

Draft Regulations

Draft Regulation

Police Act
(chapter P-13.1)

Internal discipline of police officers of Ville de Montréal — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the By-law to amend the By-law respecting the internal discipline of police officers of Ville de Montréal, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft By-law updates the disciplinary procedure and introduces a conciliation mechanism. It also updates certain standards of conduct, as well as certain terms and expressions. In addition, the draft By-law entrusts the person in charge of internal affairs with the responsibility for making certain decisions that are currently made by the director of the police department.

The measures proposed in the draft By-law have no impact on enterprises, including small and medium-sized businesses.

Further information on the draft By-law may be obtained by contacting Isabelle Drapeau, police integrity advisor, Direction générale de la sécurité de l'État, Sous-ministériat adjoint des affaires policières, Ministère de la Sécurité publique; email: isabelle.drapeau@msp.gouv.qc.ca.

Any person wishing to comment on the draft By-law is requested to submit written comments within the 45-day period to Éric Drouin, Secretary General, Ministère de la Sécurité publique, Tour des Laurentides, 5^e étage, 2525, boulevard Laurier, Québec (Québec) G1V 2L2; fax: 418 643-3500; email: eric.drouin@msp.gouv.qc.ca.

FRANÇOIS BONNARDEL
Minister of Public Security

By-law to amend the By-law respecting the internal discipline of police officers of Ville de Montréal

Police Act
(chapter P-13.1, s. 257, 2nd par.)

1. The By-law respecting the internal discipline of police officers of Ville de Montréal (chapter P-13.1, r. 2.02) is amended in section 2 by replacing “Police officers” in the first paragraph by “At all times, police officers”.

2. Section 3 is amended by replacing “their superiors” in the first paragraph by “any superior”.

3. Section 5 is amended in the second paragraph

(1) by adding “, subject to the terms and conditions applicable to commissioned officers” at the end of subparagraph 2;

(2) by adding the following subparagraph at the end:

“(12) promptly inform the director in writing of any other function, office or employment they hold, other income they receive from property or a business and any situation that may be incompatible with the performance of their duties.”

4. Section 6 is amended in the second paragraph

(1) by inserting “or cannabis” after “alcoholic beverages” in subparagraph 2;

(2) by inserting “or cannabis” after “smell of alcoholic beverages” in subparagraph 3.

5. Section 7 is amended in subparagraph 6 of the second paragraph

(1) by inserting “, an organization or an association” after “enterprise” in the portion before subparagraph i;

(2) by striking out subparagraph i;

(3) by striking out “in the territory of Ville de Montréal” in subparagraph ii.

6. Section 10 is amended

(1) by replacing “the member of the police management personnel acting as head of the Division des affaires internes et normes professionnelles” in the first paragraph by “the person in charge of internal affairs”;

(2) in the second paragraph

(a) by striking out “other”;

(b) by striking out “également” in the French text;

(c) by replacing “to the head of the Division des affaires internes et normes professionnelles” by “to the person in charge of internal affairs”;

(3) by adding the following paragraph at the end:

“In addition, where the person in charge of internal affairs concludes that a breach of discipline is being committed, is informed or has reasonable grounds for believing that a breach of discipline has been committed or is about to be committed, the person may lodge a complaint against a police officer on his or her own initiative.”

7. Section 11 is amended

(1) by replacing “the head of the Division des affaires internes et normes professionnelles” by “the person in charge of internal affairs”;

(2) by inserting “or lodges one on his or her own initiative” after “a complaint”.

8. The following is inserted after section 11:

“**11.1.** The person in charge of internal affairs may suspend the disciplinary procedure where the police officer concerned by a disciplinary complaint is also the subject of a complaint, investigation or proceeding of a civil, professional ethics, criminal or penal nature before any judicial or quasi-judicial tribunal in connection with the same facts as those of the breach of discipline alleged in the complaint.”

9. Sections 12 and 13 are replaced by the following:

“**12.** The person in charge of internal affairs may, after a preliminary evaluation of the complaint,

(1) dismiss the complaint if it appears frivolous, vexatious, unfounded or made in bad faith;

(2) refer the complaint to conciliation; or

(3) conduct an investigation or assign the case to an investigator for an investigation to be carried out and, if the complaint concerns the director, send the investigation report to the competent authorities of Ville de Montréal.

13. After analyzing the investigation report, the person in charge of internal affairs may

(1) dismiss the complaint if it appears frivolous, vexatious, unfounded, made in bad faith or that the evidence is insufficient;

(2) refer the complaint to conciliation; or

(3) cite the police officer who is the subject of the complaint with a breach of discipline.”

10. Section 14 is amended

(1) by inserting “or the person in charge of internal affairs” after “director”;

(2) by replacing “the member of the police management personnel” by “the commissioned officer”;

(3) by inserting “or by the person in charge of internal affairs” after “responsible for the police officer”.

11. Section 15 is amended by replacing “or take a refresher or development course” in paragraph 2 by “, take a development course or undergo any other training to update his or her knowledge”.

12. Section 16 is amended

(1) by replacing “the authorities of the police department” by “the person in charge of internal affairs”;

(2) by replacing “a criminal act” by “a criminal offence”.

13. The following is inserted after section 16:**§2.1. Conciliation**

16.1. The person in charge of internal affairs, when referring a complaint to conciliation in accordance with section 12 or 13, assigns a conciliator and sends a copy of the file to the conciliator.

The police officer who is the subject of the complaint and the complainant may also, with the authorization of the person in charge of internal affairs, have recourse to conciliation in every step of the disciplinary process. The person in charge of internal affairs assigns a conciliator and sends a copy of the file to the conciliator.

For the purposes of this By-law, any person designated to act as conciliator by the director or the person in charge of internal affairs may act as conciliator.

16.2. The object of conciliation is to resolve the complaint lodged against a police officer through a settlement accepted by the complainant and the police officer concerned and approved by the person in charge of internal affairs.

The complainant and the police officer must collaborate during the conciliation proceedings.

16.3. The conciliator notifies a notice of meeting to the police officer and complainant indicating the date, time and place of the conciliation session at least 7 days before it is held.

The complainant may be accompanied by the person of his or her choice and the police officer may be accompanied by a member of his or her union or professional association. The role of those accompanying persons is to provide support and advice.

The persons attending a conciliation session must sign a confidentiality agreement.

16.4. At the end of conciliation, the settlement reached must be recorded in writing by the conciliator, signed by the complainant and the police officer, and approved by the person in charge of internal affairs. The complaint is deemed to have been withdrawn and no mention of the complaint is to be entered in the record of the police officer concerned.

16.5. A settlement must be reached within 45 days as of the date on which the file is sent to the conciliator by the person in charge of internal affairs, who may authorize an extension of that period and fix the terms and conditions of any extension.

16.6. As soon as the conciliator concludes that conciliation will not lead to a settlement, the conciliator reports to the person in charge of internal affairs. The file is then returned to the person in charge of internal affairs in order to make a new decision under section 12 or 13.

16.7. The person in charge of internal affairs may terminate conciliation if deemed necessary. The file is then returned to the person in charge of internal affairs in order to make a new decision under section 12 or 13.

16.8. No answer given and statement made by the complainant or police officer during conciliation may be used or admitted as evidence in judicial or quasi-judicial proceedings.”

14. The heading of subdivision 3 of Division III is amended by replacing “charge” by “citation”.

15. Section 17 is amended

(1) in the first paragraph

(a) by replacing “member of the police management personnel may” by “commissioned officer or another person occupying a management position may, after consulting the person in charge of internal affairs;”;

(b) by replacing “charge” by “citation”;

(c) by striking out “In the case of a breach of discipline referred to in section 3 or 4, an officer may impose a reprimand on the police officer.”;

(2) by striking out the second paragraph.

16. Section 18 is amended

(1) in the first paragraph

(a) by replacing “of a disciplinary charge” by “of a disciplinary citation”;

(b) by replacing “the director” by “the person in charge of internal affairs”;

(c) by replacing “the disciplinary charge” by “the disciplinary citation”;

(d) by replacing “a member of the police management personnel” by “a commissioned officer”;

(e) by replacing “3 members of the police management personnel” by “3 persons”;

(f) by replacing “of whom 1 member is” by “at least 2 of whom must be commissioned officers. One of the commissioned officers is”;

(2) in the second paragraph

(a) by replacing “the director” by “the person in charge of internal affairs”;

(b) by replacing “membre” in the French text by “policier”.

17. Section 19 is amended

(1) by replacing “a member of the police management personnel must be accused” by “a disciplinary citation concerning a commissioned officer must be tried”;

(2) by replacing “rang” in the French text by “grade”.

18. Section 20 is amended

(1) by replacing “The disciplinary charge” by “The disciplinary citation”;

(2) by replacing “the head of the Division des affaires internes et normes professionnelles” by “the person in charge of internal affairs”.

19. Section 21 is amended

(1) by replacing “The disciplinary indictment” by “The disciplinary citation must be in writing and”;

(2) by replacing “It is served in writing on the cited police officer” by “It is notified to the police officer who is the subject of the citation”.

20. Section 22 is amended

(1) by replacing “The cited police officer” by “The police officer who is the subject of the citation”;

(2) by replacing “the head of the Division des affaires internes et normes professionnelles” by “the person in charge of internal affairs”;

(3) by replacing “service of the disciplinary indictment” by “notification of the disciplinary citation”.

21. Section 23 is amended

(1) by replacing “The head of the Division des affaires internes et normes professionnelles” by “The person in charge of internal affairs”;

(2) by replacing “the cited police officer” by “the police officer who is the subject of the citation”.

22. Section 24 is amended by replacing the words “the cited police officer” by “the police officer who is the subject of the citation” and the words “a member of the police management personnel” by “a commissioned officer” wherever they appear.

23. Section 25 is amended

(1) by replacing “the cited police officer requests witnesses from among the employees of the police department to be summoned” by “the police officer who is the subject of the citation requests witnesses from among the employees of the police department to appear”;

(2) by replacing “The head of the Division des affaires internes et normes professionnelles” by “The person in charge of internal affairs”.

24. Section 26 is amended

(1) by replacing “Where the cited police officer” by “Where the police officer who is the subject of the citation”;

(2) by replacing “the member of the police management personnel” by “the commissioned officer”.

25. Section 27 is amended

(1) by replacing “the member of the police management personnel” in the portion before paragraph 1 by “the commissioned officer”;

(2) by replacing “the disciplinary indictment” in paragraph 1 by “the citation”;

(3) by replacing the words “the cited police officer” wherever they appear by “the police officer who is the subject of the citation”.

26. Section 28 is amended

(1) by replacing “the head of the Division des affaires internes et normes professionnelles” in the first paragraph by “the person in charge of internal affairs”;

(2) in the second paragraph

(a) by replacing “Il” in the French text by “Elle”;

(b) by replacing “assisté” in the French text by “assistée”.

27. Section 29 is amended

(1) by replacing “The disciplinary indictment may be amended” by “The disciplinary citation may be amended”;

(2) by replacing “The member of the police management personnel” by “The commissioned officer”;

(3) by replacing “new charge” by “new citation”;

(4) by replacing “the original charge” by “the original citation”.

28. Sections 30 and 31 are amended by replacing the words “member of the police management personnel” wherever they appear by “commissioned officer”.

29. Section 32 is amended

(1) by replacing “the member of the police management personnel” by “the commissioned officer”;

(2) by replacing “the cited police officer” by “the police officer who is the subject of the citation”.

30. Section 33 is amended

(1) in the portion before paragraph 1

(a) by replacing “The member of the police management personnel” by “The commissioned officer”;

(b) by replacing “disciplinary charge” by “disciplinary citation”;

(2) by replacing “15” in paragraph 3 by “30”.

31. Section 34 is amended

(1) in the first paragraph

(a) by replacing “the cited police officer” by “the police officer concerned”;

(b) by replacing “disciplinary charge” by “disciplinary citation”;

(2) in the second paragraph

(a) by replacing “the cited police officer” by “the police officer concerned”;

(b) by replacing “member of the police management personnel” by “commissioned officer”;

(c) by replacing “to the police officer in accordance with section 118 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4) for each disciplinary charge” by “to the officer by the competent authority for each disciplinary citation, on the recommendation of the director, in accordance with the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4)”.

32. Section 35 is amended by replacing “the member of the police management personnel” by “the commissioned officer”.

33. Section 36 is amended

(1) by replacing “member of the police management personnel” by “commissioned officer”;

(2) by replacing “the cited police officer” by “the police officer concerned”;

(3) by replacing “the head of the Division des affaires internes et normes professionnelles” by “the person in charge of internal affairs”;

(4) by replacing “10” by “20”.

34. Section 37 is amended in the first paragraph

(1) by replacing “a member of the police management personnel” by “a commissioned officer, a person occupying a management position”;

(2) by inserting “, at the request of a party,” after “as the case may be, may”.

35. Section 39 is amended by replacing “to the head of the Division des affaires internes et normes professionnelles” in the second paragraph by “to the person in charge of internal affairs”.

36. Section 41 is amended

(1) by replacing “member of the police management personnel” by “commissioned officer”;

(2) by replacing “without pay” by “with or without pay, as the case may be,”.

37. Section 42 is amended by replacing “charges” by “citations”.

38. Section 43 is amended by replacing “the head of the Division des affaires internes et normes professionnelles” in the second paragraph by “the person in charge of internal affairs”.

39. Section 44 is amended by replacing “charge” by “citation”.

40. Section 45 is replaced by the following:

“45. A police officer on whom a disciplinary suspension without pay or a transfer has been imposed pursuant to this By-law may, 3 years after the penalty is executed, apply in writing to the director to have the penalty dismissed.

The same applies in the case of a reprimand, except that the application may be filed after 2 years.

Despite the foregoing, if the disciplinary suspension without pay, the transfer or the reprimand was imposed pursuant to the second paragraph of section 119 of the Police Act (chapter P-13.1), the application may only be filed after 5 years.”.

41. Section 47 is amended

(1) by replacing “member of the police management personnel” by “commissioned officer”;

(2) by replacing “to the head of the Division des affaires internes et normes professionnelles” by “to the person in charge of internal affairs”;

(3) by replacing “celui-ci” in the French text by “celle-ci”.

42. The following is inserted after section 47:

“47.1. When meeting a police officer concerned by a complaint or a disciplinary citation, the person in charge of internal affairs, the person designated by the person in charge of internal affairs to exercise his or her powers, the conciliator and the investigator have the hierarchical authority necessary to perform their duties.”.

43. Section 49 is amended

(1) by replacing “, a member of the police management personnel or an officer to suspend without pay” by “or a commissioned officer to suspend, with or without pay,”;

(2) by replacing “, the member of the police management personnel or the officer” by “or the commissioned officer”.

44. This By-law comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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