



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 149-2015

A By-law to establish and maintain a Lobbyist Registry in the City of Brampton

RECITALS

City 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 City of Brampton's public office holders, both elected and non-elected.

Sections 8, 9, and 11 of the *Municipal Act, 2001* authorize Council to pass by-laws 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.

Section 223.9 of the *Municipal Act, 2001* permits the City of Brampton to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby the City of Brampton's public office holders, both elected and non-elected.

Section 223.11 of the *Municipal Act, 2001* permits the City of Brampton to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the City of Brampton with respect to the Lobbyist Registry.

Sections 23.1 and 23.2 of the *Municipal Act, 2001* permits the City of Brampton 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 City of Brampton.

The Council of the Corporation of the City of Brampton ENACTS AS FOLLOWS:

PART I – TITLE, SCOPE AND INTERPRETATION

1. Lobbyist Registry By-law 149 -2015 may be referred to as the "Lobbyist Registry By-law".
2. The Lobbyist Registry By-law applies to all public office holders in the City of Brampton, subject to the exemptions noted in Part IV of the Lobbyist Registry By-law.

3. The Lobbyist Registry By-law applies to all lobbying activities in the City of Brampton, subject to the exemptions noted in Part IV of the Lobbyist Registry By-law.
4. For the purposes of the Lobbyist Registry By-law:
 - (a) Words defined in Part II of the Lobbyist Registry By-law shall be interpreted as having a corresponding meaning if used as a noun, verb, adverb or adjective.
 - (b) References to items in the plural include the singular, as the context requires.

PART II – DEFINITIONS

5. For the purposes of the Lobbyist Registry By-law:
 - (a) “**business day**” means a day when the offices of the City of Brampton are open during its regular hours of business.
 - (b) “**City**” means the Corporation of the City of Brampton.
 - (c) “**Code of Conduct**” means the Lobbyist Code of Conduct, attached as Schedule “A” to the Lobbyist Registry By-law.
 - (d) “**communication**” means any form of expressive contact, including but not limited to a meeting, email, or other electronic messaging, facsimile transmission, letter, phone call, or other meaningful dialogue that falls within the definition of lobbying in either a formal or informal setting.
 - (e) “**constituent**” means,
 - i. An individual who resides in the City; or
 - ii. An owner or operator of a business or other organization located in the City.
 - (f) “**legislative action**” means all actions by Council or through its authority, including, but not limited to the:
 - i. development, introduction, passage, defeat, amendment or repeal of a by-law, motion or resolution;
 - ii. development, approval, amendment, application or termination of a City policy, program, directive, grant or guideline;
 - iii. outcome of a decision on any matter before Council, a Committee of Council or a Ward Councillor or staff member acting under delegated authority; or
 - iv. the purchase of goods, services or construction and the award of a contract by the City.
 - (g) “**lobby**” means any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence any legislative action.
 - (h) “**lobbyist**” means,
 - i. **consultant lobbyist** – an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). If the consultant arranges for

a meeting between a public office holder and a third party, this is considered lobbying.

- ii. **in-house lobbyist** – an individual who is an employee, partner, or sole proprietor, or a member of a board of directors and who lobbies on behalf of their own employer, business or organization.
- iii. **voluntary unpaid lobbyist** – an individual who lobbies without payment on behalf of an individual, business, or other organization for the benefit of the interests of the individual, business or other organization.
- (i) **“Lobbyist Registry”** means a system of registration in which shall be kept registrations of persons who lobby public office holders and which shall include such information as determined by the Lobbyist Registrar.
- (j) **“local board”** has the same meaning as the definition of a local board in section 223.1 of the *Municipal Act, 2001*.
- (k) **“public office holder”** means,
 - i. A Member of Council and any person on his or her staff;
 - ii. An officer or employee of the City;
 - iii. A Member of a local board or committee established by Council and any person on his or her staff; and
 - iv. An accountability officer appointed under the *Municipal Act, 2001*, including but not limited to: Auditor General, Integrity Commissioner, Lobbyist Registrar, Ombudsman, and Closed Meeting Investigator.
- (l) **“Lobbyist Registrar”** means the person appointed as Lobbyist Registrar under section 223.11 of the *Municipal Act, 2001*.

PART III – PROHIBITIONS

- 6. No person, on whose behalf another person undertakes lobbying activities, shall make payment for the lobbying activities that is in whole or in part contingent upon the successful outcome of any lobbying activities.
- 7. No lobbyist shall lobby on behalf of his or her client where the payment to the lobbyist is in whole or part contingent on the successful outcome of any lobbying activities.
- 8. 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 at the City.
- 9. No lobbyist shall communicate with a public office holder in relation to a procurement where it is not permitted by the City’s Purchasing By-law 35-2012, as amended, or successor by-law, procurement policies or procurement documents.
- 10. No lobbyist shall undertake in lobbying activities where the Lobbyist Registrar has prohibited them from doing so pursuant to Part VII of the Lobbyist Registry By-law.

PART IV – EXEMPTIONS

11. The Lobbyist Registry By-law does not apply to the following persons or bodies acting in their professional capacity:
- (a) Government or public sector, other than the City:
 - i. Members of the Senate, House of Commons, legislative assemblies of provincial/territorial governments, persons on the staff of the members;
 - ii. Members of a First Nations Council as defined in the Indian Act or 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 Nations or Indian band Council, federal or provincial crown corporation or other federal or other 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, the Cities of Mississauga and Caledon, the Region of Peel and other municipal bodies:
 - i. Public office holders;
 - ii. Officers, directors, employees of a local board of the City and acting in their public capacity;
 - iii. Members of an Advisory Committee, acting in their public capacity and appointed by City Council.
 - (c) Members, directors, officers, employees or consultants retained by the following publicly-funded school boards and educational institutions:
 - i. Peel District School Board;
 - ii. Dufferin-Peel Catholic District School Board;
 - iii. Ontario French Public School Board;
 - iv. Ontario French Catholic School Board; and
 - v. Universities, colleges, and other publicly-funded educational institutions.
 - (d) Members, directors, officers, employees or consultants retained by the following publicly-funded healthcare institutions:
 - i. Brampton Civic Hospital; and
 - ii. Peel Memorial Centre for Integrated Health and Wellness

- (e) Members, directors, officers, employees or consultants retained by the following municipal associations:
 - i. Association of Municipalities of Ontario; and
 - ii. Federation of Canadian Municipalities.

- 12. The Lobbyist Registry By-law does not apply to the following activities:
 - (a) Communication that is a matter of public record or occurs during a meeting of Council, a Local Board or 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 restricted to a request for information;
 - (d) Communication 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 organization regarding:
 - 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 or 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;
 - (f) Communication by an applicant, an interested party or their representatives with respect to an application for service, grant, planning approval, permit or other license, permission or approval:
 - i. With an employee of the City if the communication is restricted to providing general information on an application, including a proposed or pending application or to inquire about the application or the review process;
 - ii. With an employee of the City if the communication is part of the normal course of an approval process; and
 - 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.
 - (g) Submitting a bid proposal as part of a 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 organization in direct response to a written request from the public office holder;

- (i) Communication to a Member of Council by a constituent, or an individual on behalf of a constituent on a general neighbourhood or public policy issue;
- (j) Communications directly related to those City-initiated consultative meetings where an individual is participating as a stakeholder; and
- (k) Communication for or against a policy or program that state a position where the primary focus is 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 organization on whose behalf the communication is undertaken.

PART V – RESPONSIBILITIES

13. The Lobbyist Registrar is responsible for the following:

- (a) Overseeing the establishment and administration of the Lobbyist Registry;
- (b) Enforcing the Lobbyist Registry By-law;
- (c) Suspending, revoking or refusing registration;
- (d) Providing advice, opinions and interpretation pertaining to the administration, application and enforcement of the Lobbyist Registry By-law;
- (e) Advising Council on lobbying matters and recommending improvements to the Lobbyist Registry By-law;
- (f) Conducting inquiries in respect of a request made by Council, a member of Council or a member of the public about compliance with the Lobbyist Registry By-law and the Lobbyist Code of Conduct attached as Schedule "A" to this By-law, as set out under section 223.12 of the *Municipal Act, 2001*.
- (g) Making the Lobbyist Registry available for public inspection through electronic, web-based access at all reasonable times and in a manner that the Lobbyist Registrar may determine.
- (h) Providing an annual report to Council and any other reports as the Lobbyist Registrar considers appropriate.
- (i) Performing other duties as may be assigned by Council.

14. The public office holder is responsible for:

- (a) Advising lobbyists of the requirements to register with the Lobbyist Registry at the start of lobbying activities;
- (b) Ceasing lobbying-related communication with a lobbyist who is prohibited from lobbying and reporting in a timely manner such lobbying to the Lobbyist Registrar.
- (c) Responding and providing information in a timely manner to the Lobbyist Registrar with regards to an inquiry conducted under Section 13(f) of the Lobbyist Registry By-law.

15. The lobbyist is responsible for:

- (a) Complying with the requirements of the Lobbyist Registry By-law; and

- (b) Complying with the Code of Conduct, attached as Schedule "A" to the Lobbyist Registry By-law.

PART VI – REGISTRATION PROCESS

- 16. No person shall lobby a public office holder without being registered as required under this Part unless otherwise exempted under Part IV.
- 17. A person with the intent to lobby may register as a lobbyist prior to the first lobbying communication with a public office holder and shall do so no later than five (5) business days after the lobbying communication takes place.

Step 1: Registration as a Lobbyist

- 18. The lobbyist shall set out in the registration the following information:
 - (a) Name, title, and business address (where applicable);
 - (b) Whether the lobbyist is a consultant lobbyist, in-house lobbyist or voluntary unpaid lobbyist;
 - (c) The name of the individual, client or other organization, including all business names under which the individual, client or other organization is operating, on whose behalf the lobbyist is lobbying; and
 - (d) Such further information as the Lobbyist Registrar may require.
- 19. The Lobbyist Registrar will approve or refuse the registration in accordance with the requirements of the Lobbyist Registry By-law.

Step 2: Subject Matter Registration

- 20. The lobbyist shall set out in the registration the subject matter in respect of which the lobbyist intends to lobby the public office holder on:
 - (a) Each subject matter that the lobbyist will lobby on;
 - (b) Description of the issue being lobbied, including particulars of any relevant City proposal, by-law, motion, resolution, policy, program, directive, grant, or guideline;
 - (c) Date on which the lobbying will start and finish, with the date on which the lobbying finishes being no more than twelve (12) months after the date on which the lobbying starts;
 - (d) Names of Members of Council and titles of other public office holders being lobbied; and
 - (e) Such further information as the Lobbyist Registrar may require.
- 21. A lobbyist shall update any changes to his or her registration within five (5) business days of the change taking place.
- 22. The Lobbyist Registrar will approve or refuse the registration in accordance with the requirements of the Lobbyist Registry By-law.

Step 3: Closure of Subject Matter Registration:

- 23. The lobbyist shall close the subject matter registration he or she has filed not later than thirty (30) days after the completion or termination of the lobbying activity.

24. The subject matter shall be closed once lobbying is complete or within twelve (12) months of lobbying commencing, whichever is sooner.
25. A subject matter registration may be extended beyond twelve (12) months at the sole discretion of the Lobbyist Registrar.

PART VII – ENFORCEMENT AND PENALTIES

26. The Lobbyist Registrar has the authority to conduct inquiries in respect of a request made by Council, a member of Council or by a member of the public about compliance with the Lobbyist Registry By-law or the Lobbyist Code of Conduct, attached as Schedule “A” to this By-law, as set out under section 223.12 of the *Municipal Act*, 2001.
27. The Lobbyist Registrar may impose the following penalties if he or she has determined that a lobbyist has not complied with the requirements of the Lobbyist Registry By-law:
 - (a) First contravention – a lobbyist may be prohibited from lobbying public office holders for 30 days;
 - (b) Second contravention – a lobbyist may be prohibited from lobbying public office holders for a period of 90 days; and
 - (c) Third or subsequent contravention – the Lobbyist Registrar will determine an appropriate penalty that is greater than a penalty for a second contravention.
28. Where the Lobbyist Registrar has suspended a lobbyist from lobbying, the Lobbyist Registrar shall inform the individual of the suspension in writing and provide the reason for the suspension in a manner determined by the Lobbyist Registrar.
29. Where the Lobbyist Registrar has suspended a lobbyist from lobbying, the Lobbyist Registrar shall post a notice of suspension on the City’s website.
30. The Lobbyist Registrar may remove a lobbyist registration or subject-matter registration from the Lobbyist Registry if the Lobbyist Registrar determines that the individual did not comply with the requirements of the Lobbyist Registry By-law.
31. When a registration 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 the Lobbyist Registry By-law, not to have filed the registration.
32. Pursuant to subsection 223.12(7) of the *Municipal Act*, 2001, if the Lobbyist Registrar determines, 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 the appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

PART VIII – REVIEW OF THIS BY-LAW

33. The Lobbyist Registry By-law shall be reviewed no later than twelve (12) months after the day on which it comes into force.

PART IX – BY-LAW ADMINISTRATION

- 34. The Lobbyist Registrar shall administer the Lobbyist Registry By-law and establish any practices, policies, procedures necessary to implement the Lobbyist Registry By-law.
- 35. The Lobbyist Registrar shall prescribe all forms and notices, including any orders, necessary to implement the Lobbyist Registry By-law and may amend such forms and notices from time to time as the Lobbyist Registrar deems necessary.

PART X - GENERAL

- 36. All schedules attached hereto form part of the Lobbyist Registry By-law.
- 37. If any section, subsection or part or parts thereof are declared by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision shall be deemed to be severable and the remainder of the Lobbyist Registry By-law shall be declared to be separate and independent and enacted as such.
- 38. The Lobbyist Registry By-law shall come into effect on January 1, 2016.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 8th day of July, 2015.

Approved as to form.
Jul 3, 2015
REZ
[Type Name]

Approved as to content.
Jul 3, 2015
[Signature]
[Type Name]

[Signature]
Linda Jeffrey, Mayor

[Signature]
~~Peter Fay, City Clerk~~
Earl Evans, Deputy City Clerk

SCHEDULE "A"

Lobbyist Code of Conduct

1. Honesty

- (a) Lobbyists shall conduct themselves with honesty and integrity in all dealings with public office holders and the City and at all times be open about their lobbying activities while maintaining any required confidentiality.

2. Disclosure of Identity and Purpose

- (a) 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.

3. 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.
- (c) Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
- (d) 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.
- (e) Lobbyists shall not use any confidential information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

4. Competing Interests

- (a) Lobbyists 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 City.

5. Improper Influence

- (a) Lobbyists shall avoid both the deed and the appearance of impropriety.
- (b) Lobbyists shall not knowingly place public office holders in a conflict of interest or in a breach of the public office holder's codes of conduct or standards of behaviour.

6. Restriction on Communication

- (a) Lobbyists shall not communicate in relation to a procurement process except as permitted by 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 for a specified time period.