

PART II

ADMINISTRATION

Chief administrative officer

28 (1) Subject to subsection (2), the council may employ a person to be the chief administrative officer for the municipality.

(2) The council of a regional municipality shall employ a person to be the chief administrative officer for the regional municipality.

No chief administrative officer appointed

29 Where the council does not appoint a chief administrative officer, the council

(a) shall fulfil the responsibilities, and may exercise the powers, given to the chief administrative officer by this Act; and

(b) may delegate any of the responsibilities and powers of the chief administrative officer to an employee of the municipality.

Council and chief administrative officer relationship

30 (1) The chief administrative officer is the head of the administrative branch of the government of the municipality and is responsible to the council for the proper administration of the affairs of the municipality in accordance with the by-laws of the municipality and the policies adopted by the council.

(2) The council shall communicate with the employees of the municipality solely through the chief administrative officer, except that the council may communicate directly with employees of the municipality to obtain or provide information.

(3) The council shall provide direction on the administration, plans, policies and programs of the municipality to the chief administrative officer.

(4) No council member, committee or member of a committee established by the council shall instruct or give direction to, either publicly or privately, an employee of the municipality.

Responsibilities of chief administrative officer

31 (1) The chief administrative officer shall

(a) coordinate and direct the preparation of plans and programs to be submitted to the council for the construction, rehabilitation and maintenance of all municipal property and facilities;

(b) ensure that the annual budget is prepared and submitted to the council;

(c) be responsible for the administration of the budget after adoption;

(d) review the drafts of all proposed by-laws and policies and make recommendations to the council with respect to them;

(e) carry out such additional duties and exercise such additional responsibilities as the council may, from time to time, direct.

(2) The chief administrative officer may

(a) attend all meetings of the council and any board, committee, commission or corporation of the municipality and make observations and suggestions on any subject under discussion;

(b) appoint, suspend and remove all employees of the municipality, with power to further delegate this authority;

(c) act, or appoint a person to act, as bargaining agent for the municipality in the negotiation of contracts between the municipality and any trade union or employee association and recommend to the council agreements with respect to them;

(d) subject to policies adopted by the council

(i) make or authorize expenditures, and enter into contracts on behalf of the municipality, for anything required for the municipality where the amount of the expenditure is budgeted or within the amount determined by the council by policy, and may delegate this authority to employees of the municipality,

(ii) sell personal property belonging to the municipality that, in the opinion of the chief administrative officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the municipality, and may delegate this authority to employees of the municipality,

(iii) personally, or by an agent, negotiate and execute leases of real property owned by the municipality that are for a term not exceeding one year, including renewals,

(iv) establish departments of the municipal administration,

(v) adopt a system of classification of positions of municipal officers and employees and specify offices that may not be filled by the same person,

(vi) determine the salaries, wages and emoluments to be paid to municipal officers and employees, including payment pursuant to a classification system,

(vii) where not otherwise provided for, fix the amount in which security is to be given by municipal officers and employees, the form of security, the manner in which security is to be given and approved and the nature of the security to be given;

(e) authorize, in the name of the municipality, the commencement or defence of a legal action or proceedings before a court, board or tribunal, including reporting the commencement of the legal action, defence or proceeding to the council at the next meeting and may, if the council so provides by policy, delegate this authority to employees of the municipality;

(f) where the council so provides by policy, settle a legal action or proceeding in accordance with the policy.

(3) A lease executed by the chief administrative officer is as binding on the municipality as if it had been specifically authorized by the council and executed by the mayor or warden and clerk on behalf of the municipality.

(4) Notwithstanding subsections 33(1), 37(1), 39(1) and Section 41, the chief administrative officer may, with the consent of council, perform the duties of the clerk, treasurer, engineer and administrator, or any of them, pursuant to this Act.

(5) The chief administrative officer may from time to time appoint an employee of the municipality to act in the place of the chief administrative officer when the chief administrative officer is absent or unable to act.

Reporting and accountability requirements

32 (1) The directors of departments of the municipality

(a) are accountable to the chief administrative officer for the performance of their duties; and

(b) shall submit the reports and recommendations required of them to, and through, the chief administrative officer.

(2) A report or recommendation from the solicitor of the municipality shall be presented to the council by the solicitor and the chief administrative officer shall be informed of the contents in advance of the

presentation to council, unless the report or recommendation is with respect to the chief administrative officer.

(3) Where a director of a department of the municipality disagrees with a recommendation of the chief administrative officer, the objections may be provided to the chief administrative officer who shall present them to the council.

Clerk

33 (1) The chief administrative officer shall designate an employee of the municipality to perform the duties of the clerk of the municipality.

(2) The clerk shall

(a) record in a minute book all the proceedings of the council;

(b) account for the attendance of each council member at every meeting of the council;

(c) keep the by-laws and policies of the municipality; and

(d) perform such other duties as are prescribed by the chief administrative officer, the council or an enactment.

Policy for records management and destruction

34 (1) The council may adopt a policy for the management and destruction of records.

(2) Records that are required by an enactment to be kept and minutes, by-laws, policies and resolutions of the council shall not be destroyed.

(3) The council may, by policy, specify further classes of records that are not to be destroyed or that are to be kept for specified time periods.

(4) Where

(a) a municipal record is destroyed; or

(b) an original municipal record is not produced in court,

and

(c) the clerk certifies that a reproduction is part of the records of the municipality and is a true reproduction of the original municipal record,

a photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original municipal record and is, in the absence of proof to the contrary, proof of the record.

Sufficient proof in action or proceeding

35 Where, in an action or proceeding it is necessary to prove the authority of an employee of a municipality, a certificate under the hand of the clerk and the seal of the municipality stating that the employee has the authority is sufficient proof, without proof of the signature of the clerk or of the seal.

False certificate of clerk

36 A clerk who wilfully gives a false certificate is liable, on conviction, to a penalty not exceeding ten thousand dollars and, in default of payment, to imprisonment for a period of not more than one hundred and eighty days.

Treasurer

37 (1) The chief administrative officer shall designate an employee of the municipality to perform the duties of the treasurer of the municipality.

(2) The treasurer may delegate any of the powers or duties of the treasurer pursuant to this or any other Act of the Legislature to an employee of the municipality.

Duty of treasurer to advise council

38 The treasurer shall promptly advise the council of

(a) all moneys due to the municipality that the treasurer considers cannot reasonably be collected after pursuing all reasonable avenues of collection; and

(b) the reasons for the belief that such moneys cannot be collected,

and the council may write off the amounts determined to be uncollectible.

Engineer

39 (1) The chief administrative officer shall designate an employee of the municipality to be the engineer for the municipality.

(2) Where the engineer has authority to require that action be taken by a person, the engineer may direct that the action be taken.

(3) A person shall not refuse or fail to take action when directed to do so by the engineer.

(4) Where the engineer directs that action be taken and no action is taken, the engineer may cause the necessary work to be done.

(5) The engineer may enter in or upon a property at

(a) a reasonable hour upon reasonable notice to the owner and any occupier of the property; or

(b) any time in the event of an emergency,

for the purpose of inspection, observation, measurement, sampling, testing or work to be done in accordance with this Act or a by-law made pursuant to this Act.

Approval or permission by engineer

40 (1) Where approval or permission by the engineer is required pursuant to this Act, the engineer's decision to refuse the approval or permission may be appealed to the

(a) council; or

(b) where there is a committee designated by the council, by policy, to hear appeals, that committee.

(2) On an appeal pursuant to subsection (1), the council or the designated committee, as the case may be, shall

(a) direct the engineer to grant the approval or permission; or

(b) uphold the decision of the engineer.

(3) The right of appeal pursuant to this Section expires fourteen days after the engineer serves a written decision regarding the approval or permission on the owner.

Administrator for dangerous and unsightly premises

41 The chief administrative officer shall designate an employee of the municipality *or other person* to be the administrator responsible for the dangerous and unsightly premises provisions of this Act.

Municipal auditor

42 (1) The council shall appoint a municipal auditor who is registered pursuant to this Act to be the auditor for the municipality.

(2) The auditor shall report to the council on the accounts and funds

(a) administered by the council; and

(b) where the control is apparent or implied in the council.

(3) The auditor's report shall contain the information, and be in the form, required pursuant to this Act.

(4) The auditor's report shall be filed with the council and the Minister by July 31 in each year.

(5) The auditor shall report, to the council and to the Minister, any management letters and any communication from the auditor detailing weaknesses in internal control, deficiencies in management information systems or other areas requiring improvement.

(6) The financial statements of a municipality, as reported on by the auditor, shall set out the remuneration paid to each council member and the chief administrative officer.

(7) No person shall be appointed as auditor who, at any time during the fiscal year in which the auditor is appointed, is or has been

- (a) a council member;
- (b) a contractor hired by the municipality; or
- (c) an employee of the municipality,

except that an auditor may be reappointed as auditor.

Access by auditor

43 (1) The auditor has access at all times to the books, accounts and vouchers of the municipality and may require from the employees of the municipality such information and explanations as may be necessary for the performance of the auditor's duties.

(2) The employees of a municipality shall, on request, promptly provide access, information and explanations to the auditor.

Audit committee

44 (1) The council shall annually appoint an audit committee.

(2) The responsibilities of the audit committee include

- (a) a detailed review of the financial statements of the municipality with the auditor;
- (b) an evaluation of internal control systems and any management letter with the auditor;
- (c) a review of the conduct and adequacy of the audit;
- (d) such matters arising out of the audit as may appear to the audit committee to require investigation;
- (e) such other matters as may be determined by the council to be the duties of an audit committee;
- (f) any other matters as may be determined by the council.

Pension plans

45 (1) In this Section, "full-time employee" means an employee who is employed in full-time, continuous employment.

(2) The council shall establish a pension plan to provide pensions for full-time employees in such manner as the council shall, by policy, determine.

(3) The council may, by policy, establish pension plans to provide pensions for some or all other employees of the municipality in such manner as the council may, by policy, determine.

(4) A pension plan may include employees of a board, commission or other body corporate established by the municipality alone or jointly with other municipalities.

(5) The council may, by policy, establish a pension plan to provide a pension for the mayor or councillors or both.

(6) The municipality, the employees and, where a pension plan is established for the mayor or councillors, those for whom the pension plan is established, shall make contributions to the plan's cost.

(7) A pension plan may provide for annual increases in the pensions paid pursuant to the plan, but the increases shall not exceed the lesser of

(a) six per cent; or

(b) the percentage increase in the cost of living in the preceding year, as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(8) The *Pension Benefits Act* applies to a pension plan established pursuant to this Section.

Employment not during pleasure

46 Notwithstanding the *Interpretation Act*, no employee of a municipality holds office during pleasure, unless a written agreement between the employee and the municipality provides otherwise.