

APPENDIX A

By-law 2020-xx

A By-law of the City of Greater Sudbury to Establish and Maintain a Lobbyist Registry

Whereas the Council for the City of Greater Sudbury wishes to establish and maintain a Lobbyist Registry to provide transparency about persons who lobby the City of Greater Sudbury's public office holders;

And Whereas section 223.9 of the *Municipal Act, 2001* authorizes the City of Greater Sudbury to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby the City of Greater Sudbury's public office holders;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

1. The attached Schedule "A", Lobbyist Registry By-law is hereby enacted and adopted upon passage.
2. The attached Schedule "B" Lobbyist Code of Conduct is hereby enacted and adopted upon passage.

Read and Passed in Open Council this xx day of xx, 2020

_____ Mayor

_____ Clerk

Schedule “A”
to By-law 2020-xx of the City of Greater Sudbury

PART I. DEFINITIONS

ARTICLE 1. TERMS DEFINED

In this By-law,

“Business Day” means any day on which the City’s administrative buildings are open for business;

“City” means the municipal corporation of the City of Greater Sudbury, or the geographic area of the municipal corporation of the City of Greater Sudbury, as the context requires;

“Code of Conduct” means the Lobbyist Code of Conduct, attached as Schedule “B” to the Lobbyist Registry By-law.

“Communication” means any type of expressive contact, including but not limited to a meeting, email, electronic messaging, facsimile transmission, letter, telephone 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.

“Constituent” means:

- (i) with respect to the Mayor:
 - (a) an individual who resides in the City; or
 - (b) an owner or operator of a business or other entity located in the City; and
- (ii) with respect to a Councillor:
 - (a) an individual who resides in the Councillor’s ward; or
 - (b) an owner or operator of a business or other entity located in the ward;

“Lobby”, subject to the exclusions provided for in this By-law, means any Communication with a Public Office Holder by an individual who represents a business or financial interest, including their own interest, with the goal to influence legislative action on:

- (i) the development, introduction, passage, defeat, amendment or repeal of a City By-law or resolution on any matter;
- (ii) the development, approval, amendment or termination of a City policy, program, directive, guideline, including but not limited to a service delivery model;
- (iii) the purchase of goods, services or construction and the award of a contract by the City;
- (iv) the approval, approval with conditions, or refusal of an application for a service, grant, planning approval, permit or other licence or permission by the City;
- (v) the award of any financial contribution, grant or other financial benefit by the City;
- (vi) the transfer to or from the City of any interest in or asset of any business, enterprise or institution,
- (vii) to arrange a meeting between a public office holder and any other person on any of the subject matters listed in paragraphs (i) to (vi) inclusive; and

“Lobbyist” means a consultant lobbyist, in-house lobbyist or voluntary unpaid lobbyist and:

- (i) “Consultant lobbyist” means an individual who lobbies for payment on behalf of a client (another individual, a business or other entity);
- (ii) “In-house lobbyist” means an individual who is an employee, partner or sole proprietor and who lobbies on behalf of his or her own employer, business or other entity; and,
- (iii) “Voluntary unpaid lobbyist” means an individual who lobbies without payment on behalf of an individual, business or other entity for the benefit of the interests of the individual, business or other entity;

“Lobbyist Registrar” means the individual appointed by Council from time to time in accordance with section 223.1 of the *Municipal Act, 2001*;

“Lobbyist Registry” means a record of registration in which shall be kept returns of persons who lobby public office holders which shall include the information required pursuant to this By-law.

“Public Office Holder” means:

- (i) a member of Council and any person on their staff;
- (ii) a member of the City’s Executive Leadership Team;

“Registration” means a first filing by a lobbyist regarding a subject matter they intend to lobby on as set out in Article 6 of this By-law.

“Return” means an update of a registration filed by a lobbyist as set out in Article 6 of this By-law.

PART II. **GENERAL PROVISIONS**

ARTICLE 2. ESTABLISHMENT OF A LOBBYIST REGISTRY

2.1 The City of Greater Sudbury hereby establishes its Lobbyist Registry in accordance with Section 223.9 of the *Municipal Act, 2001*.

2.2 The Clerk for the City of Greater Sudbury 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 the City of Greater Sudbury’s website.

ARTICLE 3. EXEMPTED PERSONS AND ORGANIZATIONS

3.1 This By-law does not apply to the following persons when acting in their official or public capacity:

- (i) Government or public sector persons, other than the City of Greater Sudbury;
 - (a) 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;

- (b) 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;
 - (c) 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;
 - (d) 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 of Greater Sudbury, persons or staff of the members, or officers or employees of the municipality or local board; and
 - (e) 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 representative in Canada of the government.
- (ii) Officials and employees of the City of Greater Sudbury and other municipal bodies;
 - (a) Public Office Holders;
 - (b) Officers, directors or employees of a local board or related corporations of the City of Greater Sudbury;
 - (c) Members of an Advisory Panel established by the City of Greater Sudbury;
 - (iii) Members, directors, officers, employees or consultants of publicly funded school boards and educational institutions;
 - (iv) Members, directors, officers, employees or consultants of publicly funded health care institutions; and
 - (v) Members, directors, officers, employees, or consultants of Municipal Associations including but not limited to the Association of Municipalities of Ontario, and the Federation of Canadian Municipalities.

ARTICLE 4. RESPONSIBILITIES

4.1 A public officer holder's responsibilities include:

- (i) responding, in a timely and complete manner, to a request from the Lobbyist Registrar to gather and provide information; and
- (ii) ending, as soon as practicable, lobbying by a lobbyist who is prohibited from lobbying and reporting in a timely manner, such lobbying to the Lobbyist Registrar.

4.2 The City Solicitor & Clerk's responsibilities include:

- (i) development and maintenance of an electronic lobbyist registry, including all applicable forms;
- (ii) ensuring the lobbyist registry is available for public inspection through electronic web-based access at all reasonable times, except during regular maintenance;
- (iii) ensuring that registrations and returns are included on the lobbyist registry not more than three business days after they are filed;
- (iv) ensuring that the lobbyist registry reflects the direction of the Lobbyist Registrar regarding the suspension, revocation or refusal of registrations or returns.

4.3 The Lobbyist Registrar's responsibilities include:

- (i) overseeing the establishment and maintenance of a lobbyist registry, including determining the lobbyist registry's form and content, in which shall be kept the registrations and returns filed by lobbyists;
- (ii) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
- (iii) conducting inquiries in respect of a request made by Council, a member of Council or a member of the public about compliance with this By-law, which may include requesting that a public office holder gather information concerning lobbying of him or her and provide that information to Lobbyist Registrar;
- (iv) suspending, revoking or refusing a registration or return;
- (v) enforcing this By-law;
- (vi) advising Council on lobbying matters and recommend improvements to this Bylaw;
- (vii) providing periodic reports to Council and any other reports as the Lobbyist Registrar considers appropriate; and
- (viii) performing other duties as may be assigned by Council from time to time.

ARTICLE 5. LOBBYING EXEMPTIONS

5.1 Lobbying does not include:

- (i) Communication that is a matter of the public record or occurs during a meeting of Council or a Committee of Council;
- (ii) 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;
- (iii) advocacy Communication for or against a policy or program that states a position where the primary focus is a broad community benefit or detriment, and where that position would have no direct or indirect or perceived benefit to the person or entity on whose behalf the communication is undertaken;
- (iv) Communication that is restricted to a request for information;
- (v) Communication that is restricted to compliments or complaints about a service or program;
- (vi) Communication with a public office holder by an individual on behalf of an individual, business or other entity about:
 - (a) the enforcement, interpretation or application of any Act or By-law by the public office holder and with respect to the individual, business or other entity;
 - (b) the implementation or administration of any policy, program, directive or guideline by the public office holder and with respect to the individual, business or other entity; or
 - (c) a personal matter of the individual, business or other entity unless it is communication that is in respect of a matter that falls under the definition of lobbying, that is for the special benefit of the individual, business or organization.

- (vii) 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 if the communication is part of the normal course of the approval process; or
 - (b) with an employee of the City if the communication is with respect to planning or development applications and the officer or employee has a role in the processing of a planning or development application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- (viii) 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;
- (ix) Communication with a public office holder by an individual on behalf of an individual, business or other entity in direct response to a written request from the public office holder;
- (x) Communication directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder;
- (xi) 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 a business or financial interest of the individual, business or other entity on whose behalf the communication is undertaken,
- (xii) Communication regarding a business or financial interest by not-for-profit businesses or other not-for-profit entity where such business or entity has no paid staff; or
- (xiii) Communication with a public officer holder by their constituent regarding a general neighborhood or public policy issue.

5.2 The Lobbyist Registrar may exempt lobbying from some or all the requirements of this By-law if they are satisfied in advance by a lobbyist that registration could reasonably be expected to prejudice the economic interests of the City of Greater Sudbury or the competitive position of the City of Greater Sudbury.

ARTICLE 6. REGISTRATION AND REPORTING OF LOBBYING ACTIVITY

6.1 No person who meets the definition of a Lobbyist as outlined in Part I of this By-law shall lobby a public office holder without being registered as required under this section of the By-law unless otherwise exempted.

6.2 A person with the intent to lobby may register as a lobbyist prior to the first lobbying communication with a public office holder and shall do so no later than five (5) business days after the lobbying communication takes place. All lobbyists with intent to lobby must register as lobbyists.

6.3 Lobbyists shall adhere to the Code of Conduct during the conduct of lobbying activities with public office holders.

6.4 A former public office holder shall not engage in lobbying activities for a period of twelve (12) months immediately after ceasing to be a public office holder.

6.5 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.

6.6 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.

6.7 The lobbyist shall provide the following information in their registration:

- (i) name, title and business address (where applicable);
- (ii) whether the lobbyist is a consultant lobbyist, in-house lobbyist or voluntary unpaid lobbyist;
- (iii) the name of the individual, client or other organization, including all business names, under which the individual, client or other organization is operating, on whose behalf the lobbyist is lobbying;
- (iv) each subject matter that the lobbyist will lobby on;
- (v) description of the issue being lobbied, including particulars of any relevant City proposal, By-law motion, resolution, policy, program, directive, grant or guideline;
- (vi) date on which the lobbying activity will start and finish, with the date on which the lobbying finishes being no more than twelve (12) months after the date which the lobbying commences; and
- (vii) names of the Members of Council and titles of other public office holders being lobbied.

6.8 Lobbyists shall update any changes to their registration within five (5) business days of the change taking place.

6.9 Lobbyists shall close the subject matter registration filed no later than thirty (30) days after the completion or termination of the lobbying activity. The subject matter shall be closed once lobbying is complete or within twelve (12) months of lobbying commencing, whichever is sooner.

6.10 A subject matter registration may be extended beyond twelve (12) months at the sole discretion of the Lobbyist Registrar.

PART III. SANCTIONS AND PENALTIES

ARTICLE 7. REFUSAL TO ACCEPT OR SUSPEND REGISTRATION OR RETURN

7.1 The Lobbyist Registrar may impose a temporary ban on communication in accordance with the following scheme if the Lobbyist Registrar finds that the requirements of this By-law have not been met:

- (i) First contravention: the lobbyist is banned from communicating with public office holders for one month;
- (ii) Second contravention: the lobbyist is banned from communicating with public office holders for three months; and

- (iii) Third contravention: the Lobbyist Registrar shall determine an appropriate sanction.

7.2 If the Lobbyist Registrar decides to impose a temporary ban on lobbying, the Lobbyist Registrar shall inform the individual of the suspension and the reason for the suspension in the manner that the Lobbyist Registrar determines.

7.3 If the Lobbyist Registrar imposes a temporary ban on lobbying, the Lobbyist Registrar shall notify all Public Office Holders and a notice of the temporary ban shall be posted to the website.

ARTICLE 8. REMOVAL FROM REGISTRY

8.1 The Lobbyist Registrar may remove a registration or return from the Lobbyist Registry if the Lobbyist Registrar finds that the individual who filed the registration or return has not complied with the requirements of this By-law.

8.2 When a registration is removed from the Lobbyist Registry, the individual who filed it shall be deemed, for the purposes of their existing and future obligations under this By-law, not to have filed the registration.

ARTICLE 9. REFERRAL TO APPROPRIATE AUTHORITIES

9.1 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 Lobbyist Registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry pending the outcome of any resulting investigation.

Schedule “B”
to By-law 2020-xx of the City of Greater Sudbury

LOBBYIST 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

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

Openness

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

Disclosure of Identity and Purpose

Lobbyists communicating with a public office holder shall disclose the identity of the individual or organization on whose behalf they are acting as well as the reasons for the communication.

Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.

Information and Confidentiality

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.

Lobbyists shall provide information that is accurate and factual to all public office holders.

Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

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.

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

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

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.

Lobbyists shall not lobby public office holders on a subject matter for which they also provide advice to the City of Greater Sudbury.

Improper Influence

Lobbyists shall avoid both the deed and appearance of impropriety.

Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' code of conduct or standards of behaviour.

Lobbyists with active lobbying registrations, their registered clients or their employers shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.