

Report to Council



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

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.

Option 1: Lobbyist Registry by Bylaw		
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.

Option 2: Lobbyist Registry by Policy		
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:

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Approved for inclusion: S. Fleming, City Clerk

cc:

R. Smith, Divisional Director, Planning & Development Services

Attachments:

[City of Surrey Lobbyist Registration Policy](#)