

## Chapter 2-22

### COMMUNITY OMBUDSMAN

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#### **Section 2-22-01 COMMUNITY OMBUDSMAN**

There is hereby created an administrative unit of the City to be known as the Office of Community Ombudsman.

(5930, Added, 07/20/1999)

#### **Section 2-22-02 APPOINTMENT AND REMOVAL OF OMBUDSMAN**

- A) The Community Ombudsman shall be appointed by the Mayor and confirmed by the City Council.
  
- B) The Community Ombudsman may not be removed from office except for misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties. In such cases that warrant removal from office, said removal shall be accomplished only by a resolution adopted in public hearing by either the majority of the full City Council upon recommendation of the Mayor or by a vote of no less than five (5) members of the full City Council; nothing contained herein shall prevent the Council from eliminating the Office of Community Ombudsman by the normal ordinance process which action shall not be considered a removal for cause but simply a change in policy by the City.

(5930, Added, 07/20/1999)

#### **Section 2-22-03 SCOPE**

The Office of Community Ombudsman shall have the authority to exercise its duties and responsibilities, as outlined below, with regard to any and all law enforcement and police activities and law enforcement and police personnel, operating under authority of the City of Boise City.

(6741, Amended, 08/25/2009; 5930, Added, 07/20/1999)

#### **Section 2-22-04 DUTIES AND RESPONSIBILITIES**

- A) Citizen Complaints

Any person may file with the Office of Community Ombudsman a complaint or allegation of wrongdoing against a Boise City law enforcement or police employee. Upon receipt of such complaint or allegation, the Office of Community Ombudsman shall:

- i) Ensure that a timely, thorough, complete, objective and fair investigation into the complaint or allegation is conducted. This investigation may, at the discretion of the Community Ombudsman, be conducted by either the Office of Community Ombudsman, the Boise City Police Department or any other competent investigative agency.
- ii) Provide timely updates on the progress of the investigation to the complainant and the employee who is the subject of the investigation, unless the specific facts of the investigation would prohibit such notification.
- iii) Based on the results of the investigation, reach an independent finding as to the facts. The Community Ombudsman shall assess the conduct of the Boise City law enforcement officer or police employee in light of the facts discovered through the investigation, the law, and the policies and training of the relevant department, and shall further make recommendations for personnel action to be taken. The report of investigation and recommendations shall be given to the relevant Department Director for purpose of discipline and/or commendation when warranted, and for use in the development of the affected law enforcement officer or police employee's formal personnel evaluation. A law enforcement officer, police employee, or citizen may waive their personal privacy right.
- iv) Communicate these findings on a timely basis to the complainant, the employee who is the subject of the investigation, and the Chief of Police or the Director of the other Department.

B) Review of Internal Investigations conducted by Police Department.

The Office of Community Ombudsman shall review internal investigations conducted by Boise City Police to determine if the investigations are complete, thorough, objective and fair.

C) Appeals of Internal Investigation Findings

Any person may file with the Office of Community Ombudsman an appeal of the findings of an internal investigation conducted by the Boise City Police. Upon receipt of such an appeal, the Office of Community Ombudsman shall:

- i) Review the completed investigation.
- ii) Determine whether or not further investigation is warranted and, if necessary, ensure that a timely, thorough, complete, objective and fair follow-up investigation into the complaint or allegation is conducted.

This follow-up investigation may, at the discretion of the Community Ombudsman, be conducted by the Office of Community Ombudsman, the Department involved or any other competent investigative agency.

- iii) Provide timely updates on the progress of the review and any follow-up investigation to the complainant and the employee who was the subject of the original investigation, unless the specific facts of the investigation would prohibit such notification.
- iv) Based on the review of the original investigation and the results of any follow-up investigation (if conducted), reach an independent finding as to the facts. The Community Ombudsman shall assess the conduct of the Boise City law enforcement officer or police employee in light of the facts discovered through the investigation, the law, and the policies and training of the relevant department, and shall further make recommendations for personnel action to be taken. The report of investigation and recommendations shall be given to the relevant Department Director for purpose of discipline and/or commendation when warranted, and for use in the development of the affected law enforcement officer or police employee's formal personnel evaluation. A law enforcement officer, police employee, or citizen may waive their personal privacy right.
- v) Communicate these findings on a timely basis to the person filing the appeal, the employee who was the subject of the original investigation, and the Chief of Police or relevant Department Director.

D) Mediation

The Office of Community Ombudsman shall develop an alternative dispute resolution process for resolving those citizen complaints which involves conduct which may most appropriately be corrected or modified through less formal means.

E) Policy Recommendations

The Office of Community Ombudsman shall develop specific recommendations as to the policies, procedures, practices and training of Boise City police and law enforcement employees. Such recommendations should have as their goal improved professionalism, safety, effectiveness and accountability of Boise City Police and law enforcement employees. The Office of Community Ombudsman may make recommendations to the Chief of Police, Department Directors, the Mayor and/or the City Council as appropriate.

F) Community Outreach

The Office of Community Ombudsman shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of Boise City.

G) Reporting

The Community Ombudsman shall file semi-annual public reports with the City Clerk for transmittal to the City Council and Mayor which shall:

- i) Include a statistical analysis documenting the number of complaints by category, their disposition and any actions taken
- ii) analyze trends and patterns;
- iii) make recommendations, as appropriate.

The reports shall include all complaints received by the Office of Community Ombudsman and Police and other law enforcement activities of the City.

#### H) Critical Incidents

In the event that an employee of the Boise Police Department is involved as a principal, victim, witness or custodial officer, where death or bodily injury results, the Community Ombudsman shall be notified immediately and shall act as an observer to any criminal, administrative or civil investigation conducted by or on behalf of the such Departments.

The Office of Community Ombudsman may also conduct an independent administrative investigation into such a critical incident. The Community Ombudsman shall assess the conduct of the Boise City law enforcement officer or police employee in light of the facts discovered through the investigation, the law, and the policies and training of the relevant department, and shall further make recommendations for personnel action to be taken.

The report of investigation and recommendations shall be given to the relevant Department Director for purpose of discipline and/or commendation when warranted, and for use in the development of the affected law enforcement officer or police employee's formal personnel evaluation. A law enforcement officer, police employee, or citizen may waive their personal privacy right. Critical incidents include but are not limited to situations involving the following:

- i) Use of force or any other Department action that results in death or serious bodily injury. (Serious bodily injury is an injury that results in the subject being admitted to a hospital.)
- ii) Use of Deadly Force where only minor bodily injuries occur.
- iii) Intentional use of Deadly Force but no injury occurs (excluding animals).
- iv) Vehicle pursuits, roadblocks or intercepts resulting in death or serious bodily injury.
- v) Police employee involved in a traffic accident resulting in death or serious bodily injury, while operating a city vehicle or a private vehicle while on City business.

(6741, Amended, 08/25/2009; 6093, Amended, 10/09/2001; 5930, Added, 07/20/1999)

**Section 2-22-05 CONFIDENTIALITY OF RECORDS AND INFORMATION**

The Office of Community Ombudsman shall comply with all state and federal laws requiring the confidentiality of law enforcement records, information, and confidential personnel records; and respect the privacy of all individuals involved.

(5930, Added, 07/20/1999)

**Section 2-22-06 RELATIONSHIP BETWEEN THE OFFICE OF COMMUNITY OMBUDSMAN AND BOISE CITY POLICE AND OTHER DEPARTMENTS**

- A) The Chief of Police and all Department Directors with employees who perform law enforcement duties shall each, jointly with the Community Ombudsman, develop standard operating procedures to govern the relationship and flow of communication and work products between the Office of Community Ombudsman and respective his or her departments.
- B) The Office of Community Ombudsman is to be given full, unrestricted and complete access to any and all information, files, evidence or other material which the Community Ombudsman shall deem necessary in the performance of the duties specified and responsibilities set forth in this chapter.
- C) The Office of Community Ombudsman is to provide the appropriate Chief or Department Director with timely notification of complaints, investigations, appeals and findings and with such information and cooperation as is appropriate and necessary.

(6741, Amended, 0825/2009; 5930, Added, 07/20/1999)

**Section 2-22-07 COOPERATION WITH THE OFFICE OF COMMUNITY OMBUDSMAN**

- A) All City employees shall be required as a condition of their employment to cooperate fully and truthfully with the Office of Community Ombudsman operating within the course and scope of this chapter, by providing the Office of Community Ombudsman with any and all information, evidence, interviews, or other material as requested.
- B) No person shall directly or indirectly force, or by any threats to person or property, or in any manner willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent, another person, including a child, from freely, fully and truthfully cooperating with the Office of Community Ombudsman.

(5930, Added, 07/20/1999)

**Section 2-22-08 INDEPENDENCE OF THE COMMUNITY OMBUDSMAN**

- A) The Community Ombudsman and any employee of the Office of Community Ombudsman shall, at all times, be totally independent. Any investigations, findings, recommendations and requests made by the Office of Community Ombudsman shall reflect the views of the Office of Community Ombudsman alone.
- B) No person shall attempt to unduly influence or undermine the independence of the Community Ombudsman or any employee of the Office of Community Ombudsman in the performance of the duties and responsibilities set forth in this Chapter.

(5930, Added, 07/20/1999)

**Section 2-22-09 FALSE REPORTS**

The Office of Community Ombudsman shall have the discretion to decline further action on a complaint filed with the Office of Community Ombudsman if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew them to be false at the time the complaint was filed.

(5930, Added, 07/20/1999)