

HL16.1 Attachment 1

Authority: Board of Health Item [insert Item no], as adopted by the Board of Health on [insert date]

Board of Health for the City of Toronto Health Unit

By-Law No. -2020

To amend By-law No. 2-2019 to enable remote electronic participation in board meetings during an emergency.

WHEREAS the Board of Health for the City of Toronto Health Unit (the "Board") is established under the authority of the Health Protection and Promotion Act ("HPPA") and is a local board of the City of Toronto as defined in section 3(1) of the City of Toronto Act, 2006 ("COTA"); and

WHEREAS subsection 56(1) of the HPPA requires that the Board shall pass by-laws respecting the calling of and proceedings at meetings; and

WHEREAS section 190 of COTA requires that meetings of local boards and their committees will be open to the public unless an exception under subsection 190(2), (3) or (3.1) applies; and

WHEREAS subsections 189(4) and (4.1) of COTA state that the procedure by-law of a local board may provide that a board member can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time and cannot participate electronically in a meeting which is closed to the public; and

WHEREAS, on March 19, 2020, Bill 187, *Municipal Emergency Act, 2020* ("Bill 187"), was enacted by the Legislative Assembly of Ontario and received Royal Assent; and

WHEREAS Bill 187 amended COTA to provide that, where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* (the "Act"), a procedure by-law of a local board may provide that (a) despite subsection 189(4), a member of a local board 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 (b) despite subsection 189(4.1), a member of a local board can participate electronically in a meeting that is closed to the public; and

WHEREAS Bill 187 further amended COTA to provide that a local board may hold a special meeting to amend its procedure by-law for the purposes of permitting electronic participation in meetings as described above during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the Act, and despite subsection 189(4), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting; and

WHEREAS COVID-19 is present within the City of Toronto, and COVID-19 is a disease that is readily communicable from person to person, carries a risk of serious complications, may result in death, and has been declared a pandemic by the World Health Organization; and

WHEREAS, on March 17, 2020, an emergency was declared, by means of Order in Council 518/2020 for purposes of section 7.0.1 of the Act, due to the health risks to Ontario residents arising from COVID-19; and

WHEREAS, on March 23, 2020, an emergency was declared by the Mayor of the City of Toronto for purposes of section 4 of the Act and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19; and

WHEREAS, on March 28, 2020, an Order was made by the Lieutenant Governor in Council under Subsection 7.0.2 (4) of the Act – Organized Public Events, Certain Gatherings, O. Reg. 52/20, prohibiting attendance at any organized public event of more than five people; and

WHEREAS the Board wishes to hold its meetings electronically to comply with Ontario Regulation 52/20 and to minimize risk to its board members and the public in accordance with advice from the City of Toronto's Medical Officer of Health, who has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not in the same household; and

WHEREAS the Board continues to ensure its meetings are open to the public in accordance with section 190 of COTA through the provision of notice of the Board meeting to the public, the live streaming of the electronic meeting, and the provision of access to interested persons to depute to the Board using the same tele-conferencing system as is being used to facilitate the meeting; and

WHEREAS subsection 53(2) of By-law 2-2019 requires that notice to amend it must have been received at a previous meeting; and

WHEREAS, in light of the declared COVID-19 emergency, it is currently impossible to give such notice to amend By-law 2-2019 at a regular meeting prior to amending it to facilitate electronic participation; and

WHEREAS Bill 187 takes priority over this notice requirement of subsection 53(2) of By-law 2-2019 by allowing for procedural by-laws of local boards to be amended at a special meeting at which electronic participants are counted toward determining quorum during a declared emergency; and

WHEREAS the Board has authorized changes to By-law 2-2019 of the Board of Health for the City of Toronto Health Unit to enable remote electronic participation in Board meetings in accordance with the provisions of Bill 187;

The Board of Health for the City of Toronto Health Unit enacts:

1. By-law 2-2019 of the Board of Health for the City of Toronto Health Unit is amended by adding the following new sections:
 - (1) 31.1. During any period where an emergency has been declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*:
 - (1) Despite any other provisions of this by-law, the Board may hold a Meeting where some or all of the Members participate electronically and, where all of the Members participate

electronically, no physical meeting is held.

- (2) Where a Meeting is being held in accordance with subsection (1):
- (a) any Member participating in the Meeting electronically shall be deemed present for the purposes of determining whether a quorum is present under subsection 29(1), and for the purposes of voting on any matter put to a vote under section 18, and for all other purposes;
 - (b) any Member participating in the Meeting electronically shall be entitled to participate in any portion of the Meeting closed to the public in accordance with section 28;
 - (c) this section shall apply with any necessary modifications to Meetings of any Committees of the Board; and
 - (d) this By-law shall apply with any other minor modifications as may be required,
- (2) 53(2.1) Notwithstanding subsection (2), where a Special Meeting of the Board is held under subsection 189(4.3) of the *City of Toronto Act, 2006* to amend this By-law to allow for electronic participation in Board Meetings during a declared emergency, no notice of the proposed amendment is required at a previous regular Board Meeting.

2. This by-law shall come into force on the date it is enacted and passed.

Enacted and passed on _____, 2020.

Chair