

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

BULLETIN

TO: Clients
FROM: Lidstone & Company
DATE: March 26, 2020
RE: COVID-19 - Today's Ministerial Orders

On March 26, 2020, Minister of Public Safety and Solicitor General Mike Farnworth (the “**Minister**”) issued three ministerial orders in response to the COVID-19 pandemic (the “**Orders**”). The Orders are:

- [Ministerial Order M082](#)
- [Ministerial Order M083](#)
- [Ministerial Order M084](#)

The Orders have several impacts on local governments. The purpose of this memo is to summarize those impacts.

The Orders only apply during 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 that declaration is in effect.

Bylaw Enforcement Officer Assistance (Ministerial Order M082)

M082 is a directive by the Minister for bylaw enforcement officers to prioritize assisting enforcement of Provincial public health orders.

This Order requires local governments to ensure bylaw enforcement officers assist with the enforcement of Provincial public health orders if such assistance does not unduly compromise other local government bylaw enforcement objectives.

The assistance may include monitoring certain facilities, providing information and warnings to the public and providing information to Provincial health officers.

This Order does not authorize bylaw enforcement officers to detain anyone or to issue fines or penalties pursuant to Provincial public health orders. It does not limit the enforcement authority of enforcement officers with respect to local government bylaws. And, it does not provide bylaw enforcement officers with additional powers

Local Government Meetings and Bylaw Process (COVID-19) Order (Ministerial Order M083)

M083 states that municipal councils and regional district boards are not required to allow the public to attend open meetings.

M083 also enables municipal councils and regional district boards to conduct meetings by electronic means, whether their procedure bylaws contemplate this process.

Lastly, M083 enables municipalities and regional districts to adopt bylaws on the same day they receive third reading. Regional districts normally require 2/3 of the votes cast to adopt the bylaw on the same day. Under M083, they only require a majority of votes cast.

M083 applies to meetings of municipal councils, regional district boards, the Vancouver Council and their respective committees or bodies. It does not apply to meetings of local improvement districts.

M083 also does not address public hearings required in connection with zoning bylaws. We are not aware of any current order or directive in respect to conducting public hearings.

Local Authorities and Essential Goods and Supplies Order (Ministerial Order M084)

M084 provides that:

- local authorities must immediately implement their local emergency plan;

- any previous declaration by a local authority of a state of local emergency (“**SOLE**”) under the *Emergency Program Act* is set aside and any further SOLE declaration must first receive approval of the Minister;
- local authorities must comply with requests of the Minister regarding the COVID-19 response and critical supplies;
- local authorities must exercise “best efforts” to enter into mutual aid agreements with neighbouring jurisdictions to ensure continuity of essential services during the COVID-19 pandemic, and in particular to ensure that first responder, wastewater and drinking water services are maintained; and
- local authority bylaws restricting delivery of goods, food or supplies to retailers within that jurisdiction do not apply.

M084 applies to “local authorities” which include a municipal council for a municipality or regional district board for a regional district.

Under the Order, the term “**essential goods and supplies**” means any goods and supplies that are necessary for the health, safety and welfare of people, including, without limitation, the following:

- (a) food, water and other beverages;
- (b) fuel and gasoline;
- (c) health care goods, pharmaceuticals and medical supplies;
- (d) personal hygiene, sanitation and cleaning goods.

The term “**best efforts**” is not defined in M084. Courts interpret “best efforts” to mean ““all reasonable steps are to be taken so no stone is left unturned” (*Atmospheric Diving Systems Inc. v. International Hard Suits Inc.*, 1994 CanLII 16658 (BC SC), para. 63).