

# Municipal Governance

## During the COVID-19 Outbreak

Frequently Asked Questions – April 9, 2020

The state of the COVID-19 pandemic and its impact on municipalities continues to change on a daily basis. 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 municipal planning as well as captures some of the common questions advisory and support staff have received with respect to the *Public Meeting Procedures (COVID-19 Suppression) Regulation* and Ministerial Orders MSD:019/20 and MSD:022/20.

### Municipal Affairs Updates

Previous COVID-19 updates are available at [www.alberta.ca/municipal-government-resources.aspx](http://www.alberta.ca/municipal-government-resources.aspx)

## Planning & Development

**Is the ministry reviewing the unintended consequences on planning and development processes as a result of Ministerial Order No. MSD:022/20 which extended deadlines and timelines to October 1, 2020?**

**YES.** Municipal Affairs is working with partner associations and legal professionals to identify the right solution to the challenges arising from these timeline extensions. Amendments are expected to be brought forward in the near future.

**Can council hold a public hearing without the public being in attendance and still meet the legislative requirement for public submissions?**

**YES.** Section 230 of the *MGA* requires public hearings to be conducted during a regular or special council meeting and council must hear persons claiming to be affected by the proposed bylaw or resolution.

The *Public Meeting Procedures (COVID-19 Suppression) Regulation* modifies the *MGA* requirements and provides for meetings and public hearings to be held by an electronic means so that those entitled to make submissions at the meeting can make electronic submissions before or during the meeting.

**Can council cancel or reschedule a public hearing?**

**YES.** Council may cancel or reschedule a public hearing by council resolution. However, council must still hold a public hearing prior to either second reading of a bylaw, or before council votes on a resolution where a public hearing is required as stated in section 230(1) of the *MGA*. In the event a public hearing is rescheduled, the notification and advertisement requirements of section 606 of the *MGA* apply.



**We have already advertised our public hearings for amending our land use bylaw. Ministerial Order No. MSD:022/20 gave extensions to October 1 for several provisions in the *MGA*. Can we proceed with the public hearings as advertised and with the land use bylaw amendments?**

**YES.** The requirement for public hearings are provided for in sections 230 and 692 of the *MGA*. These sections are not listed in Appendix 2 of the Ministerial Order that extended dates or timelines for various sections in the *MGA*. Public hearings that were advertised prior to the approval of Ministerial Order MSD:022/20 (March 31, 2020) can still proceed, as can the land use bylaw amendment bylaws. Public hearings should be conducted in a manner consistent with provisions in the Meeting Procedures (COVID-19 Suppression) Regulation.

## Emergency Management

**Is an emergency council meeting to declare a State of Local Emergency considered to be a public meeting?**

**YES.** If the meeting is held in council chambers and it is not made a closed meeting of council, then it is considered to be public.

**Can an emergency council meeting to declare a State of Local Emergency (SOLE) be conducted by electronic means without providing notice to the public?**

While section 23.1 of the *Emergency Management Act (EMA)* provides that the notice requirements in sections 194 to 196 of the *MGA* do not apply when meeting for the purpose of declaring or terminating a state of local emergency, the exemption does not include electronic meetings (section 199 of the *MGA*). Bill 13 is currently being considered by the Legislature. It proposes an amendment to section 23.1 of the *EMA* to add section 199 as one of the provisions of the *MGA* that does not apply when meeting for the purpose of declaring or terminating a SOLE. If approved, notice would not be required.

**Can an emergency advisory committee consisting of only one member declare a SOLE by resolution?**

**YES.** If the bylaw establishing the committee, and/or another municipal enactment establishing quorum requirements for SOLE declarations, provides that one member achieves quorum, then one member may declare a SOLE.

**Can municipal bylaws be changed by council resolution during a SOLE?**

**NO.** Section 191 of the *MGA* requires bylaws to be amended or repealed by another bylaw.

**Does the *Emergency Management Act* provide a blanket power to change bylaws?**

**NO.** While it is always best for a municipality to get their own independent legal advice, a council may amend a bylaw to remove a certain provisions, or include a clause in the amendment that certain provisions of a bylaw do not apply during a SOLE. Once the SOLE has terminated, the amending bylaw could be repealed to restore the original bylaw or it can expire once the SOLE is over if it was worded in such a way, depending on the legal advice a municipality receives

**Does a council still have to have a meeting to renew the SOLE at the end of 7 days?**

As of today, a SOLE can be renewed at the end of 7 days. Bill 13 is currently being considered by the Legislature. It proposes an amendment to section 22(4) of the *Emergency Management Act* to state that a declaration of a state of local emergency lapses at the end of 7 days, or at the end of 90 days if the declaration is in respect of a pandemic.



## General Questions

**What date did Ministerial Orders MSD:019/20 and MSD:022/20 take effect and what does that mean?**

Ministerial Orders MSD:019/20 and MSD:022/20 are available on Alberta Queen's Printer and took effect on March 31, 2020, the date they were signed. This means that as of March 31, 2020 the extensions to October 1, 2020 apply to the sections listed in the MOs. Municipal Affairs recognizes there are concerns with some of the provisions and steps are being taken to address those issues. More information will be provided in the near future.

**Can municipalities hold hearings for assessment complaints filed prior October 1, 2020?**

**YES.** Ministerial Order No. MSD:022/20 extended the assessment complaint deadline to October 1, 2020, and extends the 60-day deadline to hold an assessment review board hearing to either October 1, 2020 or 60-days following the receipt of an assessment complaint, whichever is the later date. If complaints are received prior to October 1, 2020, assessment review boards may choose to hear these appeals prior to the prescribed deadline.

### Municipal Advisory Services

If you have further questions, please call:  
780-427-2225 or toll-free by first dialing  
310-0000 or email [ma.lgsmail@gov.ab.ca](mailto:ma.lgsmail@gov.ab.ca)

**Does the closing of a municipal office or facility require a council resolution?**

**NO.** If a SOLE has been declared, the decision to close a municipal office can be made by the Director of Emergency Management. When a SOLE has not been declared, council remains responsible for deciding what programs and services to deliver and the CAO remains responsible for ensuring that those services are implemented.

**Will the *Public Meeting Procedures (COVID-19 Suppression) Regulation* remain in effect when the crisis is over?**

**NO.** The purpose of the regulation is to limit COVID exposure so this is only a temporary relaxation of the *MGA* during the COVID-19 pandemic.

**We do not have the capabilities to stream or let public listen to meetings. Is posting the recording of the meeting sufficient?**

**NO.** The *Public Meeting Procedures (COVID-19 Suppression) Regulation* permits electronic meetings if members of the public are able to hear the meeting as it occurs. For those municipalities looking for streaming or conferencing services, AUMA is offering its service. For further information please email [audioconference@auma.ca](mailto:audioconference@auma.ca).

**The majority of council is currently in 14-day mandatory quarantine or self-isolation. Are we able to have a council meeting?**

**YES.** The *Public Meeting Procedures (COVID-19 Suppression) Regulation* has provided flexibility for council to achieve quorum. The regulation have also increased the flexibility for councillors in quarantine to meet electronically (e.g., teleconference).

**Should municipalities be amending procedural bylaws to comply with the new *Public Meeting Procedures (COVID-19 Suppression) Regulation*?**

**NO.** The regulation supersedes municipal procedure bylaws and only applies during the COVID-19 pandemic.

### Further Updates

Ways to support municipalities continue to be explored as we all navigate through this situation, Further updates will be released as information becomes available.