

CITY OF MELFORT

BYLAW NO. 03-18

A BYLAW OF THE CITY OF MELFORT TO ESTABLISH AN ADMINISTRATIVE REVIEW BODY AS PROVIDED BY SECTION 362 OF *THE CITIES ACT*

The Council of the City of Melfort in the Province of Saskatchewan in open meeting assembled hereby enacts as follows:

Title:

1. This Bylaw may be cited as The Melfort Administrative Review Officer Bylaw.

Purpose:

2. The purpose of this Bylaw is to establish an administrative review body as required by *The Cities Act*.

Definitions:

3. In this bylaw:
 - (a) **Administrative Review Officer** means the person appointed by City Council pursuant to this bylaw;
 - (b) **City** means the City of Melfort;
 - (c) **City Clerk** means the person appointed as the City Clerk for the City of Melfort and includes any duly authorized representative or designate of such person;
 - (d) **City Council** means the elected officials of the City of Melfort;
 - (e) **City Manager** means the person appointed by City Council as the City Manager for the City of Melfort and includes his/her duly authorized representative or designate;
 - (f) **Mayor** means the elected Mayor of the City of Melfort.

Administrative Review Body Established:

4.
 - (1) City Council hereby establishes an administrative review body pursuant to Section 362 of *The Cities Act* to be known as the Melfort Administrative Review Officer.
 - (2) The Administrative Review Officer shall be a person appointed by City Council pursuant to this bylaw.
 - (3) City Council may appoint an alternate person to act, if for any reason, the Administrative Review Officer is unable to discharge his/her duties.
 - (4) The Administrative Review Officer shall exercise the authority and perform the duties set out in Section 362 of *The Cities Act*.

Appointment and Eligibility To Hold Office:

5. (1) A person appointed as the Administrative Review Officer pursuant to Section 4 holds office for a term of two (2) years or until a successor is appointed.
- (2) In order to be eligible for appointment as the Administrative Review Officer, a person must:
 - (a) be a resident of the City of Melfort;
 - (b) be over 18 years of age, and
 - (c) have a general knowledge of the administrative structure of the City.
- (3) The following people are not eligible for appointment as the Administrative Review Officer:
 - (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) a business partner, spouse, parent or child of a person mention in clause (a), (b) or (c).

Remuneration and Expenses:

6. (1) The Administrative Review Officer shall be paid remuneration at the rate set out in Schedule 5A.
- (2) All claims for travel, food, lodging and other out-of-pocket expense shall be reimbursed in accordance with our travel policy.
- (3) All claims for expenses shall be reviewed by the City Manager.
- (4) Unresolved claims for expenses shall be referred to and decided by City Council.

Jurisdiction:

7. (1). Subject to subsection (2), the Administrative Review Officer may investigate and report on any matters of administration or decisions:
 - (a) for which an appeal process is not already provided by *The Cities Act* or any other Act or through a collective bargaining agreement; and
 - (b) that:
 - (i) affect any person or group of persons; and
 - (ii) are taken by the city, or an agency of the city.
- (2). The Administrative Review Officer shall not investigate and report on any decision, recommendation, act, order or omission of:
 - (a) City Council;

- (b) A committee of Council;
- (c) An appeal board, or
- (d) A person acting as a lawyer for the City.

Refusal To Investigate:

8. The Administrative Officer may refuse to investigate any complaint or cease an investigation regarding a complaint if:
- (1) the complaint relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than one year before the complaint was received by the Administrative Review Officer;
 - (2) in the opinion of the Administrative Review Officer, the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
 - (3) in the opinion of the Administrative Review Officer, on a balance between the public interest and the person aggrieved, the complaint should not be investigated or the investigation should not be continued;
 - (4) in the opinion of the Administrative Review Officer, the circumstances of the case do not warrant investigation;
 - (5) the complainant does not have a sufficient personal interest in the subject matter of the complaint, or
 - (6) during the course of an investigation it appears to the Administrative Review Officer:
 - (a) that pursuant to *The Cities Act* or existing administrative practices the complainant has an adequate remedy or right of appeal, other than submitting a complaint to the Administrative Review Officer, whether or not the complainant has availed themselves of that remedy or right of appeal; or
 - (b) that, having regard to all circumstances of the case, further investigation is unnecessary.

Form of Complaint:

9. A complaint:
- (1) must be in writing;
 - (2) must be in the form prescribed by the City Clerk; and
 - (3) must set out in detail the nature of the complaint.
10. (1) A complaint must be filed 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 Administrative 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. The Mayor shall transmit the complaint to the Administrative Review Officer, provide a copy to the City Clerk, and 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 Administrative 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 Administrative Review Officer.

Procedure:

11. (1) Upon receipt of a complaint, the Administrative Review Officer shall:
- (a) send an acknowledgement of the complaint to the complainant;
 - (b) obtain from the complainant any information required to investigate the complaint; and
 - (c) advise the complainant about the procedure that will be followed in investigating the complaint.
- (2) The Administrative Review Officer may:
- (a) interview and take statements from witnesses, including employees, officers and agents of the City;
 - (b) have access to any file, document or other material in the possession of the City or any agency of the City; and
 - (c) try to resolve any complaint through the use of negotiation, conciliation, mediation or any other non-adversarial approach.

Findings and Recommendations:

12. (1) After making an investigation pursuant to this Bylaw, the Administrative Review Officer shall prepare a report outlining the opinions, reasons and findings of the Administrative Review Officer.
- (2) The Administrative Review Officer may make any recommendations that he/she considers appropriate.
- (3) The Administrative Review Officer shall file the report with the City Clerk.
- (4) The City Clerk shall include the report on the next in-camera meeting of the Committee of the Whole.

- (5) Before the meeting of the Committee of the Whole at which the report will be considered, the City Clerk shall send a copy to:
 - (a) The City Manager; and
 - (b) The Department Head responsible for the matter, decision, act or omission.

Action by the Committee of the Whole:

13. After considering the report of the Administrative Review Officer, the Committee of the Whole may resolve to take any action it feels appropriate, including:
 - (a) referring the matter to Council;
 - (b) implementing the recommendations of the Administrative Review Officer;
 - (c) referring the matter to the City Manager, relevant City Department Head or agency;
 - (d) receiving the report as information;
 - (e) taking no action with respect to the matter.

Communication of Action:

14. The City Clerk shall inform in writing the persons referred to in subsection 12(5) of the action taken by the Committee of the Whole with respect to the report of the Administrative Review Officer.

Annual Report:

15. The Administrative Review Officer shall prepare an annual report for City Council showing the number and general nature of the complaints received in the preceding year, and their disposition or resolution.

Confidentiality of Information:

16.
 - (1) The report prepared by the Administrative Review Officer pursuant to section 15 will be a matter of public record.
 - (2) The particulars of all complaints and all information obtained by the Administrative Review Officer shall be confidential unless the release of that information is required in accordance with the provisions of the Local Authority Freedom of Information and Protection of Privacy Act.

Records:

17. The particulars of all complaints and all information obtained by the Administrative Review Officer shall become part of the records of the City and shall be kept at the Office of the City Clerk.

Administrative Review Officer not Compellable:

18. The Administrative Review Officer is not compellable in any civil proceedings:
- (1) to testify with respect to any information obtained while investigating a complaint; or
 - (2) to produce any files, documents or other material obtained while investigating a complaint.

Coming into Force:

19. This Bylaw shall come into force on the 31st day of December, 2003.

Mayor

City Clerk

INTRODUCED AND READ a first time the 3rd day of November, 2003

READ a second time the 3rd day of November, 2003

READ a third time and passed the 3rd day of November, 2003

(SEAL)

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Schedule “A”

Remuneration:

20. \$125.00 per day or \$62.50 per half day (a day would be considered anything over 4 hours).