

BY-LAW NO. 2011 – 2

*The Delegation of Authority By-law 2011-2 was enacted and passed the 28 day of April, 2011. This consolidated version includes the amendments that the Board of Health approved March 2, 2015.*

A by-law of the Board of Health for the City of Ottawa Health Unit respecting delegation of authority to various officers.

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

DEFINITIONS

1. In this by-law,

“advertising” means the sale to a person by the Ottawa Board of Health of advertising on Ottawa Board of Health printed materials or property at Ottawa Board of Health events or in conjunction with an Ottawa Board of Health 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 initiative;

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

“City Clerk” means the person appointed as City Clerk within the meaning of the *Municipal Act* and shall be referred to as the City Clerk and Solicitor;

“City Manager” means the chief administrative officer of the City within the meaning of the *Municipal Act*;

“Council” or “City Council” means the Council of the City of Ottawa;

“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;

“Ottawa Board of Health” means the Board of Health of the City of Ottawa Health Unit;

“Ottawa Public Health” means the public health unit for the City directed by the Ottawa Board of Health through the Medical Officer of Health;

“sponsorship” means a mutually agreed to arrangement involving the Ottawa 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 Ottawa Board of Health in return for recognition, acknowledgement or other promotional consideration;

“Treasurer” means the person appointed as City Treasurer within the meaning of the Municipal Act.

## RESOLUTION OF CONFLICT

2. The Medical Officer of Health is hereby authorized to resolve any conflict or ambiguity regarding the individual or individuals of the Ottawa Board of Health authorized to exercise any delegation.

## DELEGATION OF AUTHORITY –GENERAL

3.
  - (1) The Medical Officer of Health is authorized to further delegate and to authorize further delegations of any powers, duties function delegated to the Medical Officer of Health by the Ottawa Board of Health under this or any other by-law or resolution to an Associate Medical Officer of Health, Deputy Director, Deputy Medical Officer of Health or Manager of Ottawa Public Health.
  - (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 Ottawa Public Health 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 Ottawa 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.

#### VALIDITY OF ACTIONS TAKEN

4. Any variation or rescission of a delegated authority pursuant to Section 3 shall have no effect on the validity of action taken pursuant to a valid delegation of authority occurring before the terms of such delegation were varied or rescinded.

#### EMERGENCY OR SPECIAL CIRCUMSTANCES

5. In cases of emergency or special circumstances where it is necessary to act within the normal mandate of Ottawa Public Health 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.
6. All action taken pursuant to Section 5 shall be reported at the first reasonable opportunity to the Ottawa Board of Health.
7. In the case of emergency or special circumstances where it is necessary to take action outside the normal mandate of Ottawa Public Health, the Medical Officer of Health may take such action as necessary to rectify the situation.
8. All action taken pursuant to Section 7 shall be reported at the first reasonable opportunity to the Ottawa Board of Health.

#### EXECUTION OF DOCUMENTS

9. The Medical Officer of Health's signature and the signature of other staff members of Ottawa Public Health may be written, engraved, printed, lithographed or otherwise reproduced.

#### CONFERENCES AND CONVENTIONS

10. Funding for conferences, conventions and similar events that exceed \$10,000.00 shall be approved by the Ottawa Board of Health.

#### RECRUITMENT AND PROMOTION

11. 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 have been approved by the Ottawa Board of Health and City Council.

## DISMISSAL

12. The Medical Officer of Health, Deputy Medical Officer of Health, Deputy Director, the Associate Medical Officers of Health, Directors or Managers within Ottawa Public Health individually are authorized to dismiss or discipline all employees under their authority.

## SPONSORSHIP

13. (1) The Supervisors and Program Managers within a branch of Ottawa Public Health individually are delegated the authority to approve sponsorships or advertising and execute associated agreements where the value of the sponsorship or advertising does not exceed \$10,000.00 provided that the sponsorship or advertising and the associated agreement comply with the requirements of the City's Corporate Policy on Sponsorship and Advertising as adopted by the Ottawa Board of Health.
- (2) The Managers, Associate Medical Officers of Health, Deputy Medical Officer of Health and Deputy Director within a branch of Ottawa Public Health individually are delegated the authority to approve sponsorships or advertising and execute associated agreements where the value of the sponsorship or advertising does not exceed \$100,000.00 provided that the sponsorship or advertising and the associated agreement comply with the requirements of the City's Corporate Policy on Sponsorship and Advertising as adopted by the Ottawa Board of Health.
- (3) The Medical Officer of Health, Deputy Medical Officer of Health and Deputy Director individually are delegated the authority to approve sponsorships or advertising and execute associated agreements where the value of the sponsorship or advertising exceeds \$100,000.00 provided that the sponsorship or advertising and the associated agreement comply with the requirements of the City's Corporate Policy on Sponsorship and Advertising as adopted by the Ottawa Board of Health.
- (4) Despite subsections (1) and (2), where any sponsorship or advertising exceeds three (3) years in duration, the sponsorship or advertising shall be approved by the Medical Officer of Health.
- (5) Subsections (1) to (4) inclusive do not apply to approval of an advertising proposal that includes billboard advertising and such a proposal shall require approval by the Ottawa Board of Health in accordance with the Council-approved process as adopted by the Ottawa Board of Health.
- (6) The Medical Officer of Health shall maintain a list of all sponsorships and advertising approved during the year and shall submit the list to the Ottawa Board of Health by January 31<sup>st</sup> of the next following year for its information.

- (7) The annual list referred to in subsection (6) shall contain the following information:
- (a) the name of the sponsor or advertiser;
  - (b) a description of the sponsorship or advertising;
  - (c) the value of the sponsorship or advertising; and
  - (d) the duration of the sponsorship or advertising.

#### MEDICAL OFFICER OF HEALTH

#### ADMINISTRATIVE RESPONSIBILITIES

14. 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 Ottawa Board of Health may from time to time prescribe;
  - (b) coordinate and supervise the implementation of all programs and policies approved by the Ottawa Board of Health;
  - (c) advise the Ottawa Board of Health on its recommendation for the appointment of Associate Medical Officers of Health;
  - (d) annually assess the performance of the Deputy Director and Deputy Medical Officer of Health;
  - (e) appoint, promote, demote, suspend and dismiss, subject to the provisions of any City personnel regulations or collective agreements applicable to employees of the City, all employees of the City on loan to the Ottawa Board of Health;
  - (f) create new positions subject to funding being available in the approved annual budget of the Ottawa Board of Health;
  - (g) review Ottawa Public Health's organizational structure and implement changes that would improve the effectiveness or efficiency of the structure;
  - (h) **approve financial administrative policies, as appropriate and where City of Ottawa policies do not apply to Ottawa Public Health.**

## ORGANIZATIONAL CHANGES

15. (1) The Medical Officer of Health has the authority to approve organizational changes which do not impact the mandate approved by the Ottawa Board of Health and which maintain or improve the current service level to the public provided that,
  - (a) the total cost of the changes, including the termination costs, if applicable, is available within the total annual compensation budget approved by the Ottawa Board of Health and Council;
  - (b) the organizational changes will not cause an increase in the total compensation budget in future years;
  - (c) the changes affect only organizational levels below the Deputy Medical Officer of Health and Deputy Director; and
  - (d) the number of full time equivalents within Ottawa Public Health is not increased.
- (2) The authority of the Medical Officer of Health set out in subsection (1) includes:
  - (a) the creation, deletion, transfer or reclassification of positions, scope changes, changes to organizational structures and changes to service delivery mechanisms; and
  - (b) the approval of the reclassification, transfer, scope change of any position below the Deputy Medical Officer of Health and Deputy Director.
- (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 Ottawa Board of Health describing the organizational changes.

## FEDERAL AND PROVINCIAL AGREEMENTS

16. (1) The Medical Officer of Health is authorized to approve, amend, extend and execute agreements with the provincial or federal government provided that such agreements are consistent with the mandate of the Ottawa Board of Health and are at no cost to the Ottawa Board of Health, with the exception of associated operational and administrative costs that are within approved budgets.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Ottawa Board of Health at least once in each calendar year.

## SERVICE AND FUNDING AGREEMENTS

17. (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 Ottawa Board of Health;
  - (b) are related to approved programs and objectives of the Ottawa Board of Health;
  - (c) are within approved budget limits; and
  - (d) contain appropriate insurance, termination, workplace safety and indemnification provisions.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Ottawa Board of Health at least once in each calendar year.

## HEALTH PROGRAMS AND SERVICES

18. (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 Ottawa Board of Health at least once in each calendar year.
19. (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 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.

- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported to the Ottawa Board of Health at least once in each calendar year.
- 20. (1) 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 Ottawa Board of Health not subsequently approve the agreement; and
  - (c) contain appropriate insurance, indemnification and workplace safety provisions.
- (2) As soon as practicable after executing an agreement described in subsection (1), the Medical Officer of Health shall submit a report to the Ottawa Board of Health describing the health risk and the nature of the agreement.

#### CITY TREASURER

#### TRANSFER OF FUNDS - OPERATING

- 21. (1) At the written request or with the concurrence of the Medical Officer of Health, the Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are authorized to make operating budget transfers within Ottawa Public Health involving any type of expenditure which does not impact the approved mandate of the Ottawa 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 Ottawa Public Health's compensation budgets in current and future years; and
  - (b) the number of full-time equivalent positions within Ottawa Public Health is not increased.
- (2) The Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are authorized to make transfers pursuant to subsections (1) that result in a permanent decrease to Ottawa Public Health's compensation budget.
- (3) The Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are authorized, at the written request of the Medical Officer of Health, to transfer compensation and non-compensation budgets to effect organizational changes approved by the **Medical Officer of Health City Manager** pursuant to Section 15 of this ~~by-law~~ **Schedule**.



22. The Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are authorized, upon the written request of the Medical Officer of Health, to increase the gross estimates of a program within Ottawa Public Health in instances where the increase is permanently funded by way of increased recovery from sources external to the program.
23. The Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are authorized to make budget transfers within Ottawa Public Health 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.
24. The exercise of delegated authority pursuant to Sections 21 to 23 inclusive shall be reported to the Ottawa Board of Health on at least a quarterly basis in the Operating Status Report.

#### TRANSFER OF CAPITAL FUNDS

25. (1) Upon the written request of the Ottawa Board of Health, the Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are delegated the 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 ten percent (10%) or \$100,000.00 for the life of the capital project receiving the transfer, whichever amount is less;
  - (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 as approved 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 Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ individually are delegated the authority to make transfers, without limit, between capital projects within an existing capital program provided that the transfer meets the requirements of clauses (b) to (e) inclusive of subsection (1).

- (3) The Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ 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 Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ 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 Treasurer **and** the Deputy Treasurer, Corporate Finance ~~**and the Manager of Budget and Financial Planning**~~ 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 Ottawa Board of Health on at least a quarterly basis in the Operating Status report.

#### WRITE OFF GENERAL ACCOUNTS

26. (1) The Treasurer is authorized to write off general accounts receivable which the Treasurer has determined to be uncollectible.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported annually to the Ottawa 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, Revenue.

#### WRITE OFF PAYROLL OVERPAYMENT ACCOUNTS

27. (1) The Treasurer is authorized to write off payroll overpayment accounts which the Treasurer has determined to be uncollectible.
- (2) The exercise of delegated authority pursuant to subsection (1) shall be reported annually to the Ottawa 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, Revenue.

## CITY CLERK AND SOLICITOR DEPARTMENT

### PURCHASE OF INSURANCE

28. The City Clerk and Solicitor is delegated the authority to purchase insurance to protect the Ottawa Board of Health, including claims adjusting, insurance brokerage services and related services, provided that the costs are within approved operating budget guidelines and the purchase of insurance complies with the provisions of By-law No. 50 of 2000, as amended, the City's Purchasing By-law or any successor by-law thereto.

### LEGAL PROCEEDINGS LITIGATION

29. **The City Clerk and Solicitor is authorized to represent the Ottawa Board of Health, to advance the Ottawa Board of Health's interests, and to defend the Ottawa Board of Health by taking any step or action that is necessary and proper in respect of any legal proceeding affecting the Ottawa Board of Health, including arbitrations, mediations, interim proceedings, and litigation before any court, tribunal, or other forum, subject to such instruction as may be issued by the Ottawa Board of Health from time to time, and in the exercise of such authority, the City Clerk and Solicitor shall use the most efficient combination of staff and external legal services as required.**

~~The City Clerk and 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 Ottawa Board of Health from time to time and in the conduct of such litigation, the City Clerk and 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 Ottawa Board of Health in the issue at hand.~~

- ~~30. The City Clerk and Solicitor shall have authority to commence, defend and abandon all matters pertaining to the Ottawa Board of Health within the jurisdiction of Small Claims Court and the Ontario Court of Justice.~~

- ~~31. With respect to matters within the jurisdiction of the Ontario Superior Court of Justice, the City Clerk and Solicitor shall have the authority to:~~

~~conduct the defence of all actions and to take such steps, including all interim proceedings, as may be considered necessary or proper;~~

~~commence legal proceedings by way of application where such manner of proceeding is appropriate; and~~

~~commence and prosecute actions for damages and to take such steps, including all interim proceedings, as may be considered necessary or proper~~

302. In exercising the authority granted by Sections 29 ~~to 31, inclusive~~, the City Clerk and Solicitor shall have the authority to:
- (a) **appeal, and seek review or reconsideration, of any judgement, decision, order, or record in any legal proceeding, regardless of the forum;**
  - (b) **authorize the payment of all expenses related to the conduct of any legal proceeding ~~action or matter~~ and the payment of any costs awarded against the Ottawa Board of Health;**
  - (c) **execute all documents required to conduct any legal proceeding ~~action~~ and conclude the settlement of any ~~action or matter~~ legal proceeding; and**
  - (d) **take all steps required to enforce orders, decisions, awards and judgments.**
313. The exercise of delegated authority pursuant to Sections 29 to 302 inclusive shall be reported to the Ottawa Board of Health on a **quarterly semi-annual** basis.

#### **APPEALS**

- ~~34. (1) The City Clerk and 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 a quarterly basis.~~

#### **ADMINISTRATIVE TRIBUNALS**

- ~~35. (1) The City Clerk and Solicitor shall have the authority, in consultation with the Medical Officer of Health, to apply for standing, to make applications and take objection to all matters before administrative tribunals~~
- ~~(2) The City Clerk and 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.~~

~~36. — With respect to the matters set out in Section 35, the City Clerk and Solicitor shall have authority to:~~

~~apply for standing;~~

~~appeal any decision of an administrative tribunal where the appeal lies to another administrative tribunal; and~~

~~make applications for judicial review of decisions of administrative tribunals.~~

~~37. — The exercise of delegated authority pursuant to Sections 35 and 36 shall be reported to the Ottawa Board of Health on a quarterly basis.~~

#### EXCEPTIONAL CIRCUMSTANCES

328. 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 Clerk and Solicitor shall have the authority to take the appropriate action and report such action to the Ottawa Board of Health at the earliest opportunity.

339. The City Clerk and Solicitor shall give notice, whenever possible, to those Members of the Ottawa Board of Health that may reasonably be expected to have an interest in the matter when litigation is commenced by or against the **Ottawa Board of Health City**.

#### INJUNCTIONS - UNDERTAKINGS

~~40. — (1) — The City Clerk and Solicitor is authorized to give undertakings as to damages on behalf of the Ottawa Board of Health in interim injunction proceedings.~~

~~(2) — The exercise of delegated authority pursuant to subsection (1) shall be reported to the Ottawa Board of Health on a quarterly basis.~~

#### CLAIMS - INSURER

~~4134.~~ The City Clerk and Solicitor is delegated the authority in consultation with the Medical Officer of Health to approve payment to the Ottawa Board of Health's Third Party Liability Insurer of any deductible limit provided under an insurance policy upon settlement of any claim in excess of the deductible limit.

#### CLAIMS - SETTLEMENTS

~~4235.~~ The City Clerk and Solicitor is delegated the authority to settle both litigated and non-litigated claims, **to abandon any part of such claims**, and make payments where the claim settlement is an amount not exceeding \$1,000,000.00.

- 4336.** The City Manager 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 retention limits under the Ottawa Board of Health's insurance program.
- 4437.** The exercise of delegated authority pursuant to Sections **3542** and **3643** shall be reported to the Board of Health on a quarterly basis.
- 3845.** Where the City Clerk and Solicitor deems an amount or claim of the Ottawa Board of Health to be uncollectible, in whole or in part, and the amount or claim, exclusive of interest does not exceed the amount referred to in Sections **3542** and **3643**, the City Clerk and Solicitor or the City Manager, as applicable, have the authority to abandon and write off the claim.

#### EXTERNAL COUNSEL

- 3946.** The City Clerk and Solicitor is assigned the exclusive authority for retaining all external legal counsel required by the Ottawa Board of Health.

#### PURCHASES UNDER \$15,000.00

- 4047.** For purchases of the Ottawa Board of Health not exceeding \$15,000.00, the City Clerk and Solicitor is authorized, in consultation with the **Chief Procurement Officer** ~~Manager of Supply Services~~ of the City, to prescribe non-monetary standard terms and conditions necessary to protect the legal interests of the Ottawa Board of Health, including but not limited to, insurance, indemnification, Occupational Health and Safety, Workplace Safety and Insurance, termination for default, **termination for convenience** and warranties.

*This by-law was enacted and passed the 28 day of April, 2011. It was amended on March 2, 2015 and on February 13, 2017.*

ENACTED AND PASSED this **13th day of February, 2017**

BOARD SECRETARY

CHAIR