the duties of my office and then only in accordance with requirements of The Local Authority Freedom of Information and Protection of Privacy.

DECLARED before me at the City)
of Moose Jaw in the Province)
of Saskatchewan, this day)
of _____, A.D. 200)
_____)

Signature of Declarant

A Commissioner for Oaths in and
for the Province of Saskatchewan.
Being a Solicitor.