SUBJECT: Amendments to the Municipal Act, 2001 Respecting: Public Notice Policy; Delegation of Powers and Duties Policy; Procedure By-law Amendments (CL07009) (City Wide)

RECOMMENDATION:

a) That Report CL07009 respecting recent amendments to the Municipal Act, 2001 be received;

b) That the by-law, attached as Appendix “A” to Report CL07009, respecting Public Notice Policy be passed and enacted;

c) That the by-law, attached as Appendix “B” to Report CL07009, respecting Delegation of Powers and Duties Policy be passed and enacted;

d) That the following amendments to Sections 1, 3, 5, 6 and 8 of the City’s Procedural By-law No. 03-301 be approved:

i) Section 1:
1.1(x) “website” means the official City of Hamilton internet website.

ii) Section 3:
3.2.1 Public Notice of Meetings

An advance list of Council meetings may be found by accessing the City’s website at www.hamilton.ca.
iii) **Section 5:**  
5.5.1 Public Notice of Meetings  

An advance list of Standing Committee meetings may be found by accessing the City’s website at [www.hamilton.ca](http://www.hamilton.ca).

iv) **Section 6:**  
6.5 Public Notice of Meetings  

An advance list of Task Force/Advisory/Subcommittee meetings may be found by accessing the City’s website at [www.hamilton.ca](http://www.hamilton.ca).

v) **Section 8 – In Camera Meetings:**  

8.1 No meeting or part thereof shall be in camera unless the subject matter being considered is:

(e) Held for the purposes of educating or training members. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

Kevin C. Christenson  
City Clerk  
Corporate Services

### EXECUTIVE SUMMARY:

Section 270 of the *Municipal Act, 2001*, referring to the adoption of policies will come into force on January 1, 2008.

Paragraph 270 (1) 4 specifically, requires all municipalities to adopt and maintain policies for the “circumstances in which the municipality shall provide notice to the public, including the form, manner and times notice shall be given”. The City currently has a Public Notice By-law No. 06-278, however it requires updating to reflect changes to the Act affected by the passage of Bill 130.

The Appendix “A”, attached to Report CL07009, is a revised by-law, to be enacted and passed as a notice policy in accordance with s. 270 (1) 4. The revised by-law continues to set out, in Schedule “A”, minimum standards for notice. In addition, as in the current By-law, notice requirements in other statutes, such as the *Planning Act*, are acknowledged, but are not reproduced in Schedule “A”. *(See paragraphs 2b)i) and 2c)i) in the attached Appendix “A”.*
Similarly, section 270 (1) 6 of the Act, requires that a municipality shall adopt and maintain a policy with respect to the delegations of powers and duties. The Appendix “B” attached to Report CL07009 is recommended to be enacted and passed as the city’s policy with respect to delegations of powers and duties.

Bill 130 (subsection 238(2.1) also mandated that municipal procedures by-laws make provision for public notice of meetings, including regular or special meetings of council or a committee of council. It is therefore recommended that Sections 3, 5 and 6 of the City’s Procedural By-law No. 03-301 be amended to reflect this notice requirement.

It is further recommended that, in accordance with subsection 239(3.1), another change made by Bill 130, Section 8 (In Camera Meetings) of the Procedural By-law be revised to permit meetings held for educational or training sessions to be closed to the public.

It is also recommended that the definition of “website” be added to Section 1 of the Procedural By-law.

BACKGROUND:

Bill 130, which amended the Municipal Act, 2001 as of January 1, 2007 took away most of the specific requirements for public meetings and public notice and replaced them with a requirement that the municipality have a public notice policy by January 1, 2008. The City of Hamilton passed a Public Notice By-law 06-278, on September 27th, 2006 and staff have been working on adapting this existing by-law to meet the current Act.

The recent amendments to the Act, also call for municipalities to adopt and maintain a policy with respect to the delegations of powers and duties. The City of Hamilton has passed many delegation by-laws since amalgamation in 2001 and it is recommended to enact an all inclusive by-law to meet the policy requirements of the Act. Powers that cannot be delegated are specifically highlighted in Section 23.3 (1) of the Act, which include:

- The power to appoint or remove from office an officer of the municipality whose appointment is required by the Municipal Act.
- The power to pass a by-law under Parts VIII (Finances), Part IX (Fees and Charges), Part X (Power to Impose Taxes).
- 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 a municipality.
Bill 130 also made it mandatory for a municipality to provide for notice of its committee and council meetings in its procedure by-law and permitted meetings held for the purpose of educating or training members of council be closed. Therefore, it is recommended that the City’s Procedural By-law No. 03-301 be amended accordingly.

ANALYSIS/RATIONALE:

The city’s current Public Notice By-law, as approved by Council just over a year ago, provided the basis for the updated by-law attached as Appendix “A” to Report CL07009. In addition to incorporating the changes to the Municipal Act, 2001 made by Bill 130, some improvements have been made such as eliminating duplication of notice for fees or charges by-laws. As with the current Public Notice By-law, the updated by-law provides for the most effective means of reaching residents.

The by-law respecting delegations of powers and duties, attached as Appendix “B” to Report CL07009, is recommended instead of passing individual by-laws for each delegations authorized since amalgamation.

ALTERNATIVES FOR CONSIDERATION:

n/a – Provincially Legislated Requirements

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

As with the existing Public Notice By-law, depending on the type of medium used and the frequency of notice, costs will be incurred to provide the notices. The City is charged for advertising in the range from $0.34 to $3.33 per line, in the city’s community papers circulated by Brabant and The Spectator.

POLICIES AFFECTING PROPOSAL:

The city’s Public Notice By-law 06-278 needs to be repealed and replaced with the updated Public Notice Policy By-law attached as Appendix “A” to Report CL07009.

The City’s Procedural By-law No. 03-301 needs to be amended to provide for public notice of meetings and to permit meetings held for the purpose of training or education to be closed.

RELEVANT CONSULTATION:
In order to meet the requirements of the current Act, Clerks and Legal staff have consulted with various departments to decide what should be removed, added or amended from the Public Notice By-law 06-278.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

Public services and programs are delivered in an equitable manner, co-ordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☐ Yes ☑ No

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

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
CITY OF HAMILTON

BY-LAW NO.

A BY-LAW TO ADOPT AND MAINTAIN A POLICY WITH RESPECT TO THE PROVISION OF PUBLIC NOTICE

WHEREAS paragraph 270(1)4 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a municipality shall adopt and maintain a policy with respect to the circumstances in which it shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given;

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

1. Definitions

In this by-law:

a) “Committee” means a committee of the municipal council of the City of Hamilton;

b) “Council” means the municipal council of the City of Hamilton; and

c) “newspaper” means a printed publication in sheet form, intended for general circulation in the City of Hamilton, published regularly at intervals of not longer than a week, and consisting in great part of news of current events of general interest.

2. Application

a) This by-law, including Schedule “A” which is attached to and forms part of it, is the City of Hamilton policy with respect to the provision of public notice.
b) Notice shall be provided in the circumstances indicated in Column 1 of Schedule “A” and in the form and manner and at the times indicated in Column 3 of Schedule “A”, unless:

i) notice is otherwise prescribed by statute or regulation, in which case notice shall be given in accordance with the statute or regulation;

ii) notice is otherwise prescribed in another by-law, in which case notice may be given either in accordance with this by-law or with the other by-law;

iii) Council directs that other notice is to be given as Council considers adequate; or

iv) the City Manager determines that an emergency situation exists, in which case he or she may waive the notice prescribed in this by-law.

c) No notice is required to be provided in circumstances other than those indicated in Column 1 of Schedule “A”, unless:

i) notice is otherwise prescribed by statute or regulation, in which case notice shall be given in accordance with the statute or regulation;

ii) notice is otherwise prescribed in another by-law, in which case notice shall be given in accordance with the other by-law; or

iii) Council directs that notice is to be given as Council considers adequate.

d) No additional notice shall be required for subsequent meetings where a matter has been deferred or referred to a subsequent meeting by Council or by a Committee.

e) The notice requirements under this by-law are minimum requirements and the City Clerk is authorized to give notice to the public in an extended manner if, in the opinion of the City Clerk and General Manager of the City Department concerned with the matter, the extended manner is reasonable and necessary in the circumstances.

3. Time Periods

The time periods set out in Schedule “A” to this by-law shall be counted by excluding the day of the period on which notice is first given and including the day of the period on which the meeting or other event takes place.
4. The short title of this by-law shall be the “Public Notice Policy By-law”.

5. City of Hamilton By-law No. 06-278 is repealed.

6. This by-law comes into force and effect on January 1, 2008.

PASSED this day of 2007.

____________________________________  ________________________________
MAYOR                                 CLERK
### PUBLIC NOTICE REQUIREMENTS

<table>
<thead>
<tr>
<th>Circumstances</th>
<th>Column 2</th>
<th>Column 3</th>
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</thead>
<tbody>
<tr>
<td><strong>Budget – Adopting Rate or Tax Budget</strong></td>
<td>Public notice required to advise of a minimum of one Committee meeting to consider the enactment of a rate or tax budget by-law. The notice shall specify when and where information in regard to such a by-law may be obtained and shall specify whether any fee or charge may be included.</td>
<td>Despite any other provision of this By-law, no separate or additional public notice shall be required for a fee or charge that forms part of a rate or tax budget by-law for which public notice has been given under this provision.</td>
</tr>
<tr>
<td>(Section 290 and 291, <em>Municipal Act, 2001</em>)</td>
<td></td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td><strong>Enactment of a Fee or Charge By-law</strong></td>
<td>Public notice required to advise of a minimum of one Committee meeting to consider the enactment of a fee or charge by-law. The notice shall specify when and where information in regard to such a by-law may be obtained.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td></td>
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<tr>
<td>Circumstances</td>
<td>Summary of requirement</td>
<td>Form, Manner and Times</td>
</tr>
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<tr>
<td>Seizure of Personal Property – Public Auction</td>
<td>Subject to certain conditions, the treasurer may seize personal property to recover taxes and costs of the seizure. The treasurer or the treasurer’s agent is required give the public notice of the time and place of public auction and of the name of the person whose personal property is to be sold.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the auction. One notice sent by regular pre-paid mail, mailed to the sheriff, bailiff, assignee, liquidator, trustee or licensed trustee in bankruptcy a minimum of 21 days prior to the auction.</td>
</tr>
<tr>
<td>Proposal to Restructure Municipality</td>
<td>Public notice required to advise of holding of public meeting before Council votes on whether to support or oppose a restructuring proposal.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the public meeting.</td>
</tr>
<tr>
<td>Change of Name of Municipality</td>
<td>Public notice required to advise of a Committee meeting to consider enactment of a by-law to change municipality’s name.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
</tbody>
</table>
## Schedule “A’ to By-law No. 07-

<table>
<thead>
<tr>
<th>Circumstances</th>
<th>Summary of requirement</th>
<th>Form, Manner and Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dissolution or Change to Local Board</td>
<td>Notice to local board required to advise of a Committee meeting to consider the enactment of a by-law to dissolve or change local board.</td>
<td>One notice sent by regular prepaid mail, mailed to the local board a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td>Changes to Composition of Council</td>
<td>Public notice required to advise of a Committee meeting to consider enactment of a by-law changing the composition of Council.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td>Establishment of Wards</td>
<td>Public notice required to advise of a Committee meeting to consider enactment of a by-law dividing or redividing into wards or dissolving wards.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td></td>
<td>After a by-law dividing or redividing into wards or dissolving wards has been passed, public notice required to advise of the passing of the by-law. The public notice shall specify the last date for filing a notice of appeal.</td>
<td>One notice published in a newspaper within 15 days of the passing of the by-law.</td>
</tr>
<tr>
<td>Circumstances</td>
<td>Summary of requirement</td>
<td>Form, Manner and Times</td>
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</tr>
<tr>
<td>Enactment of a Procedure By-law (Section 238, Municipal Act 2001)</td>
<td>Public notice required to advise of a Committee meeting to consider the enactment of a procedure by-law.</td>
<td>One notice published in a newspaper a minimum of 14 days prior to the Committee meeting.</td>
</tr>
<tr>
<td>Enactment of a Business Licensing By-law</td>
<td>Public notice required to advise of a Committee meeting to consider the enactment of a business licensing by-law.</td>
<td>One notice published in a newspaper a minimum of 7 days prior to the Committee meeting.</td>
</tr>
<tr>
<td>Naming or Re-Naming a Private Road (Section 48, Municipal Act, 2001)</td>
<td>Public notice required to advise of intention to pass a by-law naming or renaming a private road.</td>
<td>One notice published in a newspaper a minimum of 7 days prior to the Committee meeting to consider the by-law.</td>
</tr>
<tr>
<td>Highway Closure or Permanent Alteration - Access Denied to any Property</td>
<td>Notice to all affected property owners required to advise of a Committee meeting to consider the enactment of a by-law to close or permanently alter highway when such closure or permanent alteration would deny access to a property.</td>
<td>One notice sent by registered mail, mailed to the last known address of the property owner(s) a minimum of 14 days prior to the Committee meeting.</td>
</tr>
</tbody>
</table>
CITY OF HAMILTON

BY-LAW NO.

A BY-LAW TO ADOPT AND MAINTAIN A POLICY WITH RESPECT TO THE DELEGATION OF THE CITY OF HAMILTON’S POWERS AND DUTIES

WHEREAS paragraph 270(1)6 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a municipality shall adopt and maintain a policy with respect to the delegation of its powers and duties;

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

1. **Definitions**
   
   In this By-law:
   
   a) “City” means the City of Hamilton;
   
   b) “City Manager” means the City Manager of the City of Hamilton; and
   
   c) “Council” means the municipal council of the City of Hamilton.

2. **Application**
   
   a) This by-law is the City policy with respect to delegation of its powers and duties.
   
   b) All delegations of powers and duties that were made by Council before the date this By-law comes into force are confirmed and are deemed to be delegations under this policy.
   
   c) All delegations of powers and duties that are made by Council on or after the date this By-law comes into force shall be made:
(i) in accordance with sections 23.1 to 23.5 of the *Municipal Act, 2001*, inclusive, or with any other applicable legal requirement;

(ii) by resolution confirmed by by-law or by by-law alone.

### 3. **General**

a) Unless a power or duty of Council has been expressly delegated, the power or duty remains with Council.

b) Unless otherwise specified, a delegation of a power or duty to any officer or employee of the City includes a delegation to a person who is appointed by the City Manager or by the delegate to act in the capacity of the delegate in their absence.

c) Subject to subsection 3b) and unless otherwise specified, a delegate shall not further delegate any of their delegated powers or duties.

d) Council shall not delegate any of the following powers and duties:

i) The power to appoint or remove from office an officer of the City whose appointment is required by the *Municipal Act, 2001*.

ii) The power to pass a by-law under Parts VIII, IX and X of the *Municipal Act, 2001*.

iii) The power to incorporate corporations in accordance with section 203 of the *Municipal Act, 2001*.

iv) The power to adopt an official plan or an amendment to an official plan under the *Planning Act*.

v) The power to pass a zoning by-law under the *Planning Act*.

vi) The powers to pass a by-law under subsections 108 (1) and (2) and 110 (3), (6) and (7) of the *Municipal Act, 2001*.

vii) 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 the *Municipal Act, 2001*.

viii) The power to adopt or amend the budget of the City.

ix) Any other power or duty that may be prescribed under paragraph 23.3(1)9 of the *Municipal Act, 2001*. 

4. The short title of this by-law shall be the “Delegation Policy By-law”.

5. This by-law comes into force on January 1, 2008.

PASSED this day of 2007.

________________________________________  ________________________________
MAYOR                                CLERK