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**TO:** GENERAL COMMITTEE

**SUBJECT:** ESTABLISHING A LOBBYIST REGISTRY AND APPOINTMENT OF A LOBBYIST REGISTRAR

**PREPARED BY AND KEY CONTACT:** W. COOKE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES, EXT. 4560

**SUBMITTED BY:** W. COOKE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

**GENERAL MANAGER APPROVAL:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That the By-law attached as Appendix "A" to Staff Report LCS007-23 concerning the establishment of a Lobbyist Register be adopted to take effect September 1, 2023.
2. That Procedural By-law 2019-100 as amended be further amended to provide for the reporting of Lobbyist Registrar to City Council in similar manner to that of the Integrity Commissioner.
3. That Suzanne Craig, City of Barrie Integrity Commissioner be appointed as the interim Lobbyist Registrar for the City of Barrie and that the Mayor and City Clerk be authorized to execute an agreement for provision of this service.
4. That the City Clerk undertake a procurement process to retain a permanent Lobbyist Registrar and appoint the Lobbyist Registrar, with the selection process being undertaken by the Chief Administrative Officer, the General Manager of Community and Corporate Services and City Clerk.
5. That the retainer for the Lobbyist Registrar be funded from the Council Priority Contingency Fund for 2023, with a line item to be added to the Council budget administered through the Legislative and Court Services Department for 2024 and beyond.

### **PURPOSE & BACKGROUND**

#### Purpose

6. The purpose of this Staff Report is to provide information and recommend the implementation of a Lobbyist Registry and appointment of a Lobbyist Registrar in accordance with the *Municipal Act, 2001 (Municipal Act)*.

#### Background

7. City Council at its meeting on December 14, 2022, adopted motion 22-G-183, as follows:  
  
"That staff in the Legislative and Court Services Department investigate the feasibility of the creation of a Lobbyist Registry for the City of Barrie to ensure the public disclosure of lobbying activities and to oversee the regulation of lobbyists' conduct and report back to General Committee."

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8. The act of 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 but not limited to 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 Ward Councillor or staff member acting under delegated authority. This does not include communications in public forums such as Council and Committee meetings, public open houses, neighbourhood meetings, etc.
  9. Public Office holders include members of Council, officer or employee of the municipality, member of a local board, Advisory Committee, and Integrity Commissioner.
  10. Typically, a lobbyist can be defined in three ways as follows:
    - a) Consultant lobbyist: an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). Additionally, if the consultant lobbyist arranges for a meeting between a public office holder and the client or other third party, that is lobbying,
    - b) In-house lobbyist: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization,
    - c) Voluntary unpaid lobbyist: an individual who lobbies without payment on behalf of a business or for-profit organization for the benefit of the interests of the for-profit entity or organization. Additionally, if the voluntary unpaid lobbyist arranges a meeting between a public office holder and the business or for-profit organization or a third party, that is deemed to be lobbying.
  11. A Lobbyist Registry is an accessible record of persons who lobby public office holders outside of public forums.

Authorization under the *Municipal Act* to Establish a Lobbyist Registry and Appoint a Lobbyist Registrar

12. The *Municipal Act* authorizes a municipality to establish lobbyist registries and appoint a lobbyist registrar. The City of Toronto is the only municipality required by provincial legislation to have a registry, it is optional for other municipalities.
13. Section 223.9 (1) of the *Municipal Act* allows for a 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”. The General Powers provided for under Sections 9 and 10 under the *Municipal Act*, allow for a single tier municipality to establish a by-law for the registry and registrar and to put in place a penalty system to ensure compliance with the registry system. Sections 9 and 11 provide municipalities the flexibility to adopt various approaches to implement regulations associated with lobbying activities.
14. Section 223.9(2) of the *Municipal Act* authorizes a municipality to develop of a Code of Conduct for Lobbyists. A Code of Conduct is intended to ensure a common understanding of the expectations and actions and of the lobbyists.
15. Section 223.9 (2) also provides authority to a municipality to “provide for a registration of persons who lobby public office holders and do the following things”, which are listed below.
  - require persons who lobby public office holders to file returns (register with the City) and give information to the municipality;
  - specify the returns to be filed and the information to be given to the municipality by persons who lobby public office holders and specify the time within which returns must be filed and the information provided;

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- exempt persons from the requirement to file returns and provide information that does not apply;
  - prohibit former public office holders from lobbying current public office holders for a period time specified by by-law;
  - prohibit a person from lobbying public office holders without being registered;
  - impose conditions for registration, continued registration or a renewal of registration;
  - refuse to register a person, and suspend or revoke a registration; and
  - prohibit persons who lobby public office holders from receiving payment that is in whole or part contingent on the successful outcomes of any lobbying activities.
9. Section 223.11 of the *Municipal Act* allows for a 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.
10. Section 223.12 provides parameters for a municipality for the conduct of handling an inquiry concerning compliance with the Registry system.

## **ANALYSIS**

### Lobbyist Registries and Registrars in other municipalities

11. During the preparation of this Staff Report, staff reviewed Lobbyist Registries, By-laws and Codes of Conduct of other municipalities including Vaughan, Ottawa, Brampton, Niagara Region, Peel Region, Hamilton, Collingwood, and Burlington (pilot project only). Through staff's research most of the municipalities have based their By-laws and Code of Conduct on the ones in use by the City of Ottawa.
12. After reviewing the by-laws and codes in these municipalities, staff have proposed a Lobbyist Registry By-law (attached as Appendix "A" to Staff Report LCS007-23) that includes a Lobbyist Code of Conduct for the City of Barrie. The proposed by-law and code are based on the ones from the cities of Ottawa and Vaughan to ensure Barrie's practices are consistent with those across the Province.
13. The following sections outline significant aspects of the proposed Lobbyist Registry By-law, Lobbyist Code of Conduct and appointment of the Lobbyist Registrar.

### Lobbyist Registry in the City of Barrie

14. As set out in the *Municipal Act*, the onus for registering lobbying activity rests with the person lobbying the public office holder, not the office holder themselves. Section 223.9 (3) of the *Municipal Act* provides that the registry is required to be available for public inspection in the manner and during a time that the municipality may determine. If approved by Council, a registry would be made available on the City's website.
15. As noted above, a Lobbyist Registry is an accessible record of persons who lobby public office holders outside of public forums such as Council and Committee meetings, public open houses, neighbourhood meetings, etc. Public Office holders include members of Council, officers or employees of the municipality, members of a local board, Advisory Committee, and the Integrity Commissioner. The entire list of public office holders is included in the proposed Lobbyist Registry By-law attached as Appendix "A" to Staff Report LCS007-23.

16. While there is variation in the timeline for registration of lobbying across the municipalities with Lobbyist Registry By-laws activity (from 1 day before to within 15 days of the lobbying taking place), the majority of the larger municipalities utilize 5 days or greater, as outlined below:

<b>Municipality</b>	<b>Period to Register as a Lobbyist before/after lobbyist activity</b>
Brampton	No later than 5 days after to lobbying taking place with public office holder
Collingwood	No later than 10 days after the lobbying to taking with a public office holder
Hamilton	At least 1 day before lobbying takes place with a public officer
Niagara Region	No later than 5 days after lobbying taking place with public office holder
Peel Region	Before or within 5 days of lobbying taking place with public office holder
Ottawa	Within 15 days of the lobbying taking place with public office holder
Vaughan	No later than 5 days after the lobbying taking place with public office holder

17. Lobbyists as defined in paragraph 10 of Staff Report LCS007-23 would be required to register with the municipality to report their communication/lobbying activities. It is recommended that returns (registration of lobbyist activity) would be filed by a Lobbyist no later than 10 days after the communication/lobbying has taken place with a public office holder. This 10-day timeframe is longer than many of the municipalities that have established registries as this would be new for Barrie. It could be adjusted to a shorter timeline after a review that would be conducted post-implementation.
18. Those who are registering as a Lobbyist must have their profile approved by the Lobbyist Registrar. If an individual is not a lobbyist as defined by the By-law they will be notified by the Lobbyist Registrar. The information required to be submitted when registering to be a Lobbyist is:
- Name of Lobbyist
  - Organization that is being represented (if required)
  - Type of Lobbyist
  - Email, address and phone number
  - Affiliation with local boards
  - Whether or not you are a former public office holder
19. As Lobbyist activity is filed by the Lobbyist, the website will be updated, if the Lobbyist has been approved. Information that will be required to be submitted and posted on the webpage will include:
- Name of Public Office Holder being lobbied
  - Issue and Reason for Lobbying (e.g. Site Plan – Development Approval – Discuss Development Plans for XYZ)
  - Date of communication
20. Lobbyists will be able to provide details of their communications at the same time as they register to be a lobbyist, but the information won't be posted publicly until the Registrar has approved their profile submission.
21. Lobbyists will be required to review their information every six months to ensure their information is current and complete.

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22. If the establishment of a Lobbyist Registry is approved by City Council, the City Clerk and the Lobbyist Registrar will work with Access Barrie and IT to develop an online tool for the Lobbyist Registry submissions.

#### Lobbyist Code of Conduct

23. Lobbyists will be required to adhere to a Code of Conduct as they are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in the proposed Code of Conduct. The Code of Conduct is in place to ensure integrity and transparency of a Lobbyist actions. The proposed Code of Conduct is included in Appendix "A" to Staff Report LCS007-23.

#### Lobbyist Registrar

24. Section 223.11 of the *Municipal Act* allows for a 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. All municipalities, except for Burlington (as they are conducting a pilot project only at this point) have appointed an independent body to serve as their Lobbyist Registrar.
25. The role of the Lobbyist Registrar is:
- overseeing the administration of the lobbyist registration system;
  - providing advice, opinions and interpretations pertaining to the administration, application and enforcement of this by-law;
  - 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;
  - conducting, in private, investigations or inquiries to determine whether contraventions of this by-law have occurred, as permitted under section 223.12 of the *Municipal Act, 2001*;
  - suspending or revoking a registration;
  - the enforcement of the lobbyist registry by-law;
  - advising Council on lobbying matters and recommending improvements and amendments to the by-law;
  - providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate; and
  - performing other duties as may be assigned by Council.

#### Complaints and Investigation

26. A complaint concerning non-compliance with the Lobbyist Registry By-law or Code of Conduct may be filed by Council as a whole, an individual member of Council or a member of the public.
27. If a complaint is received, the Lobbyist Registrar would review the complaint and determine whether or not the Lobbyist is compliant with the By-law and/or Code of Conduct. The Lobbyist Registrar can also refuse to conduct an investigation if there are no grounds, the complaint is not made in good faith or if the investigation would not serve any useful purpose.

28. The municipalities reviewed implemented penalties for non-compliance of the by-law. The chart below details penalties that other municipalities have in place:

Municipality	Penalties
Brampton	<b>1<sup>st</sup> offence</b> may be prohibited from lobbying public office holders for 30 days <b>2<sup>nd</sup> offence</b> may be from lobbying public office holders for 90 days <b>3<sup>rd</sup> offence</b> Registrar to determine an appropriate penalty greater then that of the second breach
Collingwood	<b>1<sup>st</sup> offence</b> may be banned from communicating with public officers for 30 days <b>2<sup>nd</sup> offence</b> may be banned from communicating with public office holders for 60 days <b>3<sup>rd</sup> offence</b> Registrar has discretion to determine appropriate sanction
Hamilton	<b>1<sup>st</sup> offence</b> prohibition of lobbying activities until an information and education meeting is held with the Lobbyist Registrar <b>2<sup>nd</sup> offence</b> three month prohibition on lobbying activities <b>3<sup>rd</sup> or subsequent offences</b> prohibition of lobbying activities for a period of longer than 60 day as determined by the Lobbyist Registrar
Niagara Region	<b>1<sup>st</sup> offence</b> prohibition of lobbying activities until an information and education meeting is held with the Lobbyist Registrar <b>2<sup>nd</sup> offence</b> three months prohibition on lobbying activities <b>3<sup>rd</sup> or subsequent offences</b> prohibition of lobbying activities for a period of longer than 60 day as determined by the Lobbyist Registrar
Peel Region	<b>1<sup>st</sup> offence</b> may be banned from communicating with public officers for 30 days <b>2<sup>nd</sup> offence</b> may be banned from communicating with public office holders for 60 days <b>3<sup>rd</sup> offence</b> Registrar has discretion to determine appropriate sanction
Ottawa	<b>1<sup>st</sup> offence</b> prohibition of lobbying activities for 30 days <b>2<sup>nd</sup> offence</b> 60 days prohibition on lobbying activities <b>3<sup>rd</sup> or subsequent offences</b> prohibition of lobbying activities as determined by the Lobbyist Registrar
Vaughan	<b>1<sup>st</sup> offence</b> prohibition of lobbying activities until an information and education meeting is held with the Lobbyist Registrar <b>2<sup>nd</sup> offence</b> three month prohibition on lobbying activities <b>3<sup>rd</sup> or subsequent offences</b> prohibition of lobbying activities as determined by the Lobbyist Registrar

29. If a complaint is deemed valid upon review and the Lobbyist was in violation with the By-law/Code of Conduct, the Lobbyist Registrar would provide a report to Council in similar fashion to that of the Integrity Commissioner. The Lobbyist Registrar can recommend penalties for non-compliance. The approach to penalties for the City of Barrie is recommended as follows:

- a) First breach: the lobbyist is banned from communicating with public office holders for 30 days;
- b) Second breach: the lobbyist is banned from communicating with public office holders for 90 days; and
- c) Third breach: The Lobbyist Registrar to determine an appropriate sanction.

30. If a temporary ban on communication/lobbying is implemented the Lobbyist Registrar shall notify the individual and Council of the suspension and reasons for the suspension in a manner determined by the Lobbyist Registrar.

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31. The Lobbyist Registrar may remove a registration or return from the Lobbyist Registry if they find a lobbyist has not complied with the requirements of the By-law, without the receipt of a formal complaint. If a registration is removed, it will have the same effect as if the registration was not filed at all. In other words, the individual/organization will be deemed to be in breach of the by-law and may be prohibited from communicating with public office holders for a period of time.

#### Appointment of a Lobbyist Registrar

32. In surveying municipalities, all of the municipalities with a full program in place have an independent body (versus a member of City staff) serve as their Lobbyist Registrar. Some have a dual role (both Integrity Commissioner and Lobbyist Registrar), with some having a separate individual as the Lobbyist Registrar.
33. Staff are recommending that an independent body serve as the City of Barrie's Lobbyist Registrar. Staff approached Ms. Suzanne Craig, Integrity Commissioner for the City of Barrie to serve as Barrie's Lobbyist Registrar to provide for consistency in approach and advice provided to members of Council. She indicated her willingness to serve in the interim (if appointed by Council) until an open process for the selection of a permanent Lobbyist Registrar occurs. As the Lobbyist Registrar provides an accountability and transparency role, Ms. Craig felt it was important that an open process to select the Lobbyist Registrar should be undertaken. She would not be precluded from submitting a bid to be the full-time lobbyist registrar.
34. If there is a period of time when an independent body is not able to serve as the Lobbyist Registrar, it is proposed that the City Clerk would assume the role on an interim basis until a new Lobbyist Registrar is appointed. This is consistent with how other municipalities have addressed their vacancies in their by-laws.

#### ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

35. There are no environmental and/or climate change impact matters directly related to the recommendation.

#### ALTERNATIVES

36. The following alternatives are available for consideration by General Committee:

**Alternative #1:** General Committee could decide not to proceed with establishing a Lobbyist Registry.

This alternative is available. Establishment of a Lobbyist Registry is aligned with Council's strategic priority of Responsible Governance in supporting accountability and transparency of lobbying activities by individuals/organizations of Council and staff.

**Alternative #2:** General Committee could recommend appointing a staff member to serve as a Lobbyist Registrar.

This alternative is not recommended. As the by-law applies to public office holders including senior staff, it is staff's view that an independent body should review and maintain the registry. It is only recommended that the City Clerk serve for an interim period if the independent body can no longer serve and to provide time to retain a new Lobbyist Registrar.



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**FINANCIAL**

37. Staff are recommending that any costs associated with the retainer fee for the Lobbyist Registrar be funded from the Council Priority Contingency Fund for 2023. For 2024 and beyond, the Lobbyist Registrar fees will be added as a line item to the Council budget administered through the Legislative and Court Services Department.
38. It is anticipated that the cost to retain a Lobbyist Registrar will be a minimum of \$10,000 annually, with an approximately \$200-\$250/hour rate for review or addressing complaints, if required.

**LINKAGE TO 2022-2026 COUNCIL STRATEGIC PLAN**

39. The recommendation(s) included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan:

- Responsible Governance

Establishment of a Lobbyist Registry supports ensuring further transparency for the public associated with individuals who lobby the City of Barrie's public office holders.



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**APPENDIX “A” – DRAFT LOBBYIST REGISTRY BY-LAW**

BY-LAW NUMBER 2023-

**A By-law of The Corporation of the City of Barrie to establish a lobbyist registry and establish the position and duties of the Lobbyist Registrar of the City of Barrie.**

**WHEREAS** Section 223.9 of the *Municipal Act, 2001*, as amended authorizes a municipality to establish and maintain a lobbyist registry in which shall be kept registrations and returns filed by person who lobby the City of Barrie’s public office holders;

**AND WHEREAS**, Section 223.11 of the *Municipal Act, 2001* authorizes a municipality to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the City of Barrie with respect to the Lobbyist Registry;

**AND WHEREAS** Sections 9 and 10 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 11(2) authorized by-laws respecting the accountability and transparency of the municipality and its operations;

**AND WHEREAS** the Council of The Corporation of the City of Barrie through Council motion 23-G-xxx desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the City of Barrie’s public office holders;

**THEREFORE BE IT RESOLVED** the Council of the City of Barrie enacts as follows in this By-law:

**1. Definitions:**

- 1.1 “business day” means a day when the offices of the City are open during its regular hours of business, other than a Saturday or a Sunday or other holiday;
- 1.2 “City” – means The Corporation of the City of Barrie
- 1.3 “Code of Conduct” means the Lobbyists’ Code of Conduct;
- 1.4. “communication” means any substantive form of communication including but not limited to a formal meeting, electronic messaging (email, text, etc.), letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or in an informal setting;
- 1.5 “lobby” or “lobbies” 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 but not limited to 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 Ward Councillor or staff member acting under delegated authority;
- 1.6. “lobbyist” means,
  - a) Consultant lobbyist: an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). Additionally, if the consultant lobbyist

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arranges for a meeting between a public office holder and the client or a third party, that is lobbying,

- b) In-house lobbyist: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization,
  - c) Voluntary unpaid lobbyist: an individual who lobbies without payment on behalf of a business or for-profit organization for the benefit of the interests of the for-profit entity or organization. Additionally, if the voluntary unpaid lobbyist arranges a meeting between a public office holder and the business or for-profit organization or a third party, that is deemed to be lobbying;
- 1.7 “Lobbyist Registrar” means the person appointed as Lobbyist Registrar under Section 223.11 of the *Municipal Act, 2001*;
- 1.8 “Lobbyist Registry” means a system of registration in which shall be kept registers (returns) of persons who lobby public office holders and which shall include such information as determined by the Lobbyist Registrar;
- 1.9 “local board” has the same meaning as the definition of local board in section 223.1 of the *Municipal Act, 2001*;
- 1.10 “not-for-profit” means a group of organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose, except profit (for example a club, society or organization)
- 1.11 “public office holder” means,
- a) a member of City Council and any person on his or her staff
  - b) an officer or employee of the City and including but not limited to the following:
    - i. the following officers and employees of the City: the Chief Administrative Officer, the City Treasurer, Chief Building Official, Fire Chief and the City Clerk;
    - ii. the City’s Internal Auditor;
    - iii. Integrity Commissioner,
    - iv. a general manager, executive director, director or associate director, chief procurement officer,
    - v. a person authorized to act in the place of an official listed in paragraphs (i) to (iv) by Council or by the Chief Administrative Officer or another official under delegated authority,
    - vi. employees in other management positions who are in a position to influence programs and services and have direct contact with members of Council,
    - vii. employees who are not in management positions but who are in direct contact with members of Council and whose work for the City includes the following:
      - a) advice to members of Council, to Council, including, but not limited to, employees who provide legal, financial, personnel and policy advice, and

- b) approval or enforcement services, including, but not limited to, employees who provide planning, building, licensing, inspection, grants, courts and procurement services,
- viii. employees who are in direct contact with members of Council in the operation of Council, Committees of Council; and
- ix. employees who work on municipal elections or by-elections in a supervisory capacity or who are employed for the purposes of the conduct of the election or by-election;
- x. individuals providing professional services to the City during the course of providing such services;
- xi. an accountability officer appointed under the *Municipal Act, 2001*, including, but not limited to: (a) Auditor General (b) Integrity Commissioner (c) Lobbyist Registrar (d) Ombudsman (e) Closed Meeting Investigator

## 2. General

- 2.1 The Lobbyist Registry shall be established pursuant to Section 223.9 of Part V.1 of the *Municipal Act, 2001*.
- 2.2 The Office of the City Clerk shall develop and maintain a Lobbyist Registry, under the oversight of the Lobbyist Registrar, in which shall be kept all registrations and returns filed under this by-law.
- 2.3 The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.
- 2.4 All lobbyists shall file a return regarding a specific lobbying communication within ten (10) business days of the communication occurring.
- 2.5 Consultant lobbyists shall identify in the return the client for which the lobbying has been undertaken.
- 2.6 Lobbyists shall disclose if they have held a senior public office holder position at the City and the date the individual ceased to hold the position.
- 2.7 Lobbyists shall disclose if they hold a position on a local board of the City.
- 2.8 Lobbyists shall adhere to the Code of Conduct identified in Appendix "A" to this By-law during the conduct of lobbying activities with public office holders.
- 2.9 Lobbyists shall review their profiles every six (6) months to ensure that the information contained therein is current and complete.
- 2.10 A person who lobbies as defined by the By-law is subject to the By-law whether they are registered or not.

## 3. Exempted Persons and Organizations

- 3.1 This by-law does not apply to the following persons when acting in their public capacity:
  - a) government or public sector, other than the City,

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- b) 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,
  - c) 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,
  - d) 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,
  - e) 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
  - f) 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.
  - g) officials and employees of the City and other municipal bodies
    - i. Public office holders;
    - ii. officers, directors or employees of a local board of the City and acting in their public capacity;
    - iii. a member of an Advisory Committee, acting in their committee authorized by and delegated by City Council;
  - h) persons communicating on behalf of the local school boards;
  - i) persons communicating on behalf of healthcare institutions;

#### **4 Restriction of Application for Certain Activities**

##### 4.1 This by-law does not apply to the following activities:

- a) communication that is a matter of the public record or occurs during a meeting of Council, 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) advocacy 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 the business or for-profit organization on whose behalf the communication is undertaken;
- d) communication that is restricted to a request for information;

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- e) communication that is restricted to compliments or complaints about a service or program;
  - f) communication with a public office holder by an individual on behalf of an individual, business or organization 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 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, 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;
    - iv. 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:
      - a) with an employee of the City or a Member of Council 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,
      - b) with an employee of the City if the communication is part of the normal course of the approval process,
      - c) 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;
    - v. 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;
    - vi. communication to a Member of Council by a constituent of the Member of Council, or an individual on behalf of a constituent of the Member of Council on a general neighbourhood or public policy issue;
    - vii. communications directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder;
    - viii. communication regarding a financial interest by not-for-profit groups or organizations where such group or organization does not have paid staff;

## **5. Prohibition**

- 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.

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## 6. Post-employment Lobbying Restrictions

- 6.1 No person who is a former public office holder of the City shall lobby the City for a period of one year after the date the person ceased to be:
- a) A Statutory Officer of the City, including:
    - i. The City Treasurer;
    - ii. The City Clerk;
    - iii. The City's Integrity Commissioner; and
    - iv. The City's Chief Building Official;
    - v. Chief Administrative Officer;
    - vi. Fire chief;
    - vii. Internal auditor;
  - b) A member of the City's Executive Management Team, Senior Leadership Team, and managers;
  - c) An elected official; and
  - d) A staff member of an elected official.

## 7. Appointment of the Lobbyist Registrar

- 7.1 The City shall appoint a Lobbyist Registrar in accordance with section 223.11 of the *Municipal Act, 2001*.
- 7.2 The Integrity Commissioner may also serve as the Lobbyist Registrar.
- 7.3 If the Office of the Lobbyist Registrar is vacant, the City Clerk is authorized to assume the role of Lobbyist Registrar for an interim period.

## 8. Accountability

- 8.1 The Lobbyist Registrar is independent of the City administration.
- 8.2 The Lobbyist Registrar shall report to City Council, or to a Committee of Council as may be directed by City Council in their capacity.

## 9. Responsibilities

- 9.1 The Lobbyist Registrar is responsible for:
- a) overseeing the administration of the lobbyist registration system;
  - b) providing advice, opinions and interpretations pertaining to the administration, application and enforcement of this by-law;

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- c) 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
  - d) conducting, in private, investigations or inquiries to determine whether contraventions of this by-law have occurred, as permitted under section 223.12 of the *Municipal Act, 2001*;
  - e) suspending or revoking a registration;
  - f) the enforcement of this by-law;
  - g) advising Council on lobbying matters and recommending improvements and amendments to this by-law;
  - h) providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate; and
  - i) performing other duties as may be assigned by Council.

## 10. Complaints and Investigations

- 10.1 Request for an investigation of non-compliance may be made by City Council as a whole, a member of Council or a member of the public in accordance with the Complaint Process as identified in Appendix "B" (paragraph 1)
- 10.2 The Lobbyist Registrar may impose a temporary ban on communication in accordance with the following steps if the Lobby Registrar finds that the requirements of this by-law have not been met:
  - d) First breach: the lobbyist is banned from communicating with public office holders for 30 days;
  - e) Second breach: the lobbyist is banned from communicating with public office holders for 90 days; and
  - f) Third breach: The Lobbyist Registrar to determine an appropriate sanction.
- 10.3. If the Lobbyist Registrar decides to impose a temporary ban on communication, the Lobbyist Registrar shall inform the individual of the suspension and the reason for the suspension in the manner that the Lobbyist Registrar determines.
- 10.4 If the Lobbyist Registrar imposes a temporary ban on communication, the Lobbyist Registrar shall notify all Public Office Holders and notice of the temporary ban shall be posted on the City's website.

## 11. Removal from Registry

- 11.1 The Lobbyist Registrar may remove a registration or return from the Lobbyist Registry if the individual who filed the registration or return if the Lobbyist Registrar finds that the lobbyist has not complied with the requirements of this by-law.
- 11.2 When a registration or return 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 this by-law, not to have filed the registration or return.

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**12. Referral to Appropriate Authorities**

- 12.1 Pursuant to 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 any other Act or the Criminal Code (Canada), the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

**13. Short Title**

- 13.1 This By-law may be referred to as the “Lobbyist Registry By-law”.

**THAT** this By-law shall come into force September 1, 2023.

**READ** a first and second time the X<sup>th</sup> day of XXX, 2023.

**READ** a third time and finally passed this X day of XXX, 2023.

**THE CORPORATION OF THE CITY OF BARRIE**

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**MAYOR – A. NUTTALL**

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**CITY CLERK – WENDY COOKE**



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## **Appendix A to By-law XXX-2023**

### **Lobbyists Code of Conduct**

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders.

#### **Honesty**

1. Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

#### **Openness**

2. Lobbyists shall, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

#### **Disclosure of Identity and Purpose**

3. Lobbyists communicating with a public office holder shall disclose the identity of the individual, corporation or organization on whose behalf they are acting, as well as the reasons for the communication.
4. Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.
5. 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 having registered as required and disclosing the identity and purpose.

#### **Information and Confidentiality**

6. Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' Code of Conduct.
7. Lobbyists shall provide information that is accurate and factual to public office holders.
8. Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
9. Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.
10. Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

#### **Competing Interests**

11. Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.

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12. Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.
  13. Lobbyists who provide advice to the City shall not lobby public office holders on the same subject matter.

#### **Improper Influence**

14. Lobbyists shall avoid both the deed and the appearance of impropriety.
15. Lobbyists shall not knowingly place public office holders in a conflict of interest, obligations under legislation or in breach of the public office holders' codes of conduct or standards of behaviour.
16. Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.

#### **Restriction on Communication**

17. Lobbyists shall not communicate in relation to a procurement process, except as permitted by the City's procurement by-law and documentation.
18. Lobbyists shall not engage in lobbying activities where the Lobbyist Registrar has prohibited them from lobbying for a specified time period.

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Appendix "B" to By-law XXX-2023

## Complaint Process – Lobbyist

### Complaints Regarding Non-compliance

1. A request for an inquiry about non-compliance with the Lobbyist Registry By-law or Lobbyists' Code of Conduct may be made by City Council, a member of Council or a member of the public.

### Filing of Complaint and Classification by Lobbyist Registrar

2. The complaint shall be filed with the Lobbyist Registrar for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Lobbyist Registry By-law and not covered by other legislation or other Council policies.

### Complaints Outside Lobbyist Registrar Jurisdiction

3. If the complaint is not, on its face, a complaint with respect to non-compliance with the Lobbyist Registry By-law or the complaint is covered by other legislation or complaint procedure, the Lobbyist Registrar shall advise the complainant in writing.

### Refusal to Conduct Investigation

4. The Lobbyist Registrar may refuse to investigate a complaint or may terminate an investigation, if the Lobbyist Registrar is of the opinion that:
  - a) there are no grounds or insufficient grounds for an investigation;
  - b) the complaint is frivolous, vexatious or not made in good faith; or
  - c) an investigation, or continuation of an investigation, would serve no useful purpose.

### Investigation

5. The Lobbyist Registrar will proceed as follows, except where otherwise required by the *Public Inquiries Act*.
  - a) Provide the complaint and supporting material to the lobbyist whose conduct is in question with a request that a written response to the allegation be provided within ten business days.
  - b) If necessary, after reviewing the submitted materials, the Lobbyist Registrar may speak to anyone, access and examine any other documents or electronic materials and may enter any City work location relevant to the complaint for the purpose of investigation and potential resolution.

### Suspension and referral to appropriate authorities

6. As required by subsection 223.12(7) of the *Municipal Act, 2001*, if at any time during the inquiry the Lobbyist Registrar determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code of Canada*, the Registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to City Council.

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### **Recommendation report**

7. Following the completion of an investigation, the Lobbyist Registrar shall provide the lobbyist with a copy of a draft report and offer the lobbyist the opportunity to provide comments within five business days.
8. Where the complaint is sustained in whole or in part, the Lobbyist Registrar shall report to Council outlining the findings, the terms of any settlement and/or any recommended corrective actions or sanctions under Section 10 of the By-law.
9. The Lobbyist Registrar shall give a copy of the final report to the lobbyist whose conduct is concerned.
10. Where the complaint is not sustained, except for in exceptional circumstances, the Lobbyist Registrar shall not report to Council the result of the investigation except as part of an annual or other periodic report.

### **Report to Council**

11. Upon receipt of a report, the City Clerk shall publish the report on the next Agenda for City Council.

### **Duty of Council**

12. Council shall consider and respond to the report at the meeting at which the report is published.

### **Public Disclosure**

13. The Lobbyist Registrar and every person acting under their jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.
14. The Lobbyist Registrar shall retain all records related to the complaint and investigation.
15. At the time of the Lobbyist Registrar's report to Council, the identity of the person who is the subject of the complaint shall not be treated as confidential information if the Lobbyist Registrar finds that a breach has occurred.
16. All reports from the Lobbyist Registrar to Council will be made available to the public on [barrie.ca](http://barrie.ca).