

ATTACHMENT 3

Municipal Act (Bill 68) Changes Regarding Municipal Codes of Conduct

Section No.	Subsection & Description	Comments
223.2	Section 223.2 of the <i>Municipal Act</i> (MA) is repealed and replaced with a provision mandating all municipalities establish codes of conduct for members of council and local boards.	Council first adopted a Council Code of Conduct in 1996.
223.3	Prohibits the enactment of a municipal by-law to provide that a Councillor or local board member who contravenes a Code of Conduct is guilty on an offence or is required to pay an administrative penalty.	No changes are required.
223.3(1)	Section 223.2 of the MA is repealed and replaced with the following expanded list of functions that an Integrity Commissioner (Integrity Commissioner) can perform: 1. The application of the code of conduct for members of council and the code of conduct for members of local boards. 2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behavior of members of council and of local boards. 3. The applications of sections 5, 5.1, and 5.2 of the Municipal Conflict of Interest Act (MCIA) to members of council and of its local boards. 4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member. 5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behavior of members. 6. Requests from members of council and of local boards for advice respecting their obligations under the MCIA. 7. The provision of educational information to members of council, Members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the MCIA.	Code of Conduct has been amended to include these Integrity Commissioner responsibilities.
223.3(1.1)	Mandates that if a municipality has not appointed its own Integrity Commissioner, it must appoint an Integrity Commissioner from another municipality.	City currently has an Integrity Commissioner, no changes to Code of Conduct are required.
223.3(1.2)	Mandates that if a municipality has appointed an Integrity Commissioner but has not assigned one or more of the responsibilities set out in the MA, the municipality must make arrangements for those responsibilities to be provided by an Integrity Commissioner of another municipality.	Code of Conduct has been amended to include these Integrity Commissioner responsibilities.
223.3(2.1)	Mandates that requests by a member of council or of a local board for advice from the Integrity Commissioner under paragraph 4, 5 or 6 of subsection (1) shall be made in writing.	Code of Conduct has been amended to include this requirement.

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223.3(2.2)	Mandates that if the Integrity Commissioner to provide advice to members of council or of a local board under paragraph 4 ,5, or 6 of subsection (1), it must be in writing.	Code of Conduct has been amended to include this requirement.
223.3(2.3)	Stipulates that if the Integrity Commissioner provides educational information to the public under paragraph 7 of subsection (1), the Integrity Commissioner may summarize advice they have provided but shall not disclose confidential information that could identify a person concerned.	No changes to Code of Conduct are required.
223.3(6)	Requires municipalities to indemnify and save harmless the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under the MA (or a by-law passed under it) or an alleged neglect or default in the performance in good faith of the duty or authority.	By-law 013-2019 has been passed to address this requirement.
223.4	Permits the Minister to make regulations prescribing one or more subject matters that a municipality is required to include in a Code of Conduct.	No changes to Code of Conduct are required.
223.4(7)	Terminates an inquiry when the regular election begins. If the Integrity Commissioner has not completed an inquiry before Nomination Day for a regular election the Integrity Commissioner shall terminate the inquiry on that day.	This requirement is addressed in the Compliant Protocol.
223.4(8)	Provides that if an inquiry is terminated under 223.4(7) of the MA, the Integrity Commissioner shall not commence another inquiry into the matter unless, within six weeks after Voting Day in a regular election, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.	This requirement is addressed in the Compliant Protocol.
223.4(9)	Adds the following additional rules that apply during a regular election – starting on Nomination Day and ending on Voting Day: 1. There shall be no requests for an inquiry about whether a member of council or of a local board has contravened the code of conduct applicable to the member. 2. The Integrity Commissioner shall not report to the municipality or local board about whether, in their opinion, a member of council or of a local board has contravened the code of conduct applicable to the member. 3. The municipality or local board shall not consider whether to impose the penalties.	This requirement is addressed in the Compliant Protocol.

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Section No.	Subsection & Description	Comments
223.4.1	Adds a new section regarding an inquiry by the Integrity Commissioner relative to Section 5., 5.1 or 5.2 of the MCIA.	Code of Conduct has been amended to include this requirement.
223.4.1(2)	Stipulates that an elector (as defined in Section 1 of the MCIA), or a person demonstrably acting in the public interest may apply in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of Section 5., 5.1 or 5.2 of the MCIA by a member of council or a member of a local board.	This requirement is addressed in the Compliant Protocol.
223.4.1(3)	Prohibits an application for an inquiry for a contravention of the MCIA between Nomination Day and Voting Day for a regular election.	This requirement is addressed in the Compliant Protocol.
223.4.1 (4)	Stipulates that an application for an inquiry for a contravention of the MCIA may only be made within six weeks after the applicant became aware of the alleged contravention.	This requirement is addressed in the Compliant Protocol.
223.4.1 (5)	Creates an exception to the six week rule specified in 223.4.1(4) of the MA if both of the following are satisfied: 1. The applicant became aware of the alleged contravention within the period of time starting six weeks before Nomination Day for a regular election and ending on Voting Day. 2. The applicant applies to the Integrity Commissioner within six weeks after Voting Day in a regular election.	This requirement is addressed in the Compliant Protocol.
223.4.1 (6)	Requires that an application to the Integrity Commissioner for an inquiry shall set out the reasons for believing that the member has contravened Section 5., 5.1 or 5.2 of the MCIA and include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application.	This requirement is addressed in the Compliant Protocol.
223.4.1 (7)	Permits the Integrity Commissioner to conduct the MCIA inquiry as they consider necessary.	This requirement is addressed in the Compliant Protocol.
223.4.1 (9)	Authorizes the Integrity Commissioner to exercise the powers under Section 33 and 34 of the Public Inquiries Act for the MCIA inquiry.	This requirement is addressed in the Compliant Protocol.
223.4.1 (10)	Requires the municipality to and its local boards to give the Integrity Commissioner any information they require for the MCIA inquiry.	This requirement is addressed in the Compliant Protocol.
223.4.1 (11)	Authorizes the Integrity Commissioner to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or local board that the Integrity Commissioner believes to be necessary for an inquiry.	No changes to Code of Conduct are required.

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223.4.1 (12)	Terminates an inquiry when the regular election begins. If the Integrity Commissioner has not completed a MCIA inquiry before Nomination Day for a regular election the Integrity Commissioner shall terminate the inquiry on that day.	This requirement is addressed in the Compliant Protocol.
223.4.1 (13)	Provides that if an inquiry is terminated under 223.4.1(12), the Integrity Commissioner shall not commence another inquiry into the matter unless, within six weeks after Voting Day in a regular election, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.	This requirement is addressed in the Compliant Protocol.
223.4.1 (14)	Requires the Integrity Commissioner to complete the MCIA inquiry within 180 days after receiving the complete application.	This requirement is addressed in the Compliant Protocol.
223.4.1 (15)	Stipulates that upon completion of the MCIA inquiry, the Integrity Commissioner may, if they deem it appropriate, apply to a judge under section 8 of the MCIA for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the MCIA.	This requirement is addressed in the Compliant Protocol.
223.4.1 (16)	Requires the Integrity Commissioner to advise the applicant if they will not be making an application to a judge.	This requirement is addressed in the Compliant Protocol.
223.4.1 (17)	Requires the Integrity Commissioner to publish written reasons for their decision as to whether or not they decided to apply to a judge.	This requirement is addressed in the Compliant Protocol.