

## **Background**

This report provides information regarding a potential amendment to the City's Procedure By-law in order to permit electronic participation in accordance with the *Municipal Act, 2001*.

The recent developments regarding COVID-19 both locally and internationally have resulted in numerous recommendations from public health authorities regarding social distancing and group gatherings. On March 17<sup>th</sup>, 2020, the Province of Ontario declared an emergency pursuant to the *Emergency Management and Civil Protection Act* (the "EMCPA") by the approval of Order in Council 518/2020. The Province further approved Orders in Council 519/2020 and 520/2020 ordering the closure of numerous types of establishments and prohibiting organized public events of over fifty people. Copies of the Orders in Council are attached.

On March 19<sup>th</sup>, 2020, the provincial legislature passed the *Municipal Emergency Act, 2020*, (see attached) amending the *Municipal Act, 2001* and the *City of Toronto Act, 2006*. The amending legislation provides enhanced means for members of municipal councils to meet electronically in situations where emergencies are declared pursuant to the EMCPA.

## **Electronic Meetings and Electronic Participation**

The *Municipal Act, 2001* (the "Act") contains a number of provisions that inform the process of Council meetings. Each municipality is required to have a procedure by-law governing the calling, place and proceedings of meetings. In general, a meeting of Council or a Committee occurs where a quorum of Council is present and members advance the business or decision-making of the Council or Committee. The reference in the Act to a quorum of members being present has always been understood to mean that members are to be physically present for a meeting.

Prior to the March 19<sup>th</sup>, 2020 amendment, the Act contained subsections 238(3.1) and (3.2) which provide for electronic participation in meetings where permitted by the municipality's procedure by-law. Those sections present the following limitations:

- Members participating electronically shall not be counted for the purposes of determining quorum. This means that a quorum of members (7) is required to be physically present in order for the meeting to occur; and,
- Electronic participation is not permitted for a closed meeting.

The March 19<sup>th</sup>, 2020 amendment removes the above limitations where an emergency has been declared pursuant to the EMCPA; however, a municipality is still required to include provisions authorizing such meeting methods in its procedure by-law. This would generally require a meeting with physical attendances to approve the amendment of the procedure by-law prior to conducting electronic meetings; however, the Province added subsection 238(3.4) to address that issue. Subsection 238(3.4) permits a municipality to hold a Special Meeting electronically to amend its procedure by-law to allow for electronic participation.

The City's Procedure By-law does not currently allow for any electronic participation by Members. It is recommended that the By-law be amended to allow for electronic participation subject to the following requirements:

- An emergency has been declared by the Province or the City of Greater Sudbury;
- Members participating electronically shall be counted in determining quorum;
- Members participating electronically in a closed meeting shall ensure that they are participating from a location that ensures the privacy and confidentiality of the closed meeting discussions;
- Members participating electronically shall advise the Clerk of their intention to do so at least 24 hours prior to the meeting unless the circumstances of the emergency do not permit such notice;
- The Chair of Council or the applicable Committee shall not be permitted to participate electronically and shall attend in the applicable meeting room scheduled for the meeting with the Clerk;
- The Chair, in consultation with the Clerk, shall rule on and determine the applicable meeting processes as required to be adapted for electronic participation which processes shall be consistent with the Procedure By-law and at all times in compliance with the requirements of the *Municipal Act, 2001*.

## **Conclusion**

This report is for information and an amending by-law appears on the agenda to authorize electronic participation as indicated in this report. It is recommended that the Chair be permitted to determine processes in consultation with the Clerk as there are numerous circumstances that are currently difficult to anticipate and which may require variation from existing processes.



## Order in Council 518/2020

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On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

### **Declaration of Emergency under the Emergency Management and Civil Protection Act**

Whereas the outbreak of a communicable disease namely COVID-19 coronavirus disease constitutes a danger of major proportions that could result in serious harm to persons;

And whereas the criteria set out in subsection 7.0.1(3) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, chapter E.9 (the "Act") have been satisfied;

Now therefore, an emergency is hereby declared pursuant to section 7.0.1 of the Act in **the whole of the Province of Ontario.**

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**Approved and Ordered:** March 17, 2020, 7:30am

**Premier and President of the Council**

**Approved and Ordered:** March 17, 2020

Published: March 17, 2020



## Order in Council 519/2020

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On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

Whereas an emergency was declared on March 17<sup>th</sup>, 2020 pursuant to Order in Council 518/2020.

And whereas the criteria set out in subsection 7.0.2 (2) of the *Emergency Management and Civil Protection Act* have been satisfied;

Now therefore, pursuant to subsection 7.0.2 (4), paragraph 5 of the Act,

The following establishments are hereby ordered to be closed as of the date and time of this Order until March 31<sup>st</sup>, 2020 unless this Order is terminated earlier:

1. All facilities providing indoor recreational programs,
2. All public libraries,
3. All private schools as defined in the *Education Act*,
4. All licensed child care centres,
5. All bars and restaurants, except to the extent that such facilities provide takeout food and delivery,
6. All theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies, and
7. Concert venues.

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**Approved and Ordered:** March 17, 2020, 7:30am

**Premier and President of the Council**

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## Order in Council 520/2020

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On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

Whereas an emergency was declared on March 17<sup>th</sup>, 2020 pursuant to Order in Council 518/2020.

And whereas the criteria set out in subsection 7.0.2(2) of the *Emergency Management and Civil Protection Act* have been satisfied;

Now therefore, pursuant to subsection 7.0.2 (4), paragraph 14 of the Act, all organized public events of over fifty people are hereby prohibited including parades and events and communal services within places of worship.

This Order shall be in effect until March 31<sup>st</sup>, 2020 unless this Order is terminated earlier.

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**Approved and Ordered:** March 17, 2020, 7:30am

**Premier and President of the Council**

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Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO  
69 ELIZABETH II, 2020

# Bill 187

*(Chapter 4 of the Statutes of Ontario, 2020)*

## **An Act to amend the Municipal Act, 2001 and the City of Toronto Act, 2006**

**The Hon. S. Clark**

Minister of Municipal Affairs and Housing

1st Reading	March 19, 2020
2nd Reading	March 19, 2020
3rd Reading	March 19, 2020
Royal Assent	March 19, 2020



#### EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 187 and does not form part of the law. Bill 187 has been enacted as Chapter 4 of the Statutes of Ontario, 2020.*

The *Municipal Act, 2001* and the *City of Toronto Act, 2006* are amended to provide that, during emergencies, should they choose to, members of councils, local boards and committees who participate electronically in open and closed meetings may be counted for purposes of quorum.

The *Municipal Act, 2001* is also amended to allow the Lieutenant Governor in Council to make regulations imposing limits and conditions on the powers of a municipality under section 129 of the Act.

**An Act to amend the Municipal Act, 2001 and the City of Toronto Act, 2006**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

***Municipal Act, 2001***

**1 Section 238 of the *Municipal Act, 2001* is amended by adding the following subsections:**

**Electronic participation, emergencies**

(3.3) The applicable procedure by-law may provide that, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*,

- (a) despite subsection (3.1), a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and
- (b) despite subsection (3.2), a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is closed to the public.

**Same, procedure by-law**

(3.4) A municipality or local board may hold a special meeting to amend an applicable procedure by-law for the purposes of subsection (3.3) during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* and despite subsection (3.1), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting.

**2 Subsection 451.1 (1) of the Act is amended by striking out “sections 9, 10 and 11” and substituting “sections 9, 10, 11 and 129”.**

***City of Toronto Act, 2006***

**3 Section 189 of the *City of Toronto Act, 2006* is amended by adding the following subsections:**

**Electronic participation, emergencies**

(4.2) The applicable procedure by-law may provide that, during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*,

- (a) despite subsection (4), a member of city council, of a local board of the City or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and
- (b) despite subsection (4.1), a member of city council, of a local board of the City or of a committee of either of them can participate electronically in a meeting that is closed to the public.

**Same, procedure by-law**

(4.3) The city council or a local board of the City may hold a special meeting to amend an applicable procedure by-law for the purposes of subsection (4.2) during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* and despite subsection (4), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting.

**Role of head of council**

(4.4) Despite anything in this or any other Act, only the head of council may call a special meeting of city council for the purposes of subsection (4.3).

**Commencement**

**4 This Act comes into force on the day it receives Royal Assent.**

**Short title**

**5 The short title of this Act is the *Municipal Emergency Act, 2020*.**