

**City of Kelowna**  
**Regular Council Meeting**  
**AGENDA**



Monday, June 5, 2023  
9:00 am  
Council Chamber  
City Hall, 1435 Water Street

**Pages**

1. **Call to Order**
2. **Confirmation of Minutes** 2 - 3  
Regular AM Meeting - May 15, 2023
3. **Reports**
  - 3.1 **Council Code of Conduct Options** 60 m 4 - 33  
To provide direction on options for a Code of Conduct.
  - 3.2 **Options for Lobbyist Registry** 30 m 34 - 47  
To consider options to establish a lobbyist registry.
4. **Resolution Closing the Meeting to the Public**

THAT this meeting be closed to the public pursuant to Section 90(1) (e), (f) and Section 90(2) (b) of the Community Charter for Council to deal with matters relating to the following:

  - Land Acquisition
  - Law Enforcement
  - Confidential Information from the Province
5. **Adjourn to Closed Session**
6. **Reconvene to Open Session**
7. **Termination**



## City of Kelowna Regular Council Meeting Minutes

Date:	Monday, May 15, 2023
Location:	Council Chamber City Hall, 1435 Water Street
Members Present	Mayor Tom Dyas, Councillors Maxine DeHart, Charlie Hodge, Gord Lovegrove, Mohini Singh, Luke Stack and Rick Webber
Members Absent	Councillor Loyal Wooldridge
Members Participating Remotely	Councillor Ron Cannan
Staff Present	City Manager, Doug Gilchrist; City Clerk, Stephen Fleming; General Manager, Infrastructure, Mac Logan*; Finance Director, Joe Sass*, Acting Divisional Director, Financial Services, Joel Shaw*, Transportation Engineering Manager, Gordon Foy*; Mobility Specialist, Cameron Noonan*; Asset Planning Manager, Joline McFarlane*
Staff Participating Remotely	Legislative Coordinator (Confidential), Clint McKenzie*

(\* Denotes partial attendance)

### 1. Call to Order

Mayor Dyas called the meeting to order at 9:00 a.m.

### 2. Confirmation of Minutes

Moved By Councillor Hodge/Seconded By Councillor Lovegrove

THAT the Minutes of the Regular AM Meeting of May 8, 2023 be confirmed as circulated.

Carried

### 3. Reports

#### 3.1 10-Year Capital Plan Annual Update - Workshop 5 (Transportation)

Staff:

- Displayed a PowerPoint Presentation.
- Provided an overview of the Capital Plan.
- Provided comments on the current plan and challenges for the future.
- Provided comments on Option A, B and C and reasons for recommending Option B.

- Spoke to next steps.
- Responded to questions from Council.

Moved By Councillor Singh/Seconded By Councillor DeHart

THAT Council receives, for information, the report from Financial Services dated May 15<sup>th</sup>, 2023, with respect to this year's annual update to the 10-Year Capital Plan with focus on the Transportation Cost Centre;

AND THAT Council direct staff to consider additional enhancements, beyond the Recommended Option 'B', to the proposed 10-year capital plan, in the areas of safety and broad network capacity in particular;

AND FURTHER THAT Staff return to Council with the comprehensive 10-Year Capital Plan that balances all capital cost centres prior to final endorsement.

Carried

The meeting recessed at 10:26 a.m.

The meeting reconvened at 10:38 a.m.

**4. Resolution Closing the Meeting to the Public**

Moved By Councillor Singh/Seconded By Councillor Hodge

THAT this meeting be closed to the public pursuant to Section 90(1) ((a) (e) (i) and Section 90(2) (b) of the Community Charter for Council to deal with matters relating to the following:

- Position Appointment
- Acquisition of Land
- Legal Advice
- Confidential Information from the Provincial and Federal Governments

**5. Adjourn to Closed Session**

The meeting adjourned to a closed session at 10:39 a.m.

**6. Reconvene to Open Session**

The meeting reconvened to an open session at 12:29 p.m.

**7. Termination**

The meeting was declared terminated at 12:29 p.m.

\_\_\_\_\_  
Mayor Dyas

sf/cm

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City Clerk

# Report to Council



**Date:** June 5, 2023  
**To:** Council  
**From:** City Manager  
**Subject:** Council Code of Conduct Options  
**Department:** Office of the City Clerk

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**Recommendation:**

THAT Council receives, for information, the report from the Office of the City Clerk dated June 5, 2023 with respect to Council Code of Conduct options;

AND THAT Council directs staff to prepare a Code of Conduct Bylaw in accordance with the recommendations as outlined in the report from the Office of the City Clerk dated June 5, 2023.

**Purpose:**

To provide direction on options for a Code of Conduct.

**Background:**

A Code of Conduct establishes shared expectations for how Council members should conduct themselves while carrying out their duties and responsibilities. It applies to interactions with each other, City staff, the public, and other organizations, including during Council meetings and when performing other duties as a member of Council. Responsible conduct is part of providing good governance and includes promoting behaviour that is accountable, transparent, ethical, respectful, effective, and efficient.

Council considered whether to have a Code of Conduct earlier this year, and directed staff to bring forward a Code for Council’s consideration.

*Previous Council Resolution*

Resolution	Date
THAT Council direct staff to prepare a code of Conduct and associated policies for Council’s consideration.	March 13, 2023

**Discussion:**

A Code of Conduct must speak to the foundational principles of responsible conduct, being integrity, accountability, respect, and leadership and collaboration. A draft Code of Conduct Bylaw is attached for discussion purposes. The draft Bylaw includes the following provisions:

**Scope and applicability**

- Applies to Council members only. Council Committee members serve at the “pleasure of Council” and may be removed by Council resolution, should a situation arise that warrants such an action. Staff conduct falls under the City’s Principles of Conduct.

**Principles**

- General conduct and procedures
- Interactions with staff, public and the media
- Advocacy and representing Council
- Conduct of meetings and communications during Council meetings
- Handling of confidential information
- Conflict of interest considerations and procedures
- Gifts and disclosure of gifts
- Use of public resources, including for personal or election-related purposes

***Complaint & Resolution Procedures***

Establishing a complaint and resolution process within a Code of Conduct sets a common understanding of options and procedures if conduct issues come up. The Code is intended to be self-enforcing. Informal resolution of issues is encouraged and is generally found to be more effective, faster, collaborative, and less complex than formal enforcement mechanisms. Options for formal remedies are outlined in the draft Bylaw and are a decision of Council based on the investigation report for formal complaints.

The draft Bylaw establishes fair and impartial complaint and enforcement processes, ensuring affected parties have access to relevant information, including notice of decisions and the reasons for them, and an opportunity to be heard. Strict rules of procedural fairness must be followed when Council considers a formal complaint against a Council member.

The draft Bylaw includes the following provisions around investigations, compliance, and resolution:

- Informal resolution process for Council members and staff
- Formal complaint process for Council members, staff, and residents
- Preliminary assessment and notice
- Referral to third party investigator for investigation, reporting and notice
- Council decision and remedies

**Conclusion:**

The draft Code of Conduct Bylaw is presented for Council’s consideration. The Code is intended to establish common expectations for how Council conducts themselves in meetings and when performing other duties and responsibilities as elected officials. Staff will bring forward a Bylaw for readings following the direction of Council.

**Considerations applicable to this report:**

***Legal/Statutory Authority:***

*Community Charter s. 113.1 Requirement to consider code of conduct*

***Legal/Statutory Procedural Requirements:***

*Community Charter s. 113.1 Requirement to consider code of conduct*

*Principles for Codes of Conduct Regulation B.C. Reg. 136/2022*

***Existing Policy:***

[Council Policy No. 313 Conflict of Interest](#)

***Financial/Budgetary Considerations:***

Budget will be provided for preliminary assessments conducted by the City Solicitor and investigations conducted by a third party investigator.

**Considerations not applicable to this report:**

***External Agency/Public Comments:***

***Communications Comments:***

Submitted by:

L. Bentley, Deputy City Clerk

Approved for inclusion: S. Fleming, City Clerk

**CITY OF KELOWNA**

**BYLAW NO. XXXXX**  
**DRAFT FOR DISCUSSION**

A bylaw to regulate Council Member Conduct.

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**PART 1 – COUNCIL CONDUCT**

**Purpose and Interpretation**

- (1) This Bylaw sets out the rules Council Members must follow in fulfilling their duties and responsibilities as elected officials.
- (2) The Residents of the City of Kelowna are entitled to have a fair, ethical and accountable municipal Council that acts in the public interest, conducting its business with integrity and in a fair, honest and open manner.
- (3) The public expects that Council Members will adhere to the highest standards of professional conduct. Honesty, integrity, respect, transparency, leadership, collaboration, and accountability are the core ethical values reflected in this Code. Council Members are expected to perform their functions of office faithfully and to the best of their knowledge and ability, in accordance with these core ethical values.
- (4) The provisions of this Bylaw are to be interpreted broadly and in a manner that is consistent with the *Community Charter*.
- (5) The intention of Council in enacting this Code is not to stifle Council Members or to limit their ability to fully perform the governmental and advocacy functions that their position entails, with all the vigour, flair and freedom that is typical of a well-functioning democratic institution, but instead to guide Council Members to undertake those functions in a manner that accords with sound ethical principles.

**Definitions**

- (6) In this Bylaw:

**"Chief Administrative Officer (CAO)"** means the City Manager or their designate;

**"Council Member"** means the Mayor and Councillors for the City of Kelowna;

**"FIPPA"** means the *Freedom of Information and Protection of Privacy Act* (British Columbia);

“**Investigator**” means the investigator appointed in section (41);

“**Resident**” means any person who would be eligible to vote in a municipal election in the City of Kelowna, along with any person holding a valid and subsisting business licence issued by the City of Kelowna; and

“**Staff**” means an officer or employee of the City of Kelowna, but does not include contractors.

### **Application**

- (7) This Code applies to all Council Members, inclusive of their actions in their capacity as members of various boards, committees, and other discretionary appointments.

### **Comply with all Laws**

- (8) Council Members shall comply with all applicable federal, provincial and municipal laws in the performance of their public duties, including but not limited to:
- (a) the *Local Government Act*;
  - (b) the *Community Charter*;
  - (c) FIPPA;
  - (d) the *Financial Disclosure Act*; and
  - (e) all bylaws and policies of the City.

### **General Conduct**

- (9) Council Members shall not engage with others, including Residents, Staff, Committee Members and other Council Members, in a manner that is abusive, bullying, intimidating or derogatory.
- (10) Council Members shall not use their office to attempt to gain personal benefits for themselves, their family members or their friends.

### **Respect for Process**

- (11) Council Members shall perform their duties in accordance with the policies, procedures and rules of order established by Council from time to time.



### **Interactions with Staff**

- (12) Council Members shall direct questions and inquiries regarding departmental issues in accordance with protocols established by the City Manager and shall refrain from contacting Staff directly, unless the communication is for the purpose of seeking administrative clarity.
- (13) Council Members shall not interfere with, hinder, or obstruct Staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions, nor shall they impair the ability of municipal officers or Staff to implement Council policy decisions in accordance with section 153 of the *Community Charter*.
- (14) Council Members shall not request or require that Staff undertake personal or private work for or on behalf of a Council Member.
- (15) Council Members shall not request or require that Staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.

### **Interactions with the Public and Media**

- (16) In an effort to promote respect and integrity for Council decision-making, Council Members will accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council.
- (17) Council Members shall refrain from making any disparaging comments about other Council Members or individual members of staff.

### **Advocacy**

- (18) Council Members shall represent the official policies or positions of Council to the best of their ability when designated as a delegate of Council. When presenting their individual opinions and positions, Council Members shall explicitly state that it is their own personal view and that they do not represent Council or the City in those views.

### **Conduct of Meetings**

- (19) Council Members shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the business at hand. Council Members shall not interrupt other speakers, make personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of a meeting.
- (20) Council Members shall not interact or communicate with members of the public during open or closed Council meetings via email, text or other social media applications.

## Handling of Confidential Information

- (21) Council Members shall keep information and records prohibited from release under section 117 of the *Community Charter* in strict confidence. This includes information, records, commentary, agendas, staff reports and minutes from Closed ('in-camera') meetings and confidential updates from the City Manager or other City staff
- (22) Council Members shall not use confidential information to advance, directly or indirectly, their own personal, financial or other private interests.

## Conflict of Interest

- (23) Council Members shall not participate in discussion of a matter, or vote on a question in respect of that matter, if the Council Member has a conflict of interest.
- (24) In respect of each matter before Council, Council Members shall:
  - (a) assess whether they have a conflict of interest; and
  - (b) determine whether it is necessary to seek independent legal advice at their own cost, in accordance with Council Policy 313 Conflict of Interest, with respect to any situation that may result in a conflict of interest.
- (25) If a Council Member believes that they have a conflict of interest in respect of a matter in a Council or Committee meeting, the Council Member shall:
  - (a) prior to the matter's consideration, notify the Mayor or Chair of the meeting that they have a conflict of interest, stating in general terms why they consider that to be the case;
  - (b) leave any meeting if the matter is discussed and not return until the discussion has ended or voting has been concluded;
  - (c) refrain from discussing the matter with any other Council Member publicly or privately; and
  - (d) refrain from attempting in any way to influence the voting on any question in respect of the matter.

## Gifts

- (26) Council Members shall not accept a gift or personal benefit, except in accordance with section 105 of the *Community Charter*.

- (27) Council Members shall disclose a gift or personal benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter* and in accordance with [draft] Council Policy 354 Council Disclosure of Gifts and Personal Benefits.

### **Use of Public Resources**

- (28) Council Members shall not use City public resources such as Staff time, equipment, technology, supplies, facilities or other property for private gain, personal purposes, or election-related purposes.
- (29) Council Members shall not undertake federal, provincial or municipal election campaign related activities at the City Office or on other premises owned by the City during regular working hours, unless such activities are organized by the City.

### **Leave of Absence**

- (30) A Council Member should consider requesting a leave of absence from Council for a period of 90 days prior to a federal or provincial election to avoid conflicts of interest or perceived conflicts of interest.

## **PART 2 – INVESTIGATION, COMPLIANCE AND ENFORCEMENT**

### **Implementation**

- (31) As an expression of the standards of conduct for Council Members expected by the City, this Code is intended to be self-enforcing. This Code therefore becomes most effective when Council Members are thoroughly familiar with it and embrace its provisions. For this reason, this Code shall be provided as information to candidates for Council.

### **Informal Resolution**

- (32) If a Council Member believes that they have observed another Council Member engaging in conduct that would breach this Bylaw, they must attempt to resolve the complaint directly with the other Council Member, if possible, prior to submitting a complaint under section (35).
- (33) If a Staff member believes that they have observed a Council Member engaging in conduct that would breach this Bylaw, and they wish to file a complaint, they must approach the CAO on a confidential basis and inform the CAO of the alleged breach.
- (34) Upon receipt of the confidential information in section (33), the CAO may:

- (a) determine that no breach has occurred and inform the Staff member of that determination;
- (b) attempt to address the alleged breach with the Council Member and, if the circumstances warrant, the Staff member; or
- (c) request that Staff member file a complaint in accordance with sections (35) and (36).

### **Complaint Procedure**

- (35) Subject to sections (32) to (34), a Council Member, Staff member or Resident may submit a complaint to the CAO. Alternatively, if the complainant is the CAO or the complaint involves the CAO, then complaints may be submitted to the Corporate Officer.
- (36) A complaint must be in writing, must be submitted within 30 days of the alleged breach (or within 30 days of notification to the CAO under section (33), if applicable), and must include, with sufficient detail:
  - (a) the name of the complainant;
  - (b) the name of the respondent Council Member(s);
  - (c) the conduct that the complainant alleges was in breach of the Code;
  - (d) the date of the alleged conduct;
  - (e) the parts of the Code the alleged conduct breached;
  - (f) the basis for the complainant's knowledge of the conduct; and
  - (g) if a complaint is submitted by a Council Member, whether the Council Member attempted to resolve the complaint informally under section (32).
- (37) A complaint may be accepted notwithstanding that it does not comply with all of the requirements of section (36), if the CAO or the Corporate Officer determines that there has been substantial compliance or if the circumstances otherwise warrant acceptance.
- (38) A complaint submitted outside the time limits set out in section (36) must be rejected, except that the CAO or Corporate Officer may grant an extension of no more than 30 further days if the circumstances of the complaint are sufficiently serious.
- (39) In an election year, complaints submitted from the first day of the nomination period to the general voting day must be accepted and held in abeyance until after the new Council has taken office. At that time, complaints shall only proceed if they relate to a Council

Member who was re-elected in that election year. For certainty, if the Council Member who is the subject of the complaint is not re-elected, the complaint must be rejected. The same provision applies to a Council Member who is running in a federal or provincial election beginning 90 days before general voting day. If the Council Member who is the subject of the complaint resigns from Council following the election, the complaint must be rejected.

### **Preliminary Assessment**

- (40) On receipt of a complaint, the CAO or Corporate Officer shall conduct a preliminary assessment of the complaint or forward the complaint to the City's Solicitor to conduct a preliminary assessment. If the CAO, Corporate Officer or Solicitor determines that any of the following circumstances apply, then they must notify the complainant and respondent Council Member in writing that the complaint will be closed, stating the reasons for the closure:
- (a) the complaint is not with respect to a breach of this Bylaw;
  - (b) the complaint is frivolous, vexatious, or not made in good faith;
  - (c) the complaint would be more appropriately addressed through another process;
  - (d) the complaint was not in compliance with sections (35) and (36), and the respondent Council Member will be prejudiced by the complainant's failure to comply;
  - (e) the complainant wishes to withdraw the complaint, and it would be appropriate to allow the complaint to be withdrawn;
  - (h) the complaint was submitted by a Council Member, and the Council Member ought to have first attempted to resolve the complaint informally under section (32); or
  - (f) there are no possible grounds on which to conclude that a violation of this Bylaw has occurred.

### **Referral to Third-Party Investigator**

- (41) If the CAO, Corporate Officer or Solicitor determines, after conducting a preliminary assessment, that the complaint should be accepted for investigation, they shall refer the complaint to a neutral and independent third-party Investigator of their choosing to conduct an investigation and notify the complainant and respondent Council Member of the referral.
- (42) The Investigator shall, at all times during an investigation, have all of the same powers to dismiss a complaint on a preliminary basis as set out in section (40).

(43) An Investigator, once retained, may only be dismissed for cause.

### **Criminal Conduct**

(44) If, at any stage in the complaint procedure, the CAO, Corporate Officer, Solicitor or Investigator determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code*, or learns that there is an ongoing police investigation into the conduct that gave rise to the complaint, then they must immediately refer the matter to the appropriate authorities and suspend any investigation into the complaint until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council, the complainant, and the respondent Council Member.

(45) For certainty, a complaint must be suspended while the respondent is on a mandatory leave of absence under section 109.3(1) of the *Community Charter*, and may be recommenced only once the mandatory leave of absence ends pursuant to section 109.3(1)(b) of the *Community Charter*.

### **Formal Resolution**

(46) Once retained, the Investigator shall deliver the complaint to the respondent Council Member, along with a request that the respondent Council Member provide a written response to the complaint, together with any submissions that the respondent Council Member chooses to make, within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.

(47) The Investigator may, at their discretion, deliver the respondent Council Member's written response and submissions to the complainant and request a reply in writing within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.

(48) The Investigator may:

(a) speak to anyone relevant to the complaint;

(b) request disclosure of documents relevant to the complaint; and

(c) access any record in the custody or control of the City, within the meaning of FIPPA, with the exception of records subject to solicitor-client privilege.

(49) The Investigator has discretion to conduct the investigation as they see fit, but must ensure that the investigation complies with the rules of procedural fairness and natural justice required in the circumstances of the complaint.

## Adjudication and Reporting

- (50) The Investigator must conclude the investigation and make a determination regarding the alleged breach within 90 days of referral under section (41), unless the Investigator determines that doing so is not practicable, in which case the Investigator must notify the complainant and respondent Council Member of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days at a time on provision of written notice to the complainant and respondent Council Member.
- (51) If, after reviewing all the material information, the Investigator determines that a Council Member did not violate this Bylaw, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which shall include a determination of whether the complaint was submitted frivolously, vexatiously or in bad faith; and
  - (b) deliver a copy of the investigation report to the complainant, respondent Council Member, and Council.
- (52) If, after reviewing all the material information, the Investigator determines that a Council Member did violate this Bylaw, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which must include:
    - i. a summary of the factual findings of the Investigator;
    - ii. an application of the Bylaw, and any other applicable law, to the facts;
    - iii. a recommendation of the appropriate sanction, subject to subsection (iv); and
    - iv. if applicable, a determination of whether the respondent Council Member took all reasonable steps to avoid the breach or whether the breach was trivial, inadvertent or due to an error in judgment made in good faith, in which case the Investigator may recommend that no sanction be imposed;
  - (b) deliver a copy of the investigation report to the respondent Council Member; and
  - (c) 48 hours after the delivery of the investigation report to the respondent Council Member, deliver a copy of the investigation report to Council.

## Final Determination by Council

- (53) Council must, within 45 days of the Investigator's delivery of the investigation report, decide on the appropriate measures, if any, that are warranted by a breach of this Bylaw;
- (54) Prior to making any decision regarding the findings and recommendations set out in the investigation report, the respondent Council Member must be provided with an opportunity, either in person or in writing, to comment to Council on the Investigator's determinations and recommendations.
- (55) While an investigation report may be considered in a closed meeting, if the circumstances warrant, when Council deliberates and votes on the Investigator's recommendation, it will generally do so in an open meeting.
- (56) Within 30 days of Council's final decision about an investigation, it must, subject to the City's obligations under FIPPA, release to the public the investigation report, or a summary thereof, along with a summary of Council's decision.

### **Remedies**

- (57) Remedies that may be imposed by Council for a violation of this Bylaw include the following:
  - (a) a letter of reprimand from Council, addressed to the respondent Council Member;
  - (b) a request from the Council that the respondent Council Member issue a letter of apology;
  - (c) the publication of the letters contemplated in subsections (a) and (b), along with the respondent Council Member's response, if any;
  - (d) directions to the CAO regarding the method of providing documents that contain confidential information to the respondent Council Member;
  - (e) a recommendation that the respondent Council Member attend specific training or counselling;
  - (f) limitations on access to certain City facilities;
  - (g) prohibition from representing the City at events and/or attending conferences;
  - (h) suspension or removal of the respondent Council Member from the Deputy Mayor rotation;
  - (i) public censure of the respondent Council Member; or



- (j) any other sanction recommended by the Investigator, so long as that sanction is within the authority of Council.
- (58) Council must consider the following factors when determining whether to impose a sanction on a Council Member:
- (a) the degree and nature of the conduct;
  - (b) whether the contravention was a single or repeated act;
  - (c) whether the Council Member knowingly contravened the Code;
  - (d) whether the Council Member took steps to mitigate or remedy the contravention;
  - (e) the Council Member's history of other contraventions; and
  - (f) if applicable, the Investigator's finding that the respondent Council Member took all reasonable steps to avoid the breach, or that the breach was trivial or done inadvertently or because of an error in judgment.

### **Remuneration**

- (59) Where the Investigator finds that a Council Member:
- (a) breached this Bylaw; or
  - (b) submitted a complaint that was frivolous, vexatious, or made in bad faith,
- the remuneration to which that Council Member would otherwise have been entitled shall be reduced in accordance with *Council Remuneration and Expense Bylaw No. 7547*, as amended from time to time.
- (60) Notwithstanding section (59), the remuneration of a Council Member shall not be reduced if the Investigator makes a finding that:
- (a) the Council Member took all reasonable steps to prevent the breach;
  - (b) the breach was trivial or inadvertent; or
  - (c) the breach was because of an error in judgment made in good faith.

### **Confidentiality of Investigation**

- (61) The CAO, Corporate Officer, Solicitor and Investigator must make all reasonable efforts to process and investigate complaints in a confidential manner.
- (62) The Investigator and every person acting under the Investigator's instructions must preserve confidentiality with respect to all matters that come into the Investigator's knowledge in the course of any investigation or complaint, except as otherwise required by law.

### **Obstruction**

- (63) No Council Member, Staff or Resident will obstruct the Investigator, Solicitor, CAO or Corporate Officer in relation to the administration of this Bylaw or the investigation of a complaint. Without limitation, the following shall constitute obstruction:
  - (a) uttering of threats against any person involved in the complaint;
  - (b) destruction of relevant records or documents; and
  - (c) refusal to cooperate with the Investigator.
- (64) A person who is found to have obstructed the Investigator, CAO, Solicitor or Corporate Officer will be subject to appropriate disciplinary action, which may include, but is not limited to:
  - (a) sanctions and remedies described above in section (57);
  - (b) termination of employment for just cause; or
  - (c) prohibition against filing a complaint under this Code for a specified and reasonable period of time.

### **Reimbursement of Costs**

- (65) A Council Member may make a request to Council for reimbursement of the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate, after considering all of the circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:
  - (a) the Council Member has not previously been found to have breached the Code; and
  - (b) the amount claimed does not exceed \$10,000.

### **Frivolous and Vexatious Complaints**

- (66) Any individual covered by this Bylaw who makes a complaint that is subsequently found to have been made in a deliberately frivolous, vexatious or malicious manner, or otherwise made in bad faith, will be subject to appropriate disciplinary action, which may include, but is not limited to:
- (a) in the case of Council Members, sanctions and remedies as described in this Bylaw;
  - (b) in the case of Staff, disciplinary action or termination of employment for just cause, as applicable;
  - (c) in the case of any complainant, prohibition from filing complaints under this Code for a specified period of time.





City of  
**Kelowna**

# Council Code of Conduct

June 5, 2023



# Background

- ▶ Shared expectations for how Council conducts themselves
  - ▶ Interactions with each other, staff, public, other organizations
  - ▶ During Council meetings
  - ▶ Carrying out Council duties and responsibilities
- ▶ Promotes good governance
- ▶ Provincial Working Group on Responsible Conduct

# Scope

- ▶ Applies to Council members
- ▶ Duties and responsibilities as elected officials
- ▶ Council appointments to boards, committees, etc.

# Foundational Principles

- ▶ Act in the public interest
- ▶ Conduct business with integrity
- ▶ Fair, honest and open
- ▶ Core ethical values of honesty, integrity, respect, transparency, leadership, collaboration and accountability

# Code of Conduct Contents

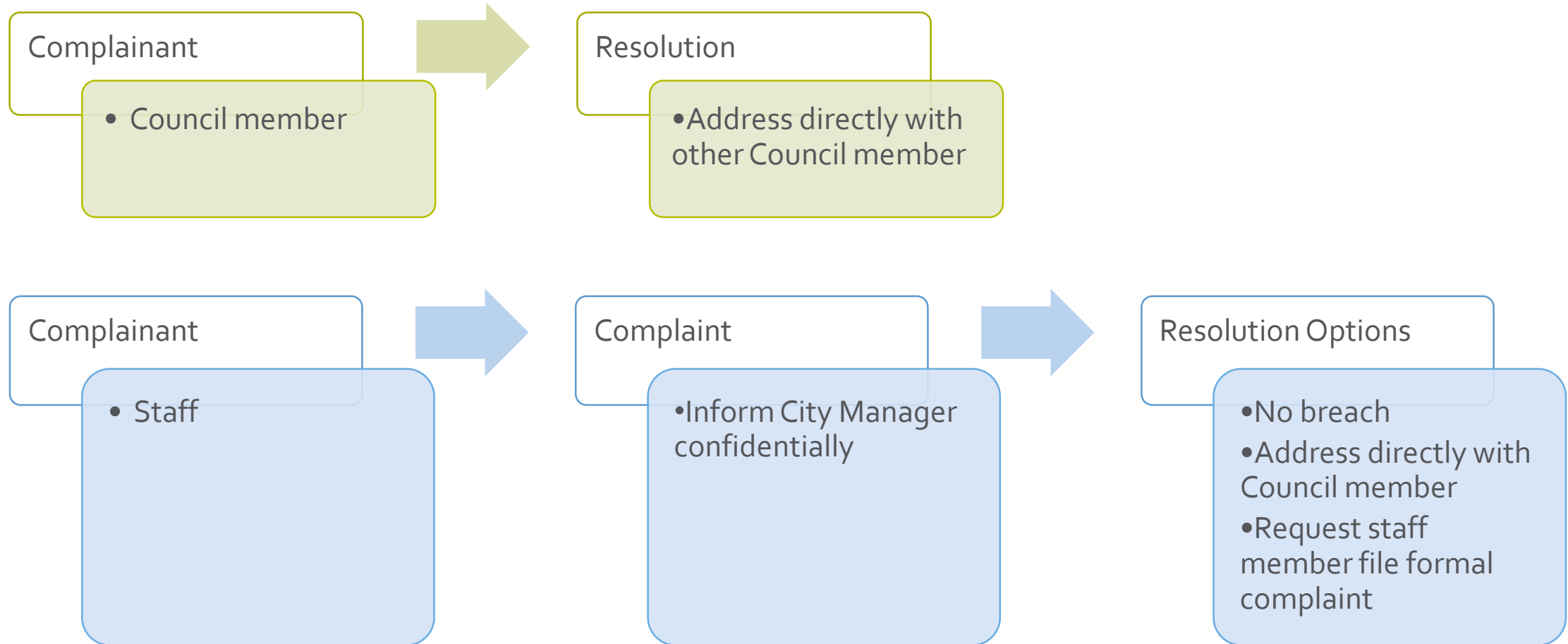
Staff will display the draft Code of Conduct Bylaw for discussion



# Complaint & Resolution Procedures

- ▶ Informal resolution
  - ▶ Preferred over formal sanctions
- ▶ Submitting complaints
- ▶ Reviewing complaints
- ▶ Formal sanctions
  - ▶ Limited options
  - ▶ Expensive when involving third parties
- ▶ Administrative fairness

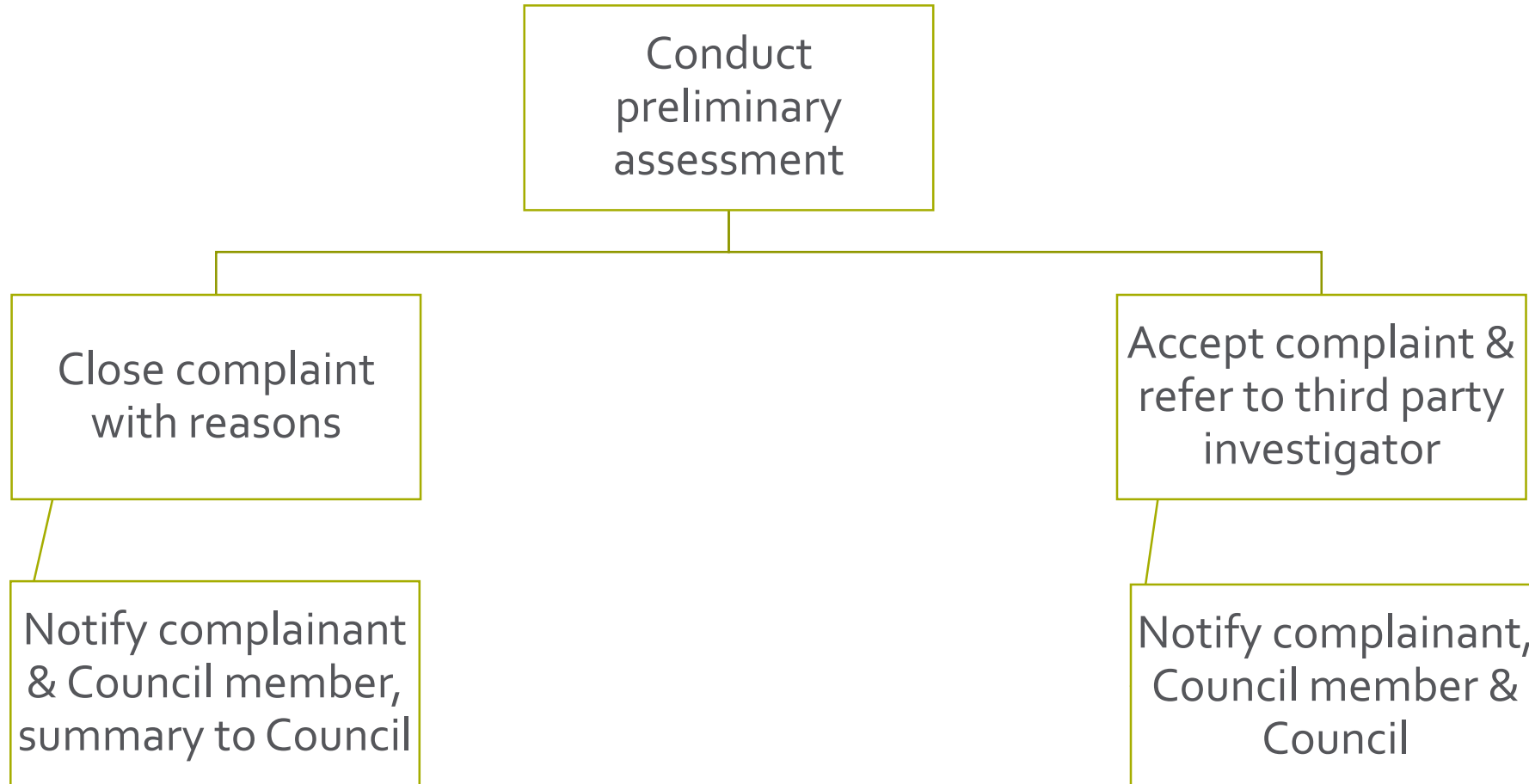
# Informal Resolution (s. 32-34)



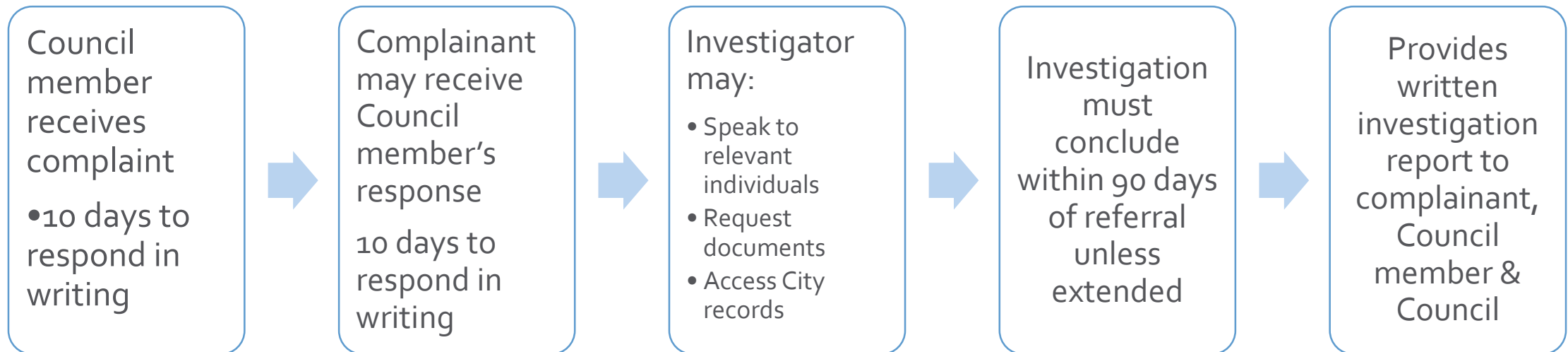
# Complaint Procedure (s. 35-39)

Who	How	Content	Other Provisions	Suspension of Complaints
<ul style="list-style-type: none"> <li>• Council member</li> <li>• Staff</li> <li>• Resident of Kelowna</li> </ul>	<ul style="list-style-type: none"> <li>• In writing</li> <li>• Within 30 days of alleged breach</li> </ul>	<ul style="list-style-type: none"> <li>• Complainant's name</li> <li>• Council member's name</li> <li>• Conduct in breach</li> <li>• Date of conduct</li> <li>• Relevant parts of the Code</li> <li>• Basis for knowledge of conduct</li> </ul>	City Manager or Corporate Officer may: <ul style="list-style-type: none"> <li>• accept complaint that does not comply if circumstances warrant</li> <li>• extend up to 30 days</li> </ul>	In local election year or if Council member is running for federal or provincial election

# Assessment & Referral (s. 40-43)



# Investigation & Reporting (s. 46-52)



# Decision (s. 53-56)

- ▶ Council considers & decides on remedies within 45 days of receiving investigation report
- ▶ Council member has opportunity to comment on determinations & recommendations
- ▶ Generally considered in an open meeting
- ▶ Release investigation report or summary and Council decision within 30 days of decision

# Remedies

Staff will display the draft Code of Conduct Bylaw for discussion

# Conclusion

- ▶ Promotes accountability, transparency, respect, effective & efficient decision-making
- ▶ Confidentiality and privacy underly each step
- ▶ Meaningful complaint & resolution process critical to success





*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).

# Report to Council



**Date:** June 5, 2023  
**To:** Council  
**From:** City Manager  
**Subject:** Options for Lobbyist Registry  
**Department:** Office of the City Clerk

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**Recommendation:**

THAT Council receives, for information, the report from the Office of the City Clerk dated June 5, 2023, with respect to options for a lobbyist registry;

AND THAT Council directs staff to prepare the necessary bylaws and policies to implement a Lobbyist Registry in accordance with Option 1 as described in the report from the Office of the City Clerk dated June 5, 2023.

**Purpose:**

To consider options to establish a lobbyist registry.

**Background:**

Council expressed an interest to regulate the activities of those individuals or groups who contact elected officials in an attempt to influence Council decision making. Staff researched lobbying regulatory schemes in other jurisdictions and this report outlines options for Council’s consideration.

*Previous Council Resolution*

Resolution	Date
THAT Council direct staff to bring forward options for the creation of a municipal lobbyist registry.	December 5, 2022

## Discussion:

### *Legislative Framework*

Lobbying activities are regulated at the federal level under the *Lobbying Act* and at the provincial level in BC under the *Lobbyist Transparency Act*. Quebec has legislation regulating lobbyists at the local level. In Ontario, the *Municipal Act* authorizes municipalities to establish a registry for those who lobby public office holders, including elected officials and staff. The Ontario Act allows municipalities to:

- define “lobby”;
- require those who lobby to register with the municipality;
- establish exemptions;
- establish a code of conduct for lobbyists;
- prohibit people from lobbying without being registered;
- and refuse, suspend, or revoke a registration.

Seven Ontario municipalities have established lobbyist registries, including Brampton, Hamilton, Ottawa, and Toronto.

Other provinces, including BC, do not have legislation regulating municipal lobbying activities or specifically authorizing municipalities to establish lobbyist registries. Surrey, Winnipeg, and Edmonton have established voluntary lobbyist registries.

Surrey established its [Lobbyist Registration Policy](#) in 2008. It applies to those who are paid to lobby Council or staff in relation to an application for a development permit, rezoning, or amendment to the Official Community Plan. Lobbyists are required to register with the City within 10 days of undertaking to lobby on behalf of a client. Staff are designated to maintain the registry and no sanctions or enforcement are in place. In 2022, 261 lobbyists registered with the City. As of April 28, 2023, 90 lobbyists had registered in 2023.

### *Regulatory Options*

Council has general authority under the *Community Charter* to exercise its powers in a manner consistent with the purposes of the *Charter* and with the purposes of a municipality, subject to limitations of the *Charter* and other relevant legislation. Promoting transparency in the City’s decision-making is consistent with good government and providing for community benefit.

Council may regulate businesses by bylaw. In other jurisdictions, many definitions of “lobbyist” relate to individuals who have financial interest in or are paid to advocate for a decision, policy, or program. Council may regulate individuals conducting business in Kelowna, which would include those lobbying for gain or profit. This would not capture those lobbying Council on behalf of a neighbourhood association, society, or some other not-for-profit group.

### *Registry Considerations*

A lobbyist registry may be specific to certain activities or types of lobbyists, or may be broad to cover a range of decisions and lobbying activities. Meaningful enforcement becomes more challenging as the scope of what types of lobbying are to be captured widens. Staff recommend beginning with a narrower

scope to establish the necessary procedures to implement a registry. Council may choose to expand the scope once a registry is established and operating. The proposed contents of a lobbyist registry bylaw or policy are listed below. Should Council choose to establish a registry, staff will develop it based on Council's direction on these items.

#### Scope & Applicability

- Definition of "lobby" – may include verbal and/or written communication and/or meetings with the intent to influence a decision outside of a formal public meeting or established public process (e.g., public hearing)
- Types of decisions – may be limited to development applications or broad to include any City decision, program, or policy
- Definition of "lobbyist" – examples include consultant lobbyists (paid to lobby on behalf of a client), in-house lobbyists (employee on behalf of their organization), or voluntary lobbyists (lobby without payment on behalf of another individual or organization)
- Definition of who is being lobbied – public office holder may include Council and Council committee and task force members

#### Reporting & Access

- How and when is lobbying reported – may be the responsibility of the lobbyist or the public office holder (Council or committee member)
- Who is maintaining the registry – appoint staff and define their responsibilities to verify information, determine non-compliance, etc.
- How can the registry be accessed – how frequently is the registry updated, how is it accessed by the public
- Third party vendors who support a lobby registry

#### Compliance & Enforcement

- Voluntary or mandatory – without enforcement provisions a lobbyist registry is voluntary
- Sanctions and penalties – who do they apply to, financial, consideration of development applications, Council Code of Conduct

#### *Compliance Options*

Enforcement of a lobbyist registry should consider that individuals and organizations have a general right to contact Council and the City, though Council is not obligated to respond or agree to meet. Outside of Ontario and Quebec, municipal lobbyist registries operate on a voluntary basis. Council may consider lobbyist registry compliance options through its bylaw enforcement powers, its pending Code of Conduct, or by policy. The approach would depend on how the registry scope and reporting requirements are defined, in particular whether the onus to report is on the lobbyist or the public office holder.

Compliance options may include:

- Sanctions for lobbyists – define in Bylaw Notice Enforcement Bylaw No. 10475 and policies
  - Enforcement through bylaw offence notices, with a penalty of up to \$500 per contravention
  - Deferring consideration of development applications until registry requirements are met
- Sanctions for public office holders – define in Code of Conduct and relevant terms of reference
  - Restrictions on communicating or meeting with lobbyists

As noted above, lobbyist registry requirements should clearly define who is a lobbyist, activities that are considered lobbying, how and when lobbying must be registered, and sanctions for contravening the requirements. This makes it easier for those engaging in lobbying activities to understand their responsibilities and easier for the City to identify when the requirements have not been met.

*Summary of Options*

The tables below summarize the options for establishing a lobbyist registry based on the considerations outlined above.

<b>Option 1: Lobbyist Registry by Bylaw</b>		
Mechanism	Bylaw	Clear and enforceable measures for those lobbying Council.
Application	Narrow	Applies solely to development applications.
Definition of Lobbyist	Narrow	Applies to consultant and in-house lobbyists.
Enforceability	Mandatory	Must register if lobbying on behalf of a development application. Enforced by way of Bylaw Offence Notice with a penalty of up to \$500 per contravention.

<b>Option 2: Lobbyist Registry by Policy</b>		
Mechanism	Policy	Clear but unenforceable measures for those lobbying Council.
Application	Broad	Applies to development applications and may also include other decisions, programs, or policies within the City's jurisdiction.
Definition of Lobbyist	Broad	Applies to consultant, in-house, and voluntary lobbyists.
Enforceability	Voluntary	Responsibility of the lobbyist to voluntarily register. No enforcement provisions.

Staff recommend proceeding with Option 1, with a lobbyist registry established by bylaw, applying to development applications, paid lobbyists (consultants or developers), and mandatory for lobbyists with enforcement options.

**Conclusion:**

Council may establish a lobbyist registry to increase transparency around individuals or organizations who are communicating with public office holders in an effort to influence decisions. Clearly defined scope, applicability, reporting, and compliance mechanisms will help to create a registry that is easily understood and implemented. Staff recommend beginning with a narrower scope, with the option to expand in the future. Enforcement options are limited by Council's authority under the Charter and largely depend on who is responsible for reporting lobbying activities.

**Considerations applicable to this report:**

***Financial/Budgetary Considerations:***

Resources will be required to administer a lobbyist registry, either in-house or through a third party. More detailed financial considerations will be brought forward based on Council's direction for establishing a registry.

**Considerations not applicable to this report:**

***Legal/Statutory Authority:***

***Legal/Statutory Procedural Requirements:***

***Existing Policy:***

***External Agency/Public Comments:***

***Communications Comments:***

Submitted by:

L. Bentley, Deputy City Clerk

**Approved for inclusion:** S. Fleming, City Clerk

cc:

R. Smith, Divisional Director, Planning & Development Services

Attachments:

[City of Surrey Lobbyist Registration Policy](#)





City of  
**Kelowna**

# Lobbyist Registry Options

June 2023

# Legislative Framework

- ▶ Federal – Lobbying Act
- ▶ Provincial – Lobbyist Transparency Act
- ▶ Municipal – Varies across Provinces
  - ▶ Ontario: Ontario Act
  - ▶ BC: No legislation regarding municipal lobbying or lobbyist registries



# Regulatory Options & Considerations

- ▶ Transparency in decision-making is consistent with good government & community benefit
- ▶ Authority to regulate by bylaw or enact voluntary policies
- ▶ Narrow vs broad lobbying activities

# Scope & Applicability

- ▶ Definition of “lobby”
  - ▶ Verbal, written, meetings
- ▶ Types of decisions
  - ▶ Development applications, any City decision or program
- ▶ Definition of “lobbyist”
  - ▶ Paid, in-house, voluntary
- ▶ Definition of who is being lobbied
  - ▶ Council, Committee members, Task Force members

# Reporting & Access

- ▶ How and when is lobbying reported
  - ▶ Lobbyist or public office holder
- ▶ Who is maintaining the registry
  - ▶ Staff responsibilities
- ▶ How can the registry be accessed
  - ▶ Frequency, public reporting

# Compliance & Enforcement

- ▶ Voluntary or mandatory
- ▶ Penalties for lobbyists
  - ▶ Enforcement through bylaw offence notices
  - ▶ Deferring consideration of development applications
- ▶ Sanctions for public office holders
  - ▶ Defined in Code of Conduct

# Options

	Option 1	Option 2
Mechanism	Bylaw: Clear, enforceable	Policy: Clear, voluntary
Application	Narrow: Development applications	Broad: Development applications and other matters within the City's jurisdiction
Definition of Lobbyist	Narrow: Consultants and in-house lobbyists	Broad: Consultants, in-house lobbyists and voluntary lobbyists
Enforceability	Mandatory: Must register, enforced by way of Bylaw Offence Notice	Voluntary: Register voluntarily, no enforcement provisions

# Staff Recommendation

- ▶ Option 1 – Lobbyist Registry by Bylaw
- ▶ Staff will prepare necessary bylaws and policies to implement a Lobbyist Registry



*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).