



August 13, 2020

To: All local government clerks and corporate officers

Re: Update about Order of the Provincial Health Officer on Gatherings and Events and Ministerial Order M192

The purpose of this circular is to provide an update about the recently issued *Order of the Provincial Health Officer on Gatherings and Events* (Order) and an overview of *Ministerial Order M192 – Local Government Meetings & Bylaw Process* (Order M192) and their implications for local government operations.

We recognize the changes brought about by both the Provincial Health Officer (PHO) Order and Order M192 may require extra effort from local government staff, clerks and corporate officers as local governments transition to restart and we appreciate and thank you for the work you have done during this unprecedented time.

Provincial Health Officer Order

On August 7, 2020 the [Order of the Provincial Health Officer on Gatherings and Events](#) was issued. Under the Order, event organizers must limit all in-person public gatherings, including local government meetings and public hearings to no more than 50 people.

In addition to complying with previously established physical distancing and hand sanitization practices, local government are now required to collect the first and last names and telephone number, or email address of every person who attends a local government meeting or public hearing in-person.

Local governments must retain the contact information required by the PHO for 30 days, in case there is a need for contact tracing on the part of the medical health officer, in which case the local government must provide that information to the medical health officer.

The contact information collected by local governments under the Order is subject to *Freedom of Information and Protection of Privacy Act* requirements as well as any internal document retention policies and practices a local government may have in place.

Ministerial Order M192

On June 17, 2020 Order M192 on local government meetings and bylaw process was signed, repealing and replacing M139. Order M192 transitions local governments back to operating under the normal legislative rules and requirements, while balancing the health and safety recommendations of the PHO and WorkSafeBC. Order M192 and guidance materials developed by the Ministry of Municipal Affairs and Housing (Ministry) also support the principles of openness, transparency, accountability and accessibility, which are fundamental to British Columbia's local government system.

The main changes in Order M192 relate to public attendance at open meetings, electronic meetings, and timing requirements for passing bylaws.

We encourage local governments to consider what steps they can take to accommodate in-person attendance at open meetings or provide a space where the public can hear the meeting to understand the local government decision-making process.

We recognize that the capacity, technology and space available to local governments to conduct meetings in-person and/or electronically differs across the province and have therefore intended that Order M192 provide flexibility to local governments to decide what will work best for their community as they continue to reopen under Phase 3 of the BC Restart Plan.

Public Attendance at Open Meetings

Under Order M192, local governments may decide when they are ready to safely provide in-person public attendance at open meetings. We encourage local governments to consider a phased approach to making "best efforts" to provide public access to open meetings if needed.

A phased approach may include providing limited public access initially to open meetings, exploring other meeting venues and working toward providing added options (e.g. teleconferences or live streaming) for the public to participate in meetings if in-person attendance can't be accommodated under the PHO requirement that no more than 50 people be present.

As part of the local government decision-making process, there are several factors a council or board may want to consider when preparing to hold in-person meetings, including:

- whether the chosen venue has an HVAC system or provides for fresh air exchange (e.g. open windows/doors);
- posting the COVID-19 safety plan at the venue (consider also posting it at the public notice posting place and local government website);
- establishing a process for collecting and safely retaining the first and last names and telephone number, or email address of every person who attends an open meeting in-person;
- the wearing of face masks by elected officials, staff and members of the public when physical distancing is not practical;

- having a greeter at the entrance informing the public about established safety protocols, including hand washing or sanitization, physical distancing and using a face mask where physical distancing is not practical or if they are concerned for their personal well-being;
- posting occupancy limits (no more than 50 persons) based on the PHO Order requirements and WorkSafeBC recommendation and guidelines;
- implementing separate entrances and exit points to control the flow of people through the venue; and,
- ensuring washrooms are supplied with soap, water and drying materials so visitors can wash their hands. Limit the number of people at a time in public washrooms and establish how often cleaning and disinfection will take place.

If, after developing a plan for meetings, a local government is unable to accommodate in-person public attendance, Order M192 requires the local government to pass a resolution to provide a rationale for the continued need to meet without the public present. The local government must also describe what measures are being taken to meet the principles of openness, transparency, and accessibility. The resolution may apply to one meeting or to multiple meetings if the same circumstances apply.

Electronic Meetings

Order M192 continues to make it easier for elected officials to meet through electronic mediums while allowing local governments to conduct their day-to-day business as they follow PHO requirements and WorkSafeBC recommendations and guidelines.

If a local government meeting is held electronically, we encourage local governments to explore whether they can provide facilities large enough to allow for physical distancing and, if possible, locations with HVAC systems or those that provide for fresh air exchange to that enable the public to listen to or watch and listen to the meeting. This may include exploring another space at the municipal or board office or another facility where the public could attend to listen to, or watch and listen to, the meeting using available technology.

We recognize that not all local governments have access to the space or technology to accommodate the public to listen to or watch and listen to a meeting. Order M192 provides flexibility so that local governments can pass a resolution providing the reasons for being unable to provide a facility that enables the public to listen to or watch and listen to the meeting if this is the case. The local government must also describe what measures are being taken to meet the principles of openness, transparency, and accessibility in respect of the meeting.

Public Hearings

Public hearings are separate from council and board meetings and are addressed accordingly under Division 5 of Order M192. Under Order M192, a council, board or local trust committee of the Islands Trust may conduct a public hearing by electronic or other communication facilities. These provisions provide local governments and the Islands Trust with another tool to hold public hearings while complying with the PHO Order on gatherings and events.

It is up to each local government to decide which format of public hearing is best suited to its circumstances, whether it be electronic, in-person or a combination of both. Many of the considerations that apply to in-person open meetings would also be applicable to public hearings held in-person. In-person public hearings are subject to both Order M192 and the PHO Order limiting the number of people in attendance and collecting (and retaining for 30 days) the contact information of those present.

For more information about public hearings under the Order M192 please see “Guidance for the conduct of public hearings under Ministerial Order M192” available at on the Ministry’s website: <https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/covid-19>.

Timing Requirements for Bylaw Passage

Order M192 repeals the authority for the expedited bylaw passage which authorized bylaw adoption in the same day as third reading for regional districts and the Islands Trust. Order M192 narrows the eligibility for expedited single-day bylaw adoption to certain bylaws that are key to the financial health and operation of municipalities (e.g. Financial Plan, Annual Property Tax, Revitalization Tax Exemption).

Municipalities can continue to pass certain bylaws, described in Order M192, in a single day to ensure that they are resilient and flexible in a time of economic disruption and fiscal uncertainty. The changes ensure that councils are operating under the principles of good governance, public process, transparency and accountability.

Key Resources

- The [PHO](#) has issued Public Health Orders and developed guidance materials for different sectors, which local governments must consider as they develop plans.
- The [BCCDC](#) is the primary source for COVID-19 health information, including prevention and risk information and commonly asked questions.
- [WorkSafeBC](#) has developed industry-specific safety information including a general guide to reducing risk that may be useful for local governments developing plans for holding in-person events.
- The [WorkSafeBC COVID-19 Safety Plan](#) template may serve as a useful starting point for local governments to develop plans for in-person events.

Conclusion

We appreciate that local governments in B.C. are addressing many competing issues as we move through this unprecedented time. The Province will continue to work collaboratively with local governments to ensure the needs of elected officials, local government staff and the public are balanced. As COVID-19 is an evolving issue, the Province will continue to monitor the effects of these measures, consider what other measures may be required and provide updates of actions taken to support local governments.

The Ministry will be reaching out to local governments with a survey to understand their experiences working under the Ministerial Orders. The information received from local governments will assist the Ministry in better understand how current measures are working and what addition measures may be needed moving forward.

The focus of the survey will be to gather information about:

- how councils and boards are holding open meetings and public hearings (e.g. electronically, in-person or both);
- the technology and resources being utilized by local governments for meetings and public hearings;
- whether there are challenges related to local government procedure bylaws arising under Order M192; and;
- identifying any challenges or concerns local governments may be facing and possible solutions to those issues.

If you have any questions regarding this circular, Order M192, the PHO Order, or the survey, I encourage you to contact our Governance and Structure Branch. You can reach Governance and Structure Branch staff by phone at: 250 387-4020 or email at: LGGovernance@gov.bc.ca.

We thank local governments for their support and cooperation throughout this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tara Faganello', written in a cursive style.

Tara Faganello
Assistant Deputy Minister and Inspector of Municipalities
Local Government Division
Ministry of Municipal Affairs and Housing