SUBJECT: Repeal of Hamilton Health By-Law #4798  BOH07020 (City Wide)

RECOMMENDATION:
That the Board of Health repeal Hamilton Health By-law #4798

EXECUTIVE SUMMARY:
City of Hamilton By-Law #4798 (By-Law 4798) was originally enacted in 1936 to address “conditions which may be or become injurious to health”. Since that time, By-law 4798 has become redundant and is not enforceable throughout Hamilton.

Therefore, it is recommended that By-law 4798 be repealed as a “housekeeping” item.

BACKGROUND:
By-Law 4798 was conceived at a time when regulatory legislation and by-laws such as those prescribing building codes and property standards were in their infancy and with the perception that existing provincial legislation was inadequate to deal with local issues that could affect public health. The result was a comprehensive by-law covering issues that include, for example, public housing, the operation of food premises, embalming establishments, sewer and water connections, and the keeping of animals.

Many provisions of By-law 4798 have already been repealed. For example, in 1997 sections 500 to 516 and 600 to 606A were repealed with the comment that they had been superseded by the Building Code Act. However, the remaining provisions of By-
law 4798 have also been superseded by newer regulatory legislation and by-laws, leading to the staff recommendation that By-law 4798 be repealed in its entirety.

**ANALYSIS/RATIONALE:**
A review of current legislation and by-laws reveals more than adequate coverage for the content of the By-Law. This includes:

- **The Ontario Health Protection and Promotion Act (HPPA)**
  This legislation provides broad powers to assess and mitigate “health hazards”. Health hazard is defined in the HPPA as “…a condition of a premises, a substance, thing, plant or animal other than man, or a solid, liquid, gas or combination of any of them, that has or that is likely to have an adverse effect on the health of any person.

  In addition, associated regulations, such as 562 (Food Premises) provide for the enforcement of public health standards similar, if not higher, than those cited in the By-law.

- **Other Provincial Statutes**
  Several other Acts and associated regulations under the authority of various provincial ministries regulate, amongst other things found in By-law 4798, the operation of slaughter houses, dairies, funeral parlours and drinking water systems.

- **City of Hamilton Property Standards By-law No. 03-117**
  This by-law addresses issues that include sub-standard structures, lack of heat, garbage disposal, and pest infestations.

- **Other City By-laws**
  Several other City by-laws regulate, amongst other things found in By-law 4798, noise, animals and businesses.

In addition to the coverage provided by other existing legislation and by-laws, By-Law 4798, if left in force, would continue to apply only to the former City of Hamilton prior to amalgamation. Use of the By-law would therefore result in the uneven and confusing application of standards across the City.

**ALTERNATIVES FOR CONSIDERATION:**

n/a

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

n/a

**POLICIES AFFECTING PROPOSAL:**
RELEVANT CONSULTATION:

PHS staff has consulted within PHS, with Legal Services and with the Standards and Licensing Section regarding the repeal of By-law 4798. All those consulted agree that service to the public would not be adversely affected by the repeal. It was also noted during the consultation that By-Law 4798 has not been applied in any situation since the enactment of Property Standards By-law No. 03-117 in 2003.

CITY STRATEGIC COMMITMENT:

Community Well-Being is enhanced. Yes X No

Environmental Well-Being is enhanced. Yes X No

Economic Well-Being is enhanced. Yes X No

Does the option you are recommending create value across all three bottom lines? Yes X No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? Yes X No