



May 23, 2025

Reference: 186635

Mayor Rob Kerslake and Members of Council
District of Barriere
Email: rkerslake@barriere.ca

Dear Mayor Kerslake and Councillors:

The Ministry of Housing and Municipal Affairs (Ministry) is considering potential legislative amendments to expand the circumstances in which local government council meetings can be closed to the public to include some circumstances specific to Local Government-First Nation relations.

The proposed amendments are intended to support local governments in building relationships with First Nations, fostering government-to-government relationships and advancing reconciliation. Please see the attached document for an overview of the proposed legislative amendments to the *Community Charter*. Similar amendments are also being considered for the *Vancouver Charter*.

We are seeking your feedback regarding the proposed amendments. I invite you to attend one of the information webinars hosted by Ministry staff, with support from the Union of BC Municipalities (UBCM), taking place over the month of June. Further information and exact dates are available in UBCM's The Compass newsletter from May 21, 2025. Details are also available at: www.ubcm.ca/about-ubcm/latest-news/input-requested-proposed-changes-closed-council-and-board-meetings.

Written feedback can also be provided in response to this letter. If you or your staff wish to directly comment on the proposed amendments, please provide your feedback to Policy, Research and Legislation Branch staff by email (LG.PRL@gov.bc.ca) within 30 days of receipt of this letter.

Thank you for your time and attention.

Sincerely,

Mayor Rob Kerslake

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A handwritten signature in black ink, appearing to read "T. Faganello", with a stylized flourish at the end.

Tara Faganello

Assistant Deputy Minister

Local Government Division

Ministry of Housing and Municipal Affairs

Attachment: Overview of Closed Meeting Provisions and Proposed Amendments

CC: ddrexler@barriere.ca

Questions for Consideration

- What are your overall thoughts on the proposed changes to the closed meeting provisions?
- Do you have any specific concerns with this proposal?
- What additional considerations would you like to bring to our attention?

Proposed Amendments

Housing and Municipal Affairs staff are currently exploring two potential amendments to section 90 of the *Community Charter* to:

1. Allow a council meeting to be closed when the subject matter being considered relates to information that would be prohibited from written disclosure under s. 18.1 of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

- FOIPPA s. 18.1 requires the head of a public body to refuse to disclose information if the information could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop their cultural heritage, traditional knowledge, traditional cultural expressions, or manifestations of their sciences, technologies, or cultures. This aligns with language in article 31 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - For example, cultural heritage has been defined as ideas, experiences, objects, artistic expressions, practices, knowledge, and places that are valued because they are culturally meaningful, connected to shared memory, or linked to collective identity.
 - For example, traditional knowledge has been defined as knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.
 - Examples of manifestations of sciences, technologies or cultures include human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts.

2. Require that a council meeting be closed if it relates to the consideration of information received and held in confidence relating to negotiations between the local government and a First Nation.

- This would broaden the current provision (section 90(2)(b), bolded in the section below) that applies to negotiations between local governments and the provincial or federal government to additionally include negotiations between local governments and a First Nation.

Current Closed Meeting Provisions – Community Charter

Meetings that may or must be closed to the public

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
- c) labour relations or other employee relations;
- d) the security of the property of the municipality;
- e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
- g) litigation or potential litigation affecting the municipality;
- h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
- i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
- k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
- l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];
- m) a matter that, under another enactment, is such that the public may be excluded from the meeting;
- n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
- o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.

(2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:

- a) a request under the *Freedom of Information and Protection of Privacy Act*, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
- b) **the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;**
- c) a matter that is being investigated under the *Ombudsperson Act* of which the municipality has been notified under section 14 [*Ombudsperson to notify authority*] of that Act;
- d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
- e) [Repealed 2022-15-2.]

(3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

Relevant Legislation - *Freedom of Information and Protection of Privacy Act*

Disclosure harmful to interests of an Indigenous people

18.1 (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people:

- a) cultural heritage;
- b) traditional knowledge;
- c) traditional cultural expressions;
- d) manifestations of sciences, technologies or cultures.

(2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.