

The Corporation of the City of Burlington

City of Burlington By-law #-2023

A by-law to establish and maintain a lobbyist registry
File: CL-03-23

Whereas Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the City of Burlington public office holders; and

Whereas section 223.9 of the Municipal Act, 2001 authorizes the City of Burlington to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby the City of Burlington's public office holders; and

Whereas section 223.11 of the Municipal Act, 2001 authorizes the City of Burlington to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the City of Burlington with respect to the Lobbyist Registry; and

Whereas City Council respects the rights of all individuals under the *Canadian Charter of Rights and Freedoms* and acknowledges its responsibility to exercise its authority in a manner that does not violate those rights; and

Whereas sections 8, 9 and 10 of the Municipal Act, 2001 authorize the City of Burlington to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 10(2) authorizes by-laws respecting the accountability and transparency of the municipality and its operations'

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

PART 1 - DEFINITIONS

1.1 In this By-law:

“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 an informal setting;

“City” means the Corporation of the City of Burlington.

“Clerk” means the holder of statutory officer position of City of Burlington City Clerk

“Council” means the Council of the Corporation of the City of Burlington;

"lobby" or **"lobbying"** means any communication with a public officer holder by an individual 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 staff member acting under delegated authority.

"lobbyist" means a consultant lobbyist, in-house lobbyist, or voluntary un-paid lobbyist and:

(a) **"consultant lobbyist"**: an individual who lobbies for payment on behalf of a client (another individual, a business, partnership, organization or other entity);

(b) **"in-house lobbyist"**: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of his or her own employer, business or other entity; and

(c) **"voluntary unpaid lobbyist"**: an individual who lobbies without payment on behalf of an individual, business or any other for-profit entity for the benefit of the interests of the individual, business or for-profit entity;

"Lobbyist Registrar" means the individual appointed by Council in accordance with section 223.11 of the Municipal Act, 2001;

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

"public office holder" means:

(a) A member of Council;

(b) an employee of the City who is a member of the City's Leadership Team including the City Manager, City Auditor, Chief Financial Officer, Chief Information Officer, Fire Chief, Executive Director level positions, and Director level positions;

"registration" means a first filing by a lobbyist regarding a subject matter they intend to lobby on as set out in section 8.2; and

"return" means an update of a registration filed by a lobbyist as set out in section 8.3.

PART 2 – ESTABLISHMENT OF A LOBBYIST REGISTRY

- 2.1 The Lobbyist Registry is established pursuant to Section 223.9 of Part V.1 of the Municipal Act, 2001.
- 2.2 The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

PART 3 – EXEMPTED PERSONS AND ORGANIZATIONS

- 3.1 The following persons and organizations shall not be considered lobbyists when acting in their public capacity:

- (a) Government or public sector not including the City and other municipal bodies:

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;

- (i) 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;
- (ii) 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;
- (iii) 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;
- (iv) 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) Members or employees of a local board of the City;
- (iii) Members of an advisory committee appointed by Council.

- (c) Other public sector:
 - (i) Persons communicating on behalf of local school boards;
 - (ii) Persons communicating on behalf of healthcare institutions.

PART 4 – EXEMPTED ACTIVITIES

4.1 Lobbying does not include:

- (a) communication that occurs during a meeting of Council or a Committee of Council;
- (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) communication that is restricted to a request for information;
- (d) communication that is restricted to compliments or complaints about a service or program;
- (e) communication with a public office holder by an individual on behalf of an individual, business, or other entity 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 other entity;
 - (ii) the implementation or administration of any policy, program, directive or guideline by the public office holder and with respect to the individual, business or other entity;
 - (iii) a personal matter of the individual, business or other entity 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 other entity;
- (f) 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 a public office holder 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 an employee of the City if the communication is with respect to planning or development applications and the officer or employee has a role in the processing of a planning or development application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- (g) 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;
- (h) communication with a public office holder by an individual on behalf of an individual, business or other entity in direct response to a written request from the public office holder;
- (i) communication to a public office holder by a constituent, or an individual on behalf of a constituent on a general neighbourhood or public policy issue;
- (j) communication directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder; 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 a business or financial interest of the individual, business or other entity on whose behalf the communication is undertaken;
- (k) communication regarding a business or financial interest by not-for-profit businesses or other not-for-profit entity where such business or entity has no paid staff.

4.2 The Lobbyist Registrar may exempt lobbying from some or all the requirements of this By-law if he or she is satisfied in advance by a lobbyist that registration could reasonably be expected to prejudice the economic interests of the City of Burlington or the competitive position of the City of Burlington.

PART 5 – LOBBYIST REGISTRAR

5.1 The City Clerk be herein appointed as the Lobbyist Registrar in accordance with section 223.11 of the Municipal Act, 2001;

5.2 The Lobbyist Registrar's responsibilities include:

- (a) overseeing the establishment and maintenance of a lobbyist registry, including determining the lobbyist registry's form and content, in which shall be kept the registrations and returns filed by lobbyists under sections 27 and 28 of this By-law;
- (b) making the lobbyist registry available for public inspection through electronic, web-based access at all reasonable times, namely:
 - (i) that a registration or return is on the lobbyist registry within a reasonable timeframe after it is filed;
 - (ii) that the lobbyist registry is accessible except during regular maintenance or due to circumstances beyond the City of Burlington's control;
 - (iii) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
 - (iv) conducting inquiries in respect of a request made about compliance with this By-law, which may include requesting that a public office holder gather information concerning lobbying of him or her and provide that information to Lobbyist Registrar;
 - (v) suspending, revoking or refusing a registration or return;
- (c) enforcing this By-law;
- (d) advising Council on lobbying matters and recommending improvements to this Bylaw; and
- (e) providing to Council any periodic reports and information as the Registrar considers appropriate.

PART 6 – PUBLIC OFFICE HOLDER RESPONSIBILITIES

6.1 A public officer holder's responsibilities include:

- (a) timely and complete responses to a request from the Lobbyist Registrar under clause 5.2(d) to gather and provide information; and
- (b) ending, as soon as practicable, lobbying by a lobbyist who is prohibited from lobbying and reporting, in a timely manner, such lobbying to the Lobbyist Registrar.

- 6.2 Except when responding to a request from the Lobbyist Registrar under clause 5.2(d), a public officer holder's responsibility under this By-law does not include gathering or providing information concerning lobbying of them.

PART 7 – LOBBYIST CONDUCT

- 7.1 Lobbyists shall conduct themselves with honesty and integrity in all dealings with public office holders, clients, employers, the public and other lobbyists.
- 7.2 Lobbyists shall be open and transparent about their lobbying activities while maintaining necessary confidentiality.
- 7.3. Lobbyists communicating with public office holders shall disclose the identity of the individual, business, or organization on whose behalf they are lobbying, as well as the subject matter of the communication.
- 7.4 Lobbyists communicating with a public office holder on a duly registered and disclosed subject matter shall not use that opportunity to communicate on another subject matter, unless first having registered as required and disclosing the identity and purpose.
- 7.5 Lobbyists shall inform their client, employer, or organization of the obligations under this By-Law and their obligations to adhere to this By-law.
- 7.6 Lobbyists shall provide information that is accurate and factual to public office holders.
- 7.7 Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
- 7.8 Lobbyists shall not divulge confidential information unless they have obtained informed consent of their client, employer, organization, or disclosure is required by law.
- 7.9 Lobbyists shall not use any confidential information obtained during their lobbying activities to the disadvantage of their client, employer, or organization.
- 7.10 Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.
- 7.11 Lobbyists shall advise public office holders that they have informed their clients of any potential or actual conflict of interest and obtained the written consent of each client concerned before proceeding or continuing lobbying activities.
- 7.12 Lobbyists shall not lobby public office holders on a subject matter for which they provide advice to the City.

- 7.13 Lobbyists shall avoid both the deed and the appearance of impropriety.
- 7.14 Lobbyists shall not knowingly place a public office holder in a conflict of interest or in a breach of public office holders' codes of conduct or standards of behaviour.
- 7.15 Lobbyists shall not communicate with public office holders in relation to a procurement process except as defined in the City's procurement policies, documents, and By-law.

PART 8 – REGISTRATIONS AND RETURNS

- 8.1 No person shall lobby a public office holder without filing a registration with the Lobbyist Registrar and in accordance with the requirements as set out in this Part 8.
- 8.2 All lobbyists shall file a registration for each subject matter they intend to lobby on prior to the lobbying or within fifteen (15) days of the initial communication occurring. The registration shall include:
 - (a) their name(s), address and contact information; and
 - (b) if they are a consultant lobbyist, in-house lobbyist, or voluntary unpaid lobbyist; and
 - (c) the name of the individual, client, or other entity, including all business names under which the individual, client or other entity is operating, on whose behalf they are lobbying; and
 - (d) the name(s) of the individual(s) being lobbied; and
 - (e) the specific subject matter of the lobbying to which an individual could reasonably identify its topic; and
 - (f) the date(s) or date range on which the lobbying will occur; and
 - (g) acknowledgement that they have read and understand their requirements within this By-law; and
 - (h) such further information as the Lobbyist Registrar may require.
- 8.3 A lobbyist shall file a return updating any change to their registration.
- 8.4 If lobbying continues for more than one year, a lobbyist shall file a new registration for each year the lobbying continues.
- 8.5 The lobbyist is solely responsible for meeting the requirements with respect to registrations and returns set out in this section.

PART 9 - PENALTIES

- 9.1 The Lobbyist Registrar may prohibit a person from lobbying in accordance with the following scheme if they find that a person has contravened any of the provisions of this By-law:
- (a) Prohibition of lobbying activities for a first contravention until an information and education meeting with the Lobbyist Registrar is held;
 - (b) Prohibition on lobbying activities for a period of sixty (60) days for a second contravention;
 - (c) prohibition of lobbying activities for a period as may determined by the Lobbyist Registrar for a third or subsequent contravention.
- 9.2 When the Lobbyist Registrar prohibits an individual from lobbying, the Lobbyist Registrar shall notify the individual and all public office holders of the prohibition and the reason for the prohibition in such manner as the Lobbyist Registrar determines.
- 9.3 The Lobbyist Registrar may remove a registration or return from the lobbyist registry if the Lobbyist Registrar finds that the individual who filed the registration or return has contravened this By-law.
- 9.4 When a registration or return is removed from the lobbyist registry, the individual who filed the registration or return is deemed, for the purposes of his or her existing and future obligations under this By-law, not to have filed the registration or return.
- 9.5 Lobbyists shall not engage in lobbying where the Lobbyist Registrar has prohibited them from lobbying with the City for a specified time in accordance with section 9.1.
- 9.6 In accordance with subsection 223.12(7) of the Municipal Act, 2001, should the Lobbyist Registrar determine, when conducting an inquiry, that there are reasonable grounds to believe that an individual has contravened a provincial Act or the Criminal Code of Canada the Lobbyist Registrar shall immediately refer to the matter to appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

PART 10 – GENERAL, REPEAL AND ENACTMENT

- 10.1 This By-law shall be known as the Lobbyist Registry By-law.
- 10.2 In the event of a conflict between the provisions of this by-law and the provisions of another by-law of the Corporation of the City of Burlington, the provisions of the more restrictive enactment shall prevail.
- 10.3 In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.
- 10.4 That this By-law shall come into force and effect on January 1, 2024, at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

Enacted and passed this 11th day, of July 2023.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____