



Hamilton

**CITY OF HAMILTON
CITY MANAGER'S OFFICE**

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	March 20, 2020
SUBJECT/REPORT NO:	COVID-19 Emergency Delegated Authority (CM20004) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	N. Auty (905) 546-2424 Ext. 4636
SUBMITTED BY:	Janette Smith City Manager
SIGNATURE:	

RECOMMENDATION

- (a) That the Emergency Delegation Authority By-law, attached as Appendix "A" to Report CM20004, be passed; and,
- (b) That the By-law to Impose Late Payment Charges for Non-Payment of Taxes Amendment attached as Appendix "B" to CM20004, be passed; and,
- (c) That By-law No. 19-160 a By-Law to Establish Certain 2019 User Fees and Charges Amendment attached as Appendix "C" to Report CM20004, be passed.

EXECUTIVE SUMMARY

In order to ensure continued operation of critical important City functions during the COVID-19 pandemic, it is necessary to put in place certain measures to delegate Council authority to senior staff if council does not meet in person or until electronic Council meetings are enabled by the province.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial: The delegated authority will be within the approved budget, including the authority to access reserve accounts.
- Staffing: No staffing implications result from this report.
- Legal: In order to ensure legal authority to maintain critical and important operations.

HISTORICAL BACKGROUND

On March 11, 2020 the City activated its Emergency Operation Centre under the City's Emergency Management Plan, pursuant to the Emergency Management and Civil Protection Act (EMCPA).

On March 17, 2020 the Province of Ontario declared a state of emergency under the EMCPA.

Since activating the EOC, the City has cancelled public city programs and closed all city facilities, while maintaining business continuity and core services.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Council may pass a by-aw to delegate authority pursuant to s.23.1 the Municipal Act, 2001 with certain restrictions outlined in s. 23.3. Council cannot delegate:

- The power to appoint or remove from office an officer of the municipality whose appointment is required by this Act.
- The power to pass a by-law under section 400.1 and Parts VIII, IX, IX.1 and X.
- The power to incorporate corporations in accordance with section 203.
- The power to adopt an official plan or an amendment to an official plan under the *Planning Act*.
- The power to pass a zoning by-law under the *Planning Act*.
- The powers to pass a by-law under subsections 108 (1) and (2) and 110 (3), (6) and (7).

- The power to adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorize the exercise of any power under subsection 28 (6) or (7) of that Act or under section 365.1 of this Act.
- The power to adopt or amend the budget of the municipality.
- Any other power or duty that may be prescribed

RELEVANT CONSULTATION

All GMs and directors were asked to advise of potential issues needing council approval in the coming weeks.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Currently the Municipal Act does not allow municipalities to have virtual Council meetings to make decisions. Should Council not meet regularly during the pandemic emergency or until virtual Council meetings are enabled by the province and implemented for council, staff need to ensure business continuity for the residents and businesses in Hamilton. This by-law will enable staff to proceed with several matters that currently require Council approval. This delegated authority can be revoked by Council once virtual meetings are enabled or regular meetings resume.

The following areas are covered in the attached by-law:

- Approval of funding and transfer agreements and distribution of funds under City programs
- Procurement and execution of agreements to ensure operations of the City and those who do business with the City.
- Legal settlements
- Real estate transactions

In addition, this report recommends an amendment to the By-law to Impose Late Payment Charges for Non-Payment of Taxes to allow for the waiver of penalty and interest for late property tax payments and a corresponding amendment to the User Fee By-law to allow the waiver of certain fees for late property tax payments.

Staff will report to Council on the use of the delegated authority once the delegated authority in the by-law is revoked. Should the by-law be in place for more than one month,

the City Manager will report to council monthly on what actions have been taken pursuant to the Emergency Delegated Authority By-law.

ALTERNATIVES FOR CONSIDERATION

Without delegated authority in place, any action requiring council approval would require a meeting of council be called. If council does not meet, the City would be limited in its ability to continue to operate at full capacity. important services

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" – Emergency Delegated Authority
- Appendix "B" – Amendment to the By-law to Impose Late Payment Charges for Non-Payment of Taxes Interim Tax Billing By-law
- Appendix "C" - Amendment to the By-Law to Establish Certain 2019 User Fees and Charges

Authority: Item 9, General Issues
Committee 20-008
Report (CM20004)
CM: March 20, 2020
Ward: City Wide

Bill No.

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

COVID-19 Emergency Delegated Authority

WHEREAS the Province has declared a state of emergency pursuant to s. 7.0.1 the *Emergency Management and Civil Protection Act* and ordered a number of establishments to close immediately, including indoor recreation programs, libraries, schools, childcare centres, bars and restaurants, theatres and concert venues and has prohibited all organized public events of over 50 people;

WHEREAS the City of Hamilton has taken a number of steps order to protect the health and safety of the people in the community the City of Hamilton, including closing municipal facilities to the public and suspending City programs; and,

WHEREAS Council of the City of Hamilton is generally required to hold meetings that are open to the public; and,

WHEREAS Council considers it to be in the City's interests to delegate its authority to senior staff, subject to the restrictions prescribed by the Municipal Act, 2001 and by this By-law.

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

1. Unless otherwise stated:
 - (a) a reference to a statute or regulation refers to a statute or regulation of the Province of Ontario;
 - (b) a reference to a statute, regulation or by-law refers to that enactment as it may be amended or replaced from time to time; and
 - (c) a reference to a section, paragraph, clause or schedule is a reference to this By-law's section, paragraph, clause or schedule.
2. The headings in this By-law are for convenience only and do not form part of this By-law.

3. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
4. The delegations of authority outlined in this By-law are in addition to and other delegations of authority established by other City by-laws, resolutions and otherwise at law. In the event of any inconsistency between this By-law and any other City by-law, the provision that more effectively delegates authority prevails to the extent of the inconsistency.
5. In this By-law:
 - (a) "Approval Authority" means the authority to approve and award procurements, as well as any assignment or corporate change requests related to such procurements, up to the procurement values for the respective body or person(s) set out in By-law 17-064, Policy # 2 - Approval Authority.
 - (b) "By-law" means this By-law.
 - (c) "City" means The City of Hamilton or the geographic area of the City of Hamilton as the context requires.
 - (d) "Council" means the City's Council.
 - (e) "Fair Market Value" means the monetary consideration that, in an open and unrestricted market, a reasonably prudent and informed buyer would pay to a reasonably prudent and informed seller, when acting at arm's length from one another.

Delegation

6. The City Manager be delegated authority to exercise the following actions:
 - (a) to exercise authority under all provincial statutes and regulations and all City By-laws, subject to the restrictions established by Part II of the Municipal Act, 2001.
 - (b) Approval Authority to the City Manager to incur any expenditures or liabilities over \$250,000
 - (c) to approve and enter into funding agreements with other levels of government or other entities pursuant to City funding programs and to distribute funds in accordance with the agreements or funding programs.
 - (d) to exercise any discretionary corporate actions in response to unforeseen circumstances that arise due to the COVID-19 (Novel Coronavirus) pandemic and to exercise delegated authority where such authority has not already been provided by Council until the end of the COVID-19 (Novel Coronavirus) pandemic.

7. Council delegates its authority to approve amendments to tax policies and to draw from reserve accounts for the purposes of ensuring business continuity and delivery of critical services to the Treasurer or Deputy Treasurer.
8. Council delegates its authority to approve any legal settlements, to the City Solicitor and the City Manager and to approve settlement of matters currently before the Local Planning Appeal Tribunal to the City Solicitor and Chief Planner.
9. Real estate transactions, including expropriations requiring council approval to the General Manager of Planning Economic Development and Treasurer, and the authority to determine Fair Market Value to the Manager of Real Estate.
10. The delegated authority in this By-law includes the authority to enter into and execute all necessary agreements and to take all necessary steps to exercise the delegated authority and applies until the end of the COVID-19 (Novel Coronavirus) Pandemic, as declared by Health Canada or as revoked by council, whichever is earlier.
11. All reference to staff positions include Acting staff designated in writing from time to time.

Report at the end

PASSED this 20th day of March, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

Authority: Item 9, General Issues
Committee 20-008
Report (CM20004)
CM: March 20, 2020
Ward: City Wide

Bill No.

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

A By-law to amend By-law By-law NO. 13-136, being a By-law to Impose Late Payment Charges for Non-Payment of Taxes

WHEREAS It is necessary to amend By-law By-law NO. 13-136, being a By-law to Impose Late Payment Charges for Non-Payment of Taxes;

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

1. That By-law NO. 13-136, a By-law to Impose Late Payment Charges for Non-Payment of Taxes is amended by adding the following to s. 2 after the word "default":

"unless the Treasurer deems it appropriate to waive, entirely or in part, future or past penalty charges for such periods of time and for such property classes as the Treasurer deems appropriate in his sole discretion".

2. That By-law NO. 13-136, a By-law to Impose Late Payment Charges for Non-Payment of Taxes is amended by adding the following to s. 3 after the word "paid":

"unless the Treasurer deems it appropriate to waive, entirely or in part, future or past interest charges for such periods of time and for such property classes as the Treasurer deems appropriate in his sole discretion."

PASSED this 20th day of March, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

Authority: Item 9, General Issues
Committee 20-008
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Bill No.

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

**A By-law to amend By-law No. 19-160 A BY-LAW
TO ESTABLISH CERTAIN 2019 USER FEES AND CHARGES FOR SERVICES,
ACTIVITIES OR THE USE OF PROPERTY;**

WHEREAS it is necessary to amend By-law No. 19-160 A BY-LAW TO ESTABLISH CERTAIN 2019 USER FEES AND CHARGES FOR SERVICES, ACTIVITIES OR THE USE OF PROPERTY;

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

1. By-law No. 19-160 is hereby amended by adding the following new section and renumbering subsequent sections accordingly:
 14. Despite section 2, the General Manager of Finance and Corporate Services may waive the fees and charges provided for on Schedule "A" pages 108 and 109 for the Corporate Services Department and Taxation – Tax Accounting Division for such person and for such times as the General Manager of Finance and Corporate Services deems appropriate

PASSED this 20th day of March, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk