

Document 11

**Proposed amendments to the *Lobbyist Registry By-law***

*Proposed amendments are noted below in ~~strikethroughs~~ and **underlined additions**.  
Where new Subsections have been added, the following sections have been re-numbered accordingly.*

BY-LAW NO. 2012-309 (as amended by By-law 2021-9)

A by-law of the City of Ottawa to establish a lobbyist registry and establish the position and duties of the Lobbyist Registrar of the City of Ottawa.

The Council of the City of Ottawa enacts as follows:

PART I

DEFINITIONS

1. In this by-law,

“business day” means a day when the offices of the City are open during its regular hours of business, other than a Saturday or a Sunday or other holiday;

“Code of Conduct” means the Lobbyists’ Code of Conduct set out in Appendix “A”;

“communication” means any substantive form of communication including a formal meeting, email, letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or in an informal setting;

“lobby” means any communication with a public office holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including

development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a Ward Councillor or staff member acting under delegated authority;

“lobbyist” means,

- (a) Consultant lobbyist: an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). Additionally, if the consultant lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying,
- (b) In-house lobbyist: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization,
- (c) Voluntary unpaid lobbyist: an individual who lobbies without payment on behalf of a business or for-profit organization for the benefit of the interests of the for-profit entity or organization. Additionally, if the voluntary unpaid lobbyist arranges a meeting between a public office holder and a third party, that is lobbying;

“Lobbyist Registry” means a system of registration in which shall be kept returns of persons who lobby public office holders and which shall include such information as determined by the Lobbyist Registrar;

“local board” includes those corporations of which the City is the sole shareholder, including any subsidiaries;

“public office holder” means,

- (a) a member of City Council and any person on his or her staff,
- (b) a citizen member of the Transit Commission, and
- (c) an officer or employee of the City and including but not limited to the following:
  - (i) the City Manager, the City Treasurer and the City Clerk,

- (ii) the City's Auditor General and Integrity Commissioner,
  - (iii) a general manager, director or manager,
  - (iv) a person authorized to act in the place of an official listed in paragraphs (a) to (c) by Council or by the City Manager or another official under delegated authority,
  - (v) employees in other management positions who are in a position to influence programs and services and have direct contact with members of Council or the Transit Commission,
  - (vi) employees who are not in management positions but who are in direct contact with members of Council or the Transit Commission and whose work for the City includes the following: A. advice to members of Council, to Council or the Transit Commission, including, but not limited to, employees who provide legal, financial, personnel and policy advice, and B. approval or enforcement services, including, but not limited to, employees who provide planning, building, licensing, inspection, grants and purchasing services,
  - (vii) employees who are in direct contact with members of Council in the operation of Council, Committees of Council and the Transit Commission; and
  - (viii) employees who work on municipal elections in a supervisory capacity or who are employed in the Elections Branch of the Office of the City Clerk;
- (d) individuals providing professional services to the City during the course of providing such services;

“senior public office holder” means,

- (a) a member of City Council and any person on his or her staff,
- (b) a citizen member of the Transit Commission, and
- (c) the following officers and employees of the City:
  - (i) the City Manager, the City Treasurer and the City Clerk; and
  - (ii) a general manager or director.

## PART II

### ESTABLISHMENT OF A LOBBYIST REGISTRY

#### GENERAL

#### 2.

- (1) The Lobbyist Registry is established pursuant to Section 223.9 of Part V.1 of the *Municipal Act, 2001*.
- (2) The Office of the City Clerk shall develop and maintain a Lobbyist Registry, under the oversight of the Registrar, in which shall be kept all registrations and returns filed under this by-law.
- (3) The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

#### EXEMPTED PERSONS AND ORGANIZATIONS

#### 3.

- (1) This by-law does not apply to the following persons when acting in their public capacity:
  - (a) government or public sector, other than the City,
    - (i) members of the Senate or House of Commons of Canada, the legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of the members,
    - (ii) members of a First Nation council as defined in the Indian Act or of the council of an Indian band established by an Act of the Parliament of Canada, or persons on the staff of the members,
    - (iii) employees or consultants retained by the Government of Canada, the government of a province or territory, a First Nation council, a federal or provincial crown corporation or other federal or provincial public agency,
    - (iv) members of a council or other statutory body, including a local board, charged with the administration of the civil or municipal affairs of a municipality in Canada other than the City, persons on staff of the members, or officers or employees of the municipality or local board, and

- (v) members of a national or sub-national foreign government, persons on the staff of the members, or officers, employees, diplomatic agents, consular officers or official representatives in Canada of the government.
- (b) officials and employees of the City and other municipal bodies
  - (i) Public office holders;
  - (ii) officers, directors or employees of a local board of the City and acting in their public capacity;
  - (iii) a member of an Advisory Committee, acting in their public capacity and appointed by City Council
- (2) Without limiting the generality of subsection (1), the following school boards:
  - (a) Ottawa-Carleton District School Board;
  - (b) Ottawa Catholic School Board;
  - (c) Conseil des écoles publiques de l'Est de l'Ontario; and
  - (d) Conseil des écoles catholiques du Centre-Est.

#### RESTRICTION OF APPLICATION FOR CERTAIN ACTIVITIES

4. This by-law does not apply to the following activities:
- (a) communication that is a matter of the public record or occurs during a meeting of Council, a Committee of Council or the Transit Commission;
  - (b) communication that occurs during a public process such as a public meeting, hearing, consultation, open house or media event held or sponsored by the City or a public office holder or related to an application;
  - (c) advocacy communication for or against a policy or program that state a position where the primary focus is a broad community benefit or detriment, whether city-wide or local, and where that position would have no direct, indirect or perceived benefit to the business or for-profit organization on whose behalf the communication is undertaken;
  - (d) communication that is restricted to a request for information;
  - (e) Communication that is restricted to compliments or complaints about a service or program;
  - (f) communication with a public office holder by an individual on behalf of an individual, business or organization about:

- (i) the enforcement, interpretation or application of any Act or by-law by the public office holder and with respect to the individual, business or organization,
  - (ii) the implementation or administration of any policy, program, directive or guideline by the public office holder and with respect to the individual, business, organization,
  - (iii) a personal matter of the individual, business or organization unless it is communication that is in respect of a matter that falls under the definition of lobbying, that is for the special benefit of the individual, business or organization;
- (g) communication by an applicant, an interested party or their representatives with respect to an application for a service, grant, planning approval, permit or other license or permission:
- (i) with an employee of the City or a Member of Council if the communication is restricted to providing general information on an application, including a proposed or pending application, or to inquire about the application review process,
  - (ii) with an employee of the City if the communication is part of the normal course of the approval process,
  - (iii) with respect to planning and development applications, if the communication is with an employee of the City who has a role in the processing of a planning application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- (h) submitting a bid proposal as part of the procurement process and any communication with designated employees of the City as permitted in the procurement policies and procurement documents of the City;
- ~~(i) communication with a public office holder by an individual on behalf of an individual, business or organization in direct response to a written request from the public office holder;~~
- (i) communication to a Member of Council by a constituent of the Member of Council, or an individual on behalf of a constituent of the Member of Council on a general neighbourhood or public policy issue;
  - (j) communications directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder;

- (k) communication regarding a financial interest by not-for-profit groups or organizations where such group or organization has no paid staff.

### PART III

#### REGISTRATION AND REPORTING OF LOBBYING ACTIVITY

##### CONTINGENCY FEES PROHIBITION

5.

- (1) No person, on whose behalf another person undertakes lobbying activities, shall make a payment for the lobbying activities that is in whole or in part contingent on the successful outcome of any lobbying activities.
- (2) No person who lobbies a public office holder shall receive payment that is in whole or in part contingent on the successful outcome of any lobbying activities.

##### LOBBYISTS

6.

- (1) All lobbyists shall file a return regarding a specific lobbying communication within fifteen (15) business days of the communication occurring.
- (2) Consultant lobbyists shall identify in the return the client for which the lobbying has been undertaken.
- (3) Lobbyists shall disclose if they have held a senior public office holder position at the City and the date the individual ceased to hold the position.
- (4) Lobbyists shall disclose if they hold a position on a local board of the City.
- (5) Lobbyists shall adhere to the Code of Conduct during the conduct of lobbying activities with public office holders.
- (6) **Lobbyists shall review their profiles every six (6) months to ensure that the information contained therein is current and complete.**
- (7) **A person who lobbies as defined by the By-law is subject to the By-law whether they are registered or not.**

##### **POST-EMPLOYMENT LOBBYING RESTRICTIONS**

7.

- (1) **No person who is a former public office holder of the City shall lobby the City for a period of one year after the date the person ceased to be**

- (a) **A Statutory Officer of the City, including:**
  - (i) **The City Treasurer**
  - (ii) **The City Clerk**
  - (iii) **The City's Auditor General**
  - (iv) **The City's Integrity Commissioner**
  - (v) **The City's Chief Building Official**
- (b) **The City Manager**
- (c) **A member of the City's Extended Senior Leadership Team, including directors and managers**
- (d) **An elected official**
- (e) **A staff member of an elected official**

#### PART IV

#### AUTHORITY OF THE INTEGRITY COMMISSIONER AS REGISTRAR

#### APPOINTMENT OF INTEGRITY COMMISSIONER AS REGISTRAR

8.

- (1) The City of Ottawa Integrity Commissioner is appointed as the Lobbyist Registrar in accordance with section 223.11 of the *Municipal Act, 2001*.
- (2) If the Office of the Integrity Commissioner is vacant, the City Clerk is authorized to assume the role of Lobbyist Registrar for an interim period.

#### ACCOUNTABILITY

9.

- (1) As the Lobbyist Registrar, the Integrity Commissioner is independent of the City administration.
- (2) The Integrity Commissioner shall report to City Council, or to a Committee of Council as may be directed by City Council.

#### RESPONSIBILITIES

10.

The Integrity Commissioner is responsible for:

- (a) overseeing the administration of the lobbyist registration system;



- (b) providing advice, opinions and interpretations pertaining to the administration, application and enforcement of this by-law;
- (c) conducting, in private, investigations or inquiries to determine whether contraventions of this by-law have occurred, as permitted under section 223.12 of the *Municipal Act, 2001*;
- (d) suspending or revoking a registration;
- (e) the enforcement of this by-law;
- (f) advising Council on lobbying matters and recommending improvements and amendments to this by-law;
- (g) providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate; and
- (h) performing other duties as may be assigned by Council.

## PART V

### SANCTIONS AND PENALTIES

#### REFUSAL TO ACCEPT OR SUSPEND REGISTRATION OR RETURN

11.

- (1) The Integrity Commissioner may address breaches of this by-law using an escalating compliance scheme comprising the following steps:
  - (a) The issuance of a Letter of Direction; and
  - (b) Entering into a compliance agreement.
- (2) The Integrity Commissioner may impose a temporary ban on communication in accordance with the following scheme if the Integrity Commissioner finds that the requirements of this by-law have not been met:
  - (a) First breach: the lobbyist is banned from communicating with public office holders for one month;
  - (b) Second breach: the lobbyist is banned from communicating with public office holders for three months; and
  - (c) Third breach: The Integrity Commissioner to determine an appropriate sanction.
- (3) If the Integrity Commissioner decides to impose a temporary ban on communication, the Integrity Commissioner shall inform the individual of

the suspension and the reason for the suspension in the manner that the Integrity Commissioner determines.

- (4) If the Integrity Commissioner imposes a temporary ban on communication, the Integrity Commissioner shall notify all Senior Public Office Holders and notice of the temporary ban shall be posted on the City's website.

#### REMOVAL FROM REGISTRY

12.

- (1) The Integrity Commissioner may remove a registration or return from the Lobbyist Registry if the individual who filed the registration or return if the Integrity Commissioner finds that the lobbyist has not complied with the requirements of this by-law.
- (2) When a registration or return is removed from the Lobbyist Registry, the individual who filed it shall be deemed, for the purposes of his or her existing and future obligations under this by-law, not to have filed the registration or return.

#### REFERRAL TO APPROPRIATE AUTHORITIES

13. Pursuant to subsection 223.12(7), should the Integrity Commissioner determine, when conducting an inquiry, that there are reasonable grounds to believe that an individual has contravened any other Act or the Criminal Code (Canada), the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

#### SHORT TITLE

14. This By-law may be referred to as the "Lobbyist Registry By-law".

## Appendix "A"

### LOBBYISTS' CODE OF CONDUCT

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders.

#### HONESTY

1. Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

#### OPENNESS

2. Lobbyists shall, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

#### DISCLOSURE OF IDENTITY AND PURPOSE

3.

- (1) Lobbyists communicating with a public office holder shall disclose the identity of the individual or organization on whose behalf they are acting, as well as the reasons for the communication.
- (2) Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.

#### INFORMATION AND CONFIDENTIALITY

4.

- (1) Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' Code of Conduct.
- (2) Lobbyists shall provide information that is accurate and factual to public office holders.
- (3) Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
- (4) Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

- (5) Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

#### COMPETING INTERESTS

5.

- (1) Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.
- (2) Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.
- (3) Lobbyists **who receive remuneration to provide advice to the City shall not lobby public office holders on the same subject matter** ~~shall not lobby public office holders on a subject matter for which they also provide advice to the City.~~

#### IMPROPER INFLUENCE

6.

- (1) Lobbyists shall avoid both the deed and the appearance of impropriety.
- (2) Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.
- (3) Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.