Cape Town, South Africa

City Ombudsman By-law, 2015

Legislation as at 10 February 2017

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City Ombudsman By-law, 2015
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Repealed

Cape Town
South Africa

City Ombudsman By-law, 2015

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Commenced on 3 July 2015

[This is the version of this document from 10 February 2017 and includes any amendments published up to 25 September 2026.]

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[Repealed on 18 February 2026 by City Ombudsman By-law, 2025]

To provide for the appointment, powers and functions of the Ombudsman, to provide for the procedures, roles and responsibilities of the Office of the Ombudsman, and to provide for matters incidental thereto.

WHEREAS section 156(2) and (5) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

WHEREAS the City of Cape Town has identified the need to establish an independent Ombudsman's Office whose primary function is to assist the City of Cape Town in fulfilling its legislative obligation to provide accountable, democratic and transparent governance to those who reside in the area of jurisdiction of the City of Cape Town;

WHEREAS there is a need for the establishment of a mechanism whereby residents of the City of Cape Town can formally lodge complaints against alleged acts of maladministration;

AND WHEREAS the Council, its political structures and its administration must assist and protect the Office of the City Ombudsman to ensure its independence, credibility, impartiality, dignity and effectiveness.

NOW THEREFORE BE IT ENACTED by the Council of the City of Cape Town as follows:

1. Definitions

In this by-law, unless the context otherwise indicates:

"**alternative dispute resolution**" means to address the complaint in an informal, impartial and confidential manner;

"**authorised official**" means an employee of the City responsible for carrying out any duty or function or exercising any power and includes employees delegated to carry out or exercise such duties, functions or powers;

"**City**" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Municipal Structures Act, 1998, or any structure or employee of the City acting in terms of delegated authority;

"**City Manager**" means the municipal manager appointed in terms of section 54A of the Municipal Systems Act, 2000;

"**City Ombudsman**" means the person appointed as the City Ombudsman in terms of section 5 of this By-law;

"**complainant**" means any person, or body of persons who has lodged a complaint with the Office of the City Ombudsman as provided for in this by-law;

"**complaint**" means any written complaint, against the City that has been lodged with the Office of the City Ombudsman;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Council**" means the Municipal Council of the City;

"**councillor**" means a member of the Council;

"**Executive Mayor**" means the Executive Mayor of the City elected in terms of section 55 of the Municipal Structures Act, 1998;

"**maladministration**" means any act or omission committed by the City or by an employee of the City which has the impact of infringing on a person or organisation"s right to fair and just administrative action;

"**Mayoral Committee**" means the committee, established in terms of section 60 of the Municipal Structures Act, 1998;

"**municipal entity**" means a private company or a body established by the City in terms of sections 86B and 86H respectively of the Municipal Systems Act, 2000 for the purposes of rendering a service;

"**Municipal Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**Municipal Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"**policy**" means the City Ombudsman"s policy;

"**recommendation**" means a final resolution on a complaint where the outcome of the complaint recommends corrective action to a department;

"**Speaker**" means a person elected in terms of section 36 of the Municipal Structures Act, 1998.

2. Application

This by-Law applies to the City and all municipal entities, established by the City.

3. The office of the city ombudsman

(1) The Office of the City Ombudsman:

(a) may be a member of the International Ombudsman Institute or International Ombudsman Association or related bodies.

(b) must at all times, be impartial and exercise its powers and perform its functions and duties without fear, favour or prejudice.

(2) The Council, its political structures and the administration must facilitate the unhindered functioning of the Office of the City Ombudsman.

4. Structure

(1) The Office of the City Ombudsman will consist of the City Ombudsman and such other persons who may be necessary for the effective exercise of the powers and performance of the functions and duties provided for in this By-law.

(2) The Office of the City Ombudsman may establish satellite offices for purposes of decentralising the services offered by the Office and therefore being accessible to all communities.

5. Appointment and term of the city ombudsman

(1) The appointment of the City Ombudsman will be done in accordance with the City's Human Resources policies.

(2) The City Ombudsman must:

(a) be a South African Citizen;

(b) be a fit and proper person to hold that particular office; and

(c) have relevant prior experience, suitable to the position.

(3) The City Ombudsman will be appointed for period of five years.

(4) A person may be re appointed to the position of City Ombudsman only once.

6. Functions and powers of the city ombudsman

(1) The City Ombudsman may investigate any complaint submitted in accordance with section 8 of this by-law.

(2) On receipt of a complaint, the City Ombudsman must conduct a preliminary investigation for the purposes of determining the merits of the complaint.

(3) Where the result of the preliminary investigation determines that such complaint:

(a) is frivolous;

(b) Vexatious;

(c) carries no merit;

(d) lacks sufficient evidence, or

(e) for any similar reason should not be considered in terms of this by-law,

the complainant will be notified in writing that the complaint will not be considered.

(4) Subject to subsection (5), where a complainant, in the opinion of the City Ombudsman, has remedies at his or her disposal and has not exhausted those remedies, the City Ombudsman may:

(a) decline to investigate the complaint concerned;

(b) inform the complainant of such other remedies that may exist.

(5) Notwithstanding the provisions of subsection (4) of this by-law where the City Ombudsman on reasonable grounds believes that refusing to investigate a complaint would, because of poverty or lack of capacity on behalf of the complainant, result in a failure of justice, the City Ombudsman may investigate a complaint where other remedies have not been explored.

(6) For the purposes of an investigation contemplated in this by-law, the City Ombudsman will have the power to:

(a) require reasonable access to any book, record, file or other documents as well as physical property of the Council;

(b) demand in writing that any employee appear before him or her, to produce any book, record, file, object or document whether written or in electronic form;

(c) enter any premises owned, controlled or managed by the Council and examine any book, record, file or other documents and physical property in the course of such a visit;

(d) take charge of and remove anything referred to in paragraph (b);

(e) require that an official or department provide relevant information within a stipulated timeframe;

(f) require an official to appear at the City Ombudsman's offices for the purpose of providing information relating to any investigation;

(g) exclude from any meeting any person whose presence, in the circumstances, is not desirable;

(h) institute, should the relevant parties consent thereto, informal mediation or other facilitative processes which are aimed at addressing the complaint; and

(i) recommend corrective action to the relevant Executive Director, should the Ombudsman deem it necessary, after having completed an investigation or mediation or any other facilitative process.

7. Matters not for investigation

The Office of the City Ombudsman does not investigate any of the following matters:

(1) any legislative or executive decisions by the Council, any of its portfolio committees or subcouncils;

(2) any matter that falls within the domain of Forensics and Ethics as referred to in the City's Fraud Prevention Policy;

(3) any matter or dispute which must be dealt with or settled within the field of labour law;

(4) any allegation relating to financial irregularities;

(5) any cases where the complainant has not reported the matter to the line department as first port of call, subject to section 6(5) of this by-law;

(6) any alleged irregular conduct of a councillor;

(7) any tender-related matter;

(8) administrative appeals.

8. Submission of complaints

(1) All complaints submitted to the Office of the City Ombudsman must be in writing.

(2) Where a complainant is not able to compile a written complaint, he or she will be assisted by an authorised official in the Office of the City Ombudsman.

(3) Each complaint must at least specify:

(a) the nature of the matter in question;

(b) the line department in question, if known to the complainant;

(c) the grounds on which the complaint against the City of Cape Town is based;

(d) such facts or other relevant information known to the complainant; and

(e) any redress sought.

9. Offences and penalties

(1) No person may:

(a) insult or abuse the investigating officer or the Ombudsman;

(b) act in a manner that would have the effect of hampering, hindering, obstructing or subverting an investigation;

(c) do anything in connection with an investigation that would constitute contempt of court had the matter been brought before a court of law.

(2) Any person found guilty of contravening section 9(1) of this By-Law, shall be guilty of an offence and upon conviction, be liable to a fine or imprisonment of a maximum period of three (3) months.

10. Short title and date of commencement

This by-law will be called the City of Cape Town: City Ombudsman By-law, 2015 and will take effect on the date of publication in the Provincial Gazette.