

DRAFT By-Law Number 23-XXX

Of

The Regional Municipality of Waterloo

A By-law to establish and maintain a Lobbyist Registry for the Regional Municipality of Waterloo

And Whereas access to local government is an essential element of democratic governance;

And Whereas it is reasonable for Members of Council and the public at large to know the nature and amount of legitimate lobbying of local government;

And Whereas Regional Council has determined that it is desirable to establish and maintain a Lobbyist Registry to provide transparency and oversight with regards to persons who lobby the Region of Waterloo's Public Office Holders.

And Whereas Sections 8, 9, and 11 of the *Municipal Act, 2001*, authorize Council to pass by-laws that are necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 11(2) authorizes by-laws respecting the accountability and transparency of the municipality and its operations;

And Whereas Section 223.9 of the *Municipal Act, 2001*, authorizes the Regional Municipality of Waterloo to establish and maintain a Lobbyist Registry in which shall be kept Registrations and Returns filed by persons who Lobby the Region of Waterloo's Public Office Holders;

And Whereas Section 223.11 of the *Municipal Act, 2001*, authorizes the Regional Municipality of Waterloo to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the Regional Municipality of Waterloo with respect to the Lobbyist Registry;

And Whereas Sections 23.1 and 23.2 of the *Municipal Act, 2001* permits the Region of Waterloo to delegate its powers and duties, including legislative and quasi-judicial powers under the *Municipal Act, 2001*, to an individual who is an officer, employee or agent of the Region of Waterloo.

Now therefore the Council of the Regional Municipality of Waterloo hereby enacts as follows:

Part 1: Definitions

1. For the purposes of the Lobbyist Registry By-law:

“Communication” means any substantive form of communication including, but not limited to, a formal meeting, email, letter, phone call, text message, or meaningful dialogue or exchange, that materially advances a matter that is defined as Lobbying, whether in a formal or an informal setting;

“Lobby” or **“Lobbying”** 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 staff member acting under delegated authority.

“Lobbyist” means:

- 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 Lobbyist”**: an individual who lobbies without payment on behalf of an individual, business or any other entity for the benefit of the interests of the individual, business or entity;

“Lobbyist Registry” means a system of registration in which shall be kept the Registrations and Returns of persons who lobby Public Office Holders and which shall include such information as determined by the Lobbyist Registrar;

“Lobbyist Registrar” means the individual appointed as Lobbyist Registrar under Section 223.11 of the *Municipal Act, 2001*.

“Public Office Holder” means:

- a) A member of Council;
- b) An officer or employee of the Region;
- c) A member of a local board or committee established by Council;
- d) An Accountability Officer, including but not limited to the Integrity Commissioner, the Lobbyist Registrar, Ombudsman, and Closed Meeting Investigator;
- e) Individuals providing professional services to the Region during the course of providing such services.

“Registration” means a first filing by a Lobbyist regarding a subject matter they intend to Lobby on as set out in subsection 8.1 of this By-law; and,

“Return” means an update of a Registration filed by a Lobbyist as set out in subsection 8.2 of this By-law.

“Region” means the Regional Municipality of Waterloo.

Part 2: Establishment of a Lobbyist Registry

2. Lobbyist Registry

2.1 The Lobbyist Registry is established pursuant to Section 223.9 of Part V.1 of the *Municipal Act, 2001*.

- a) The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.
- b) The Lobbyist Code of Conduct is attached hereto as Schedule “A” and forms part of this By-law.

3. Exempted Persons and Organizations

3.1 The following persons shall not be considered Lobbyists when acting in their public capacity:

- a) Government or public sector, other than the Region:
 - 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 Region, persons on staff of the members, or officers or employees of the municipality or local board;
 - 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 Region, the Cities of Cambridge, Kitchener, and Waterloo, the Townships of North Dumfries, Wellesley, Wilmot and Woolwich and other municipal bodies:
 - i. Public Office Holders;
 - ii. Members or employees of a local board of the Region;
 - iii. Appointed members of a committee established by Council.
- c) Other public sector:
 - i. Persons communicating on behalf of local school boards;
 - ii. Persons communicating on behalf of healthcare institutions.

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 Region 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 Region if the communication is part of the normal course of the approval process;
 - iii. with an employee of the Region 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 preapplication 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 Region as permitted in the procurement policies and procurement documents of the Region;
- 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 Region-initiated consultative meetings and processes where an individual is participating as a stakeholder; communication for or against a

policy or program that states a position where the primary focus is a broad community benefit or detriment, whether Region-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;

4.2 The Lobbyist Registrar may exempt Lobbying from some or all the requirements of this Bylaw if they are satisfied in advance by a Lobbyist that Registration could reasonably be expected to prejudice the economic interests or the competitive position of the Regional Municipality of Waterloo.

5. Prohibitions

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.

5.2 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.

5.3 No former Public Office Holder shall engage in Lobbying activities for a period of twelve (12) months after ceasing to be a Public Office Holder of the Region.

6. Lobbyist Registrar

6.1 6.1. The Regional Municipality of Waterloo's Integrity Commissioner is herein appointed as the Lobbyist Registrar in accordance with section 223.11 of the *Municipal Act, 2001*. The Regional Clerk, or their designate, will work in collaboration with the Lobbyist Registrar to achieve their respective responsibilities as follows:

6.2 The Lobbyist Registrar's responsibilities include:

- a) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
- b) 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 themselves and provide that information to the Lobbyist Registrar;
- c) enforcing this By-law;
- d) suspending, revoking or refusing a Registration or Return;
- e) advising Council on Lobbying matters and recommending improvements to this Bylaw; and,
- f) providing an annual report to Council and any other reports as the Lobbyist Registrar considers appropriate.

6.3 The Regional Clerk'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 Section 8 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; and,
 - ii. that the Lobbyist Registry is accessible except during regular maintenance or due to circumstances beyond the Region's control.

7. Responsibilities of a Public Office Holder

7.1 A Public Office Holder's responsibilities include:

- a) responding, in a timely and complete manner, to a request from the Lobbyist Registrar under subsection 6.2 of this By-law 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.

7.2 Except when responding to a request from the Lobbyist Registrar under subsection 6.2, a Public Office Holder's responsibilities under this By-law do not include gathering or providing information concerning Lobbying of the Public Office Holder.

Part 3: Registration and Reporting of Lobbying Activity

8. Registrations and Returns

8.1. All Lobbyists shall file a Return regarding Lobbying communication within ten (10) business days of the initial communication occurring. The Registration shall include:

- a) the name, address and contact information of the Lobbyist;
- b) if they are a Consultant Lobbyist, In-house Lobbyist or Voluntary Lobbyist;
- c) the name of the individual, client or other entity, including all business names under which the individual, client or other entity is operating, and on whose behalf they are Lobbying;
- d) the name of the individual or individuals being Lobbied;
- e) the subject matter and date on which the Lobbying will start and finish, with the date on which the Lobbying finishes being no more than one year after the date on which the Lobbying began; and,
- f) such further information as the Lobbyist Registrar may require.

8.2 A Lobbyist shall file a Return updating any change to their Registration immediately.

8.3 If Lobbying continues for more than one year, a Lobbyist shall file a new Registration for each year the Lobbying continues.

8.4 The Lobbyist is solely responsible for meeting the requirements with respect to Registrations and Returns set out in this section.

8.5 Lobbyists shall read and adhere to the Code of Conduct for Lobbyists during all Lobbying activities with Public Office Holders.

9 Part 4: Enforcement and Penalties

9. Penalties

9.1. The Registrar may impose a temporary ban on communication in accordance with the following scheme if the Registrar finds that the requirements of this By-law and Code of Conduct have not been met:

- a) for 30 days for a first contravention;
- b) for 60 days for a second contravention;
- c) for a period of time longer than 60 days as 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:

- a) 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; and,
- b) may post the prohibition and the reason for the prohibition on the Region's Lobbyist Registry webpage/website.

9.3. The Lobbyist Registrar may, in collaboration with the Regional Clerk, 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 their existing and future obligations under this By-law, not to have filed the Registration or Return.

9.5. 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 the matter to appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

Part 5: Title, Scope and Interpretation

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

11 In the event of a conflict between the provisions of this By-law and the provisions of another By-law of the Regional Municipality of Waterloo, the provisions of the more restrictive enactment shall prevail.

- 12 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.
- 13 This By-law shall come into force and effect on XX, with the exception of Part 4: Enforcement and Penalties, which shall come into force and effect on XX (6-month educational period).

Schedule 1 of Draft Lobbyist By-law

Draft Lobbyist Code of Conduct

Lobbyists are expected to comply with the standards of behaviour for Lobbyists and the conduct of Lobbying activities set out in the Code of Conduct when Lobbying Public Officer Holders.

1. Honesty

- a. Lobbyists shall conduct themselves with honesty and integrity in all dealings with Public Office Holders and the Region.

2. Openness

- b. Lobbyists shall be open about their Lobbying activities at all times while maintaining the necessary confidentiality.

3. Disclosure of Identity and Purpose

- a. Lobbyists communicating with Public Office Holders shall, at all times, disclose the identity of the individual, business or organization on whose behalf they are Lobbying, as well as the subject matter of the communications.
- b. Lobbyists shall register their name and company information and all Lobbying activity with Public Office Holders on the Lobbyist Registry according to the Lobbyist By-Law.

4. Information and Confidentiality

- a. Lobbyists shall inform their client, employer, or organization of the obligations under the Lobbyist Registry By-Law and their obligations to adhere to the Lobbyist Code of Conduct.
- b. Lobbyists shall provide information that is accurate and factual to Public Office Holders. Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
- c. Lobbyists shall not divulge confidential information unless they have obtained informed consent of their client, employer or organization or unless disclosure is required by law.
- d. Lobbyists shall not use any confidential information obtained in the course of their Lobbying activities to the disadvantage of their client, employer or organization.

5. Competing Interests

- a. Lobbyist shall not represent conflicting or competing interests without the written consent of those whose interests are involved.
- b. 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.
- c. Lobbyists shall not Lobby Public Office Holders on a subject matter for which they provide advice to the Region.

6. Improper Influence

- a. Lobbyists shall avoid both the deed and the appearance of impropriety.
- b. Lobbyists shall not knowingly place a Public Office Holder in a conflict of interest or in a breach of Council and Staff Code of Conducts.

7. Restriction on Communication

- a. Lobbyists shall not communicate with Public Office Holders in relation to a procurement process except as stipulated in the City's procurement policies and procurement documents.
- b. Lobbyists shall not engage in Lobbying activities where the Lobbyist Registrar has prohibited them from Lobbying Activities with the City for a specified time period.