

**The following is the relevant legislation regarding closed meeting investigations procedures and investigations under the *Municipal Act, S.O. 2001, c.25, as amended.***

***Meetings open to public***

*239. (1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).*

***Exceptions***

*(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,*

- (a) the security of the property of the municipality or local board;*
- (b) personal matters about an identifiable individual, including municipal or local board employees;*
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;*
- (d) labour relations or employee negotiations;*
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;*
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;*
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).*

***Other criteria***

*(3) A meeting or part of a meeting shall be closed to the public if the subject matter being considered is,*

- (a) a request under the Municipal Freedom of Information and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act; or*
- (b) an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under*

*the Ombudsman Act, an Ombudsman referred to in subsection 223.13 (1) of this Act, or the investigator referred to in subsection 239.2 (1). 2014, c. 13, Sched. 9, s. 22.*

### **Educational or training sessions**

*(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:*

- 1. The meeting is held for the purpose of educating or training the members.*
- 2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1).*

### **Resolution**

*(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,*

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or*
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).*

### **Open meeting**

*(5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).*

### **Exception**

*(6) Despite section 244, a meeting may be closed to the public during a vote if,*

- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and*
- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).*

### **Record of meeting**

*(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).*

### **Same**

*(8) The record required by subsection (7) shall be made by,*

*(a) the clerk, in the case of a meeting of council; or*

*(b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).*

### **Record may be disclosed**

*(9) Clause 6 (1) (b) of the Municipal Freedom of Information and Protection of Privacy Act does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).*

### **Investigation**

*239.1 A person may request that an investigation of whether a municipality or local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public be undertaken,*

*(a) by an investigator referred to in subsection 239.2 (1); or*

*(b) by the Ombudsman appointed under the Ombudsman Act, if the municipality has not appointed an investigator referred to in subsection 239.2 (1). 2006, c. 32, Sched. A, s. 104.*

### **Investigator**

*239.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation. 2006, c. 32, Sched. A, s. 104.*

**Powers and duties**

(2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 104.

**Matters to which municipality is to have regard**

(3) In appointing an investigator and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

**Same, investigator**

(4) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

**Same**

- (5) The matters referred to in subsections (3) and (4) are,
- (a) the investigator's independence and impartiality;
  - (b) confidentiality with respect to the investigator's activities; and
  - (c) the credibility of the investigator's investigative process. 2006, c. 32, Sched. A, s. 104.

**Delegation**

(6) An investigator may delegate in writing to any person, other than a member of council, any of the investigator's powers and duties under this Part. 2006, c. 32, Sched. A, s. 104.

**Same**

(7) An investigator may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 104.

**Status**

(8) An investigator is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 104.

**Application**

*(9) Subsection 223.13 (6) and sections 223.14 to 223.18 apply with necessary modifications with respect to the exercise of functions described in this section. 2006, c. 32, Sched. A, s. 104.*

**Report and recommendations**

*(10) If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to section 239 or to a procedure by-law under subsection 238 (2), the investigator shall report his or her opinion and the reasons for it to the municipality or local board, as the case may be, and may make such recommendations as he or she thinks fit. 2006, c. 32, Sched. A, s. 104.*

**Publication of reports**

*(11) The municipality or local board shall ensure that reports received under subsection (10) by the municipality or local board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 104.*