

# **POWERS OF INVESTIGATION AND INTERVENTION**

**CM-2019-100**

## **CONSTITUTION OF THE OMBUDSMAN FUNCTION**

**WHEREAS** Ville de Gatineau has had an ombudsman since 2006;

**WHEREAS** Ville de Gatineau deems the role of an ombudsman important;

**WHEREAS** Ville de Gatineau wishes to maintain this service to remain responsive to its population;

**WHEREAS** article 573.15 of the Cities and Towns Act (RSQ, ch. C-19) provides that the municipal council may, via a resolution approved by the two-thirds majority of its members, appoint a person to act as an ombudsman for Ville de Gatineau;

**WHEREAS** article 573.15 stipulates that the municipal council may, in addition to what is provided in articles 573.14 to 573.20 of this act, determine via resolution the period of office, as well as the rights, authorities and duties of the Bureau de l'ombudsman:

**IT IS PROPOSED BY COUNCILLOR DANIEL CHAMPAGNE,**

**SUPPORTED BY COUNCILLOR RENÉE AMYOT**

**AND RESOLVED THAT** this council agrees to replace resolution # CM-2006-802 of September 19, 2006, to set the rules pertaining to the ombudsman function as follows:

### **Appointment and Replacement**

1. The council appoints, via a resolution approved by the two-thirds majority of its members, a person to act as an ombudsman and sets their salary. This person reports to the council;
2. The ombudsman is appointed for a three-year term. This term can be renewed only once, via a resolution approved by the two-thirds majority of council members. The ombudsman remains in office until term renewal or replacement, for a maximum period of three months following the end of the term;
3. At any time, the ombudsman may resign by giving a written notice to the council.
4. He can only be removed based on a decision made by the council via a resolution approved by a two-thirds majority of its members;

5. The following people cannot act as ombudsman:
  - a) A council member or his or her political advisor;
  - b) A first-degree family member or partner of a member included in paragraph a);
  - c) A person who, personally or through his or her partner, has a direct or indirect interest in a contract with the City, a paramunicipal agency or a firm controlled by the City;
  - d) A person in a situation that has the potential to cause a conflict between his or her personal interest or that of his or her relatives, on the one hand, and the duties of office, on the other hand;

6. Every year, the council sets aside, in the City's budget, the amounts necessary to operate the Bureau de l'ombudsman.

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### **Responsibilities**

7. The ombudsman may implement operating and internal governance rules for his office;
8. The ombudsman is responsible for the management of human, material and financial resources allocated to his duties;
9. Every year, the ombudsman has to table before the council, by April 30, a written report on the performance of his duties for the previous year. This report becomes public after it is tabled before the council;
10. The ombudsman has to fulfil his role with consideration and gives up any activity deemed incompatible with the performance of his duties;
11. The ombudsman takes part in the efforts to improve the quality of municipal services, in the interest of all city residents;
12. The ombudsman bases his decisions on values that prioritize respect for the rights of residents. The following values guide the actions and behaviour of the ombudsman at all times:
  - a) Independence: the ombudsman is free to intervene or conduct an investigation if he deems it necessary and, as part of this investigation, no outside pressure is exerted upon him. The ombudsman enjoys an autonomy of action and is independent from the municipal administration;
  - b) Impartiality and neutrality: the ombudsman represents neither the complainant, nor the City. He acts according to the principles of natural justice;

- c) Accessibility: the ombudsman offers a service which is accessible to all, known, free and without intermediaries;
- d) Effectiveness: the ombudsman benefits from vast investigative powers, and municipal representatives must cooperate;
- e) Credibility: the ombudsman's credibility stems from his personal qualities and expertise. The ombudsman must be credible for the municipal administration and residents alike;
- f) Accountability: the ombudsman is solely responsible for his actions, investigations and recommendations;
- g) Privacy: the ombudsman protects the information received as part of his duties;

13. The ombudsman must divulge any personal conflict of interest, whether potential or apparent, financial or other, as well as that of his relatives, which may have an impact on a case or on the duties related to the position;

14. The ombudsman agrees to work exclusively for the benefit of the City and to dedicate all of his working hours, skills and attention to the performance of his duties. He also agrees to act ethically and diligently.

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### **Intervention and investigative powers**

15. The ombudsman intervenes whenever he has reasonable motives to believe that a person or group of persons is being harmed. The passage of time does not constitute, on its own, a reasonable motive to believe that actual harm is being committed.

The ombudsman intervenes on his own initiative or at the request of another person. He may intervene at the request of residents or groups of residents, the mayor, the municipal council or the executive council. He gives priority to the interventions initiated at the request of a person.

He may intervene or investigate on any matter concerning a decision, recommendation, action or omission by the City or its officials or employees.

He may also intervene or investigate on any matter concerning an act or omission by a person performing duties on behalf of the City;

16. The ombudsman cannot intervene or investigate on decisions, recommendations, actions or omissions of any kind:

- a) By the city council or any of its committees or commissions, the executive committee or one of its committees;
- b) By any person, as part of work relations with the person or group whose interests would be affected by the intervention;
- c) By an elected official, member of the mayor's office or councillors' staff;
- d) By a peace officer from the Service de police de la Ville de Gatineau;
- e) By the Société de transport de l'Outaouais or one of its employees.

Also, he cannot intervene or investigate on a private conflict between residents or on a decision rendered by a court or organization or a person performing judicial, quasi-judicial or jurisdictional duties. Additionally, he cannot intervene or investigate on a litigated matter;

17. The ombudsman cannot intervene or investigate on a complaint made by a resident who does not show, to his satisfaction, that he exhausted the normal administrative recourses to resolve the situation. He can also suspend an intervention or investigation once he deems the complaint frivolous, vexatious or not made in good faith;

18. The ombudsman cannot intervene or investigate when more than a year has passed without the person or group and the City having advanced the case in any way, unless this person or group demonstrates, to the satisfaction of the ombudsman, that extraordinary circumstances justified this delay

19. The ombudsman must refuse to intervene or investigate regarding any complaint that could place him in a conflict of interest.

In such a case, the ombudsman informs the council which, solely for the purpose of this complaint, appoints a replacement for the ombudsman and sets the salary;

20. The ombudsman can refuse to intervene or investigate. When he decides not to intervene or investigate, or to suspend an intervention or investigation, the ombudsman must share his decision with the complainant in writing. This decision must be justified.

In any case, the ombudsman must inform the complainant, if applicable, of the complaint's admissibility or inadmissibility within a maximum of 30 days;

21. When he decides to intervene or investigate, the ombudsman must advise the City's director general in writing and, as the case may be, the director of the city's department or the person concerned in the third paragraph of article 15.

He must ask the person who committed the act or omission or the person mentioned in the first paragraph to be heard and allow this person, if deemed relevant, to remedy the situation. All the ombudsman's interventions are conducted in private;

22. Anyone requesting an intervention by the ombudsman must:

- a) Provide their last name, first name, address, phone number and those of every person included in his request, if known;
- b) Explain the facts justifying the request;
- c) Provide the ombudsman with any other information or document deemed necessary to process the request;

23. During the intervention or investigation, the ombudsman or office employee appointed in writing to this end is entitled to review and make copies of all files and records and any other document deemed relevant. He is entitled to require from all persons information, reports and explanations deemed necessary to perform his duties;

24. The ombudsman may also invite any other person who could provide relevant information to be heard and take any other appropriate means to obtain the information necessary or useful to the intervention or investigation;

25. The ombudsman, if deemed necessary to process a complaint and at his entire discretion, may contract the services of experts to assist with case processing. The fees of these experts, if applicable, must be paid with the budget appropriations for this purpose;

26. As part of his duties, the ombudsman looks for just and viable solutions, in an effort to improve the City's processes, in the interest of the entire population;

27. After his intervention or investigation, the ombudsman shares the results, in writing, with the complainant and the persons mentioned in the first paragraph of article 21;

28. Following an intervention or investigation, the ombudsman may recommend any action deemed appropriate;

29. When making a recommendation, the ombudsman may require from one of the persons mentioned in the first paragraph of article 21 a report on the actions taken or proposed to follow up on the recommendation. The recommendation must be addressed to Direction générale, which must confirm receipt within 10 days of the recommendation being tabled and mention the timeframe required to respond to this recommendation, in order to allow some time to consult all departments and/or external organizations involved in the recommendation tabled by the ombudsman.

If a positive response is not obtained within the timeframe established by Direction générale, the ombudsman, as appropriate, can inform the council or executive committee. He can also explain the situation in the annual report or, exceptionally, if the situation warrants it, in a special report;

30. When he deems this in the best interest of the public, the ombudsman may publicly comment on a report he previously tabled before the council. However, the ombudsman must show restraint at all times and abstain from making any statements incompatible with his mission.

### **Privacy**

31. The ombudsman, his employees and any experts he retains must respect the confidential nature of any information brought to their attention in the performance of their duties.

Since the City is subject to An Act respecting access to documents held by public bodies and the protection of personal information, the ombudsman cannot make available for consultation and/or forward copies of the documents he received to process his interventions or investigations.

...6 I, the undersigned, Me Suzanne Ouellet, clerk for Ville de Gatineau, hereby certify that the preceding excerpt is compliant. The clerk, Me Suzanne Ouellet

The president is calling for a vote on the main resolution:

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FOR	AGAINST	ABSENT
Mrs. Audrey Bureau	Mrs. Louise Boudrias	Mrs. Nathalie Lemieux
Mr. Gilles Chagnon		Mr. Marc Carrière
Mr. Mike Duggan		
Mrs. Maude Marquis-Bissonnette	Mr. Jocelyn Blondin	
Mrs. Isabelle N. Miron	Mr. Cédric Tessier	Mrs. Renée Amyot
Mr. Daniel Champagne		
Mr. Mayor Maxime Pedneaud-Jobin	Mrs. Myriam Nadeau	
Mr. Gilles Carpentier		
Mr. Pierre Lanthier		
Mr. Jean-François LeBlanc	Mr. Jean Lessard	
Mr. Martin Lajeunesse		

The president declares the main resolution passed.

Agreed to on division