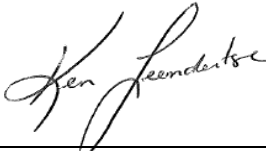




# INFORMATION UPDATE

<b>TO:</b>	Mayor and Members City Council
<b>DATE:</b>	July 29, 2020
<b>SUBJECT:</b>	Physical Distancing By-law (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

The purpose of this Information Update is to advise Council that, because the COVID-19 declared provincial emergency came to an end on July 24, 2020 with the passage of Bill 195, that the City's Physical Distancing By-law is no longer in force.

On July 21, 2020, the Provincial government gave Royal Assent to Bill 195, the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. This new Act came into force on July 24, 2020. The *Reopening Ontario Act* ("ROA") provides the Province with flexibility to address the ongoing risks and effects of the COVID-19 outbreak once the declared provincial emergency under the *Emergency Management and Civil Protection Act* (EMCPA) ended. It provides that:

- Emergency orders in effect under the EMCPA, as of July 24, are continued under the ROA for an initial 30 days.
- The Lieutenant Governor in Council may further extend these orders under the ROA for up to 30 days at a time.
- The Lieutenant Governor in Council may amend certain orders continued under the ROA if the amendment relates to:
  - labour redeployment or workplace and management rules;
  - closure of places and spaces or regulation of how businesses and establishments can be open to provide goods or services in a safe manner;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- compliance with public health advice; or,
- rules related to gatherings and organized public events.

The ROA does not allow new orders to be created.

The City's Physical Distancing By-law was only meant to remain in force during the COVID Emergency which was defined as follows:

**“COVID-19 Emergency”** means the period of time commencing upon the date of passing this By-law until the declaration of emergency made by the Province of Ontario under the Act in relation to the COVID-19 Pandemic has been terminated; [Emphasis added.]

Since the Province's declared state of emergency under the EMCPA has terminated, the City's Physical Distancing By-law is no longer in force.

When the City passed the Physical Distancing By-law initially, it was trying to fill a gap in legislation since the Province had not legislated the two-metre rule at that time.

Now, the provincial rules for areas in stage 3 (including Hamilton) cover physical distancing, fairly comprehensively, for indoor spaces in Ontario Regulation 364/20 (one of the continued emergency orders).

Under that regulation, there is a general obligation for a person responsible for a place of business or facility open to the public to limit the number of persons in the place of business or facility so that every member of the public is able to maintain a physical distance of at least two metres from every other person in the business or facility, except in certain circumstances that are prescribed in the regulation. This rule does not require persons who are in compliance with public health guidance in households or social circles to maintain a physical distance of at least two metres from each other while in a place of business or facility.

Under section 10 of the *Reopening Ontario Act*, every person who fails to comply with a continued section 7.0.2 [emergency] order is guilty of an offence:

- (a) In the case of an individual, subject to clause (b), to a fine of not more than \$100,000 and for a term of imprisonment of not more than one year;
- (b) In the case of an individual who is a director or officer of a corporation, to a fine of not more than \$500,000 and for a term of imprisonment of not more than one year; and
- (c) In the case of a corporation, to a fine of not more than \$10,000,000.

**SUBJECT: Physical Distancing By-law Expired (City Wide) - Page 3 of 3**

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Authorized staff, including Municipal Law Enforcement Officers and Hamilton Police, maintain the authority to enforce orders that have been continued under the *ROA*, including those related to physical distancing, and similar short form wording and set fines (as were provided under the EMCPA) apply as well.

Although Ontario Regulation 364/20 addresses physical distancing, and Municipal Law Enforcement Officers and Hamilton Police continue to be able to enforce those provisions, City staff are reviewing the scope of the regulation to determine if there are additional provisions that may be required and that would warrant a new municipal Physical Distancing By-law.

If you have any questions respecting this communication, please contact Monica Ciriello, Acting Director, Licensing and By-law Services, by phone at Ext. 5809 or by email at [monica.ciriello@hamilton.ca](mailto:monica.ciriello@hamilton.ca).