

*Footnotes:*

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**Charter reference**— *ombudsman, § 4.07; telephone utility subject to ombudsman, § 16.03(d).*

**Cross reference**— *Code of ethics, Ch. 1.15.*

**State Law reference**— *State ombudsman, AS 24.55.010—24.55.340.*

#### 2.60.010 - 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.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.020 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative act* means an action, omission, decision, recommendation, practice, policy, or procedure done or adopted by an agent of the municipality on its behalf, within the scope of employment or under the apparent authority of a municipal body, office, or individual.

*Agent of the municipality or agency* includes a department, office, institution, corporation, authority, board, commission, committee or council of the municipality, including boards and commissions established in title 4, a contractor providing service to the public on behalf of the municipality, and any officer, employee or member of such entities acting or purporting to act in the exercise of paid or non-paid municipal duties. For purposes of the ombudsman's jurisdiction under this chapter, the assembly, mayor, and Anchorage School Board are excluded.

*Allegation* means a statement describing the complaint about an administrative act which is to be investigated.

*Complaint* means the problem or concern presented to the ombudsman.

*Complainant* means the person who presents a complaint to the ombudsman.

*Critical finding* means a finding which is justified or partially justified or a recommendation which requests remedial action by an agency.

*Finding* means the determination made by the ombudsman about an allegation.

*Grievance* means a complaint against the ombudsman or a member of the ombudsman's staff.

*Investigation* means a formal inquiry about a complaint and will result in notice of allegation(s), a written report detailing the evidence considered, finding(s) and recommendation(s) made to the agency by the ombudsman and the agency's response.

*municipality and municipal* mean the municipality of Anchorage and the Anchorage School District.

*Person* means natural person(s), joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.

*Recommendation* means the action proposed to the agency by the ombudsman intended to resolve the complainant's concern, as well as those of all individuals who may be similarly impacted and to promote higher standards of competency, efficiency and equity in the provision of municipal and Anchorage School District services.

*Record* means all records, documents, books, papers, files, photographs, microfilms, sound recordings, video recordings, magnetic storage media, computer data and all other materials (regardless of physical form, characteristics, or method of storage), created, generated, recorded, received, possessed or controlled by or on behalf of the municipality or any agent of the municipality.

*Standard* means the criterion by which an agency's actions will be evaluated as established in Anchorage Municipal Code subsection 2.60.110C.

(AO No. 77-94; AO No. 89-45; AO No. 92-20; AO No. 2017-40, § 4, 3-21-17; AO No. 2024-25, § 1, 3-5-24)

#### 2.60.030 - Establishment.

The office of ombudsman is established in the legislative branch of the municipality pursuant to Charter Section 4.07.

(AO No. 2017-40, § 4, 3-21-17)

**Charter reference**— Similar provisions, § 4.07.

#### 2.60.040 - Appointment of 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.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.050 - Qualifications of ombudsman; service in elective office; political activities by ombudsman or staff.

A. *Qualifications of ombudsman.* No person may serve as ombudsman:

1. While the person is engaged in any other service for compensation, unless other service for compensation is approved in advance in writing by the chair of the assembly, as the responsible official. The written approval must include a determination that the contemporaneous service is compatible with the proper discharge of the ombudsman's duties and will not adversely affect the person's availability, productivity, or independence of judgment as ombudsman. The assembly chair's approval will be provided to the assembly through an assembly information memorandum.
2. Within one year of the last day on which the person served as an elected official;
3. While the person is a candidate for or holds any national, state or municipal elective office; and
4. Unless the person has been a resident of the municipality for at least one year.

B. Subsequent service by ombudsman in elective office. A person shall not serve in any federal, state or municipal elective office until one year has elapsed from the last day on which the person served as the ombudsman.

C. *Political activities.* The ombudsman and any permanent office staff may not actively participate in any municipal election campaign and shall not make political contributions to assembly, school board or mayoral candidates. Members of the ombudsman's office shall not be prohibited from expressing private opinions, registering as to political party affiliation, serving as a delegate to party conventions, or voting.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.060 - Term of office of ombudsman.

The term of office of the ombudsman shall be four years, ending on December 31, effective with appointment to the term beginning January 1, 2019.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.070 - Removal of ombudsman.

During the term of office, the ombudsman may be removed from office only by a majority vote of the assembly.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.080 - Staff; delegation of duties.

- A. The ombudsman may appoint an assistant or deputy. The ombudsman may also appoint other personnel including an associate ombudsman, necessary to carry out the provisions of this chapter, when in keeping with the assembly-adopted budget for the ombudsman's office.
- B. The assistant, associate ombudsman, or deputy ombudsman shall succeed to all duties and responsibilities of the ombudsman pursuant to delegation in writing by the ombudsman.
- C. The ombudsman and staff shall be classified in accordance with the provisions of the personnel rules relating to assembly-appointed classifications.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.090 - Compensation of ombudsman and staff.

- A. The ombudsman's salary shall be set annually by the assembly. Except as a department-wide revision to salaries within the assembly department and approved by majority vote of the assembly, the ombudsman's salary may not be reduced during the ombudsman's term.
- B. The salary and benefits of the ombudsman and staff shall accrue according to the effective personnel rules of the municipality.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.100 - 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 to the mayor for informational purposes to assist in the preparation of the municipal budget.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.110 - Jurisdiction.

- A. The ombudsman may investigate the administrative acts of employees and agents of the municipality.
- B. The ombudsman may investigate the administrative act of an employee or agent of the municipality on the ombudsman's own motion if the ombudsman 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, an abuse of authority, 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;
  7. Otherwise erroneous; or
  8. A matter of public concern which has failed to be or could not be addressed by other means.
- D. The ombudsman shall be barred from inquiry into acts of the Mayor, the assembly or the school board.
- E. The ombudsman may decline jurisdiction as described in other sections of this chapter.

(AO No. 77-94; AO No. 91-173(S); AO No. 92-20; AO No. 2015-23(S), § 3, 3-24-15; AO No. 2017-40, § 4, 3-21-17; AO No. 2024-25, § 2, 3-5-24)

#### 2.60.115 - Complaints.

- A. Any person may contact the ombudsman by phone, letter, email, fax, in person, or by other means made available to the public by the ombudsman's office.
- B. When possible, complaints will be reviewed for resolution through informal discussion with the complainant, review of agency action and consultation with all sides of a disputed action. If no basis for the complaint is discovered upon preliminary review, the complaint will be closed.
- C. The ombudsman will review and investigate complaints substantially in order of the date received. When the resources of the office do not allow review of all complaints within a reasonable time, the ombudsman may prioritize reviews according to, without limitation, these considerations:
1. Complaints of an emergency nature requiring immediate review to prevent serious harm;
  2. Complaints involving time constraints, such as pending administrative or legislative action or public hearings;
  3. Complaints involving recurring systematic prejudice, harm, or disadvantage as the result of administrative action or decision.
- D. No fees shall be charged for the submission, investigation or pursuit of complaints.
- E. Complaints alleging serious personal improprieties or conduct shall be filed in writing, particularly when the complaint, if found justified, could lead to disciplinary action against an employee.
- F. The ombudsman may establish additional office procedures for receiving and processing complaints, conducting investigations and reporting findings.

2.60.120 - Investigation of complaints.

- A. At the discretion of the ombudsman, a complaint may be formally investigated to obtain information sufficient to allow a determination on the merits of the complaint.
- B. Staff of the ombudsman's office may interview the complainant, municipal employees and officials; review municipal practices and procedures; review and copy records; research ordinances, statutes, regulations; and utilize any information the ombudsman deems relevant to assist in the ombudsman's determination on the merits.
- C. The ombudsman may examine, under oath, persons believed to have information relevant to the investigation. Testimony or production of documents may be compelled by subpoena.
- D. Notice of investigation, including a written statement of the complaint in general terms, will be provided to the municipal office or person against whom a complaint is made.
- E. During the course of an investigation, if information is exchanged which leads to satisfactory resolution for the complainant, the investigation may be discontinued.
- F. A preliminary investigation report containing proposed findings and recommendations may be presented to the agency at the termination of the investigation. When the report is critical of an agency, consultation in accordance with subsection 2.60.140.C. is required. The preliminary report will be distributed to agency personnel designated by the ombudsman. The report may be modified, at the discretion of the ombudsman, if additional information is provided by the agency or modifications are requested.
- G. The ombudsman will make a written finding based on the evidence obtained during the investigation, that the complaint or allegation is:
  - 1. Justified, if the ombudsman determines or believes the complainant's criticism is valid;
  - 2. Partially justified, if the ombudsman determines or believes that the complaint is justified and action or inaction by the complainant affected the outcome; or constraints of law, policy or procedure limited agency response; or only a portion of the complainant's criticism is valid;
  - 3. Not supported, if the ombudsman determines or believes the complainant's criticism is not valid; or
  - 4. Indeterminate, if investigation does not provide sufficient evidence for the ombudsman to determine conclusively whether the complainant's criticism is valid or not valid.
- H. When the ombudsman presents findings or recommendations to an agency, official or employee, seeking resolution to a complaint, the agency will accept the findings and recommendations or request modifications and notify the ombudsman of any action taken on the recommendations within 30 days.
- I.

The final investigation report is a public document and may be noticed to the public by an assembly Information Memorandum. The final investigation report will be distributed to the complainant and appropriate government officials.

- J. A complainant may request a report on the status of the investigation and the ombudsman will provide a status report on the complaint within a reasonable time after receipt of the request, not to exceed five business days.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.125 - Decline of jurisdiction; cease investigation.

- A. The ombudsman may decline review and investigation, or cease investigation of a complaint, when the ombudsman determines any of the following in writing:
  - 1. The agency action complained about may be more appropriately resolved by hearing or appeal for which the complainant may make timely application;
  - 2. The complaint relates to an action which the complainant has known about for more than a year before filing the complaint;
  - 3. The complaint involves the grievance of an employee covered by a collective bargaining agreement, if the agreement provides a method for settling disputes arising under the agreement.
  - 4. The resources of the ombudsman's office are insufficient for adequate investigation.
  - 5. The matter has been brought to the courts for resolution or is the subject of a criminal investigation or prosecution, and the ombudsman determines that investigation is not in best interests of the municipality.
- B. The ombudsman shall decline to review or investigate, and shall cease investigation, upon written determination by the ombudsman that any of the following factors apply:
  - 1. The ombudsman lacks jurisdiction;
  - 2. The complainant has not given the agency an opportunity to resolve the complaint;
  - 3. Disclosure of the complainant's identity is necessary to enable investigation of the complaint and the complainant refuses to allow such disclosure;
  - 4. It appears an applicable law or administrative procedure provided an adequate remedy which the complainant did not pursue, with no reasonable justification for the failure to do so;
  - 5. The complaint is presented anonymously and the ombudsman does not initiate investigation on the ombudsman's own motion;
  - 6. The subject of the complaint was recently investigated, the complaint presents no new issue, and the ombudsman believes that further investigation would not advance the interests of the complainant or a significant public interest;

7. The information provided by the complainant provides no specific or credible evidence to indicate an investigation is warranted; or
8. The complainant has no tangible personal stake in the outcome and the investigation would not advance a significant public interest.

(AO No. 2017-40, § 4, 3-21-17; AO No. 2024-25, § 3, 3-5-24)

#### 2.60.130 - 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 the ombudsman 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 the ombudsman's office 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.
3. Any other provisions of law notwithstanding, have access to and examine and copy, without payment of a fee, any municipal or agency records, including records which are confidential by law, subject to applicable state or federal laws. The ombudsman shall not have access to legally privileged records held by the municipal attorney, legal counsel for any municipal department or other authority, or attorney-client records held by clients of the municipal attorney or other legal counsel to the municipality. The ombudsman shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure. The same access in the foregoing applies to personnel files, human resources department records, or any other records which are confidential by law but they may not be copied or removed.

B. Subject to the privileges which witnesses have in courts of this state, the ombudsman may:

1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the ombudsman reasonably believes may be able 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 subsection 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.



2.60.135 - Conflict of interest.

- A. If, during the review or investigation of a complaint, the ombudsman determines in writing that response by the ombudsman or ombudsman's staff could present a conflict of interest or significant risk to the public trust based on the appearance of a conflict of interest, the ombudsman will promptly transfer the complaint to another staff member.
- B. Any conflict of interest or significant risk to the public trust based on the appearance of a conflict of interest by the ombudsman will be disclosed to the agency and the complainant. The ombudsman may, at the ombudsman's discretion, review and present findings and recommendations for a complaint transferred to another under this section. (AO No. 2017-40, § 4, 3-21-17)

2.60.140 - 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 concerning the municipality, the ombudsman may bring the matter to the attention of a department head, the municipal manager, the mayor, the assembly or the public.
- C. Except in cases warranting referral to law enforcement or prosecutorial authorities, before offering a report or recommendation which is critical of a department or person, the ombudsman shall consult with that department or person and give them an opportunity to reply. Any report or recommendations provided to a department or person under this section remains confidential and may not be disclosed to the public by that department or person. In presenting the final report or recommendation, the ombudsman shall include any reply made by the department or person.
- D. The ombudsman may require a department to notify the ombudsman within a reasonable specified time of any action taken on the recommendation.

2.60.145 - Confidentiality.

- A. The ombudsman shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the ombudsman except insofar as disclosures may be necessary to enable the ombudsman to carry out duties and to support recommendations, or with the consent of the complainant or witness. However, the ombudsman may not disclose a confidential record obtained from an agency.

- B. Voluntary disclosure by an agency to the ombudsman under this chapter of a communication that is subject to the attorney-client privilege, or attorney work-product privilege, does not waive the privilege as to any other person.
- C. Records provided to the ombudsman which are accorded confidential or privileged status under municipal, state or federal law shall not be disclosed by the ombudsman, unless the communication is evidence of an act that the ombudsman reasonably believes is criminal.

(AO No. 2017-40, § 4, 3-21-17; AO No. 2023-27, § 1, 3-21-23)

#### 2.60.150 - Notice to complainants.

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.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.155 - Notice to the public.

- A. The ombudsman shall provide printed notices and other appropriate signage to inform the public of rights and protections under this chapter. The operating agents of all buildings owned or leased by the municipality or the school district will ensure the ombudsman's notices are posted in public areas of all buildings under the control of the municipality or the school district. Nothing in this section is to be construed as repealing any other provisions of contract, ordinance or law.
- B. The ombudsman may use social media and electronic notices.

(AO No. 92-106; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.160 - Reports.

The ombudsman shall submit to the assembly and the school board a report on the activities of the ombudsman's office at least once a year.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17)

#### 2.60.165 - Grievance against the ombudsman.

- A. Grounds for grievance against the ombudsman are:
  - 1. Objection to a decision to decline or discontinue a review or investigation;
  - 2. An allegation of undue delay in the review or investigation of a complaint;
  - 3. A specification of error or omission in the review or investigation of a complaint; or
  - 4. An allegation of discourteous behavior by a member of the staff of the ombudsman's office during the course of an investigation.

- B. Any person may file a grievance against the ombudsman under this section within 45 days of the ombudsman declining, discontinuing or closing a review or investigation. The grievance must be filed in writing to the ombudsman, stating the grounds for grievance, and identifying specifics of the aggrieved person's concerns.
- C. The ombudsman will respond in writing to the aggrieved person within 15 days after receipt of the grievance. If the information necessary to respond to the grievance is not readily available to the ombudsman, the period for response may be extended in 15-day intervals at the discretion of the ombudsman. Notice of any extension and the supporting reason(s) shall be provided in writing to the aggrieved person.
- D. A copy of the grievance and the ombudsman's response will be maintained for five years in a file that is open to public inspection. The ombudsman's annual report to the assembly for the year in which the grievance was filed will include reference to the grievance.
- E. When a grievance is received which involves a complaint that is under current review or investigation, or reveals confidential or privileged information, the grievance and response will be available for public inspection only after the review or investigation is completed, and confidential information has been expunged.
- F. To the fullest extent provided by state law, a civil action for damages may not be brought against the municipality, ombudsman, or a member of the ombudsman's staff based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty by the office of the ombudsman.
- G. Notwithstanding section 1.50.010, the municipality shall defend, indemnify, and hold harmless the ombudsman and the ombudsman's staff in an individual capacity against any claim filed in a civil or administrative action based upon any conduct, act or omission of the ombudsman's office. The municipality may only decline indemnification of the ombudsman upon concurrence of both the risk manager and the assembly counsel.

(AO No. 2017-40, § 4, 3-21-17; AO No. 2023-27, § 1, 3-21-23; AO No. 2024-25, § 4, 3-5-24)

#### 2.60.170 - Misconduct by municipal personnel.

If the ombudsman believes there is a breach of duty or misconduct by an officer or employee of the municipality within the course and scope of the officer's or employee's official duties, the ombudsman may refer the matter to the appropriate department head, to the mayor, to the board of ethics, or, when appropriate, to the municipal prosecutor, district attorney, or any other agency.

(AO No. 77-94; AO No. 2017-40, § 4, 3-21-17; AO No. 2023-27, § 1, 3-21-23)

#### 2.60.180 - Interference with ombudsman or staff.

A person who willfully hinders the lawful actions of the ombudsman or staff, or who willfully refuses to cooperate, is subject to a civil penalty as set forth in section 14.60.030 or, if such violation is not listed in the fine schedule set forth in section 14.60.030, a civil penalty as set forth in section 1.45.010. This section shall not be construed so as to require administrative officials to implement the ombudsman's recommendations for resolving complaints.

(AO No. 77-94; AO No. 93-167(S-1), § 4, 4-13-94; AO No. 2014-42, § 34, 6-21-14; AO No. 2017-40, § 4, 3-21-17)

2.60.190 - Ombudsman's privilege not to testify or disclose documents.

- A. The ombudsman and staff of the ombudsman may not testify or be deposed in a judicial or administrative proceeding regarding matters coming to their attention in the exercise of their official duties, except as may be necessary to enforce the provisions of this chapter.
- B. The records of the ombudsman and staff of the ombudsman, including notes, drafts, and records obtained from an individual or agency during intake, review, or investigation of a complaint, and any reports not released to the public in accordance with the sections 2.60.140, 2.60.155, are not subject to disclosure or production in response to a subpoena or discovery in a judicial or administrative proceeding, except as the ombudsman determines may be necessary to enforce the provisions of this chapter. Disclosure by the ombudsman is subject to the restrictions on disclosure in sections 2.60.140—2.60.155.

(AO No. 2023-27, § 1, 3-21-23)