



# Guidance for Open Meetings, Electronic Meetings and Timing Requirements for Bylaw Passage under Ministerial Order 192

## Introduction

This document provides guidance to local governments on open meetings, electronic meetings and the timing requirements for bylaw passage as outlined in Ministerial Order 192 (replaces M139).

[http://www.bclaws.ca/civix/document/id/mo/mo/2020\\_m192](http://www.bclaws.ca/civix/document/id/mo/mo/2020_m192)

Order 192 repeals and replaces M139, moves local governments towards normal operations as they move through the restart process. The guidance below provides practical advice to local governments while operating under Order M192 and measures that support recommendations of the Provincial Public Health Officer (PHO) and the principles of local government openness, accountability, accessibility and transparency.

This document focuses on the primary changes set out in Order M192. However, all other previous provisions under M139 such as conducting public hearings electronically, allowing for Council, Boards and the Islands Trust Body to meet electronically and deferring improvement district annual general meetings, remain in effect under Order M192. Other rules such as those provided for in legislation or local government procedure bylaws such as: notice requirements; voting rules; and, minutes also continue to apply.

Order M192 continues to provide local governments flexibility in their meeting procedures while moving towards increased public presence at local government meetings where appropriate, for both “in person” and electronic meetings. Order M192 also transitions local governments to more standard rules in relation to bylaw adoption, limiting the previous Order’s broad authority to read and adopt a bylaw on the same day it has been given to third reading to now only apply to the types of bylaws specified in Order M192.

## Guidance for Ministerial Order 192

As local governments transition back towards more normal operations as part of [BC’s Restart Plan](#) -- including holding meetings with the public in attendance -- new or amended policies and procedures are needed to support elected officials, local government staff and the public.

### Open Meetings

Order M192 requires local governments to undertake “best efforts” to meet the legislative requirements for open meetings so the public can continue to participate and understand local government decision-making in a way that is meaningful for them.

Local governments that are unable to meet the PHO recommendations and requirements and hold open meetings where the public can attend in person are now required to adopt a resolution to provide a

rationale for the continued need to meet without the public present. They must also describe what local measures are being taken to meet the principles of openness, transparency and accessibility. The resolution may be in reference to a specific meeting or, if the same circumstances apply, more than one meeting.

Best efforts from local governments include:

- Provide information to the local government staff, elected officials and the public on how the local government is meeting the PHO requirements and recommendations at open meetings:
  - how many members of the public can safely be accommodated at the meeting location while meeting physical distancing guidelines;
  - whether another meeting location has been considered to provide better space for public attendance (and what, if any, are the limitations of that space); and,
  - how public attendance at meetings will be managed if there is limited space; (e.g. restricting numbers of attendees; ensuring no crowds at entranceways).
- Offer alternative means by which the public can provide input on agenda topics before or during a meeting to increase accessibility (e.g. via email, online submission form, phone or written letter);
- If in-person presence will not be physically possible in the meeting room, consider technology for enabling the public to be present by electronic means (e.g. livestream proceedings in a space made available in other facilities where people can watch and hear the open meeting);
- Adjust the agenda and meeting schedules so that matters that are likely to be controversial or attract high public interest are the subject of a separate meeting held in a larger facility;
- Provide draft agendas, minutes and archived video of meetings (if available) to the public to facilitate public understanding of local government decision making; and,
- Document and be able to provide information to the public about what efforts have been made and considered if the local government needs to continue to meet without the public physically present.

For more information on legislative open meeting requirements please see:

<https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/councils-boards/meetings/rules>

### **Electronic Meetings**

Order M192 requires that local governments undertake best efforts to provide facilities that enable the public to hear, or watch and hear, meetings if the meeting is held electronically or council members are attending by means of electronic communication.

If after best efforts, local governments are unable to provide the facilities where the public can hear, or watch and hear a meeting held electronically, they must provide, by resolution, the reasons for not providing facilities that allow the public to hear, or watch and hear, the meeting. The resolution must also describe the means by which they are ensuring openness, transparency, accessibility and accountability in respect of the meeting. The resolution may be in reference to a specific meeting or, if the same circumstances apply, more than one meeting.

Best efforts from local governments include:

- Electronic meetings should attempt to resemble the in-person public meeting as much as possible, adhering to rules of procedural fairness. This means making best efforts to follow existing procedures and to allow members of the public to be heard;
- Explore alternative facilities that provide the means for the public to hear, or watch and hear, the electronic meeting (e.g. a larger venue or a venue that provides technology for the public to hear, or watch and hear the meeting);
- Explore available technology that will enable the public to hear, or watch and hear, the meeting (e.g. livestream, record and provide an archived copy on the local government website, or provide a telephone at the facility for the public to hear the meeting); and,
- Anticipate technology issues and consider allowing additional time on the agenda to resolve technical issues, including the possible lag when live-streaming.

For more information on electronic meetings please see:

<https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/councils-boards/meetings/electronic>

### **Timing Requirements for Bylaw Passage**

Order M192 repeals the authority for the expedited passage of bylaws under M139 which authorized bylaw adoption in the same day as third reading for regional districts and the Islands Trust and narrows the eligibility for the expedited single-day bylaw adoption of certain financial bylaws by municipalities. This recognizes that the number and scope of very time-sensitive emergency-focused decisions needed diminish as local governments move into transition and restart, while providing targeted flexibility for certain municipal financial bylaws.

Allowing for at least a single day between third reading and adoption creates an opportunity for both reflective critical thought and other necessary actions, such as conditions, approvals, and further public input. Providing this time contributes to the principles of good governance, fairness and public process. However, it is critical that that the Province continue to provide municipalities with the tools to quickly and effectively manage their cash flow issues. Many municipal financial bylaws also often have an annual requirement, meaning that they must occur within a specific timeframe, and if not adopted when necessary, could carry significant financial risk for a community.

The following bylaws regarded as important to the financial health and operation of have been authorized for expediated process where adoption can occur on the same day as third reading. These bylaws do not require approval, electoral consent or electoral assent. Bylaw making powers under the *Community Charter*, include:

- Financial Plan (s.165);
- Revenue Anticipation Borrowing (s.177);
- Municipal Fees (s.194);
- Annual Property Tax Bylaw (s.197);
- Parcel Tax Bylaw (s.200);
- Parcel Tax Roll for the Purpose of Imposing Tax (s.202);

- General Authority for Permissive exemptions (s.224);
- Revitalization Tax Exemptions (s.226); and,
- Alternative Municipal Tax Collection Scheme (s. 235).

Bylaw making powers *under the Local Government Act*:

- Tax sales, as referred to in Divisions 4 [Annual Tax Sales] and 5 [Tax Sale Redemption Periods] of the Local Government Finance (COVID-19) Order made by MO 159/2020, or otherwise under Division 7 [Annual Municipal Tax Sale] of Part 16 [Municipal Provisions] of the *Local Government Act*.

The authority for expedited bylaw passage timing is not provided to regional districts as they have the existing authority under LGA s.228 to pass certain bylaws on the same day if there are 2/3 votes cast. It is also not provided to the Islands Trust as it is primarily a land use planning body and have limited involvement in emergency services and therefore are less likely to need the streamlined bylaw passage moving forward.

For more information on the bylaw adoption process please see:

<https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/bylaws/bylaw-adoption-process>

## **Further Guidance on Best Practices and Operational Considerations for Local Government Open Meetings**

Order M192 requires that local governments make best efforts to hold open meetings with the public in attendance. The guidelines below are to help reduce the risk of person-to-person transmission of COVID-19 during open meetings and to assist local governments to create policies and procedures that follow the PHO requirements and recommendations and support the principles of local government openness, transparency and accessibility.

### **Training for Elected Officials and Local Government Staff**

- Establish safe meeting policies and procedures based on the recommendations of the PHO;
- Identify areas of risk for holding open meetings and develop policies and procedures to address risks using the [WorkSafeBC COVID-19 Safety Plan template](#);
- Provide training for elected officials and local government staff including review of amended policies and procedures for open meetings, available technologies, changes to occupancy limits, meeting room flow/setup and how tasks are completed;
- Keep a record of who has completed and attended training and provide a way for elected officials, staff and the public to bring forward health and safety concerns for open meetings;
- Have a plan in place that considers what to do if someone falls ill at an open meeting or starts to feel unwell; and,
- Revisit open meeting procedures and policies every few weeks to ensure best efforts are continuing to be met and to review questions/concerns from the public.

### **Public Notice**

- Provide public notice that meetings of council or board are now open to the public;
- Create a robust communication plan so members of the public understand how to continue to be involved with their local government;
- Include a contact (e.g., corporate officer) in the public notice for the public to contact if they wish to attend remotely, call-in or provide comment on agenda items (*this will depend on technological capabilities of each local government*);
- Include information on the local government website, public notice posting place, social media and other community notice boards that outline the health and safety measures in place for open meetings (e.g., physical distancing; limit on number of people; attendance only if well);
- Include where draft meeting minutes and archived recordings of meetings (if available) may be found on the local government website;
- Include information on how the public can hear, or watch and hear the meeting either online or if another facility is provided for this purpose;
- Provide an e-mail subscription service where the public can sign up to receive notice of upcoming meetings, agendas and minutes or a newsletter with links to these items on the local government website;
- Provide regular updates to the public on changes that are made to procedures and policies for council or board meetings; and,
- If the community newspaper has shut down, notice may be given by alternative means per s.94(4) of the *Community Charter*.

### **Meeting Location**

- Post signage, including occupancy limits and effective hygiene practices at the main entrance to the building and meeting room. Signage should also be posted indicating who is restricted from entering the premises (including visitors and staff with symptoms of COVID-19 or those who feel unwell);
- PHO has developed guidance for the retail food and grocery store sector that requires at least five square metres of unencumbered floor space per person;
- Have a greeter at the front entrance to explain safety procedures;
- Create separate entrance and exit doors and one-way walkways in the meeting space;
- Implement cleaning and sanitizing protocols for the meeting space before, during and after the meeting (e.g., multiple speakers using the same podium) particularly for high touch surfaces;
- Consider leaving doors open so there is no need to touch doors handles;
- Arrange the space in such a way as to meet physical distancing requirements for council or board members, local government staff and the public (e.g., members of the public moving in the space before, during and after the meeting and location of chairs and aisles);

- Post directional signage at the entrance to the meeting room (e.g., that the public may not move chairs or other furniture and no food or drink except closed mugs/water bottles);
- Created designated seating areas for the public and any delegations; and,
- Consider alternative venues if the space can't accommodate the public at all due to physical distancing requirements and if it won't pose challenges for the technology being used. Local governments may by bylaw or resolution provide that meetings be held outside of the municipal boundaries (s.134.1 *Community Charter* and s.224 *Local Government Act*) Typically, this provision is in the local government procedure bylaw.

### **Elected Officials Attendance at Meeting Location**

- If some members of council or board choose to attend by means of electronic communication, ensure that if quorum is lost there is a procedure in place to either suspend proceedings until quorum is achieved or cancel or postpone the meeting;
- Ensure council or board members can hear those members attending by electronic means;
- Amend the procedure bylaw to allow for electronic special meetings and electronic participation at regular meetings by some members (if this is not already provided for);
- In the procedure bylaw, develop guidelines to assist with electronic meeting process including how the presiding member will take a vote on a motion or bylaw adoption; and,
- Outline the process for how members attending electronically can participate in the debate.

### **Local Government Staff at Meeting Location**

- Provide an option for local government staff presenting on agenda topics to present remotely or call-in to the meeting; and,
- Ensure physical distancing is in place for local government staff at the meeting.

### **Public Attendance at Meeting Location**

- Provide space for the public to physically attend the meeting, but also encourage members of the public to attend remotely if this option is available;
- Create a local government webpage with a picture of the public gallery showing the meeting space, how physical distancing requirements are being met and outline cleaning and sanitizing protocols;
- Provide information on how many members of the public can reasonably be accommodated in the meeting space, while meeting physical distancing requirements;
- Outline how in-person attendance at meetings will be managed at the start, during and after the meeting;
- Provide access to hand sanitizer before members of the public enter the building or meeting room and post signage indicating those who are unwell must stay home;

- Have a staff member act as a greeter to explain the new protocols in place as the public enters the building (e.g. how to fill the public seating area – left to right or what to do if they must leave during the meeting or attend the washroom);
- Provide a designated seating area for delegations to limit how far they have to move through the space to present to council or board; and,
- Clearly mark how the public may enter and exit the space.

### **Agendas**

- Provide agendas early if possible and make them available online and at the public notice posting place for the public to review what is coming up (this may help the public make an informed decision as to whether they wish to attend the meeting);
- At the top of the agenda or in some other way clearly state how the public may provide comment on agenda items both at the meeting and via email, online submission form, phone or written letter prior to the meeting and how these will be addressed at the meeting;
- Consider bunching agenda topics that may be of greater public interest at the beginning so a break can be provided afterwards if people wish to leave the meeting or consider controversial topics at different meetings;
- Provide opportunities for the public to leave at different points during the meeting;
- Move the consent agenda to the end of the meeting;
- Provide opportunities in the agenda to allow people to leave the meeting room safely; this may assist in not having everyone leave at the same time;
- If possible, postpone controversial agenda topics or consider using other engagement tools so the public can provide input outside of a meeting; and,
- Provide information to the public on how comments received via other mechanisms (email; letter; public engagement tool) will be presented at a council or board meeting or incorporated into the agenda.

### **Provide Opportunities for the Public to Watch and Hear Electronically (if technology is available)**

- Provide easy to understand information on the local government website, public notice posting place and in other community spaces for the public to understand how they can attend electronically (if available) including:
  - how to call in and listen if this option is available;
  - where to view a livestream or archived version of the meeting; and,
  - how to ask questions during question period if this is an option;
- Make archived versions of recorded meetings and meeting minutes available to the public as soon as possible after the meeting; and,

- Ensure the chair advises participants that the meeting is being recorded and include a statement to this effect in the agenda.

### **Opportunities for the Public to Provide Input on Meeting Topics**

- Actively promote others means for the public to participate in council or board meetings;
- Ensure the process for the public to submit comments on agenda topics is well understood and there are several options available to support accessibility (e.g., by email, letter, phone, drop-box);
- If only limited seating is available for the public and there is a public question period, consider how questions from those in attendance and those attending electronically (if available) will be managed;
- Explore options for expanded on-line or in-person public engagement opportunities for specific projects and issues (particularly those that may be potentially controversial); and,
- Consider ways in which questions not answered at the meeting may be made public.

### **Delegations at Open Meetings**

- Outline a clear method for delegations to participate in the meeting on the local government website;
- Continue to accept in-person delegations if physical distancing requirements can be met and the item is on the agenda;
- Provide alternative methods for delegations to present (e.g., written; electronic; drop-box; pre-recorded video or real-time presentation);
- Provide a reserved spot for a delegation to sit if they are presenting at the meeting location; and,
- Schedule delegations at the beginning of the meeting or stagger them so there are fewer people at the meeting location.

### **Minutes**

- Post draft minutes of open meetings on the local government website and at the public notice posting place or other designated places after the meeting; and,
- If council or board members or local government staff attend electronically, reflect disconnections and connections in the meeting minutes.

### **Technical Difficulties**

- Create a plan for when technical difficulties arise, including the process if a technical failure does not allow for the meeting to continue;
- Do a trial run with volunteers if using new technology or in a new location;
- Have a staff member on standby who is the contact for participants with technical issues;

- Ensure accessibility considerations have been made for people with hearing or visual impairments;
- Solidify roles and responsibilities should there be technology issues or a technology failure;
- Practice organizing and incorporating public comments into the meeting;
- Provide etiquette guidelines for those attending online or by phone (e.g., muting themselves unless speaking, stating full name, behavior expectations or they may be dropped from the meeting);
- If the public is able to participate in a live streamed meeting, consider what controls the moderator has and consider a chat option where questions can be asked; and,
- Consider privacy and security of the platform being used.

## **Background**

### **Open Meetings**

The *Community Charter* (CC), Division 3 – Open Meetings s.89 and *Local Government Act* (LGA) s.226(1)(a) provide that council and regional district board meetings must be open to the public unless the subject matter relates to one of the items listed in the closed meetings section of the legislation.

Under legislation all meetings of local government elected (councils and boards) and appointed bodies (such as committees, commissions and other subsidiary bodies) must be open to the public. Discussion and decisions must occur in properly called meetings, where the public can review the agenda and listen to the debate to understand how and why a council or board is making decisions. The requirement for open meetings is broad, in keeping with the principles of openness, transparency and accountability.

The previous Orders under the *Emergency Program Act* recognized the need for local governments to make necessary decisions and provided an override to existing open meeting rules and waived the requirement for councils (including the City of Vancouver), regional district boards and the Islands Trust to hold meetings in a venue that is open to the public.

### **Electronic Meetings**

Section 128 of the CC and s.226 of the LGA provide that local governments may hold special meetings electronically and allow council or board members to attend regular meetings by means of electronic communication if it is authorized in their procedure bylaw. The legislation provides that except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the meeting location.

The previous Orders under the *Emergency Program Act* recognized the need for local governments to continue to be able to hold meetings while following physical distancing guidelines and provided an override to existing rules and procedure bylaws and allowed councils (including the City of Vancouver), regional district boards and the Islands Trust to hold all or part of any meeting electronically. It also waived the requirement to provide facilities that enable to public to hear, or watch and hear, the meeting.

## Timing Requirements for Bylaw Passage

Section 135(3) of the CC requires municipal councils to leave one day between third reading of a bylaw and final adoption. Section 228 of the LGA provides that regional districts may adopt a bylaw in the same meeting if the bylaw receives at least 2/3 votes cast and it does not require approval, consent, or assent under any Act. Bylaws for the Islands Trust are subject to section 11 of the Islands Trust Regulation [application of CC and LGA] where trust bodies are subject to the bylaw timing requirements under the *Community Charter* and *Local Government Act*.

The previous Orders under the Emergency Program Act provided authority for municipalities, regional districts, and the Islands Trust to adopt bylaws on the same day as third reading with some limitations. It relaxed the requirements under s.135(3) of the CC and allowed municipalities to pass bylaws on the same day as third reading. It further relaxed the requirement for regional district bylaws by allowing for same day adoption if the motion for adoption received the majority of the votes cast (rather than 2/3 votes cast), provided that the bylaw did not require approval, consent, or assent under an Act before adoptions.

## Additional Resources:

BC Centre for Disease Control

- [Event Planning](#)
- [General COVID-19 Information](#)

### WorkSafeBC

- [Municipalities and COVID-19 safety](#)
- [WorkSafeBC Safety Plan Template](#)
- [WorkSafeBC Signs and Templates](#)
- [General Guide to Reducing Risk https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation](https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation)

### BC Municipal Safety Association

- [Pandemic Exposure Control COVID-19](#)

### Government of Canada

- [Risk assessment for mass gatherings](#)

### World Health Organization

- [Planning recommendations for mass gatherings](#)
- [Getting workplace ready for COVID-19](#)

## [Ombudsperson's Guide to Open Meetings](#)

## [AMTCO Electronic Council Meeting Resources](#)

### Electronic Participation Procedure:

[https://amcto.com/Resources-Publications/Resources/Electronic-Council-Meetings/Electronic\\_Meeting\\_Procedure\\_2020.aspx](https://amcto.com/Resources-Publications/Resources/Electronic-Council-Meetings/Electronic_Meeting_Procedure_2020.aspx)

**Procedure for Electronic Participation in City Council Meetings:**

[https://amcto.com/Resources-Publications/Resources/Electronic-Council-Meetings/Procedures\\_for\\_City\\_Council\\_Participation\\_in\\_Elect.aspx](https://amcto.com/Resources-Publications/Resources/Electronic-Council-Meetings/Procedures_for_City_Council_Participation_in_Elect.aspx)