

# CITY OF PRINCE ALBERT BYLAW NO. 33 OF 2003

*A Bylaw of The City of Prince Albert to establish an Administrative Review Body to investigate and report on matters of administration or decision by the City of Prince Albert.*

WHEREAS the Council of The City of Prince Albert deems to establish an administrative review body pursuant to Section 362 of The Cities Act.

NOW THEREFORE THE COUNCIL OF THE CITY OF PRINCE ALBERT IN OPEN MEETING ASSEMBLED ENACTS AS FOLLOWS:

## **Title**

1. This Bylaw may be cited as "The Administrative Review Bylaw, 2003".

## **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) "City" means The City of Prince Albert;
  - (b) "City Clerk" means the City Clerk of The City of Prince Albert;

(c) "Controlled corporation" means a controlled corporation within the meaning of The Cities Act;

(d) "Council" means the Council of The City of Prince Albert; and

(e) "Committee of the Whole" means the Committee of the Whole Council for The City of Prince Albert.

#### **Administrative Review Body Established**

4. (1) Council hereby establishes an administrative review body pursuant to Section 362 of The Cities Act to be known as The Administrative Review Officer.

(2) The Administrative Review Officer shall be a person appointed by and accountable to Council pursuant to the provisions of this bylaw and The Cities Act.

(3) Council may appoint an alternate person to act if, for any reason, the Administrative Review Officer is unable to discharge his or her duties.

(4) The Administrative Review Officer shall exercise the authority and perform the duties set out in Section 362 of The Cities Act;

(5) Every person appointed as the Administrative 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 Clerk.

#### **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 one year subject to renewal at the discretion of Council.

(2) In order to be eligible for appointment as the Administrative Review Officer, a person must:

(a) be a resident of the City of Prince Albert;

(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 Council;

(b) a past member of Council unless at least three years has passed since they were a member of Council;

(c) an employee, officer or agent of the City or one of the City's controlled corporations;

(d) a past employee, officer or agent of the City or one of the City's controlled corporations unless at least three years has passed since they were an employee, officer or agent of the City or one of the City's controlled corporations; and

(e) an agent, business partner, family member or employer of a person mentioned in clauses (a),(b),(c) and (d).

### **Remuneration and Expenses**

6. (1) The Administrative Review Officer shall be paid remuneration at the rates set out in Schedule "B".
- (2) The Administrative Review Officer shall be reimbursed for expenses at the rates set out in Schedule "B".
- (3) All claims for expenses shall be reviewed by the City Clerk.
- (4) All unresolved claims for expenses shall be decided by the Committee of the Whole.

### **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, an agency of the City or any controlled corporation.
- (2) The Administrative Review Officer shall not investigate and report on any decision, recommendation, act, order or omission of:
  - (a) Council;
  - (b) a committee of Council;
  - (c) a board of a controlled corporation;

(d) an appeal board; or

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

**Refusal to Investigate**

8. (1) The Administrative Review Officer may refuse to investigate any complaint or cease an investigation regarding a complaint if:

(a) 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, provided the Administrative Review Officer shall not receive complaints about matters occurring prior to adoption of this Bylaw;

(b) in the opinion of the Administrative Review Officer, the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(c) 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;

(d) in the opinion of the Administrative Review Officer, the circumstances of the case do not warrant investigation;

(e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(f) during the course of an investigation it appears to the Administrative Review Officer:

- (i) that pursuant to The Cities Act or existing administrative practices that 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
- (ii) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) Notwithstanding any of the provisions of the Bylaw, the Administrative Review Officer shall not proceed to investigate a complaint unless he or she has been first satisfied that reasonable efforts have been made by the complainant to secure a written response or explanation from the City with respect to the decision, recommendation, and or omission complained of.

(3) Any refusal to investigate by the Administrative Review Officer must be communicated to the complainant in writing, explaining the reason for such refusal, with a copy to be sent to the City Manager and City Clerk.

### **Form of Complaint**

9. A complaint:

(a) must be in writing;

(b) in the form prescribed by the City Clerk; and

(c) set out in detail the nature of the complaint together with a description of the prior efforts made by the complainant to secure a written response or explanation from the City with respect to the decision, recommendation, act or omission complained of.

### **Filing of Complaint**

10. (1) A complaint must be filed at the Office of the City Clerk.

(2) Upon receipt of a complaint pursuant to Subsection (1), the City Clerk shall send a copy of the complaint to:

(a) in all cases;

(i) the Administrative Review Officer; and

(ii) the City Manager;

(b) depending on the nature of the complaint;

(i) the Department Head responsible for the matters of administration or decisions outlined in the complaint;

(ii) the General Manager, Executive Director or Director of the controlled corporation responsible for the matters of administration or decisions outlined in the complaint;

(iii) the Manager of the agency of the City responsible for the matters of administration or decisions outlined in the complaint; and

(iv) any employee or employees specifically named in the complaint.

(3) Upon receipt of a complaint pursuant to subsection (1), the City Clerk shall send a report to the next in camera meeting of Committee of the Whole outlining the name or names of the complainants, and the general nature of the complaint.

### **Referrals from Council or City Manager**

11. Council or the City Manager may refer any matter mentioned in subsection 7(1) to the Administrative Review Officer.

### **Procedure**

12. (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 procedures that will be followed in investigating the complaint.

- (2) Upon receipt of a complaint the Administrative Review Officer shall consult with the City Manager to allow the City Manager an opportunity to try and resolve the complaint without further action by the Administrative Review Officer.

- (3) The Administrative 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 corporation;

- (b) have 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; and

- (c) try to resolve any complaint through the use of negotiation, conciliation, mediation or any other non-adversarial approach.

### **Findings and Recommendations**

13. (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 or she considers appropriate.
  
- (3) The Administrative Review Officer shall file the report with the City Clerk.
  
- (4) The City Clerk shall put the report on the next in camera agenda 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 will send a copy of the report to:
  - (a) in all cases;
    - (i) the City Manager; and
    - (ii) the complainant.
  
  - (b) depending on the nature of the complaint;
    - (i) the Department Head responsible for the matters of administration or decisions outlined in the complaint;
    - (ii) the General Manager, Executive Director or Director of the controlled corporation responsible for the matters of administration or decisions outlined in the complaint;
    - (iii) the Manager of the agency of the City responsible for the matters of administration or decisions outlined in the complaint; and
    - (v) any employee or employees specifically named in the complaint.

### **Action by Committee of the Whole**

14. After considering the report of the Administrative Review Officer, Committee of the Whole may resolve to take any action it feels is 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, agency or controlled corporation for handling;
  - (d) receiving the report as information; or
  - (e) taking no further action with respect to the matter.

### **Communication of Action**

15. The City Clerk shall inform in writing the persons referred to in Section 13(5) of the action taken by Committee of the Whole with respect to the report of the Administrative Review Officer.

### **Annual Report**

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

### **Confidentiality of Information**

17. (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**

18. 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.

**Compellability**

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

(a) to testify with respect to any information obtained while investigating a complaint; or

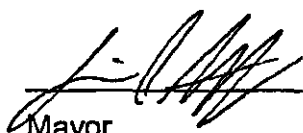
(b) to produce any files, documents or other materials obtained while investigating a complaint.

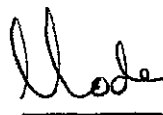
**Coming into Force**

Read a first time this 15<sup>th</sup> day of DECEMBER , A.D.,2003.

Read a second time this 15<sup>th</sup> day of DECEMBER , A.D. 2003.

Read a third time and passed this 15<sup>th</sup> day of DECEMBER , A.D. 2003.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

**Schedule "A"**

**Declaration of Administrative Review Officer**

I, \_\_\_\_\_, having been appointed to the Office of Administrative Review for the Municipal Corporation of the City of Prince Albert,

**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 Prince Albert 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 Act.

DECLARED before me at the City )  
Of Prince Albert, in the Province of )  
Saskatchewan, this \_\_\_\_\_ day of )  
\_\_\_\_\_, A.D., 2003. )

\_\_\_\_\_  
A Commissioner for Oaths in and for  
The Province of Saskatchewan.  
My Commission Expires:  
OR Being a Solicitor.

**Administrative Review Bylaw  
Schedule "B"**

**Remuneration**

150% of Council's per diem.

**Expenses**

Office supplies, photocopying charges, parking fees and other office related charges shall be reimbursed fully provided receipts are submitted.

Mileage at the rate equivalent to that provided to members of City Council.