

March 27, 2020

## Understanding States of Local Emergency

*Declaring a state of local emergency can allow a municipality to exercise certain powers not available under the Municipal Government Act*

The COVID-19 pandemic has required all levels of government to take rapid action to slow the spread of the virus and protect public health. In some cases, this has included various emergency declarations, including the Government of Alberta's declaration of a State of Public Health Emergency under the [Public Health Act](#) on March 17, 2020. Several municipalities have also declared states of local emergency under the [Emergency Management Act](#), and RMA members have requested more information on what a state of local emergency is and how it can be declared.

*What is a state of local emergency?*

Section 21(1) of the *Emergency Management Act* empowers municipalities to declare a state of local emergency (SOLE). Declaring a SOLE provides municipalities with a wide range of powers within their municipal boundaries that are normally unavailable or limited under the *Municipal Government Act* (the powers are explained later in this bulletin).

To declare a SOLE, a municipality "must be satisfied that an emergency exists or may exist in its municipality." The *Emergency Management Act* defines an "emergency" as:

an event that requires prompt coordination of action or special regulation of persons or property to protect the safety, health or welfare of people, or to limit damage to property or the environment

*How can a municipality declare a state of local emergency?*

Section 21 of the *Emergency Management Act* establishes the process through which a municipality can declare a SOLE. If a municipal council decides that an event occurring in the municipality meets the threshold of an emergency based on the above definition, and that a power allowed under a SOLE declaration is required to protect public safety, they may declare a local emergency through a resolution.

The resolution must include "the nature of the emergency and the area of the municipality in which it exists" (s. 21(2)). The resolution can be quite simple and does not require detailed information on the emergency, as can be seen in the resolutions passed by the [City of Calgary](#) and [City of Lethbridge](#).

When a municipality declares a SOLE, the *Emergency Management Act* requires that the details of the declaration be immediately communicated by whatever means are most likely to

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make the declaration known to the population of the impacted area. Examples of communication include [media releases](#), [dedicated pages on a municipal website](#), social media, and any other means that will support awareness of those impacted by the SOLE.

Section 23.1 of the *Emergency Management Act* states that if a municipal council meets for the single purpose of declaring or terminating a SOLE, the notice requirements in sections 194 to 196 of the *Municipal Government Act* do not apply.

### *What powers do municipalities make available by declaring a state of local emergency?*

Section 24(1)(b) of the *Emergency Management Act* allows municipalities to exercise the same powers in a state of local emergency as the Minister may exercise in a provincial state of emergency (note that the current provincial state of public health emergency differs from a provincial state of emergency, and includes slightly different provincial powers). These powers are found in s. 19(1) and are as follows:

- (a) put into operation an emergency plan or program;
- (b) authorize or require a local authority to put into effect an emergency plan or program for the municipality;
- (c) acquire or utilize any real or personal property considered necessary to prevent, combat, or alleviate the effects of an emergency or disaster;
- (d) authorize or require any qualified person to render aid of a type the person is qualified to provide;
- (e) control or prohibit travel to or from any area of Alberta;
- (f) provide for the restoration of essential facilities and the distribution of essential supplies and provide, maintain, and coordinate emergency medical, welfare, and other essential services in any part of Alberta;
- (g) order the evacuation of persons and the removal of livestock and personal property from any area of Alberta that is or may be affected by a disaster and make arrangements for the adequate care and protection of those persons or livestock and of the personal property;
- (h) authorize the entry into any building or on any land, without warrant, by any person in the course of implementing an emergency plan or program;
- (i) cause the demolition or removal of any trees, structures, or crops if the demolition or removal is necessary or appropriate in order to reach the scene of a disaster, or to attempt to forestall its occurrence or to combat its progress;

(j) procure or fix prices for food, clothing, fuel, equipment, medical supplies, or other essential supplies and the use of any property, services, resources, or equipment within any part of Alberta for the duration of the state of emergency;

(k) authorize the conscription of persons needed to meet an emergency.

Note that the powers above that refer to the entire province would be adapted to apply to only the municipality when a state of local emergency is declared. For example, power “e” would allow municipalities to control travel within the municipality only.

The range of powers afforded to a municipality under a state of local emergency are wide-ranging, and many are more likely to be used for natural disasters rather than the current COVID-19 pandemic. However, several municipalities have declared states of local emergency in recent weeks for the following reasons:

- Plan for the possible repurposing of public and private facilities (such as community centres or hotels) to house those with COVID-19 symptoms without a place to self-isolate.
- Restrict travel into, out of, and within the municipality. Some large urban municipalities have considered exercising this power to require those without a place to self-isolate to move to a designated self-isolation facility.
- Order the closure or reduce the capacity of businesses operating in the municipality.
- Close municipal properties such as parks, recreation centres, etc.

### *Renewing or Terminating a State of Local Emergency*

Section 22(4) of the *Emergency Management Act* states that a SOLE is in effect for seven days, unless cancelled earlier by the municipality, or renewed. An example of a SOLE renewal is available [here](#).

Section 23(1) of the *Emergency Management Act* allows a municipality to terminate a SOLE by resolution when the council is of the opinion that the emergency no longer exists. The municipality must communicate the termination to those impacted by the SOLE immediately following the termination.

### *Pros and Cons of Declaring a State of Local Emergency*

Determining whether a SOLE is necessary to protect public health and safety is a local decision. It is important to consider that declaring a SOLE does not obligate a municipality to enact any of the powers in the *Emergency Management Act*, but it does provide them with the power to do so rapidly if conditions change. In general, municipalities should not take the enactment of SOLE-related powers lightly, and should ensure any decisions are based on addressing credible risks

to public health and safety, and that the mitigation of such risks outweigh the potential impacts that restrictions on movement, access to private property, etc., will have on the well-being of individual residents.

RMA recommends that any member declaring a SOLE communicate the nature of the emergency and the purpose of the SOLE to residents, and that any specific actions taken under the SOLE be clearly communicated as well. Some examples of information-sharing include the [City of Red Deer](#), [City of Leduc](#), and the [MD of Opportunity](#).

### *Bill 9: Emergency Management Amendment Act*

On March 20, 2020, [the Government of Alberta](#) passed [Bill 9: The Emergency Management Amendment Act](#). Bill 9 amends the *Emergency Management Act* to repeal the section of the Act that stated a provincial state of emergency would automatically nullify a SOLE if each is declared in the same area. In its place, the revised language states that a province-wide state of emergency no longer automatically nullifies a SOLE. Instead, if a conflict exists in the direction of a province-wide state of emergency and a SOLE, the Managing Director of the Alberta Emergency Management Agency is empowered to determine which of the powers enacted under the declarations will be in force in the affected area. The amended Act continues to include a provision that allows a province-wide state of emergency to nullify a SOLE, but at the discretion of the province, rather than automatically as was the case prior to the passing of Bill 9.

In short, Bill 9 encourages greater collaboration between municipal and provincial authorities in cases where SOLE powers may conflict with or contradict province-wide powers. However, provincial officials continue to have ultimate decision-making control as to which powers will take precedence in a municipality.

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