

# **The Corporation of the City of Richmond Hill**

## **By-Law 102-20**

### **A By-law to amend By-law 74-12, as amended, to repeal and replace Article 12 of the By-law (Electronic Meeting Procedures)**

Whereas section 238(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the *Municipal Act, 2001*) states that a municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings;

And Whereas the Council of The Corporation of the City of Richmond Hill (“Council”) has enacted By-law 74-12, as amended, being a By-law to Govern the Proceedings of Council of the Corporation of the City of Richmond Hill, as amended (the “Procedure By-law”);

And Whereas on March 19, 2020, the Province of Ontario enacted the *Municipal Emergency Act, 2020*, (“Bill 187”) to enact sections 238(3.3) and 238(3.4) the *Municipal Act, 2001* to permit meetings to be held electronically during a declared emergency pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E-9 (the “Emergency Management and Civil Protection Act”);

And Whereas on March 25, 2020 Council amended the Procedure By-law to include a new “Article 12 – Electronic Meeting Procedures during an Emergency”;

And Whereas Bill 197, the *COVID-19 Economic Recovery Act, 2020*, (“Bill 197”) received Royal Assent on July 21, 2020;

And Whereas Schedule 12 of Bill 197 has amended or repealed Subsections 238(3.1), 238(3.2), 238(3.3) and 238(3.4) of the *Municipal Act, 2001*.

And Whereas Council, as a result of Bill 197, deems it necessary to repeal and replace Article 12 of the Procedure By-law

Now Therefore the Council of the Corporation of the City of Richmond Hill Enacts as Follows:

1. That Article 12 of By-law 74-12 be repealed in its entirety and replaced with the new Article 12 attached as Schedule 1 to this By-law.
2. That Schedule 1 be and form part of this By-Law.
3. This bylaw shall come into force and take effect when passed.

Passed this 23rd day of July, 2020.

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Mayor

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City Clerk

## **Schedule 1 to By-Law 102- 20**

### **Article 12 - Electronic Meeting Procedures**

#### **12.1 Definitions:**

In this Article, the following definitions have the following meanings:

- (a) “Article” means this Article 12 to the By-law.
- (b) “Electronic Meeting” means a Meeting where a Member of a council, a Member of a local board or a Member 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 can participate electronically in a meeting that is open or closed to the public.
- (c) “Emergency” means a situation or an impending situation where there is a threat to public health, life, property or the environment, and includes any period where an emergency has been declared to exist in all or part of the City under either Section 4 or Section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended.
- (d) “Health & Safety Implications” means the considerations of permitting some or any in-person attendance at a Meeting as a result of a health or safety factors, including but not limited to:
  - (i) consideration of any directive or advice of any appropriate authority (for example, a medical officer of health); and
  - (ii) whether or not the in-person attendance of any person could pose a threat to the health and safety of any other person.

#### **12.2 General Rules for an Electronic Meeting**

##### **12.2.1 Application**

- (a) These procedures may apply to any Meeting held in accordance with Article 5 to Article 11 of the By-law.
- (b) These procedures apply to a meeting that is conducted wholly or partially as an Electronic Meeting.
- (c) Council may, by resolution, determine that this Article shall or shall not apply to any Meeting held in accordance with Article 5 to Article 11 of the By-law.
- (d) This Article applies to all meetings of the Accessibility Advisory Committee, or any successor committee established under the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c.11, as determined by that committee.

**12.2.2 Procedures – Same as Proceeding for Council or Committee – With Necessary Changes**

Except as specifically set out in this Article, the procedures relating to Council and Committee Meetings set out in any Article of the By-law shall apply to any Electronic Meeting.

**12.2.3 Type of Electronic Participation**

- (a) Electronic Meetings may be held using any audio-only, audiovisual, or other electronic means that are available to all Members, as determined by the Clerk.
- (b) Wherever possible, the technology used for an Electronic Meeting will permit the City to live-broadcast, or create an audio-only or audiovisual record of the Open Session portion of a Meeting.
- (c) Where the only matter on an Agenda is a Closed Session matter under Section 5.3 of the By-law, the live-broadcast or the creation of an audio-only or audiovisual record of the meeting is not required.

**12.2.4 Public Notice**

- (a) In this section, a public notice can include any form of notice as determined by the Clerk, and may include the posting of an agenda for a meeting.
- (b) A public notice of an Electronic Meeting will, wherever possible, include sufficient information as to provide the public with a means to electronically access the Open Session of such meeting.
- (c) Notwithstanding Section 6.1.7(b) of the By-law, notice of an Electronic Meeting called to address an Emergency or Time Sensitive Matter shall be given by posting notice of the meeting on the City's website with the information referred to in paragraph (a).
- (d) The saving provisions in Section 5.1.9 and 6.1.8 of the By-law shall apply to any public notice of any Electronic Meeting, with all the necessary changes in points of detail understood.

**12.3 Members Participation in an Electronic Meeting**

- (a) Unless otherwise directed by an appropriate authority (e.g. a Medical Officer of Health), Members may choose to participate in an Electronic Meeting either in-person or electronically, and shall notify the Clerk and Chair of their choice by noon on the day prior to a meeting.
- (b) Council may by resolution, provide that all, some or most Members will participate electronically in a meeting for the period of time as set out in the resolution as a result of an Emergency or Health and Safety Implications.

**12.4 Open to the Public – Section 238(3.1) of the Act****12.4.1 Public In-person Restrictions**

- (a) The Mayor or Chair, in consultation with the City Manager and Clerk, may decide to limit or restrict any public in-person attendance at a Meeting during an Emergency, or as a result of the Health and Safety Implications of any in-person attendance.
- (b) Council may by resolution decide to limit or restrict any public in-person attendance at a Meeting during an Emergency, or as a result of the Health and Safety Implications of any in-person attendance.

**12.4.2 Manner in Which Meetings are Open to the Public when in-person attendance is restricted**

- (a) Where in-person public attendance is restricted under section 12.4.1, the manner in which an Electronic Meeting is open to the public is by:
  - (i) permitting delegations pursuant to section 12.4.3;
  - (ii) the live-broadcast of a Meeting wherever possible, in accordance with section 12.2.3(b).
  - (iii) the posting of the records of the Open Session portion of the Meeting to the City's website in a timely manner following the meeting; and
  - (iv) making the records of the Open Session portion available for inspection by the public.
- (b) For the purpose of this section, the records of the meeting include any agenda, audio-only or audiovisual recording of the Meeting, and any minutes of the Meeting, including minutes that have not yet been adopted.

**12.4.3 Delegations during an Electronic Meeting when in-person attendance is restricted**

- (a) Where, in the opinion of the Clerk, a system is in place that will permit Delegations at an Electronic Meeting to be made by audio or audiovisual means that are consistent with the By-law, Delegations may be made either in writing or by any audio or audiovisual means.
- (b) Where an Electronic Meeting permits both in-person and electronic participation by the Public and the conditions on paragraph 12.4.3(a) are satisfied, Delegations can be both in-person and electronically.
- (c) The following rules will be observed for audio or audiovisual Delegations notwithstanding anything in the By-law to the contrary:
  - (i) The Clerk may establish and amend any procedure or process deemed necessary to implement audio-only or audiovisual delegations, including but not limited to, any time limit by which a potential Delegate will be required to register, and any such

- procedures or process shall be deemed to be part of this Article;
- (ii) Delegations will be required to comply with any process or procedure established by the Clerk who will provide appropriate instructions to any such delegate.
  - (d) Where, in the opinion of the Clerk, a system is not in place that will permit Delegations at an Electronic Meeting to be made by audio or audiovisual means that are consistent with the By-law, Delegations shall be in writing only.
  - (e) Sections 12.4.3(b) to 12.4.3(d) shall not apply to:
    - (i) any Special Council Meeting, conducted as an Electronic Meeting, called to deal with an Emergency or Time-Sensitive Matter on less than 48 hours' notice.
    - (ii) Any Special Council Meeting conducted as an Electronic Meeting called for the sole purpose of considering matters in Closed Session.
    - (iii) Any meeting where there is no restriction on public in-person access to the meeting.

**12.4.4 Public Forum during an Electronic Meeting when in-person attendance is restricted**

- (a) Notwithstanding anything in Section 5.5.3 to the contrary, Public Forum during a regular meeting of Council conducted wholly or partially as an Electronic Meeting shall be subject to the following rules:
  - (i) Any member of the public who wishes to voice opinions and raise issues on matters of concern to them that have not been included on the Agenda shall be required to register with the Clerk by 12:00 noon on the day prior to the meeting.
  - (ii) Public Forum submissions can be made electronically or in-person, unless in-person public access is restricted under section 12.4.1.
  - (iii) The maximum of number of such registrations shall be five persons, on a first come first serve basis.
  - (iv) If there is three or less registrations, each registrant shall be provided no more than five minutes to address Council.
  - (v) If there are four registrants, each registrant shall be provided no more than four minutes to address Council.
  - (vi) If there are five registrants, each registrant shall be provided no more than three minutes to address Council.
  - (vii) The Clerk may establish and amend any procedure or process deemed necessary to implement this section.
- (b) Section 12.4.4 shall not apply to any meeting where there is no restriction on public in-person access to the meeting

**12.4.5 Posting Un-adopted Minutes**

- (a) The Clerk shall post the minutes of any Electronic Meeting to the City's website as soon as possible following the meeting, regardless of whether or not those minutes have been adopted.
- (b) The Clerk will remove the un-adopted Minutes from the City's website and post the minutes that have been formally adopted.

**12.5 Electronic Meetings - Quorum & Absences****12.5.1 Electronic Meetings – Quorum**

Members attending electronically or in-person during an Electronic Meeting shall be counted for purposes of quorum at the commencement and at any point in time during the Meeting, and shall be entitled to vote as if they were attending the Meeting in person unless otherwise prevented from voting by law.

**12.5.2 Absences During an Electronic Meeting**

A Member who is participating electronically in a Meeting who, for any reason or duration will no longer be electronically participating prior to adjournment shall by means of a Point of Order, without interrupting a Member when speaking, advise the Chair and Clerk of his or her absence from the Meeting.

**12.6 Electronic Meetings - Closed Sessions****12.6.1 Closed Session Meeting - Electronic Participation Permitted**

Notwithstanding the generality of section 12.5.1 and for greater certainty, a Member may participate in-person or electronically in any Closed Session portion of any Meeting conducted wholly or partially as an Electronic Meeting, unless otherwise prevented by law from such participation.

**12.6.2 Closed Session Electronic Meetings - Confidentiality**

Without limiting the confidentiality requirements set out in subsection 5.3.6 or any other law or code of conduct, Members shall at all times maintain confidentiality while electronically participating in a closed session Meeting, including ensuring that no person who is not otherwise permitted to be in attendance in a Closed Session Meeting is in the location from which that Member is electronically participating in a Closed Session.

**12.7 Audio-only Electronic Meetings - Additional Rules - Roll Call and Absences****12.7.1 Audio-only Electronic Meetings - Roll Call**

In an audio-only Electronic Meeting, when the Chair believes that a sufficient number of Members are present to constitute a quorum, the Chair shall direct the Clerk to conduct a roll call to identify the Members participating in a Meeting and confirm that a quorum is present.

**12.7.2 Audio-only Electronic Meetings - Members not present during Roll Call**

In an audio-only Electronic Meeting, a Member who is not present during the roll call, and who subsequently joins the Meeting will wait until the current Member speaking has finished speaking and then by means of a Point of Order advise the Chair and Clerk of his or her attendance at the Meeting.

**12.7.3 Audio-only Electronic Meetings - Call to Order**

In an audio-only Electronic Meeting, the Chair will call a Meeting to order once satisfied that a sufficient number of Members are electronically participating in a Meeting to constitute a quorum.

**12.7.4 Audio-only Electronic Meetings - Absences During a Meeting**

A Member who is participating electronically in a Meeting who, for any reason or duration will no longer be electronically participating prior to adjournment shall by means of a Point of Order, without interrupting a Member when speaking, advise the Chair and Clerk of his or her absence from the Meeting.

**12.8 Audio-only Electronic Meetings - Additional Rules of Debate - Speaking Order****12.8.1 Audio-only Electronic Meetings - Speaking Order – Regular meeting, Special Council Meeting and Council Public Meeting**

In any regular Council meeting, Special Council Meeting or Council Public Meeting, using audio only technology, the speaking order for any matter shall normally be:

- (a) The mover and a seconder of any motion.
- (b) All other Members in the following order:
  - (i) The Regional and Local Councillor who is named first in any Deputy Mayor By-law enacted under Section 4.2 of the By-law;
  - (ii) The Regional and Local Councillor who is named second in any Deputy Mayor By-law enacted under Section 4.2 of the By-law;
  - (iii) Ward 1 Councillor;
  - (iv) Ward 2 Councillor;
  - (v) Ward 3 Councillor;
  - (vi) Ward 4 Councillor;
  - (vii) Ward 5 Councillor;
  - (viii) Ward 6 Councillor; and
  - (ix) The Mayor.

**12.8.2 Audio-only Electronic Meetings - Speaking Order - Committees of the Whole**

In any Committee of the Whole Meeting conducted as an Electronic Meeting using audio only technology, the speaking order for any matter shall normally be:

- (a) The mover of a motion;
- (b) The remaining Members in the following order:
  - (i) The Mayor;
  - (ii) the Regional and Local Councillor who is named first in any Deputy Mayor By-law enacted under Section 4.2 of the By-law;
  - (iii) The Regional and Local Councillor who is named second in any Deputy Mayor By-law enacted under Section 4.2 of the By-law;
  - (iv) Ward 1 Councillor;
  - (v) Ward 2 Councillor;
  - (vi) Ward 3 Councillor;
  - (vii) Ward 4 Councillor;
  - (viii) Ward 5 Councillor;
  - (ix) Ward 6 Councillor; and
  - (x) The Chair.

**12.8.3 Speaking Order – All other Committee**

In any other Committee Meeting conducted as an Electronic Meeting using audio only technology, the speaking order for any matter shall normally be:

- (a) The mover of a motion;
- (b) The remaining Members in the order determined by the Chair.

**12.8.4 Observance of other rules**

All other rules of debate in the By-law, including speaking times, shall be observed for any Electronic Meeting.

**12.9 Electronic Meeting - Voting****12.9.1 Electronic Meeting - Voice Votes and Show of Hands**

During an Electronic Meeting, all votes shall be a voice vote, unless:

- (a) The meeting is being conducted using audiovisual technology and all members are visible to the Chair, in which case a vote by show of hands is permitted; or,
- (b) A recorded vote has been requested by any member.



**12.9.2 Electronic Meeting - Voice Votes – How Conducted**

A voice vote shall be conducted as follows:

- (a) The Chair shall ask all Members who are opposed to the Motion to say “No”
- (b) If no Member states “No”, the motion shall be declared carried.
- (c) If one or more Members states “No”, the chair will ask all Members in support of the Motion to say “Yes”, and will determine if in his or her opinion the Motion has carried or failed to carry.

**12.9.3 Recorded Vote**

- (a) Following any voice vote, a Member may request that the vote be conducted as a recorded vote.
- (b) During an Electronic Meeting, the order in which the Members vote during a recorded vote, including the first member to vote, may be randomly determined by the Clerk.

**12.10 Transition rules – COVID-19**

Notwithstanding anything in this Article to the contrary, during the period of time ending on January 31, 2021, the Mayor, in consultation with the Clerk and City Manager, may direct that any Meeting held in accordance with Article 5 to Article 11, shall be conducted wholly or partially as an Electronic Meeting.