



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

CITY OMBUDSMAN AMENDMENT BY- LAW, 2016

**APPROVED BY COUNCIL : 26 OCTOBER 2016
C11/10/16**

**PROMULGATED 10 FEBRUARY 2017
PG 7729; LA 54392**

CITY OF CAPE TOWN
AMENDMENT TO THE OMBUDSMAN BY-LAW, 2015

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from the existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

To amend the provisions of the City of Cape Town: Ombudsman By-law, 2015, so as to bring the appointment procedures in line with Council procedures and the provisions of the Municipal Systems Act, 2000, and to provide for matters connected therewith.

BE IT ENACTED by the Council of the City of Cape Town, as follows: -

Amendment of section 3 of the City of Cape Town: City Ombudsman By-law, 2015

1. Section 3 of the City of Cape Town: City Ombudsman By-law, 2015, herein after referred to as the principal By-law, is hereby amended –
 - (a) by the substitution for subsection (1) of the following subsection:

“(1) The Office of the City Ombudsman **[must]**:

 - (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.”
 - (b) by the substitution for subsection 2 of the following subsection:

“(2) The Council, its political structures and the administration must **[not interfere with the]** facilitate the unhindered functioning of the Office of the City Ombudsman.”

Substitution of section 5 of the principal By-law

2. The following section is hereby substituted for section 5 of the principal By-law:

[5. (1) Council must place an advertisement in at least three (3) newspapers, in the three official languages, for the position of the City Ombudsman.

 - (a) **Council must establish an ad hoc committee, proportionally composed of members of all parties represented in the Council, to conduct the shortlisting and interviewing stages of the appointment.**

- (b) The ad hoc committee must recommend three candidates who comply with section 5(3) to Council.
- (c) Council must recommend the preferred candidate to the Executive Mayor by way of a resolution adopted with a supporting vote of a majority of the members of the Council.
- (2) The Executive Mayor, on recommendation of the Council, must appoint the preferred candidate who must be suitably qualified to serve as Ombudsman for the City in terms of section 5(3) of this bylaw.
- (3) 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 specialised knowledge of or experience, for a cumulative period of at least 10 (ten) years, in the administration of justice, public administration, public finance or legal field;
- or
- (d) for a cumulative period of at least 10 (ten) years, have been in the employment of a municipality or International Ombudsman Institute or International Ombudsman Association;
- or
- (e) have acquired any combination of experience mentioned in paragraphs (c) and (d), for a cumulative period of at least 10 (ten) years.
- (4) The City Ombudsman will be appointed for a period of 5 (five) years.
- (5) A person may be re-appointed to the position of City Ombudsman, provided that no more than two consecutive terms are served.]
- “5. (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.”

Short title

3. This By-law is called the City of Cape Town: City Ombudsman Amendment By-law, 2016.

STAD KAAPSTAD
WYSIGING VAN DIE VERORDENING OP DIE STADSOMBUDSMAN, 2015

ALGEMENE VERDUIDELIKENDE AANTEKENING:

- [] Woorde in vetdruk tussen vierkantige hake dui skappings uit bestaande verordening aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordening aan.

Om die bepalings van die Stad Kaapstad: Verordening op die Stadsombudsman, 2015, te wysig om die aanstellingsprosedures in ooreenstemming te bring met die Raad se prosedures en die bepalings van die Wet op Munisipale Stelsels, 2000, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

HIERMEE WORD soos volg deur die Raad van die Stad Kaapstad VERORDEN:

Wysiging van artikel 3 van die Stad Kaapstad: Verordening op die Stadsombudsman, 2015

1. Artikel 3 van die Stad Kaapstad: Verordening op die Stadsombudsman, 2015, hierna die hoofverordening genoem, word hiermee gewysig –

- (a) deur subartikel (1) soos volg te wysig:

“(1) Die kantoor van die stadsombudsman **[moet]**:

- (a) kan 'n lid wees van die Internasionale Ombudsman-instituut of Internasionale Ombudsman-vereniging of verwante liggame;
- (b) moet te alle tye onpartydig wees en sy bevoegdhede en funksies uitoefen en pligte vervul sonder vrees, begunstiging of vooroordeel.”

- (b) deur subartikel (2) met die volgende subartikel te vervang:

“(2) Die Raad, sy politieke strukture en die administrasie moet **[nie met]** die ongehinderde funksionering van die kantoor van die stadsombudsman **[inmeng nie]** moontlik maak.”

Vervanging van artikel 5 van die hoofverordening

2. Artikel 5 van die hoofverordening word hiermee met die volgende artikel vervang:

[5. (1) Die Raad moet 'n advertensie vir die pos van die stadsombudsman in minstens drie (3) koerante in die drie amptelike tale plaas.

- (a) Die Raad moet 'n ad hoc-komitee stig wat proporsioneel bestaan uit lede van al die partye wat in die Raad verteenwoordig word, om die kortlys- en onderhoudstadiums van die aanstelling uit te voer.**

- (b) Die ad hoc-komitee moet drie kandidate wat aan artikel 5(3) voldoen by die Raad aanbeveel.
- (c) Die Raad moet die voorkeurkandidaat by die Uitvoerende Burgemeester aanbeveel by wyse van 'n besluit wat aanvaar word met 'n ondersteunende stem van 'n meerderheid van die lede van die Raad.
- (2) Die Uitvoerende Burgemeester moet op aanbeveling van die Raad die voorkeurkandidaat, wat geskikte kwalifikasies moet hê, aanstel om as die ombudsman van die Stad ingevolge artikel 5(3) van hierdie verordening te dien.
- (3) Die stadsombudsman moet:
- (a) 'n Suid-Afrikaanse burger wees;
- (b) 'n geskikte en gepaste persoon wees om daardie spesifieke amp te beklee; en
- (c) vir 'n kumulatiewe tydperk van minstens 10 (tien) jaar gespesialiseerde kennis of ondervinding hê van regspleging, openbare administrasie en openbare finansies, of 'n regsagtergrond hê;
- of
- (d) vir 'n kumulatiewe tydperk van minstens 10 (tien) jaar in diens van 'n munisipaliteit of internasionale ombudsman-instituut of internasionale ombudsman-vereniging wees;
- of
- (e) enige kombinasie van ondervinding genoem in paragraaf (c) en (d) vir 'n kumulatiewe tydperk van minstens 10 (tien) jaar hê.
- (4) Die stadsombudsman word vir 'n tydperk van 5 (vyf jaar) aangestel.
- (5) 'n Persoon kan in die pos van stadsombudsman heraangestel word, met dien verstande dat nie meer as twee opeenvolgende ampstermyne gedien word nie.]
- "5. (1) Die aanstelling van die stadsombudsman word in ooreenstemming met die Stad se beleid oor menslike hulpbronne gedoen.
- (2) Die stadsombudsman moet:
- (a) 'n Suid-Afrikaanse burger wees;
- (b) 'n geskikte en gepaste persoon wees om daardie spesifieke amp te beklee; en
- (c) toepaslike vorige ondervinding, geskik vir die amp, hê.
- (3) Die stadsombudsman word vir 'n tydperk van 5 (vyf jaar) aangestel.
- (4) 'n Persoon mag slegs een keer in die amp van stadsombudsman heraangestel word."

Kort titel

3. Hierdie verordening staan bekend as die Stad Kaapstad: Wysigingsverordening op die Stadsombudsman, 2016.

ISIXEKO SASEKAPA

LOMTHETHO KAMASIPALA OLUNGISIWEYO KANOZAKUZAKU WEZIKHALAZO ZOLUNTU WESIXEKO, 2015

INQAKU LENGCACISO JIKELELE:

[] Amagama abhalwe kwizangqa ezisikwere abonisa izinto ezishiyiweyo kumthetho omisiweyo.

_____ Amagama akrwelwe umgca ongqingqwa ngaphantsi abonisa ukuba kukho izinto ezifakelweyo kumthetho omisiweyo.

Ukulungisa imiqathango yoMthetho kaMasipala weSixeko saseKapa: kaNozakuzaku weZikhalazo zoLuntu weSixeko, 2015, ngenjongo yokwenza iinkqubo zengqesho ngokungqinelana neenkqubo zeBhunga nemiqathango yoMthetho olawula iinkqubo zikaMasipala, 2000, kunye nokubonelela ngemibandela enxulumene nayo.

MAKUMISELWE KE NGOKO liBhunga leSixeko saseKapa, ngolu hlobo: -

Ukulungiswa kwecandelo le-3 loMthetho kaMasipala weSixeko saseKapa: kaNozakuzaku weZikhalazo zoLuntu weSixeko, 2015

1. ICandelo le-3 loMthetho kaMasipala weSixeko saseKapa: kaNozakuzaku weZikhalazo zoLuntu weSixeko, 2015, apha ochazwe ngokuba nguMthetho kaMasipala ophambili, ngenxa yoko liyalungiswa –

(a) ngokusebenzisa endaweni yecandelwana (1) eli candelwana lilandelayo:

“(1) I-Ofisi kaNozakuzaku weZikhalazo zoLuntu weSixeko **[kufuneka]**:

(a) ingalilungu leZiko looNozakuzaku beZikhalazo kuMazwe ngaMazwe okanye uMbutho wooNozakuzaku beZikhalazo zoLuntu kwiHlabathi okanye imibutho enxulumene noku.

(b) kufuneka ngalo lonke ixesha, ingakhethi cala kwaye isebenzise amagunya ayo yenze imisebenzi yayo noxanduva lwayo ngaphandle kokoyika, ukukhetha okanye ukuqal’ugwebe.”

(b) ngokusebenzisa endaweni yecandelwana le-2 kweli candelwana lilandelayo:

“(2) IBhunga, izigqeba zalo zezopolitiko nabalawuli balo kufuneka **[bangangeneleli kwi-]** baququzelele ukusebenza okungathintelwayo kwe-Ofisi kaNozakuzaku weZikhalazo zoLuntu weSixeko.”

Ukusetyenziswa endaweni yecandelo le-5 loMthetho kaMasipala ophambili

2. Eli candelo lilandelayo liza kutshintshwa ngecandelo le-5 loMthetho kaMasipala ophambili:

[5. (1) IBhunga kufuneka lifake isibhengezo-ntengiso kumaphepha-ndaba amathathu (3) ubuncinane, ngeelwimi ezintathu ezisemthethweni, sesithuba sikaNozakuzaku weZikhalazo zoLuntu weSixeko.

- (a) IBhunga maliseke ikomiti elungiselelwe iinjongo ezithile, ebandakanya ngokwalameneyo amalungu awo onke amaqela amelweyo kwiBhunga, ukuze iqhube umsebenzi wokukhetha uluhlu lwabaza kuviwa nabaza kudliwano-ndlebe lwesi sithuba sengqesho.
- (b) Ikomiti elungiselelwe imeko ethile kufuneka indulule abagqatswa abathathu abathobela imiqathango yecandelo le-5(3) kwiBhunga.
- (c) IBhunga malindulule umgqatswa okhethiweyo kuSodolophu weSigqeba ngokwesisombululo esamkelwe ngevoti exhasayo yesininzi samalungu eBhunga.

(2) USodolophu weSigqeba, ngokwesindululo esenziwe kwiBhunga, makaqeshe umgqatswa okhethiweyo ekumele ukuba abe neziqinisekiso zemfundo ezifanelekileyo ukuze asebenze njengoNozakuzaku weZikhalazo zoLuntu weSixeko ngokungqinelana necandelo le-5(3) lalo mthetho kamasipala.

(3) UNozakuzaku weZikhalazo zoLuntu weSixeko kufuneka:

- (a) ibe ngummi woMzantsi Afrika;
- (b) ibe ngumntu osempilweni nofanelekileyo ukuba akhokhele la ofisi ikhethekileyo; kwaye
- (c) abe nolwazi olukhethekileyo okanye amava, exesha elivisayo ubuncinane iminyaka eli-10 (elishumi), kulawulo lwezobulungisa, kulawulo lukarhulumente, izimali zikarhulumente okanye kwinkalo yezomthetho; okanye
- (d) ixesha elivisayo ubuncinane iminyaka eli-10 (elishumi), engumsebenzi kamasipala okanye elilungu leZiko loNozakuzaku beZikhalazo kuMazwe ngaMazwe okanye uMbutho woNozakuzaku beZikhalazo kwiHlabathi; okanye
- (e) abe ufumene amava ahlangeneyo akhankanywe kwimihlathi (c) no-(d), ixesha elivisayo ubuncinane iminyaka eli-10 (elishumi).

(4) UNozakuzaku weZikhalazo zoLuntu weSixeko uza kuqeshwa isithuba seminyaka emi-5 (emihlanu).

(5) Umntu unakho ukuqeshwa kwakhona kwesi sikhundla sokuba nguNozakuzaku weZikhalazo zoLuntu weSixeko, ukuba akakasebenzi izihlandlo ezimbini ezilandelelanayo.]

"5. (1) Ukuqeshwa kukaNozakuzaku weZikhalazo zoLuntu weSixeko kuza kwenziwa ngokungqinelana nemigaqo-nkqubo elawula uNcedo lwezaBasebenzi yeSixeko.



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(2) UNozakuzaku weZikhalazo zoLuntu weSixeko kufuneka:

(a) abe ngummi woMzantsi Afrika;

(b) abe ngumntu osempilweni nofanelekileyo ukulawula la ofisi ikhethekileyo; kwaye

(c) abe namava angaphambili afanelekileyo, alungele eso sikhundla.

(3) UNozakuzaku weZikhalazo zoLuntu weSixeko uza kuqeshwa isithuba seminyaka emihlanu.

(4) Umntu unakho ukugeshwa kwakhona kwesi sikhundla sokuba nguNozakuzaku weZikhalazo zoLuntu weSixeko kanye kuphela."

Isihloko esifutshane

3. Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala weSixeko saseKapa: oLungisiweyo kaNozakuzaku weZikhalazo zoLuntu, 2016.