
June 19, 2020

BULLETIN

**PROVINCE NARROWS PREVIOUS RELAXATIONS
TO LOCAL GOVERNMENT MEETING REQUIREMENTS**

On June 17, 2020, the Minister of Public Safety and Solicitor General made Local Government Meetings and Bylaw Process (COVID-19) Order No. 3 (M192) under s.10 of the *Emergency Program Act* (http://www.bclaws.ca/civix/document/id/mo/mo/2020_m192), repealing and replacing Local Government Meetings and Bylaw Process (COVID-19) Order No. 2 (M139). Under the new Order M192:

- Local government bodies are only permitted to exclude public attendance at an open meeting if, despite using “best efforts”, the local government body is unable to accommodate public attendance in a manner consistent with *Public Health Act* requirements and recommendations.
- Where a local government body holds an open meeting at which the council, board or body members body attend electronically, the local government body must make “best efforts” to have facilities to allow the public to hear or watch the meeting.
- The scope of the relaxation to s.135(3) of the *Community Charter* to permit the adoption of a bylaw at the same meeting as third reading has been narrowed, so that it only applies to municipal bylaws relating to certain financial matters, and no longer applies at all to regional districts and *Islands Trust Act* bodies.
- Public hearings may continue to be held by means of electronic or other communication facilities as permitted by the previous Order M139. The new Order M192 does not introduce any requirement to use “best efforts” to allow in-person attendance at a public hearing.
- Improvement districts continue to have the power to defer their annual general meetings and the preparation of annual financial statements, as previously authorized by Order M139.

Following is a more detailed summary of the changes resulting from Order M192

Excluding Public Attendance at Open Meetings

- Under the Order, a local government body “must use best efforts to allow members of the public to attend an open meeting of the council or body in a manner that is consistent with any applicable requirements or recommendations made under the *Public Health Act*”.
- A local government body “is not required to allow members of the public to attend a meeting if, despite the best efforts of the council or body, the attendance of members of the public cannot be accommodated at a meeting that would otherwise be held in accordance with the applicable requirements or recommendations under the *Public Health Act*”.
- If a local government body does not allow public attendance, the body must pass a resolution stating the basis for not allowing public attendance and “the means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting”. It is noteworthy that the Order does not state that this resolution must be passed before the applicable meeting. The Order states that such a resolution is required “if a council or body does not allow members of the public to attend a meeting”. As a practical matter, it would make little sense if a council or board had to first hold a meeting with public opportunity to attend in the normal way, in order to pass a resolution not to allow public attendance.
- The local government body may pass the required resolution “in reference to a specific meeting or, if the same circumstances apply, more than one meeting”.
- The relaxations and requirements of this part of the Order apply to:
 - municipal councils, as well as bodies under s.93 of the *Community Charter* (including council committees and boards of variance),
 - regional boards, as well as board select and standing committees under s.218 of the *Local Government Act* and other bodies referred to in s.93 of the *Community Charter* as applicable under s.226 of the *Local Government Act*, and
 - *Islands Trust Act* bodies, specifically, the trust council, the executive committee, local trust committees, local trust committee boards of variance and the Islands Trust Conservancy.

Electronic Meetings

- The Order continues to allow the above-mentioned bodies (as well as improvement district boards and their committees under s.689 of the *Local Government Act*) to conduct meetings by means of electronic or other communication facilities, even if not authorized by procedure bylaw and even if some local government body members would be ‘able’ to attend the meeting in person.
- However, the Order now requires that where a meeting is held in such a manner, the local government body “must use best efforts to use electronic or other communication facilities that allow members of the public to hear, or watch and hear, the part of the meeting that is open to the public”.
- If the local government body does not provide such electronic or other communication facilities for the public, the body must pass a resolution stating the basis for not doing so and “the means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting”.
- The local government body may pass the required resolution “in reference to a specific meeting or, if the same circumstances apply, more than one meeting”.
- Where a municipal body or regional district body does provide electronic or other communication facilities for the public, they must comply, as applicable, with s.128(2)(c) and (d) of the *Community Charter* or s.2(2)(d) and (e) of the *Regional District Electronic Meetings Regulation*.

Adopting Bylaws at Same Meeting as Third Reading

- Under the Order, municipal councils may, despite s.135(3) of the *Community Charter*, adopt a bylaw on the same day as 3rd reading but only if the bylaw is in relation to tax sales or is in relation to the following sections of the *Community Charter*:
 - section 165 - financial plans
 - section 177 - revenue anticipation borrowing
 - section 194 - municipal fees
 - section 197 - annual property tax bylaw
 - section 200 - parcel taxes
 - section 202 - parcel tax rolls
 - section 224 - permissive tax exemptions
 - section 226 - revitalization tax exemptions
 - section 235 - alternative municipal tax collection schemes

- The Order no longer contains special powers for regional districts or *Islands Trust Act* bodies to adopt bylaws at the same meeting as 3rd reading.

The powers under Ministerial Order M192 only apply during the period of the Province's declaration of the COVID-19 provincial emergency (including extensions).

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