

**BOARD OF HEALTH FOR THE CITY OF HAMILTON  
PUBLIC HEALTH SERVICES**

**BY-LAW NO. 2025-2**

**DELEGATION OF AUTHORITY BY-LAW**

**DRAFT**

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## BY-LAW NO. 2025-2

A by-law of the Board of Health for the City of Hamilton respecting delegation of authority.

The Board of Health for the City of Hamilton (hereinafter referred to as the “Hamilton Board of Health”) enacts as follows:

### SECTION 1 – DEFINITIONS

(1) In this By-law,

“**Advertising**” means the sale to a person by the Hamilton Board of Health of advertising on Hamilton Board of Health printed materials or property at Hamilton Public Health Services events or in conjunction with a Hamilton Public Health Services program.

“**Capital Programs**” means a plan for capital expenditures to be incurred each year over a fixed period of years to meet capital needs arising from the long-term work program, and each capital program includes:

- (a) an annual envelope of spending authority;
- (b) individual capital projects of a similar nature, size, scope of work and funding source; and
- (c) the same categorization of individual projects as approved by the Board of Health and City Council, including but not limited to renewal of Board of Health assets and growth and strategic initiatives.

“**Chief Financial Officer / Treasurer**” means the person appointed and assuming the duties of Treasurer within the meaning of the *Municipal Act* and refers to the person in the position of General Manager of Finance and Corporate Services of the City of Hamilton.

“**City**” or “**City of Hamilton**” means the City of Hamilton as constituted as a body corporate on January 1, 2001, by section 2 of the *City of Hamilton Act, 1999* or the geographic area of the City of Hamilton as the context requires.

“**City Solicitor**” means the City of Hamilton’s City Solicitor or the person acting in that capacity or their designate.

“**Council**” or “**City Council**” means the Council of the City of Hamilton.

“**Hamilton Board of Health**” means the Board of Health for the City of Hamilton.

“**Hamilton Public Health Services**” means the public health unit for the City directed by the Hamilton Board of Health through the Medical Officer of Health.

“**HPPA**” means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended.

**“Medical Officer of Health”** means the person appointed by City Council to carry out the duties of the medical officer of health under the HPPA.

**“Municipal Act”** means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

**“Public Health Leadership Team”** means all Associate Medical Officers of Health, Directors and the Manager, Finance and Administration of the City of Hamilton acting for Hamilton Public Health Services.

**“Sponsorship”** means a mutually agreed to arrangement involving the Hamilton Board of Health and a person whereby the person provides resources by way of direct funding, goods, in-kind services or a combination in support of programs, projects, events or facilities of the Hamilton Public Health Services in return for recognition, acknowledgement or other promotional consideration.

## **SECTION 2– DELEGATION OF AUTHORITY – GENERAL**

- (1) The Medical Officer of Health is authorized to further delegate and to authorize further delegations of any powers, duties, and functions delegated to the Medical Officer of Health by the Hamilton Board of Health under this, or any other by-law or resolution, to an Associate Medical Officer of Health, Director, or Manager of Hamilton Public Health Services.
- (2) Where authority is designated to a specific staff member in this By-law, the authority may be further delegated by the authorized person to staff members within Hamilton Public Health Services, provided that such delegation is authorized in writing and does not exceed the authority delegated by this By-law to the authorized person.
- (3) The Hamilton Board of Health, as delegating agent, may impose such terms and conditions upon any delegation as it sees fit, and this shall include the power to vary such terms or rescind the delegation in question.
- (4) Where delegations have been authorized to a specific staff person, such authority includes the person acting in the specific position where the position has not been formally filled.

## **SECTION 3– EMERGENCY OR SPECIAL CIRCUMSTANCES**

- (1) In cases of emergency or special circumstances where it is necessary to act within the normal mandate of Hamilton Public Health Services but such action is not strictly within the terms of a delegated authority, the Medical Officer of Health may take such action as necessary to rectify the situation.
- (2) All action taken pursuant to Section 3(1) shall be reported at the first reasonable opportunity to the Hamilton Board of Health.
- (3) In the case of emergency or special circumstances where it is necessary to take action outside the normal mandate of Hamilton Public Health Services, the Medical Officer of Health may take such action as necessary to rectify the situation.

- (4) All action taken pursuant to Section 3(3) shall be reported at the first reasonable opportunity to the Hamilton Board of Health.

#### **SECTION 4 – EXECUTION OF DOCUMENTS**

- (1) The Medical Officer of Health's signature and the signature of other staff members of Hamilton Public Health Services may be written, engraved, printed, lithographed, including by electronic means or measures, or otherwise reproduced.

#### **SECTION 5 – RECRUITMENT AND PROMOTION**

- (1) The Medical Officer of Health, or his or her designate, are authorized to recruit staff for approved positions or for temporary positions for which funds are available within the Hamilton Public Health Services approved budget.

#### **SECTION 6 – MEDICAL OFFICER OF HEALTH**

##### **6.1 Administrative Responsibilities**

- (1) The Medical Officer of Health shall,
  - (a) exercise all powers and duties set forth in the *HPPA* and shall carry out such additional duties and exercise such additional responsibilities as the Hamilton Board of Health may from time to time prescribe;
  - (b) coordinate and supervise the implementation of all programs and policies approved by the Hamilton Board of Health;
  - (c) advise the Hamilton Board of Health on its recommendation for the appointment of Associate Medical Officers of Health;
  - (d) annually assess the performance of Members of the Public Health Leadership Team;
  - (e) appoint, promote, demote, suspend, and dismiss, in consultation with Human Resources, subject to the provisions of any personnel contracts or collective agreements applicable to employees of the City, all employees of the City provided by the City to the Hamilton Board of Health;
  - (f) create new positions, in consultation with Human Resources, as approved in the annual budget of Hamilton Public Health Services; and,
  - (g) approve financial, human resources, and administrative policies, as appropriate, in consultation with Finance and Administration and Human Resources, except where determined by agreement of the City and the Hamilton Board of Health that the City's policies shall apply.

## **6.2 Organizational Changes**

- (1) The Medical Officer of Health has the authority to:
  - (a) reclassify, delete, or transfer positions, approve scope changes, in consultation with Human Resources; and
  - (b) review Hamilton Public Health Services' organizational structure and implement changes that would improve the effectiveness or efficiency of the structure.
- (2) The delegated authority pursuant to subsection (1) shall not exceed the available funds within the total Hamilton Public Health Services approved budget.
- (3) As soon as practicable after approving an organizational change as described in subsection (1), the Medical Officer of Health shall submit a report to the Hamilton Board of Health describing the organizational changes.

## **6.3 Agreements with Governmental Authorities**

- (1) The Medical Officer of Health is authorized to approve, amend, extend, and execute agreements with the government and its agencies from time to time provided that such agreements are consistent with the mandate of the Hamilton Board of Health and can be implemented within the approved budget of Hamilton Public Health Services.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Hamilton Board of Health at least once in each calendar year.

## **6.4 Service and Funding Agreements**

- (1) The Medical Officer of Health is authorized to approve, amend, extend, and execute service agreements and funding agreements provided that such agreements,
  - (a) are in accordance with applicable policies approved by the Hamilton Board of Health;
  - (b) are related to approved programs and objectives of the Hamilton Board of Health;
  - (c) are within approved budget limits;
  - (d) contain appropriate insurance, termination, workplace safety and indemnification provisions; and
  - (e) have been reviewed and endorsed by the City Solicitor.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Hamilton Board of Health at least once in each calendar year.

## 6.5 Health Programs and Services

- (1) The Medical Officer of Health is delegated the authority to approve, amend, extend, and execute agreements related to health programs and services mandated or enabled by the *HPPA*, provided such agreements,
  - (a) specify the applicable section of the *HPPA* or its regulations, as outlined in the Ontario Public Health Standards and the Ontario Public Health Organizational Standards;
  - (b) are within approved budget limits; and
  - (c) contain appropriate indemnification, insurance, termination and workplace safety provisions.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Hamilton Board of Health at least once in each calendar year.
- (3) The Medical Officer of Health is delegated the authority to approve, amend, extend and execute agreements related to health programs and services mandated or enabled by legislation other than the *HPPA*, provided such agreements
  - (a) are within approved budget limits; and
  - (b) contain appropriate indemnification, insurance, termination and workplace safety provisions.
- (4) The exercise of delegated authority pursuant to subsection (3) shall be reported to the Hamilton Board of Health at least once in each calendar year.
- (5) The Medical Officer of Health is delegated the authority to execute agreements related to health programs and services of a local nature, where such agreements,
  - (a) are in response to an urgent health risk,
  - (b) include a provision for immediate termination should the Hamilton Board of Health not subsequently approve the agreement; and
  - (c) contain appropriate insurance, indemnification and workplace safety provisions.
- (6) As soon as practicable after executing an agreement described in subsection (5), the Medical Officer of Health shall submit a report to the Hamilton Board of Health describing the health risk and the nature of the agreement.

## 6.6 Execution of Agreements – General

- (1) In addition to and without limiting any execution authority granted to the Medical Officer of Health under this By-law, the Medical Officer of Health is delegated the authority to execute agreements, contracts, extensions, and

documents, associated with or arising out of the annual budget of Hamilton Public Health Services.

## **SECTION 7 – CHIEF FINANCIAL OFFICER / TREASURER**

### **7.1 Transfer of Funds – Operating Budget**

- (1) At the written request or with the concurrence of the Medical Officer of Health, the Chief Financial Officer / Treasurer and the Deputy Treasurer individually are authorized to make operating budget transfers within Hamilton Public Health Services involving any type of expenditure which does not impact the approved mandate of the Hamilton Board of Health and which maintains or improves the current service level to the public provided that,
  - (a) such transfers do not result in an increase to Hamilton Public Health Service's budgets in current and future years; and
  - (b) the number of full-time equivalent positions within Hamilton Public Health Services is not increased.
- (2) The Chief Financial Officer / Treasurer and the Deputy Treasurer individually are authorized, at the written request of the Medical Officer of Health, to execute transfer of compensation and non-compensation budgets to effect organizational changes approved by the Hamilton Board of Health pursuant to Section 0.
- (3) The Chief Financial Officer / Treasurer and the Deputy Treasurer individually are authorized, upon the written request of the Medical Officer of Health, to increase the gross estimates of a program within Hamilton Public Health Services in instances where the increase is permanently funded by way of increased recovery from sources external to the program.
- (4) The Chief Financial Officer / Treasurer and the Deputy Treasurer individually are authorized, with the concurrence of the Medical Officer of Health, to make budget transfers within Hamilton Public Health Services to effect changes resulting from new or amended legislation or regulations, additional unforeseen revenues, accounting standards or rules, program budgeting, or to increase transparency and accountability.
- (5) The exercise of delegated authority pursuant to Sections 7.1(1) to 7.1(4) inclusive shall be reported to the Hamilton Board of Health on an annual basis.

### **7.2 Transfer of Capital Budget Funds**

- (1) Upon the written request of the Medical Officer of Health, the Chief Financial Officer / Treasurer and the Deputy Treasurer, individually are delegated authority to make capital budget transfers provided that,
  - (a) the total amount of the transfer between stand-alone capital projects or capital programs does not exceed \$250,000 for the life of the capital project receiving the transfer;

- (b) increases in the existing capital projects are offset by corresponding decreases in other capital projects;
  - (c) transfers of debt authority are within the same Capital Program or projects and year subject to approval by Council;
  - (d) transfers are of like sources of funding; and
  - (e) the funding split (between growth and non-growth) for transfers involving development charges is maintained.
- (2) The Chief Financial Officer / Treasurer, the Deputy Treasurer and the Manager, Finance and Administration for Hamilton Public Health Services individually are delegated the authority to make transfers between capital projects within an existing Capital Program provided that the transfer meets the requirements of clauses (1)(b) to (1)(e) inclusive of subsection (1).
  - (3) The Chief Financial Officer / Treasurer, the Deputy Treasurer and the Manager of Budgets and Fiscal Policy individually are delegated the authority to increase the total capital project authority budget if new or additional revenue that is conditional upon the delivery of specific works in an approved project is received.
  - (4) The Chief Financial Officer / Treasurer, the Deputy Treasurer and the Manager of Budgets and Fiscal Policy individually are delegated the authority to make capital budget funding adjustments to refinance any capital project to effect changes resulting from new funding sources.
  - (5) The Chief Financial Officer / Treasurer, the Deputy Treasurer and the Manager of Budgets and Fiscal Policy individually are delegated the authority to make capital budget adjustments from a main project account to create separate project accounts provided that such adjustments result in improved monitoring, transparency and comparison on an annual basis.
  - (6) The exercise of delegated authority pursuant to subsections (1) to (5) inclusive shall be reported to the Hamilton Board of Health on an annual basis.

### **7.3 Write Off General Accounts Receivable**

- (1) The Chief Financial Officer / Treasurer is authorized to write off general accounts receivable that the Treasurer has determined to be uncollectible in accordance with City of Hamilton policies.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported annually to the Hamilton Board of Health.
- (3) The list of amounts that have been written off over the previous year and the justification for writing off each item shall be maintained by the Deputy Treasurer.

### **7.4 Write Off Payroll Overpayment Accounts**

- (1) The Chief Financial Officer / Treasurer and the Deputy Treasurer, individually are authorized to write off payroll overpayment accounts that the Chief Financial Officer / Treasurer or Deputy Treasurer have determined to be uncollectible in accordance with City of Hamilton policies.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported annually to the Hamilton Board of Health.
- (3) The list of amounts that have been written off over the previous year and the justification for writing off each item shall be maintained by the Deputy Treasurer.

## **SECTION 8 – CITY SOLICITOR**

### **8.1 Purchase of Insurance**

- (1) The City Solicitor is delegated the authority to purchase insurance to protect the Hamilton Board of Health, including claims adjusting, insurance brokerage services and related services.

### **8.2 Litigation**

- (1) The City Solicitor shall be responsible for the conduct of all litigation before courts and administrative tribunals, subject to such instruction as may be issued by the Hamilton Board of Health from time to time and in the conduct of such litigation, the City Solicitor shall consult with the Medical Officer of Health and use the most efficient combination of staff and external legal services as required to represent and defend the interests of the Hamilton Board of Health in the issue at hand.
- (2) The City Solicitor shall have the authority to commence, defend and abandon all matters pertaining to the Hamilton Board of Health within the jurisdiction of Small Claims Court and the Ontario Court of Justice.
- (3) With respect to matters within the jurisdiction of the Ontario Superior Court of Justice, the City Solicitor shall have the authority to:
  - (a) conduct the defence of all actions and to take such steps, including all interim proceedings, as may be considered necessary or proper;
  - (b) commence legal proceedings by way of application where such manner of proceeding is appropriate; and
  - (c) commence and prosecute actions for damages and to take such steps, including all interim proceedings, as may be considered necessary or proper.
- (4) In exercising the authority granted by Sections 8.2(1) to 8.2(3), inclusive, the City Solicitor shall have the authority to:

- (a) authorize the payment of all expenses related to the conduct of any action or matter and the payment of any costs awarded against the Hamilton Board of Health;
  - (b) execute all documents required to conduct any action or conclude the settlement of any action or matter; and
  - (c) take all steps required to enforce orders, decisions, awards and judgments.
- (5) The exercise of delegated authority pursuant to Sections 8.2(1) to 8.2(4) inclusive shall be reported to the Hamilton Board of Health on an annual basis.

### **8.3 Appeals**

- (1) The City Solicitor shall have the authority, in consultation with the Medical Officer of Health, to:
- (a) appeal decisions of the Small Claims Court and the Ontario Court of Justice; and
  - (b) commence, conduct and participate in appeals regarding health-related matters to applicable administrative tribunals.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Board of Health on an annual basis.

### **8.4 Administrative Tribunals**

- (1) The City Solicitor shall have the authority, in consultation with the Medical Officer of Health, to apply for standing, to make applications and take objections to all matters before administrative tribunals.
- (2) The City Solicitor shall have authority, in consultation with the Medical Officer of Health, to make applications and take objection on behalf of the Board of Health to all matters brought before the Ontario Labour Relations Board, the Canadian Industrial Relations Board, the Ontario Human Rights Commission and the Canadian Human Rights Commission, including arbitrations.
- (3) With respect to the matters set out in Sections 8.4(1) and 8.4(2), the City Solicitor shall have the authority to:
- (a) apply for standing;
  - (b) appeal any decision of an administrative tribunal where the appeal lies to another administrative tribunal; and,
  - (c) make applications for judicial review of decisions of administrative tribunals.
- (4) The exercise of delegated authority pursuant to Sections 8.4(1) to 8.4(3) shall be reported to the Hamilton Board of Health on an annual basis.

### **8.5 Exceptional Circumstances**

- (1) Where time constraints or other circumstances will not allow for the required authority-granting procedures to be followed with respect to any legal matter, the City Solicitor shall have the authority to take the appropriate action and report such action to the Hamilton Board of Health at the earliest opportunity.
- (2) The City Solicitor shall give notice, whenever possible, to those Members of the Hamilton Board of Health that may reasonably be expected to have an interest in the matter when litigation is commenced by or against the City.

### **8.6 Injunctions – Undertakings**

- (1) The City Solicitor is authorized to give undertakings as to damages on behalf of the Hamilton Board of Health in interim injunction proceedings.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Hamilton Board of Health on an annual basis.

### **8.7 Claims – Settlements**

- (1) The City Solicitor is delegated the authority to settle both litigated and non-litigated claims and make payments where the claim settlement is an amount not exceeding the self-insured limits under the Hamilton Board of Health's insurance program.

### **8.8 External Counsel**

- (1) The City Solicitor is assigned the exclusive authority for retaining all external legal counsel required by the Hamilton Board of Health.

ENACTED AND PASSED this [X] day of [X]

BOARD SECRETARY      CHAIR