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| <b>To:</b>      | <b>Executive Committee</b>                                                                                                    | <b>For the Meeting of:</b> | July 8, 2020 |
| <b>From:</b>    | <b>CAO</b>                                                                                                                    | <b>Date Prepared:</b>      | July 2, 2020 |
| <b>SUBJECT:</b> | <b>Ministerial Order #192 and Bill 19 and the implications for public meetings, hearings and bylaws for the Islands Trust</b> |                            |              |

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**PURPOSE:** To provide information on Ministerial Order #192 and the recent reading of Bill 19 in the provincial legislature, and how they affect public meetings, hearings and bylaws of the Islands Trust.

## BACKGROUND:

There are three interrelated senior government orders or pieces of legislation that affect operation of Local Trust Committee (LTC), Council, Council Committees, and Islands Trust Conservancy meetings at the Islands Trust:

- 1) **Ministerial Order 139**- May 1, 2020. This order was provided under the Provincial State of Emergency by Minister Farnsworth and in general it provides local governments and the Islands Trust the ability to hold meetings without the public present, to pass bylaws in one sitting, to hold electronic meetings and to hold public hearings electronically. This order has been the subject of previous reporting to Executive Committee (EC) and Trust Council and has been the primary order that we have operated under over the last two months.
- 2) **Ministerial Order 192** – June 17, 2020. This order replaces Ministerial Order 139 and reflects the Provincial Government’s Restart Plan associated with the COVID 19 Pandemic. It repeals and replaces MO 139 and moves local governments towards normal operations with public meetings and passage of bylaws. It requires local governments to undertake ‘best efforts’ to meet the legislative requirements for open meetings so the public can participate, including in person meetings. However, it recognizes the potential limitations imposed by the current pandemic and requires that a local government, if it cannot provide access to a meeting by the public, will need to pass a resolution providing a rationale for the exclusion. The resolution must include:
  - a. The basis for holding the meeting without members of the public in attendance,
  - b. The means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting.

Also, bylaws, excepting financial bylaws, can no longer be approved in one sitting of Council. Regional Districts and the islands Trust have been specifically removed from having the ability to pass final reading on the same day as 3<sup>rd</sup> reading.

In late June, the Provincial Ombudsperson released a [report](#) that found that MO 098 (not related nor described in this report) and MO 139, made by Minister Farnsworth, Minister of Public Safety and the Solicitor General, went beyond the authority assigned to him under the *Emergency Program Act* and are contrary to law. The government was provided a recommendation by the Ombudsperson to enact legislation as soon as possible to validate the orders. Subsequently,

- 3) Bill 19 – the *COVID19 Related Measures Act*, was introduced for First Reading on June 22. This legislation does a number of things, including, most specifically of interest to the Islands Trust:
- Validates the legislation of MO 098 and MO 192 above and is retroactive, so the protections provided by the orders will stand.
  - Provides that anything enacted by way of the bill (special powers under the Provincial State of Emergency) will continue for 90 days after the final extension of the declaration of the state of emergency.

## ANALYSIS

How do these actions impact the operation of the Islands Trust?

- Upon reading MO 192 there appears to be a need to reconcile section 6 and Section 11. Section 6 requires that the Trust “must use best efforts to allow members of the public to attend an open meeting of the trust body” (read ‘in person’ into this meaning), and that if the body cannot accommodate members of the public at a meeting then an explanatory resolution be passed. Section 11 allows for electronic meetings despite LTC bylaws and Islands trust Regulation requirements. Similar to Section 6, Section 11 requires that the Trust “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”, and that if the body cannot accommodate members of the public electronically then an explanatory resolution be passed. Upon review and discussion with Ministry officials, the contrast between these two sections is best considered as follows:
  - Ministry Staff has indicated that under MO 192, the preference is for regular in-person public meetings as soon as they can be safely provided;
  - The Islands Trust, notwithstanding section 6, can proceed with electronic meetings that provide for the public to hear, or watch and hear, open parts of the meeting.
  - If however, we are conducting an open, in-person meeting, and there are limitations (based upon social distancing) on the number of people who can attend the meeting, we will need to pass an explanatory resolution and provide as many alternative means of providing transparency as possible, i.e. Zoom, telephone.
- Given the above, LTC, Trust Council, council committees, and the Islands Trust Conservancy meetings can proceed electronically as they have since May 1 for the short term. Executive Committee, with the advice of staff, as part of the Islands Trust Safety Plan will review timing of reintroduction of in-person meetings on a regular basis.
- We cannot have ‘non-public’ regular meetings (other than in-camera meetings) unless we pass a resolution providing an appropriate rationale. The Islands Trust has rarely, if ever, during the pandemic held a non-public meeting, so this should not affect current operations. We will be able to continue to have electronic LTC, Trust Council, council committees, and Islands Trust Conservancy meetings until 90 days after the end of the declaration of a provincial state of emergency.
- We can no longer give final reading to a bylaw on the same day 3<sup>rd</sup> reading is given. This would only affect Trust Council as LTCs require approval of the Executive Committee prior to adoption of a bylaw.
- Bill 19 provides the transition powers that the Islands Trust requires to operate in our current fashion. We were concerned that if the state of emergency was lifted that we would be required to return to in-person public meetings for all LTCs, Trust Council and Committee meetings even though the Provincial Health Officers order to not have meetings of more than 50 people could be in place. Further, this would have compelled the Islands Trust, if it held an electronic meeting, to provide a public gathering place. Bill 19 provides a three-month

transition from the end of the state of emergency, theoretically allowing a transition to more regular public meeting procedures.

- These interrelated senior government actions provide flexibility in delivering public meetings. If health indicators across the province continue to be positive there is the possibility that we would return to in-person meetings in the near future.

**ATTACHMENT(S):**

1. Ministerial Order 192, Minister of Public Safety and the Attorney General
2. Government of BC, Guidance for Open Meetings, electronic Meetings and timing requirements for Bylaw Passage Under Ministerial Order 192.
3. Young Andersons client bulletin regarding Bill 19

**FOLLOW-UP:** The matter of open meeting rules will be closely monitored by staff and reporting provided to LTCs and Executive Committee.

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**Reviewed By/Date:** David Marlor, Director, Local Planning Services/July 3, 2020

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF PUBLIC SAFETY AND  
SOLICITOR GENERAL

*Emergency Program Act*

Ministerial Order No. M192

WHEREAS a declaration of a state of emergency throughout the whole of the Province of British Columbia was declared on March 18, 2020;

AND WHEREAS local governments, including the City of Vancouver, and related bodies must be able to conduct their business in accordance with public health advisories to reduce the threat of COVID-19 to the health and safety of members and employees of local government and related bodies and members of the public;

AND WHEREAS it is recognized that public participation in local governance is an essential part of a free and democratic society and is important to local governments' purpose of providing good government to communities;

AND WHEREAS the threat of COVID-19 to the health and safety of people has resulted in the requirement that local governments and related bodies implement necessary limitations on this public participation;

AND WHEREAS section 10 (1) of the *Emergency Program Act* provides that I may do all acts and implement all procedures that I consider necessary to prevent, respond to or alleviate the effects of any emergency or disaster;

I, Mike Farnworth, Minister of Public Safety and Solicitor General, order that

- (a) the Local Government Meetings and Bylaw Process (COVID-19) Order No. 2 made by MO 139/2020 is repealed, and
- (b) the attached Local Government Meetings and Bylaw Process (COVID-19) Order No. 3 is made.

Date

17/06/2020

Minister of Public Safety and Solicitor General

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Program Act*, R.S.B.C. 1996, c. 111, s. 10

Other: MO 73/2020; MO 139/2020; OIC 310/2020

## LOCAL GOVERNMENT MEETINGS AND BYLAW PROCESS (COVID-19) ORDER NO. 3

### Division 1 – General

#### Definitions

1 In this order:

“**board**” has the same meaning as in the Schedule of the *Local Government Act*;

“**council**” has the same meaning as in the Schedule of the *Community Charter*;

“**improvement district**” has the same meaning as in the Schedule of the *Local Government Act*;

“**local trust committee**” has the same meaning as in section 1 of the *Islands Trust Act*;

“**municipality**” has the same meaning as in the Schedule of the *Community Charter*;

“**municipality procedure bylaw**” has the same meaning as “procedure bylaw” in the Schedule of the *Community Charter*;

“**regional district**” has the same meaning as in the Schedule of the *Local Government Act*;

“**regional district procedure bylaw**” means a procedure bylaw under section 225 of the *Local Government Act*;

“**trust body**” means

- (a) the trust council,
  - (b) the executive committee,
  - (c) a local trust committee, or
  - (d) the Islands Trust Conservancy,
- as defined in the *Islands Trust Act*;

“**Vancouver council**” has the same meaning as “Council” in section 2 of the *Vancouver Charter*;

“**Vancouver procedure bylaw**” means a bylaw under section 165 [*by-laws respecting Council proceedings and other administrative matters*] of the *Vancouver Charter*.

#### Application

- 2
- (1) This order only applies during the period that the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* and any extension of the duration of that declaration is in effect.
  - (2) This order replaces the Local Government Meetings and Bylaw Process (COVID-19) Order No. 2 made by MO 139/2020.

## Division 2 – Open Meetings

### Open meetings – municipalities

- 3 (1) A council, or a body referred to in section 93 *[application of rule to other bodies]* of the *Community Charter*, 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*.
- (2) A council or 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*.
- (3) If a council or body does not allow members of the public to attend a meeting, as contemplated in subsection (2) of this section,
- (a) the council or body must state the following, by resolution:
    - (i) the basis for holding the meeting without members of the public in attendance;
    - (ii) the means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting, and
  - (b) for the purposes of Division 3 *[Open Meetings]* of Part 4 *[Public Participation and Council Accountability]* of the *Community Charter*, the meeting is not to be considered closed to the public.
- (4) The council or body may pass a resolution under subsection (3) (a) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (5) This section applies despite
- (a) Division 3 *[Open Meetings]* of Part 4 *[Public Participation and Council Accountability]* of the *Community Charter*, and
  - (b) any applicable requirements in a municipality procedure bylaw of a council.

### Open meetings – regional districts

- 4 (1) A board, a board committee established under section 218 *[appointment of select and standing committees]* of the *Local Government Act*, or a body referred to in section 93 *[application of rule to other bodies]* of the *Community Charter* as that section applies under section 226 *[board proceedings: application of Community Charter]* of the *Local Government Act*, must use best efforts to allow members of the public to attend an open meeting of the board, board committee or body in a manner that is consistent with any applicable requirements or recommendations made under the *Public Health Act*.
- (2) A board, board committee or body is not required to allow members of the public to attend a meeting if, despite the best efforts of the board, board committee 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*.



- (3) If a board, board committee or body does not allow members of the public to attend a meeting, as contemplated in subsection (2) of this section,
  - (a) the board, board committee or body must state the following, by resolution:
    - (i) the basis for holding the meeting without members of the public in attendance;
    - (ii) the means by which the board, board committee or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting, and
  - (b) for the purposes of Division 3 [*Open Meetings*] of Part 4 [*Public Participation and Council Accountability*] of the *Community Charter* as that Division applies to a regional district under section 226 of the *Local Government Act*, the meeting is not to be considered closed to the public.
- (4) The board, board committee or body may pass a resolution under subsection (3) (a) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (5) This section applies despite
  - (a) Division 3 [*Open Meetings*] of Part 4 [*Public Participation and Council Accountability*] of the *Community Charter*,
  - (b) section 226 [*board proceedings: application of Community Charter*] of the *Local Government Act*, and
  - (c) any applicable requirements in a regional district procedure bylaw of a board.

#### **Open meetings – Vancouver**

- 5 (1) The Vancouver council, or a body referred to in section 165.7 [*application to other city bodies*] of the *Vancouver Charter*, must use best efforts to allow members of the public to attend an open meeting of the Vancouver council or the body in a manner that is consistent with any applicable requirements or recommendations made under the *Public Health Act*.
- (2) The Vancouver council or a body is not required to allow members of the public to attend a meeting if, despite the best efforts of the Vancouver council or the 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*.
- (3) If the Vancouver council or a body does not allow members of the public to attend a meeting, as contemplated in subsection (2) of this section,
  - (a) the Vancouver council or the body must state the following, by resolution:
    - (i) the basis for holding the meeting without members of the public in attendance;
    - (ii) the means by which the Vancouver council or the body is ensuring openness, transparency, accessibility and accountability in respect of the meeting, and
  - (b) for the purposes of section 165.1 [*general rule that meetings must be open to the public*] of the *Vancouver Charter*, the meeting is not to be considered closed to the public.

- (4) The Vancouver council or a body may pass a resolution under subsection (3) (a) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (5) This section applies despite
  - (a) section 165.1 of the *Vancouver Charter*, and
  - (b) any applicable provision in the Vancouver procedure bylaw.

#### **Open meetings – trust bodies**

- 6 (1) A trust body, or a board of variance established by a local trust committee under section 29 (1) [*land use and subdivision regulation*] of the *Islands Trust Act*, must use best efforts to allow members of the public to attend an open meeting of the trust body or board of variance in a manner that is consistent with any applicable requirements or recommendations made under the *Public Health Act*.
- (2) A trust body or board of variance is not required to allow members of the public to attend a meeting if, despite the best efforts of the trust body or board of variance, 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*.
- (3) If a trust body or board of variance does not allow members of the public to attend a meeting, as contemplated in subsection (2) of this section,
  - (a) the trust body or board of variance must state the following, by resolution:
    - (i) the basis for holding the meeting without members of the public in attendance;
    - (ii) the means by which the trust body or board of variance is ensuring openness, transparency, accessibility and accountability in respect of the meeting, and
  - (b) For the purposes of section 11 [*procedures to be followed by local trust committees*] of the *Islands Trust Act*, the meeting is not to be considered closed to the public.
- (4) A trust body or board of variance may pass a resolution under subsection (3) (a) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (5) This section applies despite
  - (a) section 11 [*application of Community Charter and Local Government Act to trust bodies*] of the *Islands Trust Regulation*, B.C. Reg. 119/90, and
  - (b) any applicable requirements in a procedure bylaw of a trust body.

### **Division 3 – Electronic Meetings**

#### **Electronic meetings – municipalities**

- 7 (1) A council, or a body referred to in section 93 [*application of rule to other bodies*] of the *Community Charter*, may conduct all or part of a meeting of the council or body by means of electronic or other communication facilities.



- (2) A member of a council or body who participates in a meeting by means of electronic or other communication facilities under this section is deemed to be present at the meeting.
- (3) When conducting a meeting under subsection (1), a council or 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.
- (4) If a council or body does not use electronic or other communication facilities as described in subsection (3), the council or body must state the following, by resolution:
  - (a) the basis for not using 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;
  - (b) the means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting.
- (5) A council or body may pass a resolution under subsection (4) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (6) Section 128 (2) (c) and (d) [*electronic meetings and participation by members*] of the *Community Charter* does not apply in respect of a meeting conducted by means of electronic or other communication facilities under this section unless a council or body proceeds as described in subsection (3) of this section, in which case those paragraphs apply.
- (7) This section applies despite
  - (a) section 128 of the *Community Charter*, and
  - (b) any applicable requirements in a municipality procedure bylaw of a council.

#### **Electronic meetings – regional districts**

- 8 (1) A board, a board committee established under section 218 [*appointment of select and standing committees*] of the *Local Government Act*, or a body referred to in section 93 [*application of rule to other bodies*] of the *Community Charter* as that section applies under section 226 [*board proceedings: application of Community Charter*] of the *Local Government Act*, may conduct all or part of a meeting of the board, board committee or body by means of electronic or other communication facilities.
- (2) A member of a board, board committee or body who participates in a meeting by means of electronic or other communication facilities under this section is deemed to be present at the meeting.
- (3) When conducting a meeting under subsection (1), a board, board committee or 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.
- (4) If a board, board committee or body does not use electronic or other communication facilities as described in subsection (3), the board, board committee or body must state the following, by resolution:

- (a) the basis for not using 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;
  - (b) the means by which the board, board committee or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting.
- (5) A board, board committee or body may pass a resolution under subsection (4) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (6) Section 2 (2) (d) and (e) [*electronic meetings authorized*] of the Regional District Electronic Meetings Regulation, B.C. Reg. 271/2005, does not apply in respect of a meeting conducted by means of electronic or other communication facilities under this section unless a board, board committee or body proceeds by using electronic or other communication facilities as described in subsection (3) of this section, in which case those paragraphs apply.
- (7) This section applies despite
- (a) section 221 [*electronic meetings and participation by members*] of the *Local Government Act*,
  - (b) the Regional District Electronic Meetings Regulation, and
  - (c) any applicable requirements in a regional district procedure bylaw of a board.

#### **Electronic meetings – Vancouver**

- 9 (1) The Vancouver council, or a body referred to in section 165.7 [*application to other city bodies*] of the *Vancouver Charter*, may conduct all or part of a meeting of the Vancouver council or the body by means of electronic or other communication facilities.
- (2) A member of the Vancouver council or of a body who participates in a meeting by means of electronic or other communication facilities under this section is deemed to be present at the meeting.
- (3) When conducting a meeting under subsection (1), the Vancouver council or a 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.
- (4) If the Vancouver council or a body does not use electronic or other communication facilities as described in subsection (3), the Vancouver council or the body must state the following, by resolution:
- (a) the basis for not using 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;
  - (b) the means by which the Vancouver council or the body is ensuring openness, transparency, accessibility and accountability in respect of the meeting.
- (5) The Vancouver council or a body may pass a resolution under subsection (4) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.

- (6) Section 2 (2) (c) and (d) [*electronic meetings authorized*] of the City of Vancouver Council Electronic Meetings Regulation, B.C. Reg. 42/2012, does not apply in respect of a meeting conducted by means of electronic or other communication facilities under this section unless the Vancouver council or a body proceeds by using electronic or other communication facilities as described in subsection (3) of this section, in which case those paragraphs apply.
- (7) This section applies despite
  - (a) section 164.1 [*meeting procedures*] of the *Vancouver Charter*,
  - (b) the City of Vancouver Council Electronic Meetings Regulation, and
  - (c) any applicable provision in the Vancouver procedure bylaw.

**Electronic meetings – improvement districts**

- 10**
- (1) An improvement district board, or a committee of an improvement district board appointed or established under section 689 [*appointment of select and standing committees*] of the *Local Government Act*, may conduct all or part of a meeting of the improvement district board or committee of an improvement district board, other than an annual general meeting, by means of electronic or other communication facilities.
  - (2) A member of an improvement district board or committee of an improvement district board who participates in a meeting by means of electronic or other communication facilities under this section is deemed to be present at the meeting.
  - (3) When conducting a meeting under subsection (1), an improvement district board or committee of an improvement district board 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.
  - (4) If an improvement district board or committee of an improvement district board does not use electronic or other communication facilities as described in subsection (3), the improvement district board or committee of an improvement district board must state the following, by resolution:
    - (a) the basis for not using 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;
    - (b) the means by which the improvement district board or committee of an improvement district board is ensuring openness, transparency, accessibility and accountability in respect of the meeting.
  - (5) An improvement district board or committee of an improvement district board may pass a resolution under subsection (4) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
  - (6) This section applies despite
    - (a) section 686 [*meeting procedure – improvement district board*] of the *Local Government Act*, and
    - (b) any applicable requirements in a procedure bylaw of an improvement district board.

### Electronic meetings – trust bodies

- 11 (1) A trust body, or a board of variance established by a local trust committee under section 29 (1) [*land use and subdivision regulation*] of the *Islands Trust Act*, may conduct all or part of a meeting of the trust body or board of variance by means of electronic or other communication facilities.
- (2) A member of a trust body or board of variance who participates in a meeting by means of electronic or other communication facilities under this section is deemed to be present at the meeting.
- (3) When conducting a meeting under subsection (1), a trust body or board of variance 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.
- (4) If a trust body or board of variance does not use electronic or other communication facilities as described in subsection (3), the trust body or board of variance must state the following, by resolution:
- (a) the basis for not using 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;
  - (b) the means by which the trust body or board of variance is ensuring openness, transparency, accessibility and accountability in respect of the meeting.
- (5) A trust body or board of variance may pass a resolution under subsection (4) in reference to a specific meeting or, if the same circumstances apply, more than one meeting.
- (6) This section applies despite
- (a) section 2 [*electronic meetings authorized*] of the *Islands Trust Electronic Meetings Regulation*, B.C. Reg. 283/2009, and
  - (b) any applicable requirements in a procedure bylaw of a trust body or applicable to a board of variance.

### Division 4 – Timing Requirements

#### Timing requirement for bylaw passage – municipalities

- 12 Despite section 135 (3) [*requirements for passing bylaws*] of the *Community Charter*, a council may adopt a bylaw on the same day that a bylaw has been given third reading if the bylaw is made in relation to
- (a) the following sections of the *Community Charter*:
    - (i) section 165 [*financial plan*];
    - (ii) section 177 [*revenue anticipation borrowing*];
    - (iii) section 194 [*municipal fees*];
    - (iv) section 197 [*annual property tax bylaw*];
    - (v) section 200 [*parcel tax bylaw*];
    - (vi) section 202 [*parcel tax roll for purpose of imposing tax*];
    - (vii) section 224 [*general authority for permissive exemptions*];



- (viii) section 226 [*revitalization tax exemptions*];
- (ix) section 235 [*alternative municipal tax collection scheme*], and
- (b) 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*.

## **Division 5 – Public Hearings**

### **Public hearings – Local Government Act**

- 13** (1) A public hearing under Part 14 [*Planning and Land Use Management*] or 15 [*Heritage Conservation*] of the *Local Government Act*, including a public hearing under section 29 (1) (b) [*land use and subdivision regulation*] of the *Islands Trust Act*, may be conducted by means of electronic or other communication facilities.
- (2) For the purposes of providing notice of a public hearing to be conducted under subsection (1),
- (a) any notice of the public hearing must include instructions for how to participate in the public hearing by means of electronic or other communication facilities,
  - (b) any material that is to be made available for public inspection for the purposes of the public hearing may be made available online or otherwise by means of electronic or other communication facilities, and
  - (c) a reference to the place of a public hearing includes a public hearing that is conducted by means of electronic or other communication facilities.
- (3) This section applies to delegated public hearings.
- (4) This section applies despite the following provisions:
- (a) section 124 [*procedure bylaws*] of the *Community Charter*;
  - (b) section 225 [*procedure bylaws*] of the *Local Government Act*;
  - (c) section 11 [*application of Community Charter and Local Government Act to trust bodies*] of the *Islands Trust Regulation*, B.C. Reg. 119/90;
  - (d) section 2 [*electronic meetings authorized*] of the *Islands Trust Electronic Meetings Regulation*, B.C. Reg. 283/2009;
  - (e) any applicable requirements in a procedure bylaw made under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*.

### **Public hearings – Vancouver Charter**

- 14** (1) A public hearing under Division 2 [*Planning and Development*] of Part 27 [*Planning and Development*] of the *Vancouver Charter* may be conducted by means of electronic or other communication facilities.
- (2) For the purposes of providing notice of a public hearing to be conducted under subsection (1),
- (a) any notice of the public hearing must include instructions for how to participate in the public hearing by means of electronic or other communication facilities,



- (b) any material that is to be made available for public inspection for the purposes of the public hearing may be made available online or otherwise by means of electronic or other communication facilities, and
  - (c) a reference to the place of a public hearing includes a public hearing that is conducted by means of electronic or other communication facilities.
- (3) This section applies despite
- (a) section 566 [*amendment or repeal of zoning by-law*] of the *Vancouver Charter*, and
  - (b) any applicable provision in the Vancouver procedure bylaw.

## **Division 6 – Deferral of Annual Requirements**

### **Annual general meeting and requirements – improvement districts**

- 15**
- (1) An improvement district may defer an annual general meeting that is required under section 690 [*annual general meeting – improvement districts*] of the *Local Government Act* to a date not later than December 31, 2020.
  - (2) An improvement district may defer the preparation of financial statements required under section 691 [*annual financial statements*] of the *Local Government Act* to a date not later than December 31, 2020.
  - (3) Despite the date referred to in section 691 (5) of the *Local Government Act*, an improvement district may submit to the inspector the audited financial statements of the improvement district for the preceding year and any other financial information required by the inspector at the time of the annual general meeting of the improvement district.
  - (4) If an annual general meeting of an improvement district is deferred under subsection (1) of this section and the term of an improvement district trustee would be expiring and the vacancy filled at that meeting, the term of the improvement district trustee is extended until the annual general meeting is held.
  - (5) This section applies despite
    - (a) Division 3 [*Governance and Organization*] of Part 17 [*Improvement Districts*] of the *Local Government Act*, and
    - (b) any applicable provisions in a letters patent for an improvement district.



## 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). 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 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 expedited 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);
- Create 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)

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June 23, 2020

## BULLETIN

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### GOVERNMENT BILL TO VALIDATE EMERGENCY COVID-19 MINISTERIAL ORDERS

Yesterday the government tabled Bill 19 in the Legislative Assembly, the *COVID-19 Related Measures Act* (Act). As noted below, the Act will validate ministerial orders made under the *Emergency Powers Act* (EPA), including several affecting local governments.

The affected ministerial orders include the *Local Government Meetings and Bylaw Process (COVID19) Order No. 3*, M192/2020. That order enables municipalities, regional districts, and other local bodies to conduct electronic meetings with their elected officials. It also affects public hearings and bylaw adoption process rules. The Act will also validate the order replaced by Order M192/2020 (Order M139/2020) as well as the *Local Government Finance (COVID19) Order*, M159/2020 and *Bylaw Enforcement Officer (COVID19) Order* (M082/2020).

Another notable order that the Act deals with is the *Limitation Periods Order No. 2*, M198/2020, which suspends limitation periods for causes of action, including civil actions by or against local governments. It also authorises any person, tribunal or other body that has a statutory power of decision to waive, suspend or extend a mandatory period relating to the exercise of that power.

The orders become provisions of the Act and they prevail over any conflicting other Act or regulation until they expire. The validated orders will expire 90 days after the date of the final extension of the declaration of a state of emergency made under the EPA.\* The 90-day period is doubtless intended to allow you to transition back to normal operations after the emergency is over.\*\*

We hope for the Act's speedy enactment. This may be helped along by the public report that the province's Ombudsperson issued yesterday. It concludes that the EPA does not authorise several of the ministerial orders issued under the EPA. That finding is not legally binding but may prompt legal challenges by others. The report may partly explain why the Act also amends the EPA to confer express authority for Cabinet to pass regulations achieving objectives similar to the ministerial orders' objectives. We will update you on the Act's progress.

If you have any questions, including about the Act's actual details, feel free to contact Gregg Cockrill or Nick Falzon.

*\*Some of the validated ministerial orders, which are not mentioned above, expire 45 days after the final extension of the state of emergency.*

*\*\* Cabinet may by regulation extend the 90-day period by up to one year after the Act comes into force.*