

**Report to
Rapport au :**

**Ottawa Board of Health
Conseil de santé d'Ottawa
25 April 2022 / 25 avril 2022**

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**Submitted by
Soumis par :**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2022-OPH-BOH-0004

SUBJECT: BOARD OF HEALTH POLICIES AND BY-LAWS – 2022 REVIEW AND UPDATES

OBJET: POLITIQUES ET RÈGLEMENTS DU CONSEIL DE SANTÉ - EXAMEN ET MISES À JOUR DE 2022

REPORT RECOMMENDATIONS

That the Board of Health for the City of Ottawa Health Unit:

- 1. Approve updates to the Board of Health Procedure By-law, as described in this report and detailed in Document 1;**
- 2. Approve updates to the Board of Health Delegation of Authority By-law, as described in this report and detailed in Document 2;**
- 3. Approve housekeeping updates to the Board of Health By-law 2011-4 and By-law 2011-5, as described in this report;**

4. **Approve updates to the Board of Health Code of Conduct, as described in this report and detailed in Document 3;**
5. **Approve updates to the Medical Officer of Health Performance Appraisal Policy, as described in this report and detailed in Document 4; and**
6. **Adopt the City of Ottawa’s Election-Related Resources policy, as described in this report and attached at Document 5.**

RECOMMANDATIONS DU RAPPORT

Que le Conseil de santé de la circonscription sanitaire de la Ville d’Ottawa :

1. **Approuve les mises à jour au règlement sur les procédures du Conseil de santé, telles que décrites dans le présent rapport et détaillées dans le document 1;**
2. **Approuve les mises à jour au règlement de délégation de pouvoirs du Conseil de santé, telles que décrites dans le présent rapport et détaillées dans le document 2;**
3. **Approuve les mises à jour administratives au Règlement 2011-4 et au Règlement 2011-5 du Conseil de santé, telles que décrites dans le présent rapport ;**
4. **Approuve les mises à jour au code de conduite du Conseil de santé, telles que décrites dans le présent rapport et détaillées dans le document 3 ;**
5. **Approuve les mises à jour de la politique d’évaluation de la performance du médecin chef en santé publique, telles que décrites dans ce rapport et détaillées dans le document 4; et**
6. **Adopte la politique de la Ville d’Ottawa sur les ressources liées aux élections, telle que décrite dans le présent rapport et jointe au document 5.**

BACKGROUND

Many legislative bodies undertake regular reviews of policies, procedures and by-laws to ensure effective governance. The [Ontario Public Health Organizational Standards](#) require that boards of health review and revise (if necessary) relevant by-laws, policies and procedures at least every two years. To fulfill this requirement, staff reviewed the policies, procedures and by-laws that guide the Ottawa Board of Health. This review

included taking into consideration recent amendments to policies, procedures and by-laws of the City of Ottawa and Ottawa City Council as well as examining the requirements for Boards of Health, as stipulated in the Ontario Public Health Organizational Standards and other legislation and regulations.

The last review of Board of Health policies, procedures and by-laws was in June 2019.

Further, pursuant to the *Municipal Elections Act, 1996* (MEA), municipalities and local boards are required to establish, before May 1 in the year of a regular election, rules and procedures with respect to the use of municipal or board resources, as the case may be.

As the Board of Health is encompassed by the definition of “local board”, it is required to establish, by May 1, 2022, rules and procedures with respect to the use of board resources.

DISCUSSION

Having reviewed the various policies and by-laws of the Ottawa Board of Health as part of this process, no changes are being recommended to the following documents:

- By-law 2011-3 – A by-law of the Board of Health to designate a head of the Ottawa Board of Health for the purposes of the Municipal Freedom of Information and Protection of Privacy Act; and
- Board of Health Travel Policy.

The updates being recommended to other Board of Health by-laws and policies are described below and detailed in the corresponding attachments.

Recommendation 1 – Approve updates to the Board of Health Procedure By-law, as described in this report and detailed in Document 1

The Board of Health *Procedure By-law* is a governance tool that regulates the manner in which the Board carries out its policy analysis and decision-making.

Prior to the COVID-19 pandemic, the *Procedure By-law* did not permit any form of electronic participation by Members of Council in Council or Committee meetings. Though the *Municipal Act, 2001* permitted municipalities to allow electronic participation, this was conditional on having a quorum of Members physically present and did not allow remote participation in closed meetings.

Bill 187, the Municipal Emergency Act, 2020

Following the Provincial declaration of a State of Emergency on March 17, 2020, due to the COVID-19 pandemic, on March 19, 2020, the Ontario Legislature passed Bill 187, the *Municipal Emergency Act, 2020*. This legislation amended the *Municipal Act, 2001* to allow municipal councils, committees and local boards to temporarily remove restrictions on electronic participation in closed meetings and the requirement to maintain a physical quorum.

At its meeting of April 20, 2020, the Board of Health approved a motion that amended the Procedure By-law to provide for Members to participate electronically in that meeting and in all subsequent meetings during the emergency declaration made by the Province. Since that time, the Board of Health has continued to meet virtually due to ongoing pandemic-related measures such as gathering limits, capacity limits and limited access to suitable City Hall meeting space.

Bill 197, the COVID-19 Economic Recovery Act, 2020

Bill 197, the *COVID-19 Economic Recovery Act, 2020*, received Royal Assent on July 20, 2020. As pertains to meetings of municipal councils, committees and local boards, the legislation amended the *Municipal Act, 2001* to permanently allow the continuation of electronic meetings outside of a declared state of emergency whereby:

- A member of a Council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and
- A member of a Council, of a local board or of a committee of either of them can participate electronically in a meeting that is open or closed to the public.

Ottawa City Council has amended its procedure by-law to permit continued electronic participation in meetings of Council and its Standing Committees and has amended its Advisory Committee Procedure By-law to permit continued electronic participation at Advisory Committee meetings.

More recently, the City moved to a hybrid format for City Council meetings but is continuing with a virtual format for Committee meetings, which include public delegations. In communicating this direction, the City Clerk noted that hybrid meetings are labour-intensive and complex to administer and that they require more technical and audiovisual support than either fully in-person or fully virtual meetings. The City Clerk

advised that staff will be applying the lessons learned from the hybrid Council meetings to develop a plan to facilitate hybrid participation in Committee meetings.

OPH staff will be closely following these developments and may recommend moving to a hybrid model in the medium-term, based on lessons learned by the Office of the City Clerk and the experience of Council's standing committees.

In light of the evolving COVID-19 situation and ongoing public health recommendations to limit close contacts, for people to stay home if they are experiencing any symptoms and to assess their levels of risk in engaging in activities, staff is recommending that Board of Health meetings continue to be virtual for the short-term and that the Board of Health Procedure By-law be amended to continue to permit Members to vote and participate electronically in all meetings, as permitted in the *Municipal Act, 2001*, as amended.

These amendments would align with City Council and its Committees and would allow full participation by Board Members, staff and members of the public who may feel uncomfortable participating in in-person meetings or who may be isolating and therefore unable to attend in person.

The provisions for electronic meetings will be reviewed as part of the next review and revision of Board of Health by-laws, policies and procedures.

Proactive disclosure of certain closed meeting reports

Subsection 13(7) of the *Procedure By-law* provides that all reports intended to be considered in a closed meeting shall indicate either the reporting out date, being a date the report can be made public, or a legal opinion indicating why the report cannot be made public. Upon the passing of the reporting out date, the report "shall be made accessible to the public." However, the by-law does not prescribe how the reports are made public. Currently, the practice is such that reports are released on an as requested basis through the Board Secretary.

The overarching principle of the City's Routine Disclosure and Active Dissemination Policy is to provide greater public access to information by making certain records routinely available in response to informal requests for access or by means of periodically releasing certain records.

In keeping with the spirit of the policy, staff is recommending that Subsection 13(7) of the *Procedure By-law* be amended to clarify that upon the passing of the reporting out

date, reports that were considered in closed session will be proactively disclosed with the minutes of the relevant meeting on Ottawa.ca and on OttawaPublicHealth.ca.

There is no change being recommended where there is a legal opinion indicating why the report cannot be made public.

The proposed amendments are highlighted in Document 1, attached.

Recommendation 2 – Approve updates to the Board of Health Delegation of Authority By-law, as highlighted in this report and detailed in Document 2

The Delegation of Authority By-law delegates certain authorities related to financial, legal, and organizational matters. Various housekeeping amendments are being recommended for the Delegation of Authority By-law in order to:

- a) reflect new administrative structures and/or position titles resulting from recent re-alignments at both Ottawa Public Health and the City of Ottawa;
- b) align with the City’s delegation of authority with respect to annual reporting on sponsorships; and
- c) align with the City’s delegation of authority with respect to allowing for the execution of documents via electronic means or measures.

These amendments are highlighted Document 2, attached.

Recommendation 3 – Approve housekeeping updates to the Board of Health By-law 2011-4 and By-law 2011-5, as described in this report

By-law 2011-4 is a by-law of the Board of Health to appoint a person for the purposes of administering requests for disclosure of personal health information pursuant to the *Personal Health Information Protection Act, 2004* and By-law 2011-5 is a by-law of the Board of Health to establish fees for the purposes of administering requests for disclosure of personal health information pursuant to the *Personal Health Information Protection Act, 2004*.

Both by-laws make several references to the “City Clerk and Solicitor”, a position that no longer exists within the City of Ottawa’s organizational structure. Therefore, housekeeping amendments are needed to update these By-laws by removing the words “and Solicitor” and referring instead to the “City Clerk”.

Recommendation 4 - Approve updates to the Board of Health Code of Conduct, as described in this report and detailed in Document 3

At its meeting of June 15, 2015, the Board of Health adopted a values-based Code of Conduct for its Members. The Board's Code of Conduct, which was based primarily on the City of Ottawa's Code of Conduct for Members of Council at that time, enhanced the Board's governance framework, facilitated transparency and accountability, and outlined ethical standards expected of Members.

In 2019, the Board of Health Code of Conduct was updated to add sections on:

- Gifts, benefits and hospitality;
- Use of property of the municipality or local board; and
- Enforcement.

To ensure that the Board's Code of Conduct continues to reflect best practices, staff is recommending the following additions:

- A new section on Election-Related Activity; and
- A new clause within Appendix A – Complaint Protocol.

With respect to the proposed new section on Election-Related Activity, namely Section IX, staff notes that Council's Codes of Conduct for Members of Council, for citizen Members of the Built Heritage Sub-Committee, and for members of local boards, all contain sections on Election-Related Activity. This addition would bring the Board's Code of Conduct in line with others. The addition is also timely given that there are both provincial and municipal elections scheduled for later this year.

As for the new clause being proposed for Appendix A – Complaint Protocol, namely clause 11(b), it aligns with a recent amendment to Council's Code of Conduct and upholds the principle of procedural fairness as it would allow a member who is the subject of a complaint the opportunity to receive a copy of a draft report following completion of an investigation and to provide comments within five business days.

The proposed amendments are highlighted in Document 3, attached.

Recommendation 5 - Approve updates to the Medical Officer of Health Performance Appraisal Policy, as described in this report and detailed in Document 4

The Ontario Public Health Organizational Standards recommend that boards of health have an evaluation policy for staff, including the Medical Officer of Health, and in March 2015, the Ottawa Board of Health adopted the current Medical Officer of Health Performance Appraisal Policy. This policy is based on the Association of Local Public Health Agencies (aLPHa) MOH Performance and Development Appraisal guidelines and template. It also aligns with the City of Ottawa's performance evaluation program for Management and Professional Exempt (MPE) staff. It establishes the process for conducting performance appraisals and requires that these be conducted bi-annually, at a minimum.

Based on the current process, the Chair initiates the review by sending an evaluation survey to Board Members for their assessment of performance factors, performance measures, key deliverables and leadership competencies. A third-party consultant collates the responses and the Chair then meets with the MOH to review before presenting the final assessment to the Board via confidential report.

Having reviewed the Medical Officer of Health Performance Appraisal Policy as well as a similar policy recently adopted by City Council with respect to performance assessments for the Auditor General and City Manager, staff is recommending that the Medical Officer of Health Performance Appraisal Policy be amended to:

- Add a pre-survey process for updating the evaluation form annually based on special projects, assigned issues and/or key deliverables and for the Medical Officer of Health to provide a submission as relates to her/his achievements and successes over the past year. Once finalized, the Chair would then send the updated evaluation form and the Medical Officer of Health's submission to Board Members to complete the evaluation survey;
- Add a section on Administration, which would reflect the current practice whereby the Board Secretary assists with coordinating the process in a confidential manner; and
- Add a section on Confidentiality, which makes it clear that all Board Members and staff involved in the performance review process are required to hold in confidence all confidential information concerning the process.

Recommendation 6 - Adopt the City of Ottawa's Election-Related Resources policy, as described in this report and attached at Document 5

The City of Ottawa's Election-Related Resources Policy applies to all Members of Council and City staff, including Ottawa Public Health (OPH) employees. It is attached as Document 5 and can be found [here](#).

The Board can either develop its own separate policy for the use of board resources during a municipal election campaign period or it can adopt the City's existing policy. In light of the timelines and given that the Board of Health is appointed via the City's Appointment Policy, and that the term and composition of the Board is tied to municipal elections, it is recommended that the Board adopt the City's Election-Related Resources Policy.

The City's Election-Related Resources Policy is comprehensive and includes the following policy elements: Policy Statement, Purpose, Application, Policy Requirements, Responsibilities, Monitoring/Contraventions, References, Legislative and Administrative Authorities, and Definitions. The underlying principle for the Policy is that "[i]n compliance with the *Municipal Elections Act, 1996*, public funds are not to be used for any election-related purposes, including the promotion of or opposition to the candidacy of a person for elected office"

Should the Board of Health adopt the City's Election-Related Resources Policy, all Members serving on the Board of Health for the City of Ottawa Health Unit and all OPH employees will be required to follow the policy as it relates to OPH and City resources and OPH budgets.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

This report is administrative in nature and did not require public consultation. The Office of the City Clerk was consulted with respect to the Board adopted the City of Ottawa's Election-Related Resources Policy.

LEGAL IMPLICATIONS

There are no legal impediments to approving the recommendations in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

SUPPORTING DOCUMENTATION

Document 1 – Proposed amendments to the Board of Health Procedure By-law, being By-law 2011-1

Document 2 – Proposed amendments to the Board of Health Delegation of Authority By-law, being By-law 2011-2

Document 3 – Proposed amendments to the Board of Health Code of Conduct

Document 4 – Proposed amendments to the Medical Officer of Health Performance Appraisal Policy

Document 5 – City of Ottawa Election-Related Resources Policy

DISPOSITION

Upon approval, the Board of Health Secretary will implement changes to the policies and by-laws, as outlined in this report and staff will work with the Office of the City Clerk to fulfill the requirements and adhere to the City of Ottawa's Election-Related Resource Policy, as per the *Municipal Elections Act, 1996*.