

Clause embodied in Report No. 9 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on September 22, 23, 24 and 25, 2003.

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**Request for Provincial Enabling Legislation to
Establish a City Lobbyist Registry Within the
Office of a City Integrity Commissioner**

(City Council on September 22, 23, 24 and 25, 2003, amended this Clause by adding thereto the following:

“It is further recommended that the City Clerk be requested to publish a monthly advisory listing Members of Council who have complied with the present Lobbyist Registry.”)

The Administration Committee recommends the adoption of the Recommendation of the Ethics Steering Committee embodied in the following communication (September 3, 2003) from the City Clerk:

Recommendation:

The Ethics Steering Committee recommends the adoption of the joint report (August 28, 2003) from the City Solicitor and the Chief Administrative Officer.

Background:

At its meeting on September 3, 2003, the Ethics Steering Committee gave consideration to the attached joint report (August 28, 2003) from the City Solicitor and the Chief Administrative Officer seeking authority from Council to make an application to the Province for enabling legislation to establish a City lobbyist registration system. The request to the Province is linked to the previous decision of Council to apply for enabling legislation to establish a City Integrity Commissioner office. Approval of the requests will provide Council with the powers it needs to pass by-laws that establish the functions along the same lines as the provincial model and recommends that:

- (1) Council grant authority to make an application to the Province for the special legislation contained in Appendix 2, to establish a permanent City lobbyist registration system in conjunction with the application for special legislation for a City Integrity Commissioner office, as previously authorized by Council;
- (2) the City Solicitor and the Chief Administrative Officer, prior to advertising the City application as required, consult with Provincial staff on the direction taken by the City in its draft legislation;

- (3) the Ethics Steering Committee report to the Administration Committee on the merits of including restrictions on former members of Council after they have left office in the future City by-law for a lobbyist registry system;
- (4) the City Solicitor and the Chief Administrative Officer report back to the Ethics Steering Committee, or the Administration Committee, as necessary on Council directives that are dependent on obtaining Provincial approval for the special legislation including the development of final City by-laws, implementation and resource requirements; and
- (5) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

(Joint report dated August 28, 2003, addressed to the
Ethics Steering Committee from the City Solicitor and
The Chief Administrative Officer, entitled “Request for
Provincial Enabling Legislation to Establish a City Lobbyist
Registry Within the Office of a City Integrity Commissioner”.)

Purpose:

This report seeks authority from Council to make an application to the Province for enabling legislation to establish a City lobbyist registration system. The request to the Province is linked to the previous decision of Council to apply for enabling legislation to establish a City Integrity Commissioner office. Approval of the requests will provide Council with the powers it needs to pass by-laws that establish the functions along the same lines as the provincial model.

Financial Implications and Impact Statement :

As previously reported and approved, there are one-time costs involved in filing and processing an application to the Province for special legislation. These costs include a filing fee, publishing weekly notices of application for four weeks, printing the private bill, and printing the Act in the annual statutes. It is estimated that the cost (most attributable to advertising) for an application will not exceed \$6,000.00. There will be additional costs if the requests for special legislation to establish a City Integrity Commissioner and Lobbyist Registry are processed separately.

Discussion with the Clerk’s division indicates that funding is available within the approved Council budget to cover the costs of the application for special legislation during 2003.

Recommendations :

It is recommended that:

- (1) Council grant authority to make an application to the Province for the special legislation contained in Appendix 2, to establish a permanent City lobbyist registration system in conjunction with the application for special legislation for a City Integrity Commissioner office, as previously authorized by Council;

- (2) the City Solicitor and the Chief Administrative Officer, prior to advertising the City application as required, consult with Provincial staff on the direction taken by the City in its draft legislation;
- (3) the Ethics Steering Committee report to the Administration Committee on the merits of including restrictions on former members of Council after they have left office in the future City by-law for a lobbyist registry system;
- (4) the City Solicitor and the Chief Administrative Officer report back to the Ethics Steering Committee, or the Administration Committee, as necessary on Council directives that are dependent on obtaining Provincial approval for the special legislation including the development of final City by-laws, implementation and resource requirements; and
- (5) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

While lobbying is an acknowledged part of government processes, Council has expressed a desire to ensure that information on lobbying activities (who is lobbying which public office holders) is available to the public. Council has considered the following reports on lobbying and related matters:

- (i) “Interim Report on a Registry of Lobbyists and Related Matters” in June 1998;
- (ii) “Code of Conduct for Members of Council” in September 1999;
- (iii) “Procedures under the Lobbyists Registration Act, 1998” in April 2000;
- (iv) “Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation Calls” in March 2001;
- (v) “Feasibility of a Lobbyist Registration Policy Similar to Provincial and Federal Models” in April 2002; and
- (vi) “Establishing a City Lobbyist Registry Similar to Provincial and Federal Systems: Implementation Issues, Costs and Requirements” in February 2003.

In February 2003, Council adopted Clause No. 4(a) in Report No. 14 of The Administration Committee, as amended, and, among other matters, requested the Chief Administrative Officer and the City Solicitor to submit a joint report to the Administration Committee:

- (a) outlining a request to the Province of Ontario for enabling legislation for a permanent lobbyist registry system, within the context of the request for enabling legislation for a City Integrity Commissioner; and

- (b) on the administrative aspects of the lobbyist registry system as it relates to the Office of the Integrity Commissioner.

This report addresses the preceding directives and also contains in Appendix 2, a Draft Act providing Council with the necessary powers to pass by-laws establishing a City Lobbyist Registry as part of the responsibilities of a City Integrity Commissioner office.

The following additional directives to the Chief Administrative Officer and City Solicitor are wholly dependent upon the City obtaining approval for special legislation and will be addressed at the appropriate time:

- (i) consult with the City Clerk and Commissioners to ensure an effective City lobbyist registry that will address the applications, procedures and functions likely to attract a high degree of lobbyist activity, as well as being consistent with provincial and federal principles for the registration process;
- (ii) following consultation with the City Clerk and Commissioners, report to Administration Committee on a final form lobby registry by-law;
- (iii) establish a permanent and formal City-wide lobbyist registry system, similar to the system described in the joint report (October 30, 2002) from the Chief Administrative Officer and the City Solicitor (as embodied in the Clause); and
- (iv) under a permanent registration system, consider whether professional lobbyists should be charged an amount for registration.

Council also requested the Ethics Steering Committee to refine the details of data collection and definitions to be applied to lobbyist activities and report back to Council through the Administration Committee. It was specified that the report should also address the issue of lobbying by unions, developers, fundraisers and special interest groups.

Further directives to the CAO relate to ongoing policy development respecting lobbyist activities, and include:

- (i) with the City Solicitor, continue to develop policies and procedures governing lobbyists based on external industry/association policies, regulations and laws; and
- (ii) with the Commissioner of Corporate Services, take steps toward a general goal of City policy banning or implementing stronger controls on the lobbying of civil servants.

Council Authority and Powers Provided to the City by the Draft Legislation:

Appendices 1 and 2 to this report contain draft legislation that will provide Council with the necessary powers to pass by-laws permitting, respectively, the establishment of a City Integrity Commissioner office and, a City Lobbyist Registration system, similar to that provided by statute at the Provincial level. Obtaining approval from the Province for special legislation provides the Council with the general authority to fine-tune both the Integrity Commissioner office and the lobbyist registration system, by by-law.

Accordingly, much of the detail on definitions, procedures and administrative provisions in the provincial *Lobbyist Registration Act, 1998* and *Members' Integrity Act, 1994* that is being used as the basis for the proposed City operations, will be set out in the City's by-law and not the draft legislation in Appendices 1 and 2 of this report. One example of a matter to be included in the by-law, rather than in draft legislation, is the definition of classes of lobbyists. Another example is the requirement for the Integrity Commissioner to produce annual reports.

Overview of City Draft Legislation for an Integrity Commissioner Office (Appendix 1):

As described in City reports to-date, a City Integrity Commissioner is to be:

- (i) initially, a part-time contract position with the City;
- (ii) a retired judge with extensive adjudication, municipal and administrative law experience;
- (iii) responsible for complaint assessment/investigation within Council's Code of Conduct;
- (iv) given exemption from certain *Municipal Freedom of Information and Protection of Privacy Act* requirements;
- (v) responsible for advising members on potential (Code) conflict of interest situations; and
- (vi) responsible for publishing an annual report on the findings of typical cases/inquiries.

Council has already granted authority to make an application for special legislation to establish and implement a City Integrity Commissioner office similar to the Provincial model. The draft private bill is contained in Appendix 1 ("IC Draft Act") and, of importance to this report, provides for the appointment of the City Integrity Commissioner as the Registrar for an approved City lobbyist registration system.

In addition, the IC Draft Act includes provisions for dealing with confidential information (s.9), immunity (s.5), and the non-compelibility of the Commissioner and the Commissioner's staff in civil proceedings (s.6). It also provides that the Commissioner has rights of access to City records and to require evidence under oath, similar to the City Auditor.

The IC Draft Act provides that Council could, by by-law, adopt all or part of a City policy or by-law respecting the conduct of members of Council as a 'code of conduct' (s.2.). It also authorizes Council to pass by-laws respecting the procedures to be followed and any limitations Council deems advisable in these matters (s.7). Finally, the Draft Act will also provide that the Integrity Commissioner will perform such other duties as required by Council with respect to ethical matters or practices and procedures that, in Council's opinion, are related to, or may have an impact on, its Code of Conduct for Council Members (s.3(3)) and giving advice on the *Municipal Conflict of Interest Act* (s.3(4)).

If special legislation is granted, Protocols for requesting advice and for processing complaint investigations specific to the City will be adopted (per the Council authority noted above). For example, in contrast with the provincial model and in keeping with the compliance section of the (City) Code of Conduct, complaints by members of the public will be processed to the Integrity Commissioner for review if the by-law permits other referrals (s. 7(2)).

The IC Draft Act provides that it is Council that makes the final decision on whether any penalty (as may be recommended by the Integrity Commissioner) is imposed on a member found to have contravened the Code of Conduct. This approach follows the Provincial model because the Code of Conduct, like the Provincial Act (in terms of its conduct provisions) is not a precise document. The IC Draft Act also provides that Council's final decision may be reported to a meeting of Council or its committees that is open to the public (s. 14 (6)).

Overview of City Draft Legislation for a Lobbyist Registry (Appendix 2):

The City's draft private bill respecting lobbyist registration in Appendix 2 (the "LR Draft Act") is based upon the Provincial *Lobbyist Registration Act, 1998*, ("Provincial Act") that, in turn, replicates the federal government's lobbyist registration Act to a significant degree. The LR Draft Act permits the City to follow the Provincial model, where the Integrity Commissioner has been appointed as the Registrar and is responsible for managing the lobbyist registry and associated operations. The LR Draft Act permits the City to pass a by-law that will be similar in effect to the provincial Act provisions (as illustrated in the first draft lobbyist registration by-law attached to Clause No. 4(a) in Administration Committee Report No. 14). At the same time, the City by-law will allow those provisions to be fine-tuned so that a successful lobbyist registration system can be put in place at the City given that far more of its activities technically fit into the definition of lobbying.

(a) Definition Matters:

Lobbying is usually defined as direct or indirect efforts to solicit the support of members and officials to influence government decisions on behalf of another party or an organization, often away from public scrutiny. The term "lobby" in the LR Draft Act (s.1) is based on the definition in the Provincial Act and reflects this general definition. Under the City's by-law powers in the LR Draft Act, the by-law can set out activities and persons who are not subject to the by-law in order to be reflective of City operations. Examples of exemptions in the by-law could be routine constituency work, as well as members of Council and City staff when acting in their official capacity. Similarly, Committee deputation and other processes that are a matter of public record, where individuals are named and their interest and organizational affiliation identified, may also be excluded from the registration requirement.

Lobbyists are most commonly defined as individuals paid to communicate with elected or appointed officials and any staff of government, in a deliberate and concerted attempt to influence government decisions. The behaviour under scrutiny is specifically related to the phrase "attempt to influence government decisions" because the activity often occurs beyond public scrutiny and is on behalf of someone else.

In the approved Council Code of Conduct, the term "lobbyist" includes the following:

- (i) "consultant lobbyist" means a person who, for payment, lobbies on behalf of a client and includes, but is not limited to, government relations consultants, lawyers, accountants, or other professional advisors who provide lobbying services for their clients;

- (ii) “corporate in-house lobbyist” means an employee of a corporation that carries on commercial activities for financial gain and who lobbies as a significant part of their duties;
- (iii) “organization in-house lobbyist” means an employee of a non-profit organization when one or more employees lobby public office holders and where the accumulated lobbying activity of all such employees would constitute a significant part of the duties of one employee; and
- (iv) “volunteer lobbyist” means a person who lobbies without payment on behalf of an individual, corporation, or organization.

The LR Draft Act will allow the City to define classes of lobbyists in its by-law and specifically provides that this may include lobbyists who receive no payment (i.e., ‘volunteers’) or those who receive partial payment (s.2(2)). In contrast, the Provincial Act only applies to paid lobbyists.

(b) Powers, Information Filed, Registrar Duties, Exception and Offence Provisions:

Other provisions in the LR Draft Act also reflect the City context and provide flexibility as to what will be provided in the final by-law. For example, the City by-law could allow its Agencies, Boards, Commissions and City-controlled organizations to be added to the definition of public office holder (ss.1,2(2)) and, could provide a general power to the City to exempt any person or organization from all or any part of the by-law (s.2 (3)).

Under the LR Draft Act, the by-law could require returns to be filed that contain information on lobbyists and lobbying activities similar to the Provincial Act requirements (s.2(3)), as follows:

- (1) basic information on the individual lobbyists, the senior officer and the client or employer: name, address and the nature of the business or activities; information on other parties who have an interest in (e.g., a subsidiary or parent corporation) or who support the lobbying activity by contributing at least \$750.00);
- (2) information on financial matters: government subsidies to the client or employer, and contingency fees for the services of a consultant lobbyist;
- (3) information on the nature of the lobbying activity or proposed activity including:
 - (i) the subject matter of lobbying and, if an in-house lobbyist (organizations), the subject matter during the six months period of a return and the expected subject matter for the next six months;
 - (ii) specific information on the undertaking, e.g., the proposed bill or program;
 - (iii) the ministry, agency, etc. they have lobbied or expect to lobby;

- (iv) MPPs or MPP staff they have lobbied or expect to lobby; and
- (v) the communication techniques to be used, including “grass-roots communication” (as defined in the Act).

Under the LR Draft Act the powers and duties of the registrar will be set out in the by-law (s.5). The by-law will, for example, provide for any annual report and other reporting requirements.

The LR Draft Act includes the special administrative, evidentiary and legal exception provisions of the Provincial Act. For example, the legal effect of a registrar’s interpretation bulletin (s.5(2)), fee recovery (s.3), evidence from records (s.4), an uncontested right to remove returns from the registry (s.6), and delegation powers (s.7).

The LR Draft Act also allows for the special offence provisions in the Provincial Act (s. 8) including the imposition of a fine, in the by-law, of up to \$25,000.00 (the *Provincial Offences Act* applicable to most municipal by-law offences, has a maximum fine of \$5,000.00.) and, making it an offence to knowingly place a public-office holder in a position of real or potential conflict of interest, as well as the offence to knowingly make a false or misleading statement in a return or other document.

Next Steps and Possible By-Law Provisions:

The draft private bill in Appendix 1 (“IC Draft Act”) now provides for the appointment of the City Integrity Commissioner as the Registrar under the draft private bill in Appendix 2 to establish a City Lobbyist Registry system (s.3(5)). For this reason, if authority is granted by Council to process the draft private bill for a Lobbyist registration system, it is appropriate that the two pieces of legislation be examined in conjunction and in light of the legislation affecting the draft private bills.

It is, therefore, recommended that Council grant authority for application to be made for special legislation from the Province to establish a permanent City lobbyist registration system in conjunction with the application for special legislation for a City Integrity Commissioner office, as previously authorized by Council.

It is also recommended that the City Solicitor and the Chief Administrative Officer, prior to advertising the City application as required, consult with Provincial staff on the direction taken by the City in its draft legislation.

In addition to the matters previously discussed, other provisions could be developed for inclusion in the future City by-law. For example, restrictions on former members of Council after they have left office in the lobbyist registration by-law may more clearly regulate the treatment of confidential or insider information, as well as the dealings of City office-holders with other sectors both during and following their official duties. (Post office restrictions apply to Ministers under the provincial *Member’s Integrity Act, 1994.*) Further assessment of the value, applicability and development of such policy for inclusion in the future City by-law, appears to be of value and is consistent with the

mandate of the Ethics Steering Committee. This could include, for example, an examination of the needed Council authority to impose conditions beyond the ‘business activities’ jurisdiction of the *Municipal Act*, an appropriate time-period of applicability for the limitations, as well as realistic City offence provisions for contravention.

It is, therefore, recommended that the Ethics Steering Committee report to the Administration Committee on the merits of including a post office-holder restriction provision in the future City by-law for a lobbyist registry system.

Finally, it is recommended that the City Solicitor and the Chief Administrative Officer report back to the Ethics Steering Committee, or the Administration Committee, as necessary on Council directives that are dependent on obtaining Provincial approval for the special legislation including the development of final City by-laws, implementation and resource requirements.

Conclusion:

This report seeks authority from Council to make an application to the Province for enabling legislation to establish a City lobbyist registration system. The request is linked to the previous decision of Council to apply for enabling legislation to establish a City Integrity Commissioner office along the same lines as the provincial model as directed by Council.

Much of the detail on definitions, procedures and administrative provisions in the provincial *Lobbyist Registration Act, 1998* and *Members’ Integrity Act, 1994* that is being used as the basis for the proposed City operations, will be set out in the City’s by-law and not the draft legislation in Appendices 1 and 2 of this report.

Accordingly, this report is recommending that Council authorize the request to the Province respecting the establishment of a lobbyist registration system and for staff to consult with the Province on the draft legislation in Appendices 1 and 2. The draft legislation provides Council with the necessary powers to pass by-laws permitting respectively, the establishment of a City Integrity Commissioner office and, a City Lobbyist Registration system.

The report also recommends further reporting to the Administration Committee on the merits of including a post office-holder restriction in the by-law, as well as other Council directives that are dependent on obtaining Provincial approval for the special legislation being requested.

Contacts:

C. Cameron, Lawyer

Legal Services

Phone: 416-392-7235 Fax: 416-392-1017

E-mail: ccameron@toronto.ca

L. McQueen, Sr. Corporate Management and Policy Consultant

Office of the Chief Administrator

Phone: 416-392-8895 Fax: 416-696-3645

E-mail: lmcqueen@toronto.ca

List of Attachments:

Appendix 1: Draft Bill for a City of Toronto Integrity Commissioner.

Appendix 2: Draft Bill for City of Toronto Lobbyist Registration.

Appendix 1

Draft Bill for a City of Toronto Integrity Commissioner

An Act respecting an integrity commissioner for the City of Toronto.

Preamble:

The Council of the City of Toronto has applied for special legislation in respect of the matters set out in this Act.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“code of conduct” means a City policy respecting the conduct of members of council as adopted by by-law under section 2;

“Integrity Commissioner” means the person appointed as Integrity Commissioner under section 3;

“Council” means the Council of the City of Toronto;

“member” means a member of Council.

Code of conduct

2. (1) Council may pass by-laws for governing the conduct of its members.

(2) A by-law passed under subsection (1) may regulate or prohibit with respect to conduct matters and may require persons to do things.

Integrity Commissioner

3. (1) Council may by by-law appoint an Integrity Commissioner.

Powers and duties

(2) The Integrity Commissioner may exercise the powers and shall perform the duties assigned to him or her under this Act or under a by-law passed under subsection 3(3).

Same

(3) Council may pass by-laws assigning to the Integrity Commissioner other duties with respect to ethical matters or practices and procedures that, in Council's opinion, are related to or may have an impact on the code of conduct.

Same

(4) Council may pass by-laws assigning to the Integrity Commissioner duties respecting the provision of advice on the *Municipal Conflict of Interest Act*.

Same

(5) Council may appoint the Integrity Commissioner as the registrar under the *City of Toronto Act (Lobbyist Registration)*, 2003.

Term

(5) An Integrity Commissioner shall not be appointed for a term exceeding five years.

Same

(6) The person appointed continues to hold office after the expiry of the term until reappointed, or until a successor is appointed.

Acting Integrity Commissioner

(7) If the Integrity Commissioner is unable to act because of illness, Council may appoint an acting Integrity Commissioner, whose appointment comes to an end when the Integrity Commissioner is again able to act or when the office becomes vacant.

Remuneration

(8) The Integrity Commissioner shall be paid the remuneration, allowances and expenses as Council may provide.

Staff

(9) Council may provide to the Integrity Commissioner the municipal employees that Council considers necessary for the performance of the Integrity Commissioner's duties or, at the Council's request, the Integrity Commissioner may provide his or her own employees.

Reporting relationship

4. (1) The Integrity Commissioner shall report to Council or as otherwise provided in a by-law passed under section 7.

Annual report

(2) The Integrity Commissioner shall report annually on the affairs of the office.

Contents

(3) The annual report may summarize advice given by the Integrity Commissioner, but shall not disclose confidential information or information that could identify a person concerned.

Immunity

5. No proceeding shall be commenced against the Integrity Commissioner or an employee in his or her office, including a municipal employee seconded to that office under subsection 3(9), for any act done or omitted in good faith in the execution or intended execution of the Integrity Commissioner's or employee's duties under this Act or a by-law passed under subsection 3(3).

Testimony

6. Neither the Integrity Commissioner nor an employee of his or her office, including a municipal employee seconded to that office under subsection 3(9), is a competent or compellable witness in a civil proceeding in connection with anything done under this Act or a by-law passed under subsection 3(3).

By-laws re procedures

7. (1) Council may pass by-laws respecting the procedures to be followed and any limitations Council deems advisable, on requests for advice from the Integrity Commissioner under section 8 and the processing of complaints to the Integrity Commissioner under section 10 or a by-law passed under this section.

Other referrals

(2) A by-law passed under subsection (1) may provide for the referral of a matter to the Integrity Commissioner to give an opinion, where a person other than a member has reasonable and probable grounds to believe that a member has contravened the code of conduct.

Time for requesting inquiry limited

(3) A by-law passed under subsection (1) shall provide for time limits on making a request for an inquiry under section 10 or a by-law passed under this section, which do not exceed the following limits,

- (a) a request for an inquiry by a member or a person who is not a member may be made within six weeks after the fact comes to his or her knowledge that a member may have contravened the code of conduct; and
- (b) no request for an inquiry under section 10 shall be brought after the expiration of six years from the time at which the contravention is alleged to have occurred.

REQUESTS FOR ADVICE

Opinion and recommendations

8. (1) A member may request that the Integrity Commissioner give an opinion and recommendations on any matter respecting the member's obligations under the code of conduct, subject to any by-law passed under section 7.

Inquiries

(2) The Integrity Commissioner may make such inquiries as he or she considers appropriate and shall provide the member with an opinion and recommendations, subject to any by-law passed under section 7.

Confidentiality

(3) The Integrity Commissioner's opinion and recommendations are confidential, but may be released by the member or with the member's consent.

Writing

(4) The member's request, the Integrity Commissioner's opinion and recommendations and the member's consent, if any, shall be in writing.

Confidentiality

9. (1) Information disclosed to the Integrity Commissioner under this Act is confidential and shall not be disclosed to any person, except,

- (a) by the member, or with his or her consent;
- (b) in a criminal proceeding, as required by law; or
- (c) otherwise in accordance with this Act.

Municipal Freedom of Information and Protection of Privacy Act

(2) Subsection (1) prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

REQUESTS FOR INQUIRIES

Matter referred by member

10. (1) A member who has reasonable and probable grounds to believe that another member has contravened the code of conduct may request that the Integrity Commissioner give an opinion as to the matter, subject to any by-law passed under section 7.

Request

(2) The request shall be in writing and shall set out the grounds for the belief and the contravention alleged.

File with Clerk

(3) The member making the request shall file the request with the City Clerk, who shall cause the request to be processed as provided in a by-law passed under section 7.

Matter referred by Council

(4) Subject to any by-law passed under section 7, Council may, by resolution, request that the Integrity Commissioner give an opinion as to whether a member has contravened the code of conduct or other matters assigned to the Integrity Commissioner under a by-law passed under subsection 3(3).

Inquiry by Council

(5) Council and its committees shall not conduct an inquiry into a matter that has been referred to the Integrity Commissioner under subsection (3) or (4), or a by-law passed under section 7.

Inquiry by Integrity Commissioner

11. (1) When a matter is referred to the Integrity Commissioner under section 10 or a by-law passed under subsection 7(2), the Integrity Commissioner may conduct an inquiry, after giving the member whose conduct is concerned reasonable notice.

Same

(2) If the matter was referred by a member, by Council or by another person under a by-law passed under section 7,

- (a) the Integrity Commissioner has right of access at all reasonable hours to all records respecting the referred matter of the municipality or any of its local boards,
- (b) the Integrity Commissioner may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act; and
- (c) the Integrity Commissioner shall report his or her opinion to the City Clerk.

Inquiry powers

(3) Clause 2(b) does not authorize the Integrity Commissioner to hold a full public inquiry under the *Public Inquiries Act*, unless Council has specifically authorized such an inquiry.

Copies

(4) The City Clerk shall,

- (a) give a copy of the opinion to the member whose conduct is concerned;
- (b) if the matter was referred by a member or other person, give a copy of the opinion to that member or person; and
- (c) cause the opinion to be laid before the next meeting of Council or one of its committees, as provided for in a by-law passed under section 7.

Refusal to conduct inquiry

(5) If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, the Integrity Commissioner shall not conduct an inquiry and shall state the reasons for not doing so in the report.

Member not blameworthy

(6) If the Integrity Commissioner determines that there has been no contravention of the code of conduct or other matters assigned to the Integrity Commissioner under a by-law passed under subsection 3(3), or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

Reliance on Integrity Commissioner's advice

(7) If the Integrity Commissioner determines that there was a contravention of the code of conduct or other matter but that the member was acting in accordance with the Integrity Commissioner's recommendations and had, before receiving those recommendations, disclosed to the Integrity Commissioner all the relevant facts that were known to the member, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

(8) Subsection (7) does not apply to advice given to a member on the application of the *Municipal Conflict of Interest Act*.

Police investigation or charge

12. If the Integrity Commissioner, when conducting an inquiry, discovers that the subject-matter of the inquiry is being investigated by police or that a charge has been laid, or that an application under section 9 of the *Municipal Conflict of Interest Act* is being processed, the Integrity Commissioner shall suspend the inquiry until the police investigation, charge or application has been finally disposed of, and shall report the suspension to the City Clerk.

Reference to appropriate authorities

13. If the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of the Criminal Code (Canada), the Integrity Commissioner 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 the City Clerk.

Recommendation re penalty

14. (1) Where the Integrity Commissioner conducts an inquiry under subsection 10(1) or (4) or a by-law passed under section 7, and finds that the member has contravened the code of conduct or other matter, the Integrity Commissioner shall recommend in his or her report,

- (a) that no penalty be imposed;
- (b) that the member be reprimanded; or
- (c) that the member's right to sit and vote in Council be suspended for a specified period or until a condition imposed by the Integrity Commissioner is fulfilled.

Duty of Council

(2) Council shall consider and respond to the report within 90 days after the day the report is laid before it.

Response

(3) If the Integrity Commissioner recommends that a penalty be imposed, Council may approve the recommendation and order that the penalty be imposed, or may reject the recommendation, in which case no penalty shall be imposed.

Power of Council

(4) Council may impose penalties binding on a member, but does not have power to inquire further into the contravention, to impose a penalty if the Integrity Commissioner recommended that none be imposed, or to impose a penalty other than the one recommended.

Decision final

(5) Council's decision is final and conclusive.

(6) Despite the *Municipal Freedom of Information and Protection of Privacy Act*, Council may cause its decision to be reported to a meeting of the Council or its committees that is open to the public.

Settlement

15. (1) If authorized by a by-law passed under section 3, the Integrity Commissioner may attempt to settle the complaint and shall include in the report any proposed terms of settlement and may recommend other corrective action.

(2) Section 14, does not prohibit Council from approving terms of settlement or adopting the suggestions for other corrective action.

Destruction of records

16. (1) The Integrity Commissioner shall destroy any record in his or her possession that relates to a member or former member of the Council, or to a person who belongs to his or her household, during the 12-month period that follows the tenth anniversary of the creation of the record.

Exception

(2) If an inquiry to which a record may relate is being conducted under this Act or section 100 of the *Municipal Act*, or if the Integrity Commissioner is aware of an application under section 9 of the *Municipal Conflict of Interest Act* to which it may relate or that a charge to which it may relate has been laid under the Criminal Code (Canada) against the member or former member or a person who belongs to his or her household, the record shall not be destroyed until the inquiry, the application or the charge has been finally disposed of.

Appendix 2

Draft Private Bill for City of Toronto Lobbyist Registration

An Act respecting lobbyist registration in the City of Toronto

Preamble

The Council of the City of Toronto has applied for special legislation in respect of the matters set out in this Act.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“Council” means the Council of the City of Toronto;

“lobby” means to communicate with a public office holder in an attempt to influence,

- (a) the development of any legislative proposal by the Council or a member of Council,
- (b) the introduction of any bill or resolution in Council or the passage, defeat or amendment of any by-law, bill or resolution that is before Council,
- (c) the development or amendment of any policy or program of the City or the termination of any program of the City,
- (d) a decision by Council to transfer from the City for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the City or to the public,
- (e) a decision by Council to have the private sector instead of the City provide goods or services to the City,
- (f) the awarding of any grant, contribution or other financial benefit by or on behalf of the City, and
- (g) if provided in a by-law passed under section 2,
 - (i) to communicate with a public office holder in an attempt to influence the awarding of any contract by or on behalf of the City, or
 - (ii) to arrange a meeting between a public office holder and any other person;

“lobbyist” means an individual who engages in lobbying activities;

“organization” means,

- (a) a business, trade, industry, professional or voluntary organization,
- (b) a trade union or labour organization,
- (c) a chamber of commerce or board of trade,
- (d) an association, a charitable organization, a coalition or an interest group,

- (e) a government, other than the City, and
- (f) a corporation without share capital incorporated to pursue, without financial gain to its members, objects of a national, provincial, territorial, patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic character or other similar objects;

“public office holder” means,

- (a) any officer or employee of the City not otherwise referred to in clauses (b) and (c) of this definition,
- (b) a member of the Council and any person on his or her staff, and
- (c) if specified in a by-law passed under section 2,
 - (i) a person who is appointed to an office or body by Council, and
 - (ii) an officer, director or employee of an agency, board or commission of the City or a corporation where the City is the majority shareholder;

“registrar” means the registrar appointed under section 5;

“senior officer” means the most senior officer of an organization who is compensated for the performance of his or her duties.

By-law

2. (1) The Council of the City of Toronto may:

- (a) pass by-laws to regulate or prohibit lobbying of public office holders, and
- (b) as part of the power to regulate or prohibit lobbying, may require persons and organizations to do things, provide for a system of registration and impose conditions as a requirement of continuing to hold or renew a registration.

Scope

(2) A by-law passed under subsection (1) may,

- (a) be general or specific in its application and may differentiate in any way and on any basis the City considers appropriate,
- (b) define different classes of lobbyists, including lobbyists who lobby without payment or receive partial payment, and may deal differently with different classes of lobbyists,
- (c) provide that the definition of “lobby” in clause (h)(i) or (ii) or both applies to a class of lobbyists,

- (d) define different classes of public office holders and deal differently with different classes of policy holders,
- (e) define different classes of organizations and deal differently with different classes of organizations, and
- (f) define when the duties of an employee to lobby on behalf of an employer constitute a significant part of his or her duties as an employee for the purpose of defining a class of lobbyists.

Registry

(3) The power to establish and maintain a registry and to require an individual who engages in lobbying activities or who is a senior officer of an organization that employs an individual to lobby on its behalf, to register respecting lobbyists and lobbying activities and to maintain its registration in the registry includes the power,

- (a) to prohibit the carrying on of or engaging in the lobbying activities unless the individual or senior officer has registered in the registry,
- (b) to revoke or suspend a registration,
- (c) to require that information on lobbyists and lobbying activities be provided, including the information set out in sections 4(4), 5(3) and 6(3) of the *Lobbyists Registration Act, 1998*, with necessary changes, including the changes necessary to apply to lobbyists who are not paid or receive only partial payment for engaging in a lobbying activity,
- (d) to require, for both initial and ongoing registration, that any other information for the registry specified in the by-law to be of municipal interest, be provided,
- (e) to require, within the time frame specified in the by-law, updated information for the registry to be provided if the information under clause (c) or (d) changes,
- (f) to exempt any person or organization from all or any part of the by-law,
- (g) to require a fee to be paid on the filing of a return or a return of a class of returns or for any service performed or the use of any facility provided by the registrar and may provide for a difference in or the waiver of the fee for filing a return based on the manner in which the return is submitted to the registrar; and
- (h) to permit public inspection of all or part of the registry.

Recovery of fees

3. (1) Fees imposed by the City under this Act constitute a debt of the person or organization to the City.

Amount owing added to tax roll

(2) The treasurer of the City may add fees imposed by the City under this Act to the tax roll for any property for which all of the owners are responsible for paying the fees and charges and collect them in the same manner as municipal taxes.

Storage

4. (1) Any return or other document that is received by the registrar, under a by-law passed under section 2, may be entered or recorded by any information storage device, including any system of mechanical or electronic data processing, that is capable of reproducing the stored return or other document in intelligible form within a reasonable time.

Evidence

(2) In any prosecution for an offence under this Act or by-law passed under section 2, a copy of a return or other document that is reproduced from an information storage device referred to in subsection (1) and certified under the registrar's signature as a true copy is admissible in evidence without proof of the signature or official character of the person appearing to have signed the copy and, in the absence of evidence to the contrary, has the same probative force as the original would have if it were proved in the ordinary way.

Registrar

5. (1) The City may appoint a registrar.

Powers and Duties

(2) A by-law passed under section 2 may,

- (a) provide for the powers and duties of the registrar including the power:
 - (i) to establish and maintain the registry, including the form of the registry,
 - (ii) to establish the manner and time for public inspection,
 - (iii) to verify the information contained in any return or other document submitted, and
 - (iv) to refuse to accept a return or document that does not comply with the by-law or that contains information and statements not requested,
- (b) permit the registrar to issue advisory opinions and interpretation bulletins with respect to the enforcement, interpretation or application of the by-law and this Act, and
- (c) provide that the advisory opinions and interpretation issued under the authority of the by-law are not binding.

Removal from registry

6. (1) A bylaw passed under section 2 may permit the registrar to remove a return from the registry if the individual who filed the return fails to confirm information contained in it, advise the registrar of matters required under the by-law or fails to give the registrar requested information within the time periods specified in the by-law.

Same

(2) The *Statutory Powers Procedure Act* does not apply with respect to the registrar's decision to remove a return from the registry, and the registrar may remove the return without giving notice to the individual who filed the return and without holding a hearing.

Effect of removal

(3) When a return is removed from the registry, the individual who filed it shall be deemed, for the purposes of his or her existing and future obligations under the by-law, not to have filed the return.

Delegation of powers

7. (1) A bylaw passed under section 2 may permit the registrar to delegate in writing any of his or her powers or duties under this Act or the by-law to a person employed in the registrar's office or a City employee seconded to that office and may authorize him or her to delegate any of those powers or duties to another person employed in or seconded to that office.

Conditions, etc.

(2) A delegation may be made subject to such conditions and restrictions as specified in the by-law and, if permitted in the by-law, as the person making the delegation considers appropriate.

Registrar retains powers and duties

(3) The registrar may continue to exercise any delegated powers and duties despite the delegation.

False or misleading statements

8. (1) A by-law passed under section 2 may provide that every individual who knowingly makes a false or misleading statement in a return or other document submitted to the registrar under the by-law is guilty of an offence.

Conflict of interest offence

(2) A by-law passed under section 2 may provide that a lobbyist or a specified class of lobbyist is guilty of an offence if, in the course of lobbying a public office holder, the lobbyist knowingly places the public office holder in a position of real or potential conflict of interest as described in subsection (3).

Same

(3) A public office holder is in a position of conflict of interest if he or she engages in an activity that is prohibited by the *Municipal Conflict of Interest Act* or that would be so prohibited if the public office holder were a member of the Council.

Limitation

(4) No proceeding in respect of an offence under a by-law passed under section 2 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Penalty for by-law offence

(5) A by-law passed under section 425 of the *Municipal Act, 2001*, may also provide for the imposition of fines of not more than \$25,000 on every person who is convicted of an offence under the by-law.

(6) If the maximum amount of the fine that may be imposed under subsection (5) is less than the maximum fine under subsection 18(8) of the *Lobbyist Registration Act, 1998*, a by-law passed under section 2 may provide for the imposition of a fine of not more than the maximum fine under subsection 18(8) of that Act.

Commencement

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the City of Toronto Act (Lobbyist Registration), 2003.