

March 20, 2020

Dear CAOs:

I'd like to personally thank you for all the efforts you are taking to keep municipal staff and residents in your community safe during this challenging time.

Attached you will find the first issue of a frequently asked questions document containing common questions we have received about maintaining municipal governance in accordance with legislation.

Rest assured that Municipal Affairs fully understands some of the legislative restrictions that make it difficult to manage and govern while still complying with the recommendations of the Chief Medical Officer of Health. In response, we are exploring a wide range of options to support you. You will be receiving additional documents when we have the instruments in place that provide you with the necessary flexibilities, modifications and extensions required to ensure your ongoing operations.

I encourage you to continue to contact our advisory support services if you have further questions regarding municipal governance. You can speak directly to a municipal advisor by calling 780-427-2225 or toll-free by first dialing 310-0000.

Sincerely,

Paul Wynnyk
Deputy Minister

Attachment

Municipal Governance

During the COVID-19 Outbreak

Frequently asked Questions – March 20, 2020

Municipal Government Act

The *Municipal Government Act (MGA)* governs how municipalities operate and is one of the most significant and far-reaching statutes in Alberta. While the *MGA* provides the framework for municipalities to work within, the COVID-19 outbreak presents unique operational challenges for local government operations.

In response, Alberta Municipal Affairs is currently exploring a wide range of options to support municipalities. **The topics in this document will be updated as additional flexibilities are considered or enacted to facilitate local governance requirements and procedures provided for in the *MGA*.**

Business Continuity

Under the *Emergency Management Act*, local authorities - municipalities, Metis Settlements and First Nations - are required to have an emergency management plan, which should include a business continuity plan to ensure that they are able to provide critical services in the event of a disruption.

Each local authority is best positioned to understand the unique risks and requirements for their community and they are also responsible for ensuring that each of their workplaces **follow the best practices suggested by the Chief Medical Officer of Health** to reduce or limit staff and public exposure to COVID-19. If there is a concern about exposure to COVID-19, staff should be encouraged and supported in remote work arrangements where feasible.

COVID-19 information for Albertans

Learn about the coronavirus (COVID-19) and actions being taken to protect the health of Albertans at alberta.ca

Can municipalities be ordered to close their facilities during the COVID-19 outbreak?

YES. Where an investigation confirms the presence of a communicable disease, the *Public Health Act* provides that the Chief Medical Officer of Health may take several actions, including prohibiting a person from having contact with other persons for any period. Under a stated declaration of health emergency, section 52.1 of the *Public Health Act* gives authority to suspend provisions of any enactment, including the *MGA*.



If, upon recommendations from the Minister of Health, the Lieutenant Governor in Council is satisfied that a communicable disease has become or may become epidemic or that a public health emergency exists, several actions can be taken which include, but are not limited to:

- ordering the closure of any public place; and/or
- authorizing a Minister to suspend or modify the application or operation of all or part of an enactment if the enactment may directly or indirectly hinder an action required in order to protect public health.

What obligations do municipalities have to protect employees during this crisis?

Under the *Occupational Health and Safety Act*, employers have the legislated obligation to ensure, as far as it is reasonably practicable for the employer to do so, the health and safety and welfare of their workers. Municipalities should ensure they are following their internal policies and practices in place that align with this legislative requirement.

Should municipalities be encouraging employees to work from home?

YES. If there is a concern about exposure to COVID-19, staff should be encouraged and supported in remote work arrangements where possible and feasible.

Can municipalities choose to close their offices?

YES. Until an order is issued by the province stating otherwise, councils have the authority to determine what municipal programs and services will be available to the public and how they will be delivered. Currently, a public health emergency has been declared. Of interest for municipalities is that the Chief Medical Officer has recommended that all events over 50 people be cancelled and there be no attendance at recreation centres.



Although municipalities may choose to close offices and facilities, they should have contingency plans in place to address the requirements of section 3 (c) of the *MGA* to maintain safe communities. These plans should provide for continued essential services to residents (e.g., municipal utilities, water/wastewater management and emergency response).

Chief Medical Health Officer Recommendations

Recommendations to protect the health of Albertans can be found at alberta.ca

Council Meetings

Is council permitted to close meetings to the public to practice social distancing?

NO. Section 197 of the *MGA* requires councils and council committees to conduct their meetings in public unless there is an exception to disclosure authorized through the *Freedom of Information and Protection of Privacy Act (FOIPP)*.

Section 198 of the *MGA* states that everyone has a right to be present at meetings conducted in public unless the chair expels for improper conduct.

Councils do have the option to change the date, time or place of their regularly scheduled meetings at a meeting held in public with quorum present. This change would be made at a council meeting and giving at least 24 hours' notice of the change to any councillor not present and to the public.

Given the current *MGA* requirements for meetings are restrictive, Municipal Affairs is exploring options to enable council to fulfil their duties in a manner that is consistent with recommendations of the Chief Medical Officer of Health.

Our meetings are live-streamed and available to the public through our website and/or YouTube. Does this constitute being a public meeting?

NO. Even in these extenuating circumstances and where council and council committee meetings are live-streamed and available for public viewing through the internet, the *MGA* does not permit excluding the public for reasons other than authorized through *FOIPP*.

Council does have the option to cancel meetings, or alternatively, meet through electronic means, following the provisions of section 199 of the *MGA* (see electronic meetings).

Section 196 states that notice to the public is in a manner specified by council.

We have a councillor who refuses to self-quarantine. Is council permitted to exclude this member?

NO. Section 153(c) of the *MGA* requires councillors to participate in council meetings, council committee meetings, and other bodies to which they are appointed. When a councillor is required to isolate, they may choose to participate by electronic means (e.g., telephone call broadcast on a speaker phone) in accordance with section 199 of the *MGA* (see electronic meetings).

We have no quorum due to self-quarantine. How do we proceed with cancelling/rescheduling a meeting?

Section 180 of the *MGA* states that council can only act by resolution or bylaw. Meeting schedules are established by resolution or a council procedural bylaw, dates of meetings can only be changed or cancelled if there is a resolution of council authorizing the action; therefore, council could call a special meeting, conducted by electronic means in accordance with section 199 of the *MGA* (see electronic meetings).

What are our other options for cancelling or rescheduling a meeting given the current legislation?

Options for council include:

- Using the provisions of section 199 to meet through electronic communications to enable quarantined individuals to participate.
- Calling a special council meeting pursuant to section 194 for the purposes of cancelling meetings. This meeting could be conducted electronically, following the requirements of section 199.
- Meet as scheduled, and in the absence of a quorum, the meeting would be adjourned in accordance with provisions of the procedural bylaw, but this requires the attendance of staff.

Can we cancel a meeting on the basis that council approved cancelation by an email?

NO. Even in these extenuating situations, the *MGA* does not currently permit a meeting to be changed or cancelled without a council resolution.

What happens in the absence of a procedural bylaw or if the council's procedural bylaw does not address meetings and failure to achieve quorum?

Section 145 enables council to adopt a bylaw governing the procedures for meetings. Council could outline modified meeting procedures within this bylaw to address extenuating circumstances providing the provisions are consistent with meeting requirements outlined in the *MGA*. However, adopting or amending a bylaw requires a public meeting of council with a quorum present.

The *MGA* includes provisions which address quorum requirements, voting and other meeting minimum requirements. The provisions of the *MGA* apply whether or not a procedural bylaw is in place. In the absence of a procedural bylaw, general parliamentary procedures also apply.

Electronic Meetings

What are the requirements to hold electronic meetings?

Section 199 of the *MGA* allows for council meetings or council committee meetings to be conducted through electronic or other communication facility. This includes the ability to enable the public to watch or listen to the meeting at a place specified in the notice with a designated officer in attendance at that public place.

A public place is a physical location such as an office, as opposed to a communication facility enabling skype, facebook live, live streaming, etc.



Can Council hold electronic meetings without allowing the public in to watch/hear the meeting?

NO. Even if a council wishes to hold their meetings through a communication facility (e.g., conference call, Skype, Facebook live, Go To Meeting or live streaming), the municipality is required to comply with section 199 (b) of the *MGA* and the facilities must enable the public to watch or listen to the meeting.

Public Hearings

We have some public hearings scheduled within the next few weeks. Can we hold the hearing without public being in attendance?

NO. 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.

Municipalities should encourage the public to submit comments on the bylaws in writing as opposed to personally attending a public hearing.

Alternatively, council could postpone the hearing to a future meeting, which would require notice to be provided again per section 606 of the *MGA*.

As public hearings must be conducted in public, what options are there for hearings scheduled within the next few weeks to comply with recommendations for social distancing?

Section 230 (4)(b) of the *MGA* requires that in the public hearing, council may hear any other person who wishes to make representations and who the council agrees to hear. If council is unable to postpone a hearing, council's procedures must be clearly communicated to all members of the public.

Chief Medical Health Officer Recommendations

Recommendations to protect the health of Albertans can be found at alberta.ca

Tax Recovery

What options do we have to address scheduled public auctions for tax recovery?

For parcels of land and Designated Manufactured Homes (DMHs) that are about to enter the stage of the tax recovery process that requires they be offered for public auction, municipalities have an entire year to conduct the auction (from April 1, 2020 until March 31, 2021). If a municipality cannot conduct the auction within this time period, they must request a Ministerial Order providing an extension of time to complete the tax recovery process.

Provisions within the Municipal Government Act (*MGA*) allow a municipality to adjourn (i.e. postpone) the holding of a public auction that has already been advertised to any date within 2 months after the advertised date. If a public auction is adjourned, the municipality must post a notice in a place that is accessible to the public during regular business hours, showing the new date on which the public auction is to be held.

Municipalities may adjourn a public auction under Part 10 Division 9 – Recovery of Taxes Not Related to Land by posting new auction notices in at least three public places in the municipality near the goods showing the new date when the auction will occur.

Municipal Affairs is reviewing legislated deadline dates and exploring options to assist with flexibility in order to help manage operational challenges municipalities are facing.

Municipal Advisory Services

Ministry staff remain available to support municipalities through this difficult and challenging time.

If you have further questions, contact us at:
780-427-2225 or toll-free by first dialing
310-0000
Or email ma.lgsmail@gov.ab.ca



Municipal Affairs Support

Will the Minister be considering any modifications to MGA requirements? Some requirements include having a CAO attend at a place for the public to observe an electronic meeting, timelines for appeals or hearings or deadlines for assessment and taxation, or setting property tax rates.

YES. Alberta Municipal Affairs recognizes the unique operational challenges local governments are facing and is currently exploring a wide range of options for supporting municipalities to navigate through the current situation. The existing legislative requirements remain in effect and municipalities are expected to abide by them until such time as provisions are modified. Any changes will be communicated to municipalities.

Is the ministry reviewing other deadlines or obligations in the MGA that cannot be met due to the COVID-19 outbreak?

YES. Alberta Municipal Affairs is reviewing legislated deadline dates that apply to all municipalities and exploring options to assist with ensuring legislative compliance with these deadlines.

If a municipality is faced with other legislated timelines initiated as a result of another action (e.g., a by-election due to a council vacancy, tax recovery public auction, response to a petition, etc.), municipalities contact the ministry to review the

options available, which could include a Ministerial Order for a time limit extension, if required.

Where would we be able to find more information regarding the financial stimulus that the Alberta government is initiating and the impact on municipalities deferral or forgiveness of water and other utilities, deferral or forgiveness of property taxes and school tax requisition?

The Province is looking at a number of mechanisms/options to assist municipalities. Further information and details will be coming out soon. At this time no decision has been made about property tax deferrals.



Further Updates

Municipal Affairs is aware of the unique operational challenges municipalities are facing at this unprecedented time. Steps are being taken to address these challenges to ensure councils can continue governing in a safe manner, which still ensuring legislative compliance.

Further information and details will be released as tools become available to municipalities.

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