

The Corporation of the City of Richmond Hill

By-Law 23-21

A By-Law to Repeal and Replace Article 12 of By-law 74-12, as amended

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

And Whereas 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 Council, as a result of amendments to the Act due to the COVID-19 pandemic, did pass By-law 40-20 on March 25, 2020, to enact Article 12 of the Procedure By-law - Electronic Meeting Procedures during an Emergency ("Article 12");

And Whereas Council, as a result of further amendments to the Act, did pass By-law 102-20 on July 23, 2020 to repeal and replace Article 12.

And Whereas Council did on March 24, 2021 adopted the recommendations in Staff Report SRCFS.21.014, requiring further amendments to Article 12 to provide for Hybrid in-person and electronic meetings;

And Whereas Council did on April 28, 2020 adopt the recommendations in Staff Report SRCFS.21.023, requiring further additional amendments to Article 12 to ensure compliance with the open meeting rules in Section 239 of the Act.

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 That Article 12 of By-law 74-12, as amended, be repealed and replaced in its' entirety with the new Article 12 attached as Schedule 1 to this By-law.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 on April 29, 2021.

Passed this 28th day of April, 2021.

Joe DiPaola
Acting Mayor

Stephen M.A. Huycke
City Clerk

Schedule 1 to By-Law 23-21

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.
- (a) "Electronic Meeting" means a Meeting, including a Hybrid 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.
- (b) "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.
- (c) "Health & Safety Implications" means the consideration of permitting some or any in-person attendance at a Meeting as a result of health or safety factors, including but not limited to:
 - (i) Any law, regulation or directive, enacted by any competent authority, restricting in-person attendance or capacities;
 - (ii) consideration of any directive or advice of any appropriate authority (for example, a medical officer of health); and
 - (iii) whether or not the in-person attendance of any person could pose a threat to the health and safety of any other person.
- (d) "Hybrid Meeting" means a meeting that is conducted as both an in-person meeting and Electronic Meeting where at least one (1) member other than the Chair is participating in-person, or at least one (1) member is participating electronically.
- (e) "Livestream" means the transmission of an audio-only or audiovisual record of a Meeting, via the internet, while the Meeting is occurring with no more than a nominal delay.

12.2 General Rules for an Electronic Meeting

12.2.1 Application

- (a) Subject to the requirements of paragraphs (c) and (d), 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 as an Electronic Meeting or a Hybrid Meeting.
- (c) This Article shall not apply to any Meeting of any Committee whose members include persons who are not Members of Council during any time when there is no Emergency or Health & Safety Implications.
- (d) Notwithstanding paragraph (c), 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 the Chair of that Committee in consultation with the Clerk and Committee, provided that the Committee shall not be permitted to hold Hybrid Meetings.

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 or Hybrid 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) The technology used for an Electronic Meeting will permit the City to Livestream the open session portion of a Meeting.

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 include sufficient information as to provide the public with a means to electronically access the Livestream of 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 paragraphs (a) and (b).

- (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 - Method of Participation in an Electronic or Hybrid Meeting

- (a) Subject to the requirements in paragraphs (b) to (e), unless otherwise directed by an appropriate authority (e.g. Emergency Order, Ontario regulation, a Medical Officer of Health), Members may choose to participate in an Electronic Meeting or Hybrid Meeting either in-person or electronically, and shall notify the Clerk and Chair of their choice a minimum of three (3) clear days prior to a meeting unless required earlier by the Clerk due to a holiday or office closure.
- (b) A minimum of four (4) Members are required to participate in-person for a Meeting to be conducted as a Hybrid Meeting. If an insufficient number of Members confirm their in-person participation the Meeting shall be conducted wholly as an Electronic Meeting.
- (c) The Chair of a Hybrid Meeting shall be required to participate in the Meeting in-person.
- (d) If the Chair of a Meeting that is conducted as a Hybrid Meeting is not able to participate in that Meeting in-person, the Chair has the authority to designate an alternative Chair for that Meeting who is required to comply with the provisions of paragraph (c).
- (e) In the absence of any Emergency or Health and Safety Implications, Members shall normally participate in Meetings in-person. Electronic participation and Hybrid Meetings in the absence of any Emergency or Health and Safety Implications will be limited to exceptional circumstances as determined by the Chair and the Members.

12.4 Public Participation in an Electronic Meeting

12.4.1 Public In-person Restrictions

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 as a result of any Emergency or Health and Safety Implications.

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 12.4.4;
 - (i) the Livestreaming of a Meeting in accordance with section 12.2.3(b).
 - (ii) 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
 - (iii) 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 or Hybrid Meeting to be made by audio-only or audiovisual means that are consistent with the By-law, Delegations may be made either in writing or by any audio-only or audiovisual means.
- (b) Where an Electronic Meeting or Hybrid Meeting permits both in-person and electronic participation by the Public and the conditions in paragraph 12.4.4(a) are satisfied, Delegations can be made both in-person and electronically.
- (c) The following rules will be observed for audio-only or audiovisual Delegations notwithstanding anything in the By-law to the contrary:
- (i) Where there are any Health & Safety Implications, or there are capacity limits for in-person attendance at any meeting due to any Health & Safety Implications, the Clerk may direct that in-person Delegations be given in whole or in-part from a committee room that is configured to provide live audio-only or audiovisual links to the Council Chambers;
 - (ii) Where there are capacity limits for in-person attendance at any meeting due to any Health & Safety Implications, the Clerk may direct that Delegations be given by electronic means only when in-person capacity limits have been reached;
 - (iii) The Clerk may order Delegations on the Agenda by Agenda Item and type of participation (in-person or electronic) notwithstanding the order in which requests for Delegations were received;
 - (iv) The Clerk may establish and amend any procedure or process deemed necessary to implement audio-only, audiovisual, or hybrid

in-person and electronic delegations, including but not limited to, any time limit by which a potential Delegate will be required to register, and any procedures or processes so established or amended shall be deemed to be part of this Article;

- (v) 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-only or audiovisual means that are consistent with the By-law, Delegations shall be in writing only.
- (e) Sections 12.4.3(b) and 12.4.3(c) shall not apply to any Special Council Meeting, conducted as an Electronic Meeting or Hybrid Meeting, called to deal with an Emergency or Time-Sensitive Matter on less than 48 hours' notice.
- (f) Notwithstanding anything in Section 12.4 to the contrary, where there is no Emergency or no Health and Safety Implications or any other restrictions on in-person public attendance at a Meeting, electronic delegations shall not be permitted.

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 as an Electronic Meeting or Hybrid 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 are three or less registrants, 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) Where there is an Emergency, there are any Health & Safety Implications, or there are capacity limits for in-person attendance at any meeting due to any Health & Safety Implications, the Clerk may direct that in-person Public Forum be given in whole or in-part from a committee room that is configured to provide live audio-only or audiovisual links to the Council Chambers;
 - (viii) Where there are capacity limits for in-person attendance at any meeting due to any Health & Safety Implications, the Clerk may direct that Public Forum be given by electronic means only when those capacity limits have been reached.
 - (ix) Where there are any capacity limits in place, an individual registered for in-person delegation as provided for in paragraph 12.4.4 shall take precedence over an individual requesting in-person Public Forum submission under this section.
 - (x) The Clerk may establish and amend any procedure or process deemed necessary to implement this section, and any procedures or processes so established or amended shall be deemed to be part of this Article.
- (b) Notwithstanding anything in Section 12.5 to the contrary, where there are no Health and Safety Implications or any other restrictions on in-person public attendance at a Meeting, electronic Public Forum submissions shall not be permitted.

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 or Hybrid 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 Electronic Meeting or Hybrid 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

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 audio-only in a Meeting and confirm that a quorum is present. Audio-only Electronic Meetings - Members not present during Roll Call

12.7.2 Audio-only Electronic Participation - Members not present during Roll Call

Subject to section 12.8, a Member participating audio-only who is not present during the roll call, and/or subsequently joins the Meeting audio-only, 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 audio-only.

A Member participating audio-only 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.

12.7.3 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 participating audio-only 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 Participating in an Audio-visual Electronic Meeting

- (a) Where an Electronic Meeting is conducted as an audio-visual meeting, a Member is only participating in that meeting and only forms part of quorum for any part of that Meeting if they are visible on the screen after the chair has called the meeting to order and prior to adjournment.
- (b) Where an Electronic Meeting is conducted as an audio-visual meeting, if a Member is not able, for any reason, to be visible on the screen in accordance with paragraph (a), the Member is only participating in that meeting and only forms part of quorum for any part of that Meeting if they comply with the provisions of Section 12.7.2.

12.9 Audio-only Electronic Meetings - Additional Rules of Debate - Speaking Order

12.9.1 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 of any motion;
- (b) The seconder of any motion;
- (c) 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.

12.9.2 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:

- (d) The mover of a motion;
- (e) 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.

12.9.3 Speaking Order – All other Committees

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.

12.9.4 Observance of other rules

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

12.10 Electronic Meeting - Voting

12.10.1 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 or,

if provided by the Clerk, the use of “Yes” and “No” voting cards; or,

- (b) A recorded vote has been requested by any member.

12.10.2 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.

12.10.3 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 voted, including the first member to vote, may be randomly determined by the Clerk.

12.11 Interruptions in Livestream

12.11.1 Interruptions in Livestream – General

Nothing in this Article or Section shall be construed as requiring the City to be responsible for providing or ensuring that a person who wants to view the Livestream of a Meeting has the necessary technology or internet connection, or that such technology or internet connection is fully operational during a Meeting.

12.11.2 Delay of the Start of a Meeting due to Inability to Livestream

Notwithstanding anything in this By-law to the contrary:

- (a) Where the City is not able to Livestream an Electronic Meeting or Hybrid Meeting for any reason, the start of a Meeting shall be delayed until such time as the City is able to Livestream the Meeting.
- (b) If the City is unable to start the Livestream of a Meeting within thirty (30) minutes of the start time of that meeting, the Chair, in consultation with the Clerk, may reschedule the start time of the Meeting to a later time on the same day provided that:
 - (i) A quorum of Members are able to attend the revised start time; and,
 - (ii) The rescheduled start time is not less than two (2) hours after the original start time so that the Clerk may provide notice to the Public

on the City's website a minimum of thirty (30) minutes prior to the revised start time.

- (c) If the Meeting referred to in paragraph (a) is not able to be rescheduled to a later time on the same day in accordance with paragraph (b), the Chair, in consultation with the Clerk, may reschedule a meeting to a different day and time, provided that:
 - (i) A quorum of Members are able to attend the revised day and time;
 - (ii) The revised day and time shall occur no later than the day immediately prior to the next regularity scheduled meeting; and
 - (iii) Notice shall be given to the public a minimum of one (1) clear day prior to the revised day and time.

12.11.3 Recess of Meetings when Livestream Interrupted

Notwithstanding anything in this By-law to the contrary,

- (a) If the Clerk or Chair becomes aware that the Livestream of the Open Session portion of a Meeting has stopped functioning during a Meeting already in progress, the Meeting shall be deemed to be in recess, without need to move a motion to that effect, until such time as the Livestream is re-started or restored.
- (b) A recess referred to in paragraph (a) may extend to any time or day, provided that:
 - (i) It shall not extend later than the day immediately prior to the next regularity scheduled meeting;
 - (ii) If the recess is greater than thirty (30) minutes, it shall not expire for a minimum of two (2) hours so that the Clerk may provide notice to

the Public on the City's Website at least thirty (30) minutes prior to the recess ending.

- (c) Where a Meeting is recessed in accordance with paragraph (a):
 - (i) Any business completed prior to the recess shall not be reconsidered except in accordance with the provisions of Article 5 to 11 of this By-law;
 - (ii) The Minutes shall record the dates on which the meeting was held if the recess extends beyond the day on which it was first called to order; and
 - (iii) The Minutes shall record time and length of the recess, and the fact that the Meeting was recessed in accordance with Section 12.10.2(a) of this By-law.