

Bulletin #2020-10

MUNICIPAL RELATIONS

**Important Notice to
All Elected Officials and Chief Administrative Officers**

COVID-19 – Municipal Governance – FAQs – Update

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1. State of Emergency

1.1 How does the provincially declared state of emergency impact municipal operations?

On March 20, 2020, the Manitoba government declared a province-wide state of emergency to ensure government is able and ready to address the effects of COVID-19 (<https://news.gov.mb.ca/news/index.html?item=47137&posted=2020-03-20>). The declaration reinforces the importance of any guidelines provided and orders issued by the Chief Provincial Public Health Officer. The declaration also allows government to take steps in the future to protect the health and well-being of Manitobans as COVID-19 develops.

The declaration of a provincial state of emergency does not provide, by itself, municipalities with any extra powers or requirements. Declaring a state of emergency is independent of any type of financial assistance. The declaration of a provincial state of emergency and the orders issued by the Chief Provincial Public Health Officer are intended for the general public, do not impact the operations or the delivery of services by the Government of Manitoba or the Government of Canada, and should not affect the ongoing collaboration between municipal officials and the province. Municipalities can continue operations and the delivery of their services.

The following link provides additional information on the state of emergency: <https://manitoba.ca/covid19/soe.html>

Should you have additional questions related to public health orders, please contact healthprotection@gov.mb.ca.

1.2 What measures are available to support municipalities that are facing challenges related to enforcing public health orders and their own local measures on social distancing?

The Province is aware of the concerns that municipalities and law enforcement have raised regarding the ability to carry out the Chief Provincial Public Health Officer's advice and public health orders, and these new challenges in communities. The Province is actively preparing a cross-departmental response to these concerns involving Justice, Municipal Relations, Indigenous and Northern Relations, and Crown Services. More information will be provided as soon as possible. If you observe an infraction that creates an urgent threat to public health, contact the Health Protection Unit by email at healthprotection@gov.mb.ca.

1.3 How can municipalities receive information on issues related to critical services during the response to COVID-19?

A *Critical Service Provider Issue Management Unit* has been created to respond to questions and issues on essential or critical services related to the state of emergency and public health orders. The unit is aligned with the Chief Provincial Public Health Officer to ensure the exemption of critical services under public health or potential emergency orders is being communicated clearly to all stakeholders.

The unit will be responsible for compiling and coordinating the list of essential or critical services, reviewing requests and making recommendations for the inclusion or exclusion of sectors. Questions related to essential or critical services can be directed to the *Critical Service Provider Management Unit* at mecc.csp@gov.mb.ca. All emails will receive an immediate acknowledgement, with a more detailed response to follow.

1.4 Can municipalities declare a state of local emergency in response to the COVID-19 pandemic? *Updated

Municipalities across Canada are considering local responses to COVID-19. Advice from provincial officials is that declaring a state of local emergency is not considered necessary at this time, but municipalities are encouraged to discuss their local situations with the Emergency Measures Organization (EMO). EMO can provide advice to municipalities on how to proceed.

Under *The Emergency Measures Act*, municipalities do have authority to declare a state of local emergency and enact their own emergency measures, including implementing their emergency plans and issuing orders to respond to a local emergency.

Both a provincial and local state of emergency can be declared concurrently. It is essential, however, that responses from different levels of government be coordinated and provide citizens with clear direction on how communities can stop the spread of COVID-19.

In order to determine if a state of local emergency is justified, municipalities must consider:

- If a community's ability to manage an emergency or disaster will be overwhelmed without such a declaration;
- If a state of local emergency is needed specifically to take actions to ensure the health and safety of people or the integrity of critical infrastructure; and
- If the municipality already has authority under another piece of legislation to achieve such actions.

To date, municipalities in Manitoba have used authorities existing under *The Municipal Act* to respond to the COVID-19 pandemic with local actions, such as closing municipal facilities, ensuring ongoing provision of required municipal services, and adapting activities to comply with social distancing requirements.

If municipalities choose to declare a state of local emergency, they must ensure that any orders they issue are aligned with provincial orders issued under both *The Emergency Measures Act* and *The Public Health Act*. Declarations of a state of local emergency must be communicated to EMO through the established process (<https://www.gov.mb.ca/emo/response/sole.html>).

In the event that a local order is in conflict with a provincial order, *The Emergency Measures Act* states that the provincial order will prevail. It is important that local governments work with provincial officials to ensure that conflicting orders are avoided.

Additionally, any orders issued by a local government under a state of local emergency must be enforced by the issuing government. This is important to consider when making decisions about local responses to this emergency.

Officials from the provincial EMO and Municipal Relations will continue to work closely with municipal governments to ensure a coordinated COVID-19 response across the province.

2. Required Services

2.1 What services are municipalities required to provide?

The Municipal Act prescribes that every municipality must provide the following services:

- Fire protection
- Police services
- Road maintenance
- Waste management
- Emergency management
- Land use planning
- Weed control
- Building inspection

In addition, once a municipality establishes a water and wastewater service, the municipality must continue to provide this service.

The State of Emergency link noted under question #1 above should be referred to for continual updates related to any ongoing service determinations.

2.2 How do critical, essential and required services differ?

A critical service is a service that is provided by a business (includes a for-profit, non-profit or other entity providing goods and services) designated by government to keep Manitobans safe or to ensure the economic well-being of the province. Businesses providing critical services are permitted to continue to operate (are exempted from public health orders); however, they must implement measures to ensure that people attending the business are reasonably able to maintain a distance of at least two metres from each other.

Critical services are not always the same as essential services. Essential services is a term primarily used in labour relations contexts for services that must be maintained continuously, even in the event of labour disputes.

For the purposes of this document, required services are defined as services that municipalities must, under *The Municipal Act*, provide to residents.

2.3 How are municipalities conducting building inspections during the COVID-19 pandemic?

For municipalities conducting fire inspections, a “risk-based approach” can be put in place to protect the welfare of building occupants and the inspector. Municipalities should review their outstanding and upcoming inventory of inspections and their business continuity plans, in conjunction with input from their inspectors and Emergency Coordinator.

Whenever possible, municipalities should reduce, reschedule for off hours, delay or suspend interior residential and commercial property inspections to limit person-to-person contact. Steps should be taken to complete work through alternative means, such as photos or via phone. Inspectors may be able to prioritize buildings that have no occupants due to mandatory social gathering limits and closures.

Inspectors and the Emergency Coordinator should put in place an inspection protocol that will ensure the building owner is contacted ahead of time and is involved in the inspection protocol as it relates to occupants, social distancing, time limits, paperwork changes and other requirements. Inspectors moving between high-risk occupancies are a concern. They and people they come into contact with should follow all recommend hygiene procedures before and after the inspection.

3. Council Meetings

3.1 With social distancing considerations, how do we ensure that council meetings still comply with legislative requirements if we need to close off access to the public?

The Municipal Act framework establishes two formats for council to meet – council meetings and public hearings. The Act requires council meetings to be open to the public to ensure a transparent decision-making process and allow the public to observe council’s deliberations. To achieve this while preventing the spread of the virus, several methods of providing public access to council deliberations in an alternate format are available to municipalities. Some examples may include, but are not limited to, livestreaming, teleconferences, and/or providing recordings of council meetings.

Any method employed should provide a comparable level of access to the public as attendance at a council meeting. Closing a meeting to the physical presence of the general public and providing alternate means to engage should not be confused with closing a meeting to the public under subsection 152(3) of *The Municipal Act*, where the public is not permitted to observe council deliberations in any form.

4. Public Hearings

4.1 With social distancing considerations, how do we ensure that public hearings comply with legislative requirements? *Updated

The public hearing process is designed to encourage public participation and ensure that citizens have an opportunity to provide information and feedback to council for their consideration when making specific decisions. On April 1, 2020, a new public health order came into effect that limits public gatherings to no more than 10 people at any indoor or outdoor place or premises. This does not apply to the operations or service delivery of municipalities as outlined under 3(4) of the public health order. However, where possible, it is recommended that public hearings be deferred until May.

For decisions where public hearings cannot be deferred, municipalities are encouraged to use an alternate format for public hearings, where possible, provided that the public can exercise an equivalent level of involvement as if they physically attended the public hearing. Particularly, public hearings must allow any person who wishes to make a presentation, ask questions or register an objection to do so as provided for in subsection 160(3) of *The Municipal Act*. Public participation may be met through interactive technology (such as Skype, GoToMeeting or conference calls) or by written submission.

Should an alternate format not be possible, then municipalities must ensure that appropriate social distancing measures are in place.

If council cannot meet the legislative requirements for public hearings, they should be postponed.

5. Public Utilities Board

5.1 How can municipalities contact the Public Utilities Board (PUB) and will applications be processed?

In response to COVID-19 related considerations, PUB staff and Board members will be working remotely. Applications will still be processed and Board Orders will continue to be issued. The Board recognizes that response times and due dates may be affected, and will work with the municipalities that require extensions or other accommodations as needed. Municipalities may continue to send documents to the Board electronically or by mail. Canada Post continues to deliver mail, which will be received and processed at the Board office. PUB staff will continue to contact utilities about applications for current files. If contacts or circumstances change, please provide an update to the staff member at the PUB working on the file. For general inquiries or to reach PUB staff, please contact publicutilities@gov.mb.ca.

6. Local Access and Closures

6.1 Should municipalities be closing off access to local facilities and spaces?

Councils have been deciding on whether to close off access to municipally owned properties. This authority does not include closing private facilities. If the municipally owned property is operated by boards, consultation is recommended prior to making any decisions.

The Manitoba School Boards Association has requested that all school divisions proceed to close play structures (not the adjoining green spaces, but the actual play structures themselves). Related signage has not been placed on play structures that are located on municipal properties; this decision and request applies only to play structures that are uniquely located on school properties.

A council resolution is required in order to close any municipal facilities or spaces, including play structures located on municipal properties.

For closure considerations, you are advised to check <https://www.gov.mb.ca/covid19/index.html> daily for up-to-date information as well as information from your insurance providers.

6.2 How can municipalities promote public health and safety awareness for facilities and spaces that continue to be open to the public?

The Province has developed signage in both official languages, and has shared these as samples with municipalities to support them in developing local signage, as needed. On a related note, some municipalities have also expressed interest in using visitor screening or admittance tools, which may require visitors to provide personal and/or health related information. Municipalities are reminded to ensure compliance with legislative requirements concerning privacy and personal health information, and consult with their legal counsel, as appropriate. The related links are as follows:

<https://www.gov.mb.ca/fippa/>

<https://www.gov.mb.ca/health/phia/index.html>

7. Water and Waste Related Operations

7.1 What do I need to know about water system operations?

COVID-19 is not a waterborne disease and there has been no evidence to date that the virus can be transmitted through drinking water. Operators going into water plants should continue to keep the water plant clean and tidy and follow hygienic practices (i.e. handwashing and cough etiquette). Water plants should remain closed to public entry.

If an operator is sick or self-isolating, please employ a backup operator. Owners are encouraged to connect with neighbouring communities for sharing of operators as needed. Operators are not required to be certified to take chlorine residual testing or bacteriological samples. Standard operating procedures must be in place, updated and reviewed by all operators.

There is no change to routine monitoring and reporting requirements at this time. Routine bacteriological samples, disinfection, turbidity monitoring and reporting must be consistent with your operating licence. Should your normal shipping routes be disrupted during this time, you as a water supplier are required to get water samples to the laboratory in the frequency specified in your operating licence; even if that means driving the samples to the laboratory. Owners are encouraged to connect with neighbouring communities for sample submissions. If your sample dates do not coincide with your neighbour's, contact your regional Drinking Water Officer.

You are advised to check <https://www.gov.mb.ca/covid19/index.html> daily for up-to-date information and update your emergency response or business continuity plans accordingly.

7.2 What do I need to know about wastewater system operations?

Operators going into wastewater treatment facilities (plants and lagoons) should continue to follow their normal procedures to avoid contact with wastewater, which contains numerous pathogens at all times. As always, wastewater treatment facilities should remain closed to public entry and access.

Because wastewater generation continues at all times, all licence requirements remain in effect for the protection of public health and the environment. This includes all routine monitoring and reporting requirements.

As with water treatment facilities, if a wastewater operator is sick or self-isolating, please employ a backup operator. Owners are encouraged to connect with neighbouring communities for sharing of operators as needed. As with water treatment facilities, sharing among municipalities for the shipping of samples when required is also beneficial.

You are advised to check <https://www.gov.mb.ca/covid19/index.html> daily for up-to-date information and update your emergency response or business continuity plans accordingly.

7.3 Can municipalities keep waste disposal sites open without a certified operator?

In the event that landfill owners do not have a certified operator due to illness, there is an allowance for collection of wastes and recyclables if using transfer bins or a tipping pad. The public cannot have access to the active area (i.e. the actual disposal area, the pit, the waste cell). This only applies to Class 2 and 3 waste disposal grounds.

8. Supply Shortages and Procurement Challenges

8.1 Municipalities may be experiencing supply shortages. Is there any assistance that the Province can provide regarding these procurement challenges? **Updated*

The Province is actively exploring how municipalities may be able to access government procurement for non-health related items to supplement their local procurement process.

Manitoba Municipal Relations is coordinating a bulk order of cleaning and sanitary supplies with the Department of Central Services for municipalities unable to purchase these products through their regular supplier due to supply shortages. The Province has collected feedback from municipalities regarding their required resources, and is following up to procure supplies, where possible.

9. Financial Reporting and Tax Process *Updated

9.1 Is there flexibility on the May 15 deadline to submit 2020 Financial Plans?

The Province will be extending the deadline to June 15. Municipalities will still have the option of filing before then or requesting an extension under the existing legislative provisions should one need to be sought.

The department is also reviewing options that may be available to provide flexibility in timelines on other regulatory requirements and will provide an update as soon as possible.

9.2 Will further direction be provided to municipalities on how to waive interest on provincial education taxes and school division taxes? *New

The Province is developing detailed guidelines on how municipalities may apply the waiver on interest for education taxes and will provide this soon.

9.3 Will further direction be provided to municipalities on how to suspend tax sales? *New

Due to the financial impacts that COVID-19 may have on ratepayers, municipalities are encouraged to temporarily suspend work on the tax sale process at this time.

In determining how to proceed, municipalities may need to consider the current status of their tax sale process and the expected timing of their auction:

1. If the municipality would have difficulty meeting legislated timelines due to a temporary suspension, council should consider a resolution to formally adjourn the auction to a later date or cancel the tax sale.
2. If the municipality would not yet have difficulty meeting legislated timelines due to a temporary suspension, a resolution to formally adjourn or cancel the tax sale would not yet be necessary. However, administrations should review this matter with councils and confirm their approach.

If municipalities work with a third party to perform the tax sale process, any temporary suspension should be reviewed with them.

10. Shared Approaches and Practices

10.1 What information and supports are available to municipalities with respect to COVID-19 related human resource (HR) matters and employer-employee responsibilities during this challenging time? In particular, how should municipalities address situations where municipal employees have self-isolated and are reviewing their options for leave should they not be able to work from home?

The Association of Manitoba Municipalities (AMM) has partnered with People First HR Services to provide access for all AMM member municipalities to the 'On Call HR @ Your Service' program. The following link provides additional information:
<http://www.amm.mb.ca/human-resources/>

For this particular question, People First HR has recommended the following: When an employee has to self-isolate and they cannot work from home, best practice would be for the employer to grant the employee company paid sick leave (if there is a company sick leave policy and if the employee has sick time available). If there is no sick time available, People First HR recommends asking the employee if they would like to use their vacation time (the employee does not have to take their vacation, so you want to make sure they are in agreement if vacation time is used). If sick leave and vacation leave is not available, then the employee would go on an unpaid sick leave and then apply for Employment Insurance benefits through Service Canada.

10.2 Are municipalities making any adjustments to handi-transit services?

Some municipalities have noted that they have enhanced their sanitation processes for vehicles and have restricted the use of handi-transit services to medical equipment only.

10.3 Are there ideas for improving business continuity planning for water treatment plants?

Some municipalities have indicated that they are examining practical and creative approaches to having business continuity planning backup on drinking water treatment. For example, some municipalities having shared service agreements in the event that backup is needed and one is video recording their processes on a walkthrough with their staff in case another qualified operator has to come in and learn their technical processes.

10.4 Are there any plans for signage or checkpoints at interprovincial borders regarding self-isolation for vehicular travel?

The Province is establishing five highway checkpoints at the following interprovincial crossings:

- **Ontario border:** Trans-Canada Highway East (West Hawk/Falcon Lake)
- **Saskatchewan border:**
 - Trans-Canada Highway West (west of Kirkella/Elkhorn/Virden)
 - PTH 16 (west of Russell)
 - PTH 5W (west of Roblin)
 - PTH 2 (west of Sinclair/Reston/Souris)

These checkpoints will be staffed by provincial employees, who will inform travellers about public health measures in place to slow the spread of COVID-19. No one will be denied entry into Manitoba at these locations.

Plans are also in place for signage at the following additional crossings:

- **Saskatchewan border** – PTH 3 and 10, Provincial Road 257
- **PTH 75** – To supplement the message being conveyed by the Canada Border Services Agency

These interprovincial crossings were prioritized due to the higher volume of vehicular travel. Observed traffic volumes along other routes may lead to additional or relocated sign deployments being considered and prioritized based on the resources available for installation.

10.5 Are there ideas to help with anticipated spring fire department requirements?

It is anticipated that heavier than usual spring crop residue may take place. If that occurs, fire departments may be running to a higher than normal volume of spring fire calls. As part of minimizing the number of calls the fire departments need to respond to, burning bans that lay out conditions on when a person can burn, reduce the risk of the fire getting away and requiring the fire department. In preparation, municipalities may want to ensure that their burning by-laws are up-to-date, so they can implement immediately, if needed.

The following link provides information on Manitoba's Controlled Crop Residue Burning Program:

<https://www.gov.mb.ca/agriculture/crops/crop-residue-burning-program/index.html>

The following link is to Office of the Fire Commissioner by-law templates:

http://www.firecomm.gov.mb.ca/support_bylaws.html

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