



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

<b>Section No.</b>	<b>Subsection &amp; Description of Regulation</b>	<b>Comments</b>
223.2	Section 223.2 of the <u>Municipal Act</u> (MA) is repealed and replaced with a provision mandating all municipalities establish codes of conduct for members of council and local boards.	Markham City Council voluntarily adopted a Council Code of Conduct in 2014 and as such, no further action is required on this item.
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 resulting changes to Markham's <u>Council Code of Conduct</u> 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223.3(1)	Section 223.2 of the MA is repealed and replaced with the following expanded list of functions that an Integrity Commissioner (IC) can perform: 1.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 <u>Municipal Conflict of Interest Act</u> (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.	Markham's current <u>Council Code of Conduct</u> has been amended to explicitly include these IC responsibilities.

## **Municipal Act Changes - Code of Conduct Requirements**

<b>Section No.</b>	<b>Subsection &amp; Description of Regulation</b>	<b>Comments</b>
223.3(1.1)	Mandates that if a municipality has not appointed its own IC, it must appoint an IC from another municipality.	As the City currently has an IC service provider (ADR Chambers Inc.), no resulting changes to Markham's <u>Council Code of Conduct</u> are required.
223.3(1.2)	Mandates that if a municipality has appointed an IC 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 IC of another municipality.	Markham's current <u>Council Code of Conduct</u> has been amended to explicitly include these specific IC responsibilities.
223.3(2.1)	Mandates that requests by a member of council or of a local board for advice from the IC under paragraph 4, 5 or 6 of subsection (1) shall be made in writing.	Markham's current <u>Council Code of Conduct</u> has been amended to include this requirement.
223.3(2.2)	Mandates that if the IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to include this requirement.
223.3(2.3)	Stipulates that if the IC provides educational information to the public under paragraph 7 of subsection (1), the IC may summarize advice they have provided but shall not disclose confidential information that could identify a person concerned.	Markham's current <u>Council Code of Conduct</u> has been amended to include this requirement.
223.3(6)	Requires municipalities to indemnify and save harmless the IC or any person acting under the instructions of the IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to include 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 resulting changes to Markham's <u>Council Code of Conduct</u> are required.

## **Municipal Act Changes - Code of Conduct Requirements**

<b>Section No.</b>	<b>Subsection &amp; Description of Regulation</b>	<b>Comments</b>
223.4(7)	Terminates an inquiry when the regular election begins. If the IC has not completed an inquiry before Nomination Day for a regular election the IC shall terminate the inquiry on that day.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4(8)	Provides that if an inquiry is terminated under 223.4(7) of the MA, the IC 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 IC that the inquiry be commenced.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
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 IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1	Adds a new section regarding an inquiry by the IC relative to Section 5., 5.1 or 5.2 of the MCIA.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
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 IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.

## **Municipal Act Changes - Code of Conduct Requirements**

<b>Section No.</b>	<b>Subsection &amp; Description of Regulation</b>	<b>Comments</b>
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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
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 IC within six weeks after Voting Day in a regular election.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (6)	Requires that an application to the IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (7)	Permits the IC to conduct the MCIA inquiry as they consider necessary.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (8)	Allows the IC to have a public meeting to discuss the MCIA inquiry.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (9)	Authorizes the IC to exercise the powers under Section 33 and 34 of the <u>Public Inquiries Act</u> for the MCIA inquiry.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (10)	Requires the municipality to and its local boards to give the IC any information they require for the MCIA inquiry.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (11)	Authorizes the IC 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 IC believes to be necessary for an inquiry.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.

## **Municipal Act Changes - Code of Conduct Requirements**

<b>Section No.</b>	<b>Subsection &amp; Description of Regulation</b>	<b>Comments</b>
223.4.1 (12)	Terminates an inquiry when the regular election begins. If the IC has not completed a MCIA inquiry before Nomination Day for a regular election the IC shall terminate the inquiry on that day.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (13)	Provides that if an inquiry is terminated under 223.4.1(12), the IC 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 IC that the inquiry be commenced.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (14)	Requires the IC to complete the MCIA inquiry within 180 days after receiving the complete application.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (15)	Stipulates that upon completion of the MCIA inquiry, the IC 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.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (16)	Requires the IC to advise the applicant if they will not be making an application to a judge.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (17)	Requires the IC to publish written reasons for their decision as to whether or not they decided to apply to a judge.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.4.1 (18)	Stipulates that the IC's costs of applying to a judge shall be paid by: 1. The municipality, if the member is alleged to have contravened Section 5, 5.1 or 5.2 of the MCIA as a member of council of a municipality. 2. The local board if the members is alleged to have contravened Section 5, 5.1 or 5.2 of the MCIA as a member of a local board.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.5 (2.1)	Mandates that advice provided by the IC to a member may be released with the member's written consent.	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.5 (2.2)	Permits the Commissioner to release part or all of the advice they provided to a member - without the member's consent - in	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.

## **Municipal Act Changes - Code of Conduct Requirements**

Section No.	Subsection & Description of Regulation	Comments
	situations where the member releases only part of the advice provided to them by the IC.	
223.5 (2.3)	Allows the IC to disclose information they deem is necessary for: 1. The purposes of a public meeting under Subsection 223.4.1 (8); 2. An application to a judge referred to in Subsection 223.4.1 (15). 3. The written reasons given by the IC under subsection 223.4.1 (17).	Markham's current <u>Council Code of Conduct</u> has been amended to reflect this amendment.
223.8	Revises "of any Act or" and substitutes "of any other Act, other than the MCIA, or".	No resulting changes to Markham's <u>Council Code of Conduct</u> are required.