



## **City of Hamilton**

### **CITY COUNCIL ADDENDUM**

**20-006**

**Wednesday, April 8, 2020, 9:30 A.M.  
Council Chambers, Hamilton City Hall  
71 Main Street West**

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#### **5. COMMITTEE OF THE WHOLE**

##### **5.2 PUBLIC HEARINGS / WRITTEN DELEGATIONS**

- \*5.2.a** Written Delegation from 1649626 Ontario Ltd. respecting Item 5.4 (d) Report HSC20009 – Municipal Incentives for the 90 Carling Street Rental Project

#### **7. NOTICES OF MOTIONS**

- \*7.1** A By-Law to Promote and Regulate Physical Distancing during the COVID-19 Emergency.

#### **10. BY-LAWS AND CONFIRMING BY-LAW**

##### **\*10.8 055**

To Amend By-law No. 18-270, the Council Procedural By-law

Ward: City Wide

\*10.9 056

A By-law to Promote and Regulate Physical Distancing during the COVID-19 Emergency and a By-law to amend City of Hamilton By-law 17-225, being a By-law to Establish a System of Administrative Penalties

1649626 Ontario Ltd.  
8 Hunts Drive,  
Dundas, ON

Dear Mayor Eisenberger and Members of Council

### **RE: Report HSC20009 – Municipal Incentives for the 90 Carling Street Rental Project**

#### **Present social and economic situation**

While the present situation presents a great amount of stress and uncertainty surrounding the physical health of our community, the economic impact will undeniably put greater pressure on citizens to afford housing in a rental market that was already experiencing significant challenges in affordability. With overall wages and new housing supply reduced for the foreseeable future, it is more important now than ever for the City of Hamilton to consider all opportunities to create future mixed income rental housing.

#### **Opportunity: Capitalize on Federal funds**

The report before you today is a significant opportunity for the City of Hamilton to make a modest investment that, together with Federal and private sector funds, will create much-needed mixed-income rental housing. It will establish a framework of clear and attractive incentives that will encourage other private sector developers to invest in mixed-income rental housing in Hamilton. This particular mixed-income project has the ability to lay the foundation for such a program.

The following is a sample of incentives that developers who agree to incorporate affordable units can expect to receive with other regions and municipalities (i.e. City of London, City of Toronto, York Region, etc.):

- Development charge waivers
- Development charge rebates (realized over 10 years)
- Development charge deferrals (interest free for up to 20 years)
- Property tax waivers
- Density bonuses
- Parking waivers
- Fee waivers
- Capital contributions

#### **Hamilton Housing Services: Recommendation**

City staff provided two potential options for City incentives to Council.

The first would see Council waive the parkland dedication, planning application, and building permit fees for our mixed income rental housing project in proportion with the number of affordable units. In exchange, this enables us, as a result of the points these incentives give our application to CMHC's Rental Construction Financing Program, to provide 10 units at 125% average market rent for 15 years, and accept referrals from the social housing wait list. .

We believe this recommendation is a step in the right direction and we appreciate staff's willingness to support our project. That being said, we are asking you today to approve the alternative option that includes a property tax waiver for the affordable units only.

**Hamilton Housing Services: Alternative Recommendation**

While waiving the parkland dedication, planning application, and building fees supports the project's involvement in CMHC's Rental Construction Financing Initiative, it only represents a small fraction (0.1%) of the overall budget.

Staff proposed an alternative option which added a property tax waiver for the affordable units for a period of 15 years, in addition to the parkland dedication, planning, and building permit fee waiver. The addition of a property tax exemption for the affordable units enables us to provide 20 units at 125% average market rent for 15 years, an additional 10 affordable units. While project costs keep increasing to over \$340,000 per unit this alternative option provides 20 new affordable units to the community and an additional opportunity to decrease the housing wait list, while only costing the City of Hamilton 0.7% of a new unit per year for the next 15 years.

**We are asking Council to approve this alternative option and for the 90 Carling Street development to have 20 affordable units rather than 10.**

Thank you for taking the time to consider our proposal.



Daniel Bragagnolo

Secretary,  
1469626 Ontario Ltd.

# CITY OF HAMILTON

## NOTICE OF MOTION

Council Date: April 8, 2020

**MOVED BY COUNCILLOR S. MERULLA.....**

**A By-Law to Promote and Regulate Physical Distancing during the COVID-19  
Emergency**

WHEREAS the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus (“COVID-19 Pandemic”);

WHEREAS on March 17, 2020, a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E. 9 (the “*Act*”) related to the COVID-19 Pandemic;

WHEREAS on March 27, 2020 the Province of Ontario granted power to municipal law enforcement officers to enforce Orders issued by the Province under the *Act* (the “Provincial Orders”);

WHEREAS section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the “*Municipal Act, 2001*”) provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

WHEREAS the City of Hamilton considers it desirable to enact a by-law to support the intent and purpose of the Provincial Orders made under the *Act* in order to protect the health, safety and well-being of persons in the City of Hamilton by prohibiting certain activities and regulating physical distancing during the COVID-19 Emergency; and

WHEREAS the Medical Officer of Health has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household;

THEREFORE, BE IT RESOLVED:

That the By-law to Promote and Regulate Physical Distancing during the COVID-19 Emergency and a By-law to amend City of Hamilton By-law 17-225, being a By-law to Establish a System of Administrative Penalties in the form attached as Appendix ‘A’, be enacted by Council.

**Authority:** Item  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON  
BY-LAW NO.**

**A By-law to Promote and Regulate Physical Distancing during the COVID-19  
Emergency and a By-law to amend City of Hamilton By-law 17-225, being a By-law to  
Establish a System of Administrative Penalties**

**WHEREAS** the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus (“**COVID-19 Pandemic**”);

**AND WHEREAS** on March 17, 2020, a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E. 9 (the “**Act**”) related to the COVID-19 Pandemic;

**AND WHEREAS** on March 27, 2020 the Province of Ontario granted power to municipal law enforcement officers to enforce Orders issued by the Province under the *Act* (the “**Provincial Orders**”);

**AND WHEREAS** section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the “**Municipal Act, 2001**”) provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** the City of Hamilton considers it desirable to enact a by-law to support the intent and purpose of the Provincial Orders made under the *Act* in order to protect the health, safety and well-being of persons in the City of Hamilton by prohibiting certain activities and regulating physical distancing during the COVID-19 Emergency;

**AND WHEREAS** the Medical Officer of Health has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

**PART 1- DEFINITIONS**

1.1 For the purposes of this By-law,

“**Authorized Staff**” means a Municipal Law Enforcement Officer or any employee of the City whose duties include those provided for or assigned under this By-law, and shall include a Police Officer, the Director of Licensing and By-law Services (and their respective designates) and the Medical Officer of Health;

“**By-law**” means this By-law;

“**City**” means the City of Hamilton;

“**COVID-19 Emergency**” means the period of time commencing upon the date of passing this By-law until the declaration of emergency made by the Province of Ontario under the Act in relation to the COVID-19 Pandemic has been terminated;

“**Director**” means the Director of Licensing and By-law Services, or their respective designate, for the City of Hamilton;

“**Head of Council**” means the Mayor of the City;

“**Medical Officer of Health**” means the officer appointed to such position by the City of Hamilton under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, their deputies and designates for the purposes of this By-law;

“**Police Officer**” includes an officer of the Hamilton Police Service;

“**Proprietor**” means any person, governing body or agency which controls, governs or directs activity carried on in a Public Space and includes the person who is actually in charge thereof, but excludes the City;

“**Provincial Offences Act**” means the *Provincial Offence Act*, R.S.O. 1990, c. P33.

“**Public Space(s)**” means any outdoor or indoor space to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry.

## **PART 2 – OFFENCES**

2.1 Every person shall maintain a distance of at least two (2) metres from every other person who is not a member of the same household when in a Public Space.

2.2 Proprietors shall take reasonable measures to ensure compliance with section 2.1 by:

- a) limiting the number of people allowed on their property;
- b) ensuring that the distancing measures specified in section 2.1 are being enforced on their property; and
- c) ensuring that people who refuse to comply with section 2.1 are promptly asked to leave their property and are reported to Authorized Staff upon failure to comply with this direction.

2.3 No person shall attend a social gathering of more than five (5) people, either in a Public Space or on private property.

2.4 Every owner or occupier of property shall ensure that no social gathering(s) of more than five (5) people occurs on their property.

2.5 For greater certainty, sections 2.3 and 2.4 do not apply to a gathering of members of a single household, or a gathering for the purpose of a funeral service that is attended by not more than 10 persons.

### **PART 3 – EXEMPTIONS**

3.1 This By-law does not apply to Police Officers, City employees or persons hired or engaged by the City to do work or perform services in a Public Space, while performing policing, municipal, or enforcement services, including but not limited to, the enforcement of this By-law.

### **PART 4 - ADMINISTRATION AND ENFORCEMENT**

4.1 The Director is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City staff under this By-law.

4.2 City staff who carry out any action under this By-law are deemed to be Authorized Staff for the purposes of this By-law, in the absence of evidence to the contrary.

4.3 Authorized Staff may, at any reasonable time, enter and inspect all lands, buildings, structures or parts thereof that are subject to this By-law for the purposes of determining compliance with this By-law.

4.4 Despite section 4.3, inspections of any dwelling unit may only be performed in accordance with the *Municipal Act, 2001*.

4.5 For the purposes of this By-law, Authorized Staff may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to an inspection for the purposes of making copies or extracts;
- c) require information from any person concerning a matter related to an inspection; and
- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of an inspection.

4.6 Where any person contravenes any provision of this By-law, Authorized Staff may direct such person, verbally or in writing, to comply with this By-law. Every person so directed shall comply with such direction without delay.

4.7 No person shall prevent, hinder or obstruct, or attempt to hinder or obstruct any Authorized Staff in the exercise of any power or the performance of any activity or duty under this By-law.



## **PART 5 – OFFENCES AND PENALTIES**

- 5.1 Every person who contravenes any provision of this By-law is guilty of an offence and is liable to pay a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.
- 5.2 Every person, other than a corporation, who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first conviction; and not more than \$25,000 for any subsequent conviction.
- 5.3 Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first conviction and not more than \$100,000 for any subsequent conviction.
- 5.4 If an offence under the By-law is continued on more than one day, the person who committed it is liable to be convicted for a separate offence for each day on which it is continued.
- 5.5 Without limiting the above, every person who contravenes this By-law may also be liable, upon issuance of a penalty notice, to pay an Administrative Penalty in an amount specified in the City's Administrative Penalties By-law No. 17-225 (the "**APS By-law**").

## **PART 6 – AMENDMENTS TO THE APS BY-LAW**

6.1 Schedule A of By-law No. 17-225 is amended by adding the following table:

<b>TABLE 22: BY-LAW NO. XX- XXX To Promote and Regulate Physical Distancing During the COVID-19 Emergency</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>COLUMN 3 SET PENALTY</b>
1	xx-xxx	2.1	Fail to maintain a distance of at least two (2) metres from another person	\$500.00
2	xx-xxx	2.2	Proprietor fail to ensure physical distancing in Public Space	\$500.00
3	xx-xxx	2.3	Attending a gathering of more than 5 people	\$500.00
4	xx-xxx	2.4	Owner or Occupier fail to ensure no social gathering of more than 5 people on property	\$500.00
5	xx-xxx	4.7	Obstructing an Officer or Authorized Staff	\$500.00

6.2 In all other respects the APS By-law is confirmed.

**PART 7 – MISCELLANEOUS**

7.1 **Conflict:** In the event a discrepancy between this By-law and any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada, the provision that is the most restrictive prevails.

7.2 **Severability:** Should any section of this By-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

7.3 **Short Title:** This By-law may be referred to as the Hamilton Physical Distancing By-law.

7.4 **Effective Date:** This By-law shall become effective on the date approved by City Council and shall remain in force during the COVID-19 Emergency.

**PASSED** this \_\_\_\_\_ , \_\_\_\_\_

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk

**Authority:** Item 6.1, Motion  
CM: April 8, 2020  
Ward: City Wide

**Bill No. 055**

## **CITY OF HAMILTON**

### **BY-LAW NO. 20-**

#### **To Amend By-law No. 18-270, the Council Procedural By-law**

**WHEREAS** Council enacted a Council Procedural By-law being City of Hamilton By-law No. 18-270;

**WHEREAS** Council enacted an amendment to By-law 18-270, as amended, to allow for electronic participation pursuant to s. 238(3.1) of the *Municipal Act, 2001* on March 20, 2020;

**AND WHEREAS** it is necessary to amend By-law 18-270, as amended, further to provide for updated sections of the By-law 18-270, as amended, when members of Council are participating at ELECTRONIC Council and/or Committee meetings during an emergency when attending in-person is not possible.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That By-law No. 18-270, as amended, be further amended:
  - (i) To include Appendix J, Conducting an Electronic Meeting, attached hereto.

**PASSED** this 8<sup>th</sup> day of April, 2020.

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk

## **CONDUCTING AN ELECTRONIC MEETING**

The following UPDATED SECTIONS OF BY-LAW 18-270, AS AMENDED applies to Electronic participation by members of Council at ELECTRONIC Council and/or Committee meetings during an emergency when attending in-person is not possible:

**2.1** The rules of procedure shall be observed in all ELECTRONIC proceedings of Council and shall be the rules for the order and dispatch of business in Council and unless specifically provided, with necessary modifications, apply to all Committees.

**2.2** All matters relating to the ELECTRONIC proceedings of Council and Committees for which rules have not been provided for in this By-law and its Appendices shall be decided, as far as is reasonably practicable, with reference to the parliamentary rules as contained in the most recent edition of *Bourinot's Rules of Order*, Geoffrey H. Stanford, Fourth Edition.

### **3.2 Regular Council Meeting Times**

(1) Unless otherwise decided by Council, ELECTRONIC Council meetings shall be held:

(a) in January:

on the fourth Wednesday of the month, commencing at 9:30 a.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;

(b) in February, April, May, June, September, October and November:

every second and fourth Wednesday of each month, commencing at 9:30 a.m., unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;

(c) in March:

on the fourth Wednesday of the month, commencing at 9:30 a.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;

(d) in July and August:

on a Friday of each month (one meeting per month), commencing at 9:30 a.m., unless such a day is a public or civic holiday, in which case Council shall set an alternate day and time;

(e) in December:

on the second Wednesday of the month, commencing a 9:30 a.m., unless such a day is a public or civic holiday, in which case Council shall set an alternative day and time; or

(f) in accordance with the schedule approved by Council.

### **3.7 Quorum**

- (5) If Quorum cannot be maintained during an ELECTRONIC meeting, DUE TO A LOSS OF ELECTRONIC CONNECTION, the Clerk will advise the Mayor or Deputy Mayor that quorum is lost and the MEETING WILL BE RECESSED UNTIL THE ELECTRONIC CONNECTION IS RESUMED, WHICH COULD RESULT IN A DELAY TO THE NEXT AVAILABLE BUSINESS DAY. THE CLERK WILL ENSURE THAT THE PROPER MESSAGING RESPECTING THE CONTINUATION OF A COUNCIL MEETING TO THE FOLLOWING DAY OR NEXT AVAILABLE DAY IS ON THE CITY'S WEBSITE.

### **3.11 Order of Business**

The Order of Business for ELECTRONIC meetings of Council, unless changed by Council in the course of the meeting, shall be as follows:

- (a) Approval of Agenda
- (b) Declarations of Interest
- (c) Approval of Minutes of Previous Meeting
- (e) Communications
- (f) Committee of the Whole
  - (i) Consent Items
  - (ii) Public Hearings / Written Delegations
  - (iii) Staff Presentations
  - (iv) Discussion Items
- (g) Motions
- (h) Notice of Motions
- (i) Statement by Members (non-debatable)
- (j) Private and Confidential
- (k) By-laws and Confirming By-law
- (l) Adjournment

### **3.13 Voting Procedures (electronic voting is effective January 2019)**

- (3)
  - (i) When an electronic voting system is available AT AN ELECTRONIC MEETING every Member of Council or Committee present and participating in a vote on a motion, excluding those motions referred to in (i) and (ii) below, shall vote electronically:
    - (a) procedural (majority vote: refer, defer, withdraw, recess, call the question and adjourn); and
    - (b) Consent Items.

- (ii) IF A MEMBER OF COUNCIL DOES NOT VOTE ELECTRONICALLY WHEN A VOTE IS CALLED BY THE MAYOR/CHAIR AT AN ELECTRONIC MEETING, THE MAYOR/CHAIR WILL CALL ON THE MEMBER TO VOTE 3 (THREE) TIMES, IF THE MEMBER DOESN'T RESPOND THE MEMBER WILL BE NOTED AS BEING 'NOT PRESENT' DURING THE VOTE.

**4.1 Council may, by resolution:**

- (a) move into Committee of the Whole AT AN ELECTRONIC MEETING to consider, including debate, CONSENT ITEMS, PUBLIC HEARINGS/WRITTEN DELEGATIONS, STAFF PRESENTATIONS AND DISCUSSION ITEMS on the Council meeting agenda; and
- (b) move out of Committee of the Whole to report to Council.

**4.2 During the consideration of CONSENT ITEMS AT AN ELECTRONIC MEETING, a member may lift an item from the LIST with the approval of a majority of the members present, for the matter:**

- (a) to be voted upon SEPARATELY; or
- (b) to be debated and/or amended.

**5.4 Quorum**

- (5) If Quorum cannot be maintained during an ELECTRONIC meeting, DUE TO A LOSS OF ELECTRONIC CONNECTION, the Clerk will advise the Chair that quorum is lost and the MEETING WILL BE RECESSED UNTIL THE ELECTRONIC CONNECTION IS RESUMED, WHICH COULD RESULT IN A DELAY TO THE NEXT AVAILABLE BUSINESS DAY. THE CLERK WILL ENSURE THAT THE PROPER MESSAGING RESPECTING THE CONTINUATION OF A COMMITTEE MEETING TO THE FOLLOWING OR NEXT AVAILABLE DAY IS ON THE CITY'S WEBSITE.

**5.10 Order of Business**

- (i) The general Order of Business for the ELECTRONIC meetings of Standing Committees, unless changed by the Standing Committee in the course of the meeting, shall be as follows:
  - (a) Approval of Agenda
  - (b) Declarations of Interest
  - (c) Approval of Minutes of Previous Meeting
  - (d) Communications
  - (e) Consent Items
  - (f) Public Hearings/Written Delegations
  - (g) Staff Presentations

- (h) Discussion Items
- (i) Motions
- (j) Notice of Motions
- (k) General Information/Other Business
- (l) Private and Confidential
- (m) Adjournment

#### **5.11 WRITTEN Delegations**

- (1) Persons who wish to delegate to COUNCIL OR COMMITTEE on a matter that:
  - (b) is listed OR NOT LISTED on the agenda for a COMMITTEE OF THE WHOLE OR COMMITTEE, shall SUBMIT THEIR DELEGATION in writing TO THE CLERK, the Clerk will list the DELEGATION on the COMMITTEE OF THE WHOLE'S OR THE COMMITTEE'S upcoming agenda. Such WRITTEN DELEGATIONS MUST be received by the Clerk no later than 12:00 noon the business day before the meeting.

- 10.1** The Clerk shall MAKE the agendas of ELECTRONIC Council and Committee meetings AVAILABLE to members of Council and Senior Leadership Team at least 5 days prior to the scheduled meetings ON THE CITY'S WEBSITE.
- 10.2** The Clerk shall make the agendas of ELECTRONIC Council and Committee meetings, available to the media and general public, simultaneously with the distribution set out in subsection 10.1.

**Authority:** Item 6.6  
CM: April 8, 2020  
Ward: City Wide

**Bill No. 056**

**CITY OF HAMILTON  
BY-LAW NO. 20-**

**A By-law to Promote and Regulate Physical Distancing during the COVID-19  
Emergency and a By-law to amend City of Hamilton By-law 17-225, being a By-law  
to Establish a System of Administrative Penalties**

**WHEREAS** the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus (“**COVID-19 Pandemic**”);

**AND WHEREAS** on March 17, 2020, a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E. 9 (the “**Act**”) related to the COVID-19 Pandemic;

**AND WHEREAS** on March 27, 2020 the Province of Ontario granted power to municipal law enforcement officers to enforce Orders issued by the Province under the *Act* (the “**Provincial Orders**”);

**AND WHEREAS** section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c.25 (the “**Municipal Act, 2001**”) provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** the City of Hamilton considers it desirable to enact a by-law to support the intent and purpose of the Provincial Orders made under the *Act* in order to protect the health, safety and well-being of persons in the City of Hamilton by prohibiting certain activities and regulating physical distancing during the COVID-19 Emergency;

**AND WHEREAS** the Medical Officer of Health has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

**PART 1- DEFINITIONS**

1.1 For the purposes of this By-law,

“**Authorized Staff**” means a Municipal Law Enforcement Officer or any employee of the City whose duties include those provided for or assigned under this By-law, and shall include a Police Officer, the Director of Licensing and By-law Services (and their respective designates) and the Medical Officer of Health;

“**By-law**” means this By-law;



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“**Public Space(s)**” means any outdoor or indoor space to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry.

## **PART 2 – OFFENCES**

2.1 Every person shall maintain a distance of at least two (2) metres from every other person who is not a member of the same household when in a Public Space.

2.2 Proprietors shall take reasonable measures to ensure compliance with section 2.1 by:

- a) limiting the number of people allowed on their property;
- b) ensuring that the distancing measures specified in section 2.1 are being enforced on their property; and
- c) ensuring that people who refuse to comply with section 2.1 are promptly asked to leave their property and are reported to Authorized Staff upon failure to comply with this direction.

2.3 No person shall attend a social gathering of more than five (5) people, either in a Public Space or on private property.

2.4 Every owner or occupier of property shall ensure that no social gathering(s) of more than five (5) people occurs on their property.

2.5 For greater certainty, sections 2.3 and 2.4 do not apply to a gathering of members of a single household, or a gathering for the purpose of a funeral service that is attended by not more than 10 persons.

### **PART 3 – EXEMPTIONS**

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### **PART 4 - ADMINISTRATION AND ENFORCEMENT**

4.1 The Director is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City staff under this By-law.

4.2 City staff who carry out any action under this By-law are deemed to be Authorized Staff for the purposes of this By-law, in the absence of evidence to the contrary.

4.3 Authorized Staff may, at any reasonable time, enter and inspect all lands, buildings, structures or parts thereof that are subject to this By-law for the purposes of determining compliance with this By-law.

4.4 Despite section 4.3, inspections of any dwelling unit may only be performed in accordance with the *Municipal Act, 2001*.

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- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to an inspection for the purposes of making copies or extracts;
- c) require information from any person concerning a matter related to an inspection; and
- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of an inspection.

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4.7 No person shall prevent, hinder or obstruct, or attempt to hinder or obstruct any Authorized Staff in the exercise of any power or the performance of any activity or duty under this By-law.

## **PART 5 – OFFENCES AND PENALTIES**

5.1 Every person who contravenes any provision of this By-law is guilty of an offence and is liable to pay a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.

5.2 Every person, other than a corporation, who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first conviction; and not more than \$25,000 for any subsequent conviction.

5.3 Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first conviction and not more than \$100,000 for any subsequent conviction.

5.4 If an offence under the By-law is continued on more than one day, the person who committed it is liable to be convicted for a separate offence for each day on which it is continued.

5.5 Without limiting the above, every person who contravenes this By-law may also be liable, upon issuance of a penalty notice, to pay an Administrative Penalty in an amount specified in the City’s Administrative Penalties By-law No. 17-225 (the “**APS By-law**”).

## **PART 6 – AMENDMENTS TO THE APS BY-LAW**

6.1 Schedule A of By-law No. 17-225 is amended by adding the following table:

<b>TABLE 22: BY-LAW NO. 20-056 To Promote and Regulate Physical Distancing During the COVID-19 Emergency</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>COLUMN 3 SET PENALTY</b>
1	<b>20-056</b>	2.1	Fail to maintain a distance of at least two (2) metres from another person	\$500.00

<b>TABLE 22: BY-LAW NO. 20-056 To Promote and Regulate Physical Distancing During the COVID-19 Emergency</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>COLUMN 3 SET PENALTY</b>
2	<b>20-056</b>	2.2	Proprietor fail to ensure physical distancing in Public Space	\$500.00
3	<b>20-056</b>	2.3	Attending a gathering of more than 5 people	\$500.00
4	<b>20-056</b>	2.4	Owner or Occupier fail to ensure no social gathering of more than 5 people on property	\$500.00
5	<b>20-056</b>	4.7	Obstructing an Officer or Authorized Staff	\$500.00

6.2 In all other respects the APS By-law is confirmed.

## **PART 7 – MISCELLANEOUS**

7.1 **Conflict:** In the event a discrepancy between this By-law and any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada, the provision that is the most restrictive prevails.

7.2 **Severability:** Should any section of this By-law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

7.3 **Short Title:** This By-law may be referred to as the Hamilton Physical Distancing By-law.

7.4 **Effective Date:** This By-law shall become effective on the date approved by City Council and shall remain in force during the COVID-19 Emergency.

**PASSED** this 8<sup>th</sup> day of April, 2020

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk