

**CITY OF YORKTON
SASKATCHEWAN**

BYLAW NO. 37/2003

**A BYLAW OF THE CITY OF YORKTON TO ESTABLISH AN
ADMINISTRATIVE REVIEW BODY FOR
THE CITY OF YORKTON**

WHEREAS Section 362 of *The Cities Act* requires the Council of the City of Yorkton to establish an Administrative Review Body; and

WHEREAS, The Council of the City of Yorkton deems it expedient to establish an Administrative Review Body for the City of Yorkton and to determine the procedures of that body as set forth herein;

NOW THEREFORE, the Council of the City of Yorkton enacts as follows:

1. **TITLE**
This Bylaw may be cited as “The Yorkton Complaints Investigator Bylaw, 2003”.
2. **PURPOSE**
The purpose of this Bylaw is to establish an administrative review body as required by *The Cities Act*.
3. **DEFINITIONS**
 - (a) “City” means The City of Yorkton;
 - (b) “City Clerk” means the City Clerk of The City of Yorkton;
 - (c) “Complaints Investigator” means The Yorkton Complaints Investigator appointed pursuant to this Bylaw;
 - (d) “controlled corporation” means a controlled corporation within the meaning of *The Cities Act*;
 - (e) “Council” means the Council of The City of Yorkton; and
 - (f) “Committee of the Whole” means the Committee of the Whole Council of the City of Yorkton.

4. ADMINISTRATIVE REVIEW BODY ESTABLISHED
 - (1) Council hereby establishes an administrative review body pursuant to Section 362 of *The Cities Act* to be known as The Yorkton Complaints Investigator.
 - (2) The Complaints Investigator shall be a person appointed by Council pursuant to this Bylaw.
 - (3) Council may appoint an alternate person to act if, for any reason, the Complaints Investigator is unable to discharge his or her duties.
 - (4) The Complaints Investigator shall exercise the authority and perform the duties set out in Section 362 of *The Cities Act*.

5. APPOINTMENT AND ELIGIBILITY TO HOLD OFFICE
 - (1) A person appointed as the Complaints Investigator pursuant to Section 4 above holds office for a term of one year or until a successor is appointed.
 - (2) In order to be eligible for appointment as the Complaints Investigator, a person must:
 - (a) be a resident of the City of Yorkton;
 - (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 Complaints Investigator:
 - (a) a member of Council;
 - (b) an employee, officer or agent of the City or one of the City's controlled corporations;
 - (c) an agent, business partner, family member or employer of a person mentioned in clauses (a) and (b).

6. REMUNERATION AND EXPENSES
 - (1) The Complaints Investigator shall be paid remuneration at the rates set out in Schedule "B".
 - (2) The Complaints Investigator shall be reimbursed for expenses at the rates set out in Schedule "B".
 - (3) All claims for expenses shall be reviewed by the City Manager.

7. JURISDICTION

- (1) Subject to subsection (2), the Complaints Investigator may investigate and report on any matters of administration or decisions:
- (a) for which an appeal process is not already provided by the *The Cities Act* or any other Act or through a collective bargaining agreement; and
 - (b) that:
 - a. affect any person or group of persons; and
 - b. are taken by the city, an agency of the city or any controlled corporation.
- (2) The Complaints Investigator 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.

8. REFUSAL TO INVESTIGATE

- The Complaints Investigator 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 Complaints Investigator;
 - (2) In the opinion of the Complaints Investigator, the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
 - (3) In the opinion of the Complaints Investigator, 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 Complaints Investigator, 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 Complaints Investigator:

- (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 Complaints Investigator, whether or not the complainant has availed themselves of that remedy or right of appeal; or
- (b) that, having regard to all the circumstances of the case, further investigation is unnecessary.

9. FORM OF COMPLAINT

A complaint:

- (1) must be in writing;
- (2) in the form prescribed by Schedule “A” attached to and forming part of this Bylaw; and
- (3) set out in detail the nature of the complaint.

10. FILING OF COMPLAINT

- (1) A complaint must be filed in the prescribed form at the office of the City Manager;
- (2) Upon receipt of a complaint, 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 Complaints Investigator 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, the name or names of the complainant, and the general nature of the complaint at the next scheduled Committee of the Whole Council Meeting;
 - (d) Depending on the nature of the complaint, advise any employee or employees specifically named in the complaint.

11. REFERRALS FROM CITY COUNCIL OR THE CITY MANAGER

City Council or the City Manager may refer any matter to the Complaints Investigator for investigation and report.

12. PROCEDURE

(1) Upon receipt of a complaint, the Complaints Investigator shall: send an acknowledgement of the complaint to the complainant;

- (a) obtain from the complainant any information required to investigate the complaint; and
- (b) advise the complainant about the procedures that will be followed in investigating the complaint.

(2) The Complaints Investigator 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 that the Investigator feels would be relevant to the complaint, 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.

13. FINDINGS AND RECOMMENDATIONS

(1) After making an investigation pursuant to this Bylaw, the Complaints Investigator shall prepare a report outlining the opinions, reasons and findings of the Complaints Investigator.

(2) The Complaints Investigator may make any recommendations that he or she considers appropriate.

(3) The Complaints Investigator 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 Council.

(5) Before the meeting of the Committee of the Whole Council 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
 - (ii) the complainant.

- (b) depending on the nature of the complaint;
 - (i) the Department Head of the department 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.

14. ACTION BY THE COMMITTEE OF THE WHOLE COUNCIL

After considering the report of the Complaints Investigator, the Committee of the Whole Council may resolve to take any action it feels is appropriate, including:

- (1) implementing the recommendations of the Complaints Investigator;
- (2) referring the matter to the City Manager, relevant City Department, agency or controlled corporation for handling;
- (3) receiving the report as information; or
- (4) taking no further action with respect to the matter.

15. COMMUNICATION OF ACTION

The City Clerk shall inform in writing the persons referred to in Section 13(5) of the action taken by the Committee of the Whole Council with respect to the report of the complaints Investigator.

16. ANNUAL REPORT

The Complaints Investigator 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.

17. CONFIDENTIALITY OF INFORMATION

- (1) The report prepared by the Complaints Investigator pursuant to Section 15 will be a matter of public record.
- (2) The particulars of all complaints and all information obtained by the Complaints Investigator 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*.

18. RECORDS

The particulars of all complaints and all information obtained by the Complaints Investigator shall become part of the records of the City and shall be kept at the Office of the City Clerk.

19. COMPELLABILITY

The Complaints Investigator 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 materials obtained while investigating a complaint.

20. COMING INTO FORCE

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

Mayor

City Clerk

Read a first time this 3rd day of November, A.D., 2003.

Read a second time this 17th day of November, A.D., 2003.

Read a third time this 17th day of November, A.D., 2003.

SCHEDULE "B"

REMUNERATION

1. \$125.00 per day or \$62.50 per half day

EXPENSES

1. Office supplies, photocopying charges, parking fees and other office related charges shall be reimbursed fully provided receipts are submitted.
2. Mileage at the rate of \$.32/km