

Extension of Pandemic-Related Relief Relative to Municipal Operations June 17, 2021

Numerous legislative and gubernatorial enactments provided temporary relief from various provisions of state law as a result of the COVID-19 public health emergency. However, when the State of Emergency ended, those relief provisions either expired or were rescinded. Unfortunately, consensus was not reached between the Governor, House, and Senate on proposals extending some of those relief provisions before the State of Emergency expired. Late on June 15th, however, the House and Senate approved a compromise relief bill, signed by the Governor yesterday as Chapter 20 of the Acts of 2021 (the “Act”). The Act codifies and extends several pandemic-relief provisions important to municipal operations, explained below. Importantly, the Act does not contain any provisions relative to municipal elections, including mail-in or early voting, as it is reported that the Legislature is separately considering action on such matters.

Open Meeting Law (Section 20 of the Act):

Perhaps the most eagerly anticipated provision of the Act for public sector entities is the extension until **April 1, 2022** of the relief provided by Governor Baker’s temporary suspension of certain provisions of the Open Meeting Law (OML), authorizing public bodies subject to the OML to continue to hold public meetings entirely by virtual or remote means. Attached are some examples of updated language that could be included on meeting notices, indicating that a meeting will be held via remote means.

The Act continues the rules and requirements applicable during the State of Emergency under Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20. (For more information on those requirements, please see our March 13, 2020 eUpdate, found [here](#)). Importantly, this means that even in municipalities where the Chief Executive Officer has not adopted remote participation for boards and committees, individual public bodies may independently decide to continue holding entirely virtual meetings.

Public bodies may, but are not required to, continue to hold entirely virtual meetings until April 1, 2022 or such later time as the Legislature may deem it appropriate to amend the OML permanently for such purposes. It is anticipated, however, that with more public buildings re-opening, some municipalities may decide to move forward with entirely in-person meetings, while others may choose to hold “hybrid” meetings simultaneously in person and via remote means.

While many boards and committees faced difficult decisions on or before June 15th about whether to move forward with virtual meetings/hearings that were posted or advertised prior to the expiration of the State of

Emergency, the Act ratifies any such meetings for purposes of the OML if they were held in compliance with the Governor's previous Executive Order. Unfortunately, this portion of the Act was added to the legislation at the last minute, and thus many boards and committees either postponed or continued meetings scheduled for June 15th or 16th.

Other provisions of the Act of interest to municipalities are summarized below.

Outdoor Dining & Alcohol "To Go":

- Outdoor Dining (Section 19 of the Act): Extends until **April 1, 2022** the ability of cities and towns to approve requests for expansion of outdoor dining service. This section also extends until **April 1, 2022** a local licensing authority's ability to approve, without further ABCC review or approval, changes in the description of a licensed premises for outdoor alcohol service. The Act also authorizes a local licensing authority to extend or modify the scope of an earlier approval issued under the now-rescinded Governor's Executive Orders to address potential issues with snow removal, pedestrian traffic or similar concerns. The authority to permit an extended area for alcohol service without ABCC approval is unlikely to be extended again, so local licensing authorities may wish to advise license holders, when they are filing their renewal applications in November, that they should file an Alteration of Premises application (which requires both local and ABCC approval) if they wish to request the extended outdoor space through 2022 and beyond.
- Beer, Wine and Cocktails to Go (Sections 1, 2, 10 and 11 of the Act): Extends until **May 1, 2022** the sale of beer, wine and cocktails "to go" and requires prices for on-premises and off-premises consumption to be the same. (For more information, please see our May 25, 2021 eUpdate, found [here](#)).

Town Meetings:

- Quorum (Section 8 of the Act): Extends until **December 15, 2021** the ability of a town Select Board, in consultation with, and approval of, the Moderator, to lower a Town Meeting quorum requirement. The procedural prerequisites for adopting a lower quorum are the same as originally adopted under Chapter 92 of the Acts of 2020. (For more information, please see our May 5, 2020 eUpdate, summarizing S.2680, found [here](#)).
- Remote Representative Town Meeting (Section 9 of the Act): Extends until **December 15, 2021** the ability of a town Moderator to request, through the Select Board, that a representative town meeting be held remotely. The requirements for a remote representative town meeting are the same as originally provided for by Chapter 92 of the Acts of 2020. The Act **does not** authorize open Town Meetings to meet remotely. (For more information, please see our May 5, 2020 eUpdate, summarizing S.2680, found [here](#)).

Virtual Notarization:

- Section 7 of the Act extends until **December 15, 2021** the ability to perform “virtual” notarizations, including for the execution of documents to be filed in the registry of deeds and other specific functions. (For more information on virtual notarization requirements, please see our April 28, 2020 eUpdate, found [here](#)).

Housing/Evictions:

- Notice to Quit (Sections 12 to 14, Section 32):
 - Effective upon the termination or nullification of the Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Order issued by the federal Centers for Disease Control and Prevention (the “CDC eviction moratorium”).
 - Extends until **December 30, 2022** the requirement that landlords include with a notice to quit for non-payment of rent a form informing tenants of their rights in an eviction case and rental assistance options. The Executive Office of Housing and Economic Development (EOHED) will develop this new form and make it publicly available on its website. Landlords issuing notices to quit after the termination or nullification of the CDC eviction moratorium should not use the old form, but instead the new EOHED form.
 - Extends until **December 30, 2022** the requirement that landlords submit a copy of a notice to quit for non-payment of rent to the EOHED.
- Eviction Continuance/Stay (Section 17): Extends until **April 1, 2022** the requirement that courts grant a continuance or stay of eviction in a case for non-payment of rent where the tenant has a pending rental assistance application and the non-payment is due to a financial hardship related to the COVID-19 emergency. (For more information, see our February 1, 2021 eUpdate, found [here](#), and our subsequent February 26, 2021 eUpdate, found [here](#)).

We will, of course, continue to keep you apprised of new developments. In the meantime, should you have questions, please contact your KP Law attorney or e-mail us at coronavirusinfo@k-plaw.com.

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Sample language for inclusion on meeting notices:

For “hybrid” meetings and public hearings, where the public will be allowed to access the meeting either by in person attendance or by virtual means:

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be at the meeting location listed above, and it is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public. The meeting may also be accessed remotely via [insert method of remote access, including login information or the contact information for someone who is available to provide that information prior to and through the meeting itself]. When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by in person attendance, or by accessing the meeting remotely, as noted above. Additionally, the meeting will be broadcast live, in real time, via [insert information regarding how to access live broadcast to meeting, such YouTube, Facebook live, local cable access, etc.].

For entirely virtual public meetings, where the public will not be allowed to attend in person:

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so in the following manner: [insert method of remote access, including login information or the contact information for someone who is available to provide that information prior to and through the meeting itself, and/or insert information regarding how to access live broadcast to meeting, such YouTube, Facebook live, local cable access, etc.]. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, for reasons of economic hardship and despite best efforts, we will post on the _____ website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

For entirely virtual public meetings including public hearings, where the public will not be allowed to attend in person:

Pursuant to Chapter 20 of the Acts of 2021, this meeting/public hearing will be conducted via remote means. Members of the public who wish to access the meeting may do so in the following manner: [insert method of remote access, including login information or the contact information for someone who is available to provide that information prior to and through the meeting itself]. No in-person attendance of members of the public will be permitted, and public participation in any public hearing conducted during this meeting shall be by remote means only.

Optional additional sentence, applicable for all of the above suggested statements:

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting/hearing can be found on the _____ website at _____.