

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO ESTABLISH AND MAINTAIN A LOBBYIST
REGISTRY FOR THE REGIONAL MUNICIPALITY OF
NIAGARA

WHEREAS section 223.9 of the Municipal Act S.O., 2001, Chapter 25, as amended, (the Act) authorizes The Regional Municipality of Niagara to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby The Regional Municipality of Niagara's Public Office Holders;

WHEREAS section 223.11 of the Act authorizes The Regional Municipality of Niagara to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the Region of Niagara with respect to the Lobbyist Registry;

WHEREAS sections 8, 9, and 10 of the Act authorize The Regional Municipality of Niagara 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,

WHEREAS a Lobbyist Registry is considered a publicly accessible accountability and transparency tool;

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 Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the Region of Niagara Public Office Holders.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. For the purposes of this By-law:

"Communication" means any substantive form of communication including a formal meeting, email, letter, phone call or meaningful dialogue or exchange;

"Council" means the Council of The Regional Municipality of Niagara;

"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 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 shall be kept the Registrations and Returns of persons who Lobby Public Office Holders and which shall include such information as required pursuant to this By-law;

"Public Office Holder" means:

- a) A member of Regional Council;
- b) An officer or employee of The Regional Municipality of Niagara;
- c) A member of a local board or committee established by Council;
- d) Any accountability officer, appointed under the Municipal Act, 2001, including but not limited to the Integrity Commissioner, the Lobbyist Registrar, Ombudsman, and/or Closed Meeting Investigator;
- e) Individuals under contract with the Region providing consulting or other advisory services to the Region related to matters with budgetary or operational impacts during the term of their contract.

“Region” means The Regional Municipality of Niagara;

"Registration" means a first filing by a Lobbyist regarding a subject matter he or she intends to Lobby on as set out in subsection 8(1); and

"Return" means an update of a Registration filed by a Lobbyist as set out in subsection 8.2.

PART 2 ESTABLISHMENT OF A LOBBYIST REGISTRY

2. Lobbyist Registry

- 2.1 The Regional Clerk shall develop and maintain a Lobby Registry under the oversight of the Lobbyist Registrar, in which shall be kept all Registrations and Returns filed under this by-law.
- 2.2 The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

3. Exempted Persons and Organizations

- 3.1 The following persons and organizations shall not be considered Lobbyists when carrying out official duties on behalf of and authorized by the public sector bodies they represent:
 - a) Government or public sector not including the Region and other municipal bodies:
 - 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 and other municipal bodies:
 - i. Public Office Holders
 - ii. Members or employees of a local board of the Region
 - 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

4. Exempted Activities

4.1 Lobbying does not include:

- a) Communication that occurs during a meeting of Regional 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 solely to a request for information;
- d) Communication that is restricted solely 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, save and except the Region's Procurement 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 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 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 those Region-initiated consultative meetings and processes where an individual is participating as an interested party; Communication for or against a policy or program that state 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;
- 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.

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.
- 5.4 No person will Lobby a Public Office Holder unless they are Registered in accordance with this By-law.
- 5.5 No person will provide false or incomplete information in their Registration or Return.
- 5.6 No Lobbyist will offer or provide goods, services or financial compensation in return for support as a part of their Lobbying.

6. Lobbyist Registrar

- 6.1 The Region may appoint an Integrity Commissioner as the Lobbyist Registrar in accordance with section 223 of the Municipal Act, 2001.
- 6.2 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"), as set out under section 223.12 of the Municipal Act, 2001.
- 6.3 The Lobbyist Registrar's responsibilities include:
- a) overseeing the administration of the Lobbyist Registry system;
 - b) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
 - c) 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;
 - d) suspending or revoking a Registration;
 - e) enforcing this By-law;
 - f) advising Regional Council on Lobbying matters and recommending improvements to this By-law; and
 - g) providing an annual report to Regional Council and any other reports as the Lobbyist Registrar considers appropriate.

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(c) 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 6.3(c), a Public Office Holder's responsibilities under this By-law do not include gathering or providing information concerning Lobbying of him or her.

PART 3: REGISTRATION AND REPORTING OF LOBBYING ACTIVITY

8. Registrations and Returns

- 8.1 All Lobbyists shall file a Return regarding Lobbying Communication within five (5) business days of the first Communication occurring. The Registration shall include:
- a) their name, address and contact information;
 - b) if they are a Consultant Lobbyist, In-house Lobbyist or Voluntary Unpaid 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, on whose behalf he or she is Lobbying;
 - d) the name of the individual or individuals they are Lobbying;
 - 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 starts; and
 - f) any such further information as the Lobbyist Registrar may require.
- 8.2 A Lobbyist shall file a Return updating any change or addition to information provided under Section 8.1 in his or her Registration.
- 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
- 8.6 The Lobbyist Code of Conduct is attached hereto as Schedule "A" and forms part of this By-law.

PART 4: ENFORCEMENT AND PENALTIES

9. Penalties

- 9.1 The Registrar may impose a temporary ban on Lobbying 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) shall post the prohibition and the reason for the prohibition on the website.
- 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. 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 shall be known 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 Niagara 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. That this By-law shall come into force and effect on the date on which it is passed, with the exception of Part 4: Enforcement and Penalties, which is to come into force and effect six (6) months after.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>