

Municipal Governance

During the COVID-19 Outbreak

Frequently Asked Questions – April 24, 2020

The state of the COVID-19 pandemic and its impact on municipalities continues to change daily. As we navigate these challenging times together, Municipal Affairs will continue to support and provide regular updates addressing frequently asked questions and providing information on new tools as they become available.

This update focuses on Ministerial Orders No. [MAG:014/20](#) and [MSD:036/20](#), the [Public Meeting Procedures \(COVID-19 Suppression\) Regulation](#), municipal enforcement and questions arising from the Premier and Minister's telephone town hall meetings.

Municipal Affairs Updates

Previous COVID-19 updates are available at www.alberta.ca/municipal-government-resources.aspx

Time Extensions

Municipal Affairs has worked with partner associations and legal professionals to address the concerns and unintended consequences arising from the original blanket Ministerial Order No. [MSD:22/20](#).

On April 17, 2020, Ministerial Order No. [MSD:022/20](#) was replaced with two new ones. Ministerial Order No. [MAG:014/20](#) deals specifically with various assessment and tax recovery related timelines. It makes important changes to clarify and shorten the

timeline extensions. Ministerial Order No. [MSD:036/20](#) addresses planning and development as well as the other items from Ministerial Order No. [MSD:022/20](#). It includes transitional provisions to return to some normal timelines to ensure development is not impeded.

Planning & Development

Does the Ministerial Order No. [MSD:036/20](#) remove the October 1, 2020 extension of planning and development appeal timelines?

YES. For the most part, the timelines and deadlines revert to the existing timelines and deadlines in the *Municipal Government Act*. For matters that either started or ended between March 25 and April 17, 2020, the period for appeal will start on April 17, 2020. This will provide certainty for applicants and the public for numerous planning, subdivision, and development activities prior to the beginning of the construction season.

Can appeals still occur while also making sure public health orders are adhered to?

YES. It is the responsibility of each municipality to ensure that public health orders regarding physical distancing are followed. The [Public Meeting Procedures \(COVID 19 Suppression\) Regulation](#) provides the necessary flexibility to ensure compliance, while allowing municipalities the ability to continue to do necessary business.



My municipality issued a decision or scheduled a public hearing between March 25 and April 17, 2020. What effect does MO No. MSD:036/20 have on this?

If your municipality issued a decision or scheduled a public hearing, you must re-notify all parties using your notifications procedures under your land use bylaw or your procedures bylaw and the process under the Public Meeting Procedures (COVID-19 Suppression) Regulation. After April 17, 2020, any applications, decisions, meetings and hearings proceed on the timelines set out in the *MGA*.

Does the Public Meeting Procedures (COVID-19) Regulation apply to all meetings and hearings for planning and development matters?

YES. The regulation provides municipalities with the flexibility to hold meetings or hearings while also following public health orders, including physical distancing. Under the regulation, meetings or hearings must be conducted using appropriate physical distancing. The maximum number in attendance includes the development or subdivision authorities, administration and the public. For example, the regulation allows for electronic hearings and/or meetings as long as members of the public can hear the meeting as it occurs and make electronic submissions before and during the meeting and/or hearing.

What happens if a municipality or development authority needs more time beyond the timelines described in the *MGA*? Can they use the October 1, 2020 date established in MO No. MSD:022/20?

NO. MO No. MSD:022/20 was rescinded and replaced by MO No. MSD:036/20. If additional time is needed by the public to file an application or by a decision making body to make a decision due to impacts from COVID-19, they may request an extension to a date or timeline from the Minister under Section 605 of the *MGA*. Please contact Municipal Affairs to determine how to make a request.

In addition, the *MGA* already provides that a subdivision or development authority may extend the timelines for making a decision on a subdivision or development permit application through written mutual agreement with the applicant.

Assessment & Tax Recovery

On April 17, 2020, the Minister of Municipal Affairs issued a new Ministerial Order MO No. MAG:014/20, which deals specifically with various assessment-related timelines, and makes important changes to clarify and shorten some of the original timeline extensions.

Is the complaint deadline for assessment notices with notice of assessment dates that fall on or after January 31, 2020, still October 1, 2020?

NO. MO No. MAG:014/20 sets the deadline for complaints to July 1, 2020, or 60 days from the notice of assessment date, whichever time is later.

Have there been changes to the date our municipality is required to prepare and send our tax arrears list?

YES. Municipalities must submit the arrears list for properties related to land to the Registrar (Land Titles), the unclaimed personal property and vested property program, and post the arrears list by June 30, 2020. Municipalities must also prepare the arrears list of properties related to designated manufactured homes and post the arrears list by June 30, 2020.

Ministerial Order No. MSD:022/20 extended the March 31, 2020 deadline to hold tax sales (per sec. 418(2)) to October 1, 2020. Has this changed?

NO. This deadline to hold tax sales by as stated in section 418(2) of the *Municipal Government Act* remains extended to October 1, 2020.

Does the Ministerial Order change the October 1, 2020 deadline to perform actions articulated under Sections 417 and 436.08(1) of the *Municipal Government Act*?

NO. The October 1, 2020 deadline remains in effect for these requirements, which include notification provided by the Registrar in the cases of tax recovery related to land and the municipality in cases of tax recovery related to designated manufactured homes, the warning of a tax sale to owners of land and owners of a designated manufactured home, and the designated manufactured home park owner and all those that have an interest in the affected property.

Does the extension to submit the tax arrears list mean the list of properties for tax sale between April 1, 2020 and March 2021 is extended to October 1, 2021?

NO. For tax arrears file notifications issued in 2019, March 31, 2021, remains the deadline for the tax sale.

Are there any other extensions provided for in MO No. MAG:014/20?

YES. Any other thing that was required to be done under Parts 9 – 12 of the *MGA* and its associated regulations that was required to be done between March 25 and April 17 has been extended to May 31, 2020.

Our municipality already provided notice of an October 1, 2020 deadline that has now been changed. Should we provide additional notice that the deadline has changed to an earlier date?

YES. Although not legislated, Municipal Affairs recommends that municipalities re-notify all parties previously notified to ensure they are all aware of these changes.

Municipal Enforcement

Is the province working on standardizing what is subject to penalties to ensure there is clarity and consistency between enforcement bodies for enforcement under the *Public Health Act*?

YES. Alberta Justice and Solicitor General, in collaboration with Alberta Health and Alberta Health Services, have been in constant contact with Alberta's police services (through the Alberta Association of Chiefs of Police) and directly with authorized employers of community peace officers (municipalities) regarding enforcement of Alberta's Chief Medical Officer of Health's orders to ensure a clear and constant message around the enforcement of these orders is being provided.

Can community peace officers enforce the recommendations of the Chief Medical Officer of Health?

YES. Bill 10 amended Section 13 the *Public Health Act* by adding the following after subsection (1): (1.1) Where a state of emergency has been declared under section 18(1) of the *Emergency Management Act* or a state of public health emergency has been declared under section 52.1(1) of the *Public Health Act*, the Minister is not required to obtain the consent of peace officers and the peace officers' employers before making an order under subsection (1) declaring the peace officers to have jurisdiction in any part of Alberta to which the declaration of a state of emergency or a state of public health emergency relates.

Can municipal bylaw enforcement officers who are not designated as community peace officers enforce the recommendations of the Chief Medical Officer of Health?

NO. Municipal bylaw officers can only enforce municipal bylaws.

Are community peace officers required to issue fines related to not following provincial directives to self-isolate or practice physical/social distancing?

NO. Although law enforcement agencies have the authority to enforce the orders issued by the Chief Medical Officer of Health under the *Public Health Act*, the discretion to educate, seek voluntary compliance, or issue a violation ticket remains with the law enforcement officer and is based on the situation and information available at the time.

While it is important to ensure the orders are adhered to by all Albertans, discretion is an essential feature of the justice system. A system that attempts to eliminate discretion would be unworkably complex and rigid. Therefore, law enforcement agencies retain the authority to make operational decisions independently of government.

Do municipalities have authority to take additional measures over and above those taken by the province to control the spread of COVID-19 locally?

YES. If a municipality wishes to take additional measures, the *Municipal Government Act (MGA)* and the *Emergency Management Act (EMA)* work in conjunction to provide the legislative framework for elected officials to determine how the municipality will organize for emergencies and disasters, as well as provide extraordinary powers to deal with emergency events. Councils may establish and enforce bylaws for municipal purposes respecting matters that include the safety, health, and welfare of people and the protection of people and property. Local authorities may also take other measures they reasonably believe will assist in the maintenance of public order or in the general safety of their communities.

Are there risks to consider when taking additional measures over and above those taken by the province to control the spread of COVID-19 locally?

YES. Bill 9 amended the *Emergency Management Act* to allow a municipal State of Local Emergency (SOLE) to vary from a provincially declared State of Emergency (SOE). Prior to the *EMA* amendment, a declaration of a State of Local Emergency ceased to be of any force or effect on the making of a provincial order for a State of Emergency. Bill 9 also amended sections 22(3) and 22(3.1) of the *EMA* by stating that in the event of any conflict, provincial directives prevail and a State of Local Emergency can be cancelled.

While municipalities under a State of Local Emergency can exercise their authorities (defined under Section 19(1) of the *EMA*), Municipal Affairs suggests that municipalities remain consistent with provincial public health guidance to reduce public confusion and increase compliance.

Municipal Affairs also suggests that all jurisdictions need to balance fundamental rights and public safety. Any decision that exceeds the Chief Medical Officer of Health conditions may not meet that balance.

Municipal Advisory Services

If you have further questions, please contact us at:

780-427-2225

or toll-free by first dialing 310-0000

or email ma.lgsmail@gov.ab.ca

Education Property Tax Deferral

Is there going to be additional information sent to municipalities arising out the April 15, 2020 education property tax deferral webinars?

YES. Material is being prepared and will be distributed shortly. In the meantime, general information as well as property tax deferral guidelines are available at: www.alberta.ca/education-property-tax.aspx and open.alberta.ca/publications/non-residential-property-tax-deferral-guidelines.

For further information, please contact a Municipal Affairs program advisor toll-free by dialing 310-0000, then 780-422-7125, or by email at taxprogramdelivery@gov.ab.ca.

General Questions

Can a municipality change the designated industrial property requisition (DIP) rate, like done with the Alberta School Foundation Fund (ASFF) rate, to account for a previous year's over or under collection?

NO. Unlike ASFF, where municipalities receive a specific dollar amount to collect on behalf of the province and apply it to assessment values to get a rate, the DIP rate is a specific rate municipalities must apply to all DIP properties. Therefore, municipalities should never require any over/under levies for the designated industrial property requisition. In addition, any municipality who has a total DIP requisition of \$1,000 or less is not required to submit anything to the province; any cheques for less than \$1,000 will be returned.

Have there been any modifications to the legislative requirements for petitions during the COVID-19?

NO. At this time, there are no modifications to the legislative requirements for petitions.

Are municipalities and citizens still able to meet the legislative requirements to petition bylaws during the COVID-19 pandemic when provincial regulations prohibit such activities as door to door canvassing?

YES. Section 226.1(1)(c) of the *Municipal Government Act* permits council to pass a bylaw to allow for petitions to council be signed electronically and modify the requirements of sections 224(2) and (3) and 225(3). In the absence of a bylaw, the completion of a petition still involves the collection of original signatures. It is the responsibility of the individuals who organize a petition to collect signatures in a manner that adheres to the physical distancing recommendations of the Chief Medical Officer of Health. Some suggestions to facilitate a petition process could be usage of social media to inform the public of a petition and/or establishing a location where a witness can observe, from an appropriate distance, eligible individuals signing the petition.

Does the submission of a petition to the CAO have to be in person?

NO. A petition can be submitted by courier, mail, or a municipal drop off box, ensuring the CAO receives it within the required timeline. If an individual plans on initiating a petition while public distancing is in effect, they are encouraged to contact ministry staff to discuss any of the petition provisions.

Further Updates

We will continue to examine ways to support municipalities in navigating through this situation, and will provide further updates as new tools become available.