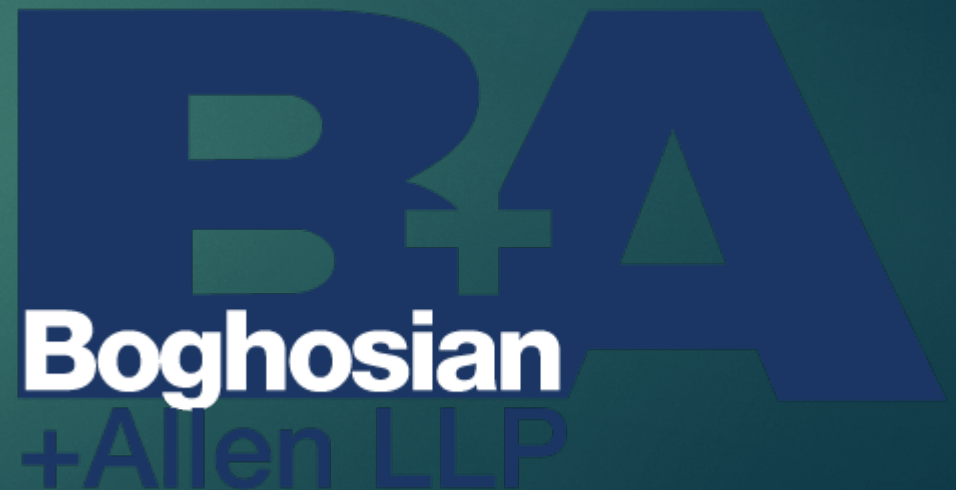


Lobbyist Registrar Training Seminar

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Agenda



Background

What is Lobbying?

Who is a Public Office Holder?

Types of Lobbying Activity

The Lobbying Registry and Registrar

Types of Lobbyists

Registration Requirements

Examples of Lobbying

Lobbyist Code of Conduct

Authorizing Legislation

- ▶ The *Municipal Act, 2001* authorizes municipalities to create a Lobbying-Activity Registry & to appoint a Lobbyist Registrar
- ▶ **Registry**
- ▶ **223.9** (1) ...authorize[s] the municipality to **establish** and **maintain** a **registry** in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders.
- ▶ **223.11** (1) ...authorize[s] the municipality to **appoint a registrar** who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry described in subsection 223.9 (1)...

Region's Lobbyist Registrar by-law

- ▶ Niagara Council passed the [Lobbyist Registry By-law 2022-24](#) on April 14, 2022.
- ▶ The Enforcement and Penalties section of the By-law come into force April 14, 2024 (extended by one year from the previous version).
- ▶ This By-law:
 - ▶ **Defines** lobbying
 - ▶ Creates **three categories** of lobbyists
 - ▶ Establishes a **Lobbyist Registry**
 - ▶ Establishes the **office** of the Lobbyist Registrar
 - ▶ Creates **Penalties** for violations of the By-law
 - ▶ Creates a **Lobbyist Code of Conduct**

What is “Lobbying”?

- ▶ “Lobbying” means
 - ▶ any Communication with a Public Office Holder
 - ▶ by an individual (paid or representing an interest)
 - ▶ with the goal of trying to influence any legislative action including
 - ▶ Passing, defeating or changing 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 Registry By-law 2022-24

Who is a Public Office Holder?

- 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; and
- 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.

* Lobbyist Registry By-law 2022-24

Types of Lobbying Activity

- ▶ Lobbyist activity is any substantive form of communication, including
 - ▶ a formal meeting,
 - ▶ email,
 - ▶ letter,
 - ▶ phone call or
 - ▶ meaningful dialogue or exchange
- ▶ That seeks to accomplish legislative changes
 - ▶ whether in a formal or an informal setting.

What 'Lobbying' is NOT

- ▶ Lobbying should not be considered a 'dirty' word
 - ▶ It is valid part of the democratic process
 - ▶ Lobbying is pointing out the merits or flaws of a particular position
- ▶ Lobbying can be acceptable conduct, if it is registered or fits into an exception
- ▶ **The Goal of the Lobbyist Registry:** to ensure that lobbying efforts are transparent and accountable
- ▶ Lobbying is not:
 - ▶ An offer or solicitation for a vote
 - ▶ A quid pro quo agreement for action in exchange for compensation
- ▶ These actions are potentially criminal or a conflict of interest
- ▶ There is no prohibition against influence without quid pro quo
 - ▶ But there are restrictions on influence, depending on the context

The Pros and Cons of Lobbying

Pros:

- ▶ Decision-makers are provided different perspectives and insights
- ▶ Stakeholders and business interests are able to participate in public policy development
- ▶ Decision-makers can make use of data to which they may not otherwise have had access

Cons:

- ▶ The public interest may be hindered if unfair competition or influence practices are implemented without public knowledge
- ▶ Reduced public trust in government institutions
- ▶ Can hinder effective policy decisions where all the factors that influenced a decision are not disclosed

The Lobbyist Registry

- ▶ The Lobbyist Registry is a public record of all individuals or organizations who have lobbied a public office holder at Niagara Region.
 - ▶ This registry is available through web-based access
- ▶ The searchable database contains all correspondence between those who lobby and members of Regional Council or Regional staff.

The Lobbyist Registrar

- ▶ The Lobbyist Registrar is appointed by Council
 - ▶ Their powers and duties are set out in the Municipal Act, 2001 and the [Lobbyist Registry By-law 2022-24](#).
- ▶ The Lobbyist Registrar enforces the [Lobbyist Registry](#) and the [Lobbyist Code of Conduct](#).
- ▶ The Registrar has the power to
 - ▶ investigate complaints and
 - ▶ to impose sanctions if
 - ▶ lobbying activity has not been disclosed, or
 - ▶ if an individual has contravened the Lobbyist Code of Conduct
- ▶ Should the registrar impose a sanction, it will be in the form of a temporary ban on communication.
 - ▶ Notice of the temporary ban will given to members of Council and Regional staff and posted on the Region's website

Types of Lobbyists

- ▶ A consultant lobbyist who lobbies for payment on behalf of a client
- ▶ An in-house lobbyist who is an employee, partner, or sole proprietor and who lobbies on behalf of their own employer, business or other entity
- ▶ A voluntary unpaid lobbyist 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
 - ▶ Not-for-profit organizations with paid staff are also required to register any communications that fall under the definition of lobbying
- ▶ If a lobbyist qualifies as more than one type of lobbyist, they must submit a form for each separate type of lobbyist that they qualify as.
- ▶ * Lobbyist Registry By-law 2022-24

Requirement for Lobbyists to Register

- ▶ A paid individual or an individual representing a business/financial interest communicating with a public officer holder with the goal of influencing any legislative process **must register their activity** with the Lobbyist Registry.
- ▶ Lobbyists must **file a Registration** within 5 business days after the start lobbying communications including the following info:
 - ▶ Lobbyist **contact info**
 - ▶ Lobbyist **category** (consultant, in-house, voluntary unpaid)
 - ▶ The name(s) of the individual(s)/business on whose **behalf they are lobbying**
 - ▶ The name(s) of the individual(s) **they are lobbying**
 - ▶ The **subject matter & date** of when the lobbying will start/finish
- ▶ **Returns** must be filed to include new/additional info when a change occurs
- ▶ If lobbying communication continues for more than a year - a **new Registration** must be filed in each year that the lobbying continues

The Same Topic over an extended period of time

- ▶ Lobbyists can include a date range for a maximum period of one year if their lobbying will be ongoing
- ▶ Lobbyists only need to register the first communication or discussion they have
- ▶ For example,
 - ▶ An extended email thread about the same topic
 - ▶ Only requires the lobbyist to submit that email exchange once - on the date the exchange started
 - ▶ If the topic changes during the correspondence- the Lobbyist must register the new topic

Examples of Lobbying

- ▶ Lobbying activity covers “substantive” forms of communication including
 - ▶ a formal meeting,
 - ▶ e-mail,
 - ▶ letter, or
 - ▶ phone call.
- ▶ Also included is any meaningful dialogue or exchange whether in a formal or in an informal setting.
- ▶ This would include conversations at a social event (e.g. golf tournament) that constitutes lobbying and aims to influence a legislative action.

Activities that do not need to be disclosed

- ▶ Most interactions you have with Regional staff and / or members of Council not need to be registered
- ▶ If a member of Council approaches an individual and is seeking information from them, the person approached is not required to register this communication
- ▶ If Niagara Region has invited an individual to participate in a stakeholder relations session, it doesn't need to be registered
 - ▶ Any communication surrounding an individual's role as a stakeholder is not considering lobbying.

Exemptions from lobbying requirements

- ▶ **Persons and organizations not considered lobbyists**
- ▶ Government or public sector individuals, not including the Region and other municipal bodies:
- ▶ Officials and employees of the Region and other municipal bodies:
 - ▶ Public office holders
 - ▶ Members or employees of a local board of the Region
 - ▶ Members of an advisory committee appointed by Council
- ▶ Other public sector:
 - ▶ Persons communicating on behalf of local school boards
 - ▶ Persons communicating on behalf of healthcare institutions

Is it Lobbying?

Social Setting

Mr. Grey approaches Councillor Blue at a fundraiser. Recently, the municipal council on which Councillor Blue sits has been considering whether to adopt a “Fireworks By-Law”. One of the measures this By-law would implement, should it be passed, would be to ban the sale of firecrackers. Mr. Grey and Mr. Blue both grew up in the same town. They reminisce about their childhood, and how both enjoyed playing with firecrackers as children. Mr. Grey mentions that there was “no harm done” by firecrackers and that “things should just stay the same”. Offhandedly, Mr. Grey mentions that he owns a corner store, which happens to sell firecrackers.

Business Setting

Councillor Yellow sits as a municipal councillor and also co-owns a hunting pro shop. Mr. Teal, the other co-owner, and Councillor Yellow, discuss business each month. At one of their monthly meetings, Mr. Teal begins discussing the pheasant population. Pheasant hunters make up a large portion of their customers. Mr. Teal suggests that their business could greatly benefit were more hunting licences given out, specifically for pheasants. He also mentions that the pheasant population is “out of control”. The municipality regulates the number of hunting licences given out during open season, specifically to hunt pheasant via its Hunting By-law

Government Setting

Councillor Orange and Councillor Blanche are childhood friends who sit on municipal councils of two different municipalities. Councillor Orange wrote to Councillor Blanche for advice after Blancheville recently amended its Building Permit By-law. Councillor Blanche spearheaded an effort to solicit improvement suggestions from local contractors. Councillor Blanche compiled these suggestions, which included the input from a few Orangeville contractors, and offered to share it with Councillor Orange. Councillor Blanche suggested the Orangeville Building Permit By-law “could use an update”.

Lobbyist Code of Conduct

- ▶ Lobbyists are expected to comply with the standards of behaviour set out in this code of conduct when lobbying public office holders
 - ▶ **Honesty:** conduct all relations honestly & with integrity
 - ▶ **Openness:** be open & transparent with their lobbying activities
 - ▶ **Disclosure of identity and purpose:** disclose on whose behalf they are lobbying
 - ▶ **Information and confidentiality:** to not divulge confidential information
 - ▶ **Competing interests:** to not represent conflicting interests w/o consent
 - ▶ **Improper influence:** avoid both the act or appearance of impropriety
 - ▶ **Restriction on communication:** avoid communicating
 - ▶ about procurement (except as permitted) or
 - ▶ during specific periods as specified by the Lobbyist Registrar

Prohibited Activities

- ▶ Payment for lobbying activities, in whole or in part, shall not be contingent on the activities being successful.
- ▶ A lobbyist cannot receive payment that is, in whole or in part, contingent on the activities being successful.
- ▶ After leaving office, a Public Office Holder is restricted from engaging in lobbying activities for a period of twelve (12) months
- ▶ A lobbyist cannot engage in lobbying activities unless they are Registered
- ▶ No person will provide false or incomplete information in their Registration or Return.
- ▶ No Lobbyist will offer or provide goods, services or financial compensation in return for support as a part of their Lobbying.

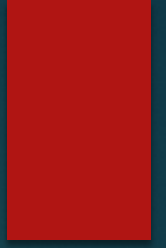
Responsibilities of a Public Office Holder

- ▶ A Public Office Holder's responsibilities include:
 - ▶ a) responding, in a timely and complete manner, to a request from the Lobbyist Registrar 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 ...a Public Office Holder's responsibilities...do not include gathering or providing information concerning Lobbying of him or her.
- ▶ * Lobbyist Registry By-law 2022-24

Penalties for Breach

- ▶ If the Lobbyist Registrar finds that the requirements of the Lobbyist Registry By-law and / or Lobbyist Code of Conduct have not been met, a ban on lobbying may be imposed:
 - ▶ **First breach**, the lobbyist is banned from communicating with public office holders for 30 days
 - ▶ **Second breach**, the lobbyist is banned from communicating with public office holders for 60 days
 - ▶ **Third breach**, the registrar has the discretion to determine an appropriate sanction
- ▶ Members of Council and Regional staff are bound by their respective codes of conduct to **refrain from communicating** with individuals who have been found in contravention of the Lobbyist Registry By-law.

Questions?



Thank you!

