

Appendix B

Municipal Act, 2001, sections 223.2 to 223.12, as amended

Code of conduct

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards. 2017, c. 10, Sched. 1, s. 18.

Same

(2) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish codes of conduct. 2017, c. 10, Sched. 1, s. 18.

No offence or administrative penalty

(3) A by-law cannot provide that a member who contravenes a code of conduct is guilty of an offence or is required to pay an administrative penalty. 2017, c. 10, Sched. 1, s. 18.

Regulations

(4) The Minister may make regulations prescribing one or more subject matters that a municipality is required to include in a code of conduct. 2017, c. 10, Sched. 1, s. 18.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2017, c. 10, Sched. 1, s. 18 - 01/03/2019

Integrity Commissioner

223.3 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to any or all of the following:

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 behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of 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 behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.

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 *Municipal Conflict of Interest Act*. 2017, c. 10, Sched. 1, s. 19 (1).

Provision for functions if no Commissioner appointed

(1.1) If a municipality has not appointed a Commissioner under subsection (1), the municipality shall make arrangements for all of the responsibilities set out in that subsection to be provided by a Commissioner of another municipality. 2017, c. 10, Sched. 1, s. 19 (2).

Provision for functions if responsibility not assigned

(1.2) If a municipality has appointed a Commissioner under subsection (1), but has not assigned functions to the Commissioner with respect to one or more of the responsibilities set out in that subsection, the municipality shall make arrangements for those responsibilities to be provided by a Commissioner of another municipality. 2017, c. 10, Sched. 1, s. 19 (2).

Powers and duties

(2) Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Request for advice shall be in writing

(2.1) A request by a member of council or of a local board for advice from the Commissioner under paragraph 4, 5 or 6 of subsection (1) shall be made in writing. 2017, c. 10, Sched. 1, s. 19 (3).

Advice shall be in writing

(2.2) If the Commissioner provides advice to a member of council or of a local board under paragraph 4, 5 or 6 of subsection (1), the advice shall be in writing. 2017, c. 10, Sched. 1, s. 19 (3).

Content of educational information

(2.3) If the Commissioner provides educational information to the public under paragraph 7 of subsection (1), the Commissioner may summarize advice he or she has provided but shall not disclose confidential information that could identify a person concerned. 2017, c. 10, Sched. 1, s. 19 (3).

Delegation

(3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The Commissioner is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Indemnity

(6) A municipality shall indemnify and save harmless the Commissioner or any person acting under the instructions of that officer 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 this Part or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority. 2017, c. 10, Sched. 1, s. 19 (4).

Interpretation

(7) For greater certainty, nothing in this section affects the application of section 448 with respect to a proceeding referred to in subsection (6) of this section. 2017, c. 10, Sched. 1, s. 19 (4).

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2017, c. 10, Sched. 1, s. 19 (1-4) - 01/03/2019

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (1).

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner is entitled 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 a local board that the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

Same

(6) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention. 2006, c. 32, Sched. A, s. 98.

Termination of inquiry when regular election begins

(7) If the Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, the Commissioner shall terminate the inquiry on that day. 2017, c. 10, Sched. 1, s. 20.

Same

(8) If an inquiry is terminated under subsection (7), the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act*, 1996, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced. 2017, c. 10, Sched. 1, s. 20.

Other rules that apply during regular election

(9) The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act:

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 Commissioner shall not report to the municipality or local board about whether, in his or her 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 referred to in subsection (5) on a member of council or of a local board. 2017, c. 10, Sched. 1, s. 20.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2009, c. 33, Sched. 6, s. 72 (1) - 01/06/2011

2017, c. 10, Sched. 1, s. 20 - 01/03/2019

Inquiry by Commissioner re s. 5, 5.1 or 5.2 of *Municipal Conflict of Interest Act*

223.4.1 (1) This section applies if the Commissioner conducts an inquiry under this Part in respect of an application under subsection (2). 2017, c. 10, Sched. 1, s. 21.

Application

(2) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest may apply in writing to the Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of that Act by a member of council or a member of a local board. 2017, c. 10, Sched. 1, s. 21.

No application for inquiry during regular election

(3) No application for an inquiry under this section shall be made to the Commissioner during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act. 2017, c. 10, Sched. 1, s. 21.

Timing

(4) An application may only be made within six weeks after the applicant became aware of the alleged contravention. 2017, c. 10, Sched. 1, s. 21.

Exception

(5) Despite subsection (4), an application may be made more than six weeks after the applicant became aware of the alleged contravention 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, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act.
2. The applicant applies to the Commissioner under subsection (2) within six weeks after the day after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act*, 1996. 2017, c. 10, Sched. 1, s. 21.

Content of application

(6) An application shall set out the reasons for believing that the member has contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* 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 or, in the case where an applicant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection (5), a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention during that period of time. 2017, c. 10, Sched. 1, s. 21.

Inquiry

(7) The Commissioner may conduct such inquiry as he or she considers necessary. 2017, c. 10, Sched. 1, s. 21.

Public meeting

(8) If the Commissioner decides to conduct an inquiry, the Commissioner may have a public meeting to discuss the inquiry. 2017, c. 10, Sched. 1, s. 21.

Powers on inquiry

(9) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2017, c. 10, Sched. 1, s. 21.

Information

(10) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry. 2017, c. 10, Sched. 1, s. 21.

Same

(11) The Commissioner is entitled 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 a local board that the Commissioner believes to be necessary for an inquiry. 2017, c. 10, Sched. 1, s. 21.

Termination of inquiry when regular election begins

(12) If the Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, the Commissioner shall terminate the inquiry on that day. 2017, c. 10, Sched. 1, s. 21.

Same

(13) If an inquiry is terminated under subsection (12), the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act, 1996*, the person who made the application or the member or former member whose conduct is concerned applies in writing to the Commissioner for the inquiry to be carried out. 2017, c. 10, Sched. 1, s. 21.

Timing

(14) The Commissioner shall complete the inquiry within 180 days after receiving the completed application, unless the inquiry is terminated under subsection (12). 2017, c. 10, Sched. 1, s. 21.

Completion

(15) Upon completion of the inquiry, the Commissioner may, if he or she considers it appropriate, apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for

a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that Act. 2017, c. 10, Sched. 1, s. 21.

Notice to applicant re decision not to apply to judge

(16) The Commissioner shall advise the applicant if the Commissioner will not be making an application to a judge. 2017, c. 10, Sched. 1, s. 21.

Reasons after inquiry

(17) After deciding whether or not to apply to a judge, the Commissioner shall publish written reasons for the decision. 2017, c. 10, Sched. 1, s. 21.

Costs

(18) The Commissioner's costs of applying to a judge shall be paid by the following:

1. If the member is alleged to have contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* as a member of council of a municipality, the municipality.
2. If the member is alleged to have contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* as a member of a local board, the local board. 2017, c. 10, Sched. 1, s. 21.

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 1, s. 21 - 01/03/2019

Duty of confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Exception

(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.

Release of advice

(2.1) Advice provided by the Commissioner to a member under paragraph 4, 5 or 6 of subsection 223.3 (1) may be released with the member's written consent. 2017, c. 10, Sched. 1, s. 22.

Partial release by member

(2.2) If a member releases only part of the advice provided to the member by the Commissioner under paragraph 4, 5 or 6 of subsection 223.3 (1), the Commissioner may release part or all of the advice without obtaining the member's consent. 2017, c. 10, Sched. 1, s. 22.

Other circumstances

(2.3) The Commissioner may disclose such information as in the Commissioner's opinion is necessary,

- (a) for the purposes of a public meeting under subsection 223.4.1 (8);

- (b) in an application to a judge referred to in subsection 223.4.1 (15); or
- (c) in the written reasons given by the Commissioner under subsection 223.4.1 (17).
2017, c. 10, Sched. 1, s. 22.

Section prevails

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2017, c. 10, Sched. 1, s. 22 - 01/03/2019

Report to council

223.6 (1) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned. 2006, c. 32, Sched. A, s. 98.

Report about conduct

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

(3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

Testimony

223.7 Neither the Commissioner nor any person acting under the instructions of the Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act, other than the *Municipal Conflict of Interest Act*, or of the *Criminal Code* (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and

suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98; 2017, c. 10, Sched. 1, s. 23.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2017, c. 10, Sched. 1, s. 23 - 01/03/2019

Registry

223.9 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders. 2006, c. 32, Sched. A, s. 98.

Requirement to file returns, etc.

(2) Without limiting sections 9, 10 and 11, those sections authorize the municipality to provide for a system of registration of persons who lobby public office holders and to do the following things:

1. Define “lobby”.
2. Require persons who lobby public office holders to file returns and give information to the municipality.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public office holders and specify the time within which the returns must be filed and the information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.
6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98.

Access to registry

(3) The registry described in subsection (1) shall be available for public inspection in the manner and during the time that the municipality may determine. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

Prohibition on contingency fees

223.10 Without limiting sections 9, 10 and 11, those sections authorize the municipality to prohibit a person on whose behalf another person undertakes lobbying activities from making payment for the lobbying activities that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

Registrar for lobbying matters

223.11 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry described in subsection 223.9 (1) and the system of registration and other matters described in subsection 223.9 (2). 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out these responsibilities, the registrar may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Delegation

(3) The registrar may delegate in writing to any person, other than a member of council, any of the registrar's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The registrar may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The registrar is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

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Inquiry by registrar

223.12 (1) This section applies if the registrar conducts an inquiry under this Part in respect of a request made by council, a member of council or a member of the public about compliance with the system of registration described in subsection 223.9 (2) or with a code of conduct established under that subsection. 2006, c. 32, Sched. A, s. 98.

Inquiry

(2) The registrar may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (2).

Duty of confidentiality

(3) Section 223.5 applies, with necessary modifications, with respect to the registrar and every person acting under the instructions of the registrar in the course of conducting an inquiry. 2006, c. 32, Sched. A, s. 98.

Report

(4) If the registrar makes a report to a municipality in respect of an inquiry, the registrar may disclose in the report such matters as in the registrar's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

(5) The municipality shall ensure that reports received from the registrar are made available to the public. 2006, c. 32, Sched. A, s. 98.

Testimony

(6) Neither the registrar nor any person acting under the instructions of the registrar is a competent or compellable witness in a civil proceeding in connection with anything done when conducting an inquiry. 2006, c. 32, Sched. A, s. 98.

Reference to appropriate authorities

(7) If the registrar, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 98 - 01/01/2007

2009, c. 33, Sched. 6, s. 72 (2) - 01/06/2011; CTS 4 AU 09 - 3