

Authority: Executive Committee Item 10.10,  
as adopted by City of Toronto Council on October 22 and 23, 2007  
Enacted by Council: April 29, 2008

## **CITY OF TORONTO**

### **BY-LAW No. 353-2008**

**To amend City of Toronto Municipal Code Chapter 169, Officials, City, by adding a new Article XIII, Ombudsperson, to establish the position of Ombudsperson and to delineate certain duties and responsibilities of the Ombudsperson.**

WHEREAS City Council is required to establish the position of Ombudsperson and to delineate certain duties and responsibilities of the Ombudsperson;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The City of Toronto Municipal Code is amended by adding the following as Article XIII, Ombudsperson, to Chapter 169, Officials, City.

#### **§ 169-50. Definitions.**

As used in this article the following terms shall have the meanings indicated:

**LOCAL BOARD (RESTRICTED DEFINITION)** — The same meaning as defined in section 156 of the *City of Toronto Act, 2006*.

**CITY CONTROLLED CORPORATION** — The same meaning as defined in section 156 of the *City of Toronto Act, 2006*.

#### **§ 169-51. Independence.**

The Ombudsperson is appointed by City Council and is independent of the City administration.

#### **§ 169-52. Appointment; terms of employment.**

The Ombudsperson shall be:

- A. Appointed by a 2/3 majority vote of all members of Council.
- B. Appointed for a 5 year term renewable for one additional term of 5 years.
- C. Subject to removal for cause by a 2/3 majority vote of all members of Council.

#### **§ 169-53. Responsibilities.**

The Ombudsperson is responsible for:

- A. Carriage and control of the Ombudsperson's Office, including financial and human resources, and determining procedures related to the function.

- B. Investigating public complaints about decisions, actions or recommendations made or omitted in the course of implementing City policies and administering City services.
- C. Preparation of an annual public report on the activities of the office directly to City Council.
- D. Reporting to Council on a case by case basis at any time the Ombudsperson deems appropriate.

**§ 169-54. Jurisdiction.**

The Ombudsperson may investigate any matter where the Ombudsperson believes on reasonable grounds that a person has been adversely affected in a personal capacity by a decision, recommendation, act or omission made in the course of implementing City policies and administering City services by:

- A. A City division.
- B. A contracted service provider.
- C. A Local Board (restricted definition).
- D. A City controlled corporation identified by Council.

**§ 169-55. Limitation to jurisdiction.**

Despite § 169-54, the Ombudsperson's jurisdiction does not include City Council and its legislative committees.

**§ 169-56. Investigative procedures; complaint initiation.**

- A. The Ombudsperson may investigate:
  - (1) In accordance with this article.
  - (2) At the request of City Council.
  - (3) On the Ombudsperson's initiative.

**§ 169-57. Complaint procedures.**

Any person requiring the intervention of the Ombudsperson shall submit the following information to the satisfaction of the Ombudsperson:

- A. Name, address and telephone number.
- B. A detailed description of the complaint.

- C. Facts in support of the complaint.
- D. Such other information or documentation as the Ombudsperson may require.

**§ 169-58. Right to refuse.**

- A. The Ombudsperson may refuse to investigate a complaint or to continue an investigation of a complaint when the Ombudsperson believes on reasonable grounds that:
  - (1) The complainant has not availed him or herself of other adequate remedies under the law or existing administrative practices.
  - (2) The subject matter of the complaint is trivial.
  - (3) The complaint is frivolous, vexatious or not made in good faith.
  - (4) The complainant cannot demonstrate sufficient personal interest in the subject matter of the complaint.
  - (5) Having regard to all of the circumstances of the case, no further investigation is necessary.
  - (6) More than one year has elapsed since the complainant learned of the facts on which the complaint is based, unless the complainant establishes exceptional circumstances that justify the delay to the satisfaction of the Ombudsperson.
- B. If the Ombudsperson determines not to investigate, or to discontinue an investigation, the Ombudsperson shall inform the complainant in writing of the decision and the reasons for the decision.

**§ 169-59. Notification of complaint.**

Prior to commencing an investigation the Ombudsperson shall:

- A. Notify the affected parties.
- B. Allow the affected parties to be heard.
- C. Provide the affected parties with an opportunity to rectify.

**§ 169-60. Investigation Criteria.**

In determining whether to investigate the Ombudsperson shall have regard to whether the decision, recommendation, act or omission in question was:

- A. Contrary to law.
- B. Unreasonable, unjust, oppressive or discriminatory.

- C. Based wholly or partly on a mistake of law or fact.
- D. Based on the improper exercise of a discretionary power.

**§ 169-61. Procedures after an Investigation.**

Upon completion of an investigation the Ombudsperson shall:

- A. Inform the complainant in writing of the results of the investigation.
- B. Inform the affected parties in writing of the results of the investigation.
- C. Recommend any measures the Ombudsperson deems necessary to rectify the matter.

**§ 169-62. Annual External audit.**

- A. There shall be an annual external attest audit of the accounts and financial transactions of the Ombudsperson's office.
- B. The annual external attest audit of the Ombudsperson's office shall not be carried out by the external auditors appointed to audit the financial statements of the City and its agencies, boards and commissions.

**§ 169-63. Conflicting provisions.**

Where this article conflicts with the provisions of any other by-law setting out the powers and duties of a municipal official, this article prevails to the extent of the conflict.

**§ 169-64. Two-thirds majority vote required.**

This article shall not be amended or repealed except by a two-thirds majority of all members of Council.

- 2. Article I, City Manager, Chapter 169, Officials, City, § 169-7, Exception, is amended by adding subsections A and B so that it now reads:

Despite § 169-6 the City Manager shall not recommend the appointment and dismissal of:

- A. The Auditor General.
- B. The Ombudsperson.

- 3.** Chapter 169, Article XIII, General, is re-numbered as Article XIV and §§ 169-50 through § 169-53 of the former Article XIII are re-numbered as §§ 169-65 through 169-68.

ENACTED AND PASSED this 29th day of April, A.D. 2008.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)