

Authority: TO Live Item [insert item number], as adopted on [insert date]

**TO LIVE
BY-LAW No. -2020**

To amend the TO Live By-law No. 1-2016 to enable remote electronic participation in board meetings during an emergency.

WHEREAS TO Live is a city board and local board of the City of Toronto continued under the authority of section 141 of the *City of Toronto Act, 2006* ("COTA") and former City of Toronto Municipal Code Chapter 23, Civic Theatres; and

WHEREAS subsection 189(2) of COTA requires that TO Live pass a procedure by-law for governing the calling, place and proceedings of meeting; and

WHEREAS TO Live has adopted By-Law No. 1-2016 (the "By-law") to govern the calling, place and proceedings of meetings of the Board of Directors of TO Live (the "Board") adopted by the Board on June 30th, 2016 and approved by Toronto City Council at its October 2016 meeting; and

WHEREAS section 190 of COTA requires that meetings of the Board will be open to the public unless an exception under subsection 190(2), (3) or (3.1) applies; and

WHEREAS subsection 189(4) of COTA states that a procedure by-law of a local board may provide that a member can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time; and

WHEREAS subsection 189(4.1) of COTA states that a procedure by-law of a local board shall not provide that a member of the local board can participate electronically in a meeting which is closed to the public; and

WHEREAS on March 19, 2020 the *Municipal Emergency Act, 2020* ("MEA"), was enacted by the Legislative Assembly of Ontario and received Royal Assent; and

WHEREAS the MEA amended COTA to state that 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 (the "Act"), a procedure by-law of a local board may provide that (a) despite subsection 189(4) of COTA, a member of a local board 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 189(4.1) of COTA, a member of a local board can participate electronically in a meeting that is closed to the public; and

WHEREAS the MEA further amended COTA to state that a local board may hold a special meeting to amend its procedure by-law for the purposes of permitting electronic participation in meetings as described above during any period where an emergency has been declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the Act and despite subsection 189(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; and

WHEREAS COVID-19 is present within the City of Toronto, and COVID-19 is a disease that is readily communicable from person to person, carries a risk of serious complications such as pneumonia or kidney failure, and may result in death; and

WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization; and

WHEREAS, on March 17, 2020, an emergency was declared, by means of Order in Council 518/2020 for the purposes of section 7.0.1 of the Act, due to the health risks to Ontario residents arising from COVID-19; and

WHEREAS, on March 23, 2020 an emergency was declared by the Mayor of the City of Toronto for purposes of section 4 of the Act, and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19 and its presence within the City of Toronto; and

WHEREAS on March 28, 2020, an Order was made by the Lieutenant Governor in Council under Subsection 7.0.2 (4) of the Act – Organized Public Events, Certain Gatherings, O. Reg 52/20, prohibiting attendance at any organized public event of more than five people;

WHEREAS the Board wishes to hold its meetings electronically to comply with Ontario Regulation 52/2020 and minimize risk to its board members and the public in accordance with advice from the City of Toronto's Medical Officer of Health, who has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household; and

WHEREAS the Board continues to ensure its meetings are open to the public in accordance with section 190 of COTA through the provision of notice of the Board meeting to the public, the live streaming of the electronic meeting, and the provision of access to interested persons to depute to the Board using the same tele-conferencing system as is being used to facilitate the meeting; and

WHEREAS Section 45(1) of By-law requires that the by-law shall be amended only by a two-thirds majority vote of the voting members and that notice to amend must be given a previous meeting; and

WHEREAS in light of the declared COVID-19 emergency, it is currently impossible to meet the procedural requirements of the By-law to facilitate electronic participation; and

WHEREAS Bill 187 takes priority over the procedural requirements of Section 45(1) of the By-Law by allowing for procedural by-laws of local boards to be amended at a special meeting at which electronic participants are counted toward determining quorum during a declared emergency; and

WHEREAS the Board has authorized changes to the By-law to enable remote electronic participation in Board meetings in accordance with the provisions of Bill 187;

The Board of Directors of TO Live enacts:

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1. By-law 1-2016 is amended by adding the following as new section 28.1:

28.1 Electronic Participation in Meetings

During any period where an emergency has been declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the Emergency Management and Civic Protection Act:

A. Despite any other provisions of this By-law, the Board and its Committees may hold a meeting where some or all of the members participate electronically; and

B. Where a meeting is being held in accordance with this section:

- (1) any member participating in the meeting electronically shall be deemed present for the purposes of determining whether a quorum is present under section 29, and for the purposes of voting on any matter put to a vote under section 29, and for all other purposes.
- (2) any member participating in the meeting electronically shall be entitled to participate in any portion of the meeting closed to the public in accordance with section 28;
- (3) this By-law shall apply with any other minor modifications as may be required.

2. This by-law will come into force on the date it is enacted and passed.

Enacted and passed on May 22nd, 2020.

Robert J. Foster
Chair

Ulli Watkiss,
Secretary