

Amended and approved 2/1/77
Reconsideration 2/8/77
Amended and approved 2/8/77
VETOED BY MAYOR
VETO OVERRIDDEN 2/22/77

Requested by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Ombudsman
For Reading: January 18, 1977

AMENDED AND APPROVED

Date: 4-19-77

MUNICIPALITY OF ANCHORAGE

AO NO. 77-94

AMENDED AND APPROVED

Date: 2-22-77

AN ORDINANCE ESTABLISHING THE OFFICE OF OMBUDSMAN AND DESCRIBING THE TERM OF OFFICE, POWERS, AND DUTIES OF THE OMBUDSMAN.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1

Chapter Two of the Code of Ordinances is amended by adding a new article to read:

ARTICLE 2.50

OFFICE OF THE OMBUDSMAN

2.50.005 PURPOSE

The Municipality hereby establishes, in addition to other remedies or rights of appeal, an independent, impartial municipal office, readily available to the public, responsible to the Assembly, empowered to investigate the acts of administrative agencies and to recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency, and equity in the provision of municipal services.

2.50.010 OFFICE OF THE OMBUDSMAN

There is established in the legislative branch of the municipality the office of ombudsman. (Chapter 4.07)

2.50.020 APPOINTMENT OF THE OMBUDSMAN

A person may be nominated for appointment as the ombudsman by a selection committee made up of Assembly members. The appointment shall become effective if approved by a majority of the assembly.

2.50.030 QUALIFICATIONS; PROHIBITIONS

A. No person may serve as ombudsman:

1. While he is engaged in any other occupation for which he receives compensation.
2. Within one year of the last day on which he served as an elected official;
3. While he is a candidate for, or holds any national, state, or municipal elective office; and

4. Unless he has been a resident of the municipality for at least one year.
- B. A person shall not serve in any federal, state or municipal elective office until one year has elapsed from the last day on which he served as the ombudsman.
- C. The ombudsman and any permanent office staff may not actively participate in any municipal, state or federal election campaign. An additional restriction shall prohibit the making of political contributions to assembly or mayoral candidates. Members of the ombudsman's office shall not be prohibited from expressing private opinion, serving as a delegate to party convention, or voting.

2.50.035 TERM OF OFFICE

The term of office shall be two years, ending on December 31st of the even numbered years.

2.50.040 REMOVAL

The ombudsman may be removed from office during his term by a majority vote of the assembly.

2.50.050 STAFF AND DELEGATION

- A. The ombudsman may appoint an assistant or deputy. He may also appoint other personnel necessary to carry out the provisions of this chapter, when in keeping with the assembly adopted budget for the ombudsman's office.
- B. The ombudsman may delegate to his assistant or deputy any of his duties. However, those responsibilities of section 2.50.1405 may be delegated only in writing and only by reason of the ombudsman's absence due to illness, vacation or business.
- C. The assistant or deputy shall succeed to all duties and responsibilities of the ombudsman, including those specified in section 2.50.1405, when he is serving as the acting ombudsman.
- D. The ombudsman's staff shall be selected in accordance with the provisions of the personnel regulations relating to classified employees.

2.50.060 COMPENSATION

- A. The ombudsman's salary shall be set annually by the assembly. The ombudsman's salary may not be reduced during his term.
- B. The salary and benefits of the ombudsman and staff shall accrue according to the effective personnel regulations of the municipality.

2.50.070 OFFICE FACILITIES AND ADMINISTRATION

- A. The municipality shall provide suitable office facilities for the ombudsman and staff in a location convenient for the public.
- B. The ombudsman shall annually prepare a budget proposal for submission to the assembly. Copies shall be provided the mayor for informational purposes to assist in the preparation of the municipal budget.
- C. The ombudsman shall comply with all administration procedures prescribed by ordinance except as provided in this section. Request for executive

approval of office matters, such as office supplies, budget and personnel, shall be submitted to the administration in proper form. In order to assure the independence and objectivity of the ombudsman, the executive's discretionary decisions shall be considered advisory. The executive branch shall retain the authority to deny any request which is otherwise contrary to ordinance or which exceeds the assembly adopted budget for the office.

2.50.080 JURISDICTION

- A. The ombudsman may investigate the administrative acts of agents of the Municipality of Anchorage.
- B. The ombudsman may investigate the administrative act of an agent of the municipality on his own motion if he reasonably believes that it is an appropriate subject for review.
- C. An appropriate subject for investigation by the ombudsman is an administrative act which the ombudsman has reason to believe might be:
 - 1. Contrary to law;
 - 2. Unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 - 3. Based on a mistake of fact;
 - 4. Based on improper or irrelevant grounds;
 - 5. Unsupported by an adequate statement or reasons;
 - 6. Performed in an inefficient or discourteous manner; or
 - 7. Otherwise erroneous.
- D. The ombudsman shall be barred from inquiry into acts of the mayor or assembly. The ombudsman shall retain the authority to appeal complaints through the executive branch and mayor to the assembly.

2.50.090 INVESTIGATIONS OF COMPLAINTS

- A. The ombudsman may cease his investigation of a complaint when the complainant has brought the same matter to the attention of the courts for resolution.
- B. The ombudsman may cease his investigation of a complaint when he reasonably believes that:
 - 1. There is presently available an adequate remedy for the grievance stated in the complaint;
 - 2. The complaint relates to a matter that is outside the jurisdiction of the ombudsman;
 - 3. The complaint related to an administrative act of which the complainant has had knowledge for an unreasonable length of time before the complaint was submitted;
 - 4. The complainant does not have a sufficient personal interest in the subject matter of the complaint;
 - 5. The complaint is trivial or made in bad faith;
 - 6. The resources of the ombudsman's office are insufficient for adequate investigation.
- C. The ombudsman shall protect the confidentiality of complainants or witnesses coming before him except insofar as disclosures may be necessary to enable the ombudsman to carry out his duties.

- D. No fees shall be charged for the submission, investigation or pursuit of complaints.
- E. The ombudsman may request that complaints charging serious, personnel improper, particularly when the complaint may result in disciplinary action against an employee, be filed in writing.
- F. The ombudsman may be regulation establish procedures for receiving and processing complaints, conducting investigations, and reporting findings.

2.50.100 INVESTIGATIVE POWERS

- A. In an investigation the ombudsman may:
 - 1. Enter without notice to inspect the premises of a department during normal business hours and when departmental personnel are present;
 - 2. Review any municipal document or take testimony which he deems relevant to an investigation. Under no circumstances, however, shall the ombudsman make public comment upon or otherwise publicly disseminate any material or information received by him during the course of an investigation which is accorded confidential or privileged status by federal, state, or local law, or which would otherwise result in an unwarranted invasion of personal privacy if released. This provision shall not be construed so as to permit access to municipal records barred by reason of statute, law or ordinance.
- B. Subject to the privileges which witnesses have in the courts of the state, the ombudsman may:
 - 1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person who the ombudsman reasonably believes may be to give information relating to a matter under investigation; and
 - 2. Compel a person, by subpoena, to produce documents, papers, or objects which the ombudsman reasonably believes may relate to the matter under investigation.
- C. If a person refuses to comply with a subpoena issued under (B) of this section, the superior court may, on application of the ombudsman, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court or refusal to testify in the court.

2.50.110 RECOMMENDATIONS

- A. The ombudsman may make recommendations for the resolution of complaints and inquiries in accordance with this chapter.
- B. In seeking a resolution to a complaint or inquiry the ombudsman may draw the matter to the attention of a department head, the manager, the mayor, the assembly, or the public.
- C. Before offering a report or recommendation which is critical of a department or person, the ombudsman shall consult with that department or person.
- D. The ombudsman may require a department to notify him within a reasonable specified time of any action taken on his recommendation.

2.50.120 NOTICE TO THE COMPLAINANT

The ombudsman shall notify the complainant of the actions taken by the ombudsman and the department within a reasonable time after the conclusion of the matter.

2.50.130 REPORTS

The ombudsman shall submit to the assembly a report of his activities at least once a year.

2.50.140 MISCONDUCT BY MUNICIPAL PERSONNEL

If the ombudsman believes there is a breach of duty or misconduct by an officer or employee of the municipality, the ombudsman shall refer the matter to the appropriate department head, to the mayor, or when appropriate, to the municipal prosecutor, district attorney, grand jury, or any other agency.

2.50.150 PENALTY

A person who willfully hinders the lawful actions of the ombudsman or staff, or who willfully refuses to comply with their lawful demands, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by a fine of not more than five hundred dollars (\$500.00). This provision shall not be construed so as to require administrative officials to implement the ombudsman's recommendations for resolving complaints (2.50.130A).

2.50.160 DEFINITIONS

In this article:

- A. "Administrative act" means an action, omission, decision, recommendation, practice, policy, or procedure.
- B. "Agent of the municipality" includes a department, office, institution, corporation, commission, committee, council of the municipality, a contractor providing service to the public on behalf of the municipality, or any employee of the foregoing entities.
- C. "Municipality" and "municipal" refer to the Municipality of Anchorage.

2.50.170 SEVERABILITY

If any portion of this chapter should be declared invalid, all other portions shall remain in full force and effect; the provisions of this chapter are declared to be severable.

SECTION II

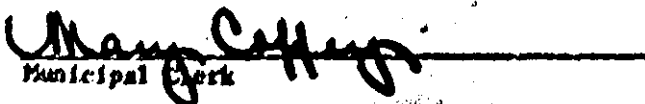
Section 2.300.050(c) (AO 69-75) is amended to read:

- 9. The Municipal Clerk and Ombudsman.

PASSED AND APPROVED by the Anchorage Assembly, this 19th day of April, 1977.


Chairman

ATTEST:


Municipal Clerk