

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

MEMORANDUM

TO: BC Clients
FROM: Lidstone & Company
DATE: June 26, 2020
RE: Reopening Policies
FILE: 99999 - 044

Prepared for the Municipal Insurance Association of British Columbia

WEBINAR

To view the MIABC webinar associated with this document, please send a request for access to AskUsAnything@miabc.org

BACKGROUND

This document addresses the reopening of local government parks, offices and other community facilities as they are used by members of the public in light of the continuing potential for the virus COVID-19 to cause illness or death to infected persons.

The contents herein are intended as a general reference and guide in developing policy and should not be understood as legal advice, final policy, or detailed execution of policy. Adopting any or all the points raised in this document may not prevent claims that may arise by persons entering on or into local government property or participating in programs. Each local government has its unique character, set of circumstances, structural, human and financial resources, and priorities. Elected officials and management personnel will take these factors into account in forming strategies to reduce public health risks associated with COVID-19. Policy and operational decisions, at minimum, are subject to all applicable provincial enactments, including orders issued by the public health officer, the Minister of Public Safety and Solicitor General and Worksafe BC regulations.

Consultation with a regional health authority or medical health officer is required in the process of enacting bylaws for public health. Similar consultation may be advisable in the development of council or board policy resolutions intended to protect the health and safety of residents in using community parks and facilities.

POLICY - GENERAL

When considering a reopening policy, elected officials and staff will likely recognize that since the COVID-19 pandemic was declared in March, there is pent-up and increasing need for people to connect with each other in familiar settings, to exercise, play and otherwise use and enjoy parks and recreation facilities, outdoors and in, as well as to move business and development decisions such as a rezoning or permit issuance along the spectrum of decision making.

The provision of local government services during the reopening process will be balanced with the need to prevent and control the spread of COVID-19. Enhanced confidence in community activity may also encourage residents to use local businesses, many of whom have been severely affected by attempts to control the pandemic.

Importantly, local government activities can give rise to liability if they are carried out negligently and result in harm or death, and local government liability is joint and several in nature. Accordingly, it is wise to consider that the Courts have established that a government body, including a municipality, will likely only owe a duty of care when engaged in *operational* decision making, but not when the conduct arises from a *policy* decision. A resolution of Council is typically a policy decision, whereas a decision of staff without the policy direction of Council is typically an operational decision. Policy decisions are “those which involve or are dictated by financial, economic, social or political factors or constraints”: *Just v. British Columbia*, [1989] 2 S.C.R. 1228. As well, liability in negligence may arise if loss occurs because of the negligent implementation of policy decisions on an operational level: *Kamloops v. Neilson*, [1984] 2 S.C.R. 2.

As well, operations are subject to Worksafe BC requirements and public health orders, the breach of which can result in substantial fines imposed on local governments as employers.

Order M094 gives essential service providers immunity from damages resulting directly or indirectly, from an individual being or likely being infected with or exposed to COVID-19 because of the person’s operating or providing an essential service. To be covered, the essential service provider must have been (or reasonably believed they were) acting in accordance with all emergency and public health guidance. The Order defines “emergency and public health guidance”, including orders under the *Emergency Program Act*, as well as instructions and guidelines issued by the various entities authorized to do so. Note, however, the limitation of liability is not available if the person was grossly negligent.

POLICY CONSIDERATIONS

Labour and Employment

It goes without saying that COVID-19 has had a significant impact on all workplaces. The health and safety of all employees remains a predominant focus for employers as facilities and other workspaces begin to open up. This document highlights some of the key issues for local government employers as they continue to navigate reopening policies in the face of the risks

of COVID-19 and provides information and resources regarding emerging and ongoing issues in the workplace.

WorkSafe BC has also prepared guidelines for employers trying to resume their operations. Local government employers should continue to check WorkSafe's website for up to date information and guidance about navigating COVID-19 in the workplace:

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-industry-information/municipalities>

1. Safety Plans – WorkSafe BC

- All employers are required to prepare safety plans, in accordance with guidelines set out by WorkSafe BC. Safety plans are intended to assess and minimize the risk of exposure to COVID-19 in the workplace and implement measures to ensure the health and safety of employees.
- Safety plans do not need to be approved by WorkSafe BC but they **must be posted** at the worksite in accordance with the Order of the Provincial Health Officer. WorkSafe will review plans of individual employers during workplace inspections.
- A template for safety plans can be accessed here:
<https://www.worksafebc.com/en/resources/health-safety/checklist/covid-19-safety-plan?lang=en>
- Consider posting your Safety Plan on your organization's internal and external websites, making it accessible to employees and the public.

2. Workplace Prevention Measures

- Employees must comply with the guidance and advice of the Provincial Health Officer and the BC Centre for Disease Control. Employers should ensure employees are aware of the following guidelines, and any updated instructions issued from time to time:
 - anyone who has had symptoms of COVID-19 in the last 10 days must self-isolate at home; symptoms include (but are not limited to) fever, chills, new or worsening cough, congestion, shortness of breath, sore throat and new muscle aches or headache.
 - anyone under the direction of the provincial health officer to self-isolate must follow those instructions.

- anyone who has arrived from outside of Canada, or who is a contact of a confirmed COVID-19 case, must self-isolate for 14 days and monitor for symptoms.
- Consider and update your cleaning protocols
 - What products will you have and where will they be? For cleaning, the BC Centre for Disease Control (“BCCDC”) recommends water and detergent, or common, commercially available cleaning wipes, along with good physical cleaning practices. For disinfecting, the BCCDC recommends common, commercially available disinfectants such as ready-to-use disinfecting wipes. For more details on the BCCDC’s recommendations for cleaning and disinfecting in public settings, see: http://www.bccdc.ca/Health-Info-Site/Documents/CleaningDisinfecting_PublicSettings.pdf
 - What additional cleaning protocols have you implemented, particularly for “high touch” surfaces?
 - How are you dealing with the lunch-room and/or breaks?
 - How are you dealing with the Council Chamber or Board Room?
- Reduce social contact
 - Re-arrange workplaces so employees can be at least 2 metres or more from each other;
 - Avoid face to face meetings or gatherings;
 - Consider adjusting work schedules to avoid peak times on public transportation;
 - Cancel non-essential business travel;
 - Consider whether employees can work from home;
 - Reduce face to face contact with members of the public, Council or the Board and ensure physical distancing protocols are in place.
- Are some of your employees going to be working alone to reduce the risk of transmission? If so, you must have procedures for these employees to ensure their safety: <https://www.worksafebc.com/en/health-safety/hazards-exposures/working-alone>

3. Detection and Response Measures

- Employees must ensure they are not exhibiting cold or flu-like symptoms **before** they enter the workplace. Symptoms include, but are not limited to: fever, chills, new or worsening cough, congestion, shortness of breath, sore throat and new muscle aches or headache.
- Employers should set up a reporting system for employees who start experiencing any of the COVID-19 symptoms. Consider: Who will they report to? How will they travel from the workplace to their home?
- If an employee is suspected of a possible or case or has a confirmed case of COVID-19, they should not come to work. They should contact their supervisor (or another designated person) and stay at home and self-isolate until they are free of the virus. Encourage employees to consult with medical or public health employees on length and nature of precautionary measures to take.
- Employees with suspected or diagnosed cases of COVID-19 should contact local health authorities via 8-1-1
- Employees should be encouraged to utilize the BC Government's self-assessment tool: <https://bc.thrive.health/>.
- If an employee lives with someone who has been diagnosed with COVID-19, they should be directed to self-isolate for at least 14 days. Other employees should be directed to self-monitor.

4. Work Refusals and Reprisals

- Employees have the right to refuse unsafe work where they have reasonable grounds to believe there is a dangerous condition.
- No reprisals against employees who refuse work if it is unsafe because of the risk of COVID-19.
- Employers should treat work refusals based on COVID-19 similarly to other refusals.
- Although it is not yet clear how WSBC will respond to work refusals, typically, if an employee complains of unsafe work, the supervisor or employer must investigate the basis for the refusal and fix it if possible. If you fix it or you decide the concern is not valid, report back to the employee.

- If the supervisor or employer concludes work is safe, and the employee still says it is not, the supervisor or employer must do a second investigation with the employee and another employee (member of Joint OH&S Committee or union member).
- If employees are still not satisfied, they can report the concern to WSBC and a Prevention Officer will get involved to investigate and take steps to find a workable solution.
- Ensure that WSBC can be given details regarding workplace measures and procedures regarding COVID-19 and any specific matters relating to the work refusal. WSBC may not respond to work refusals in the usual timeframe due to the circumstances.

5. Working from Home

- Even as many employees are returning to the workplace, employers should consider whether some employees can or should work from home to reduce the risk of spread of COVID-19.
- Employers must ensure the health and safety of its employees when they are working from home. The *Workers Compensation Act* and *Occupational Health and Safety Regulations* apply.
- Consider the home an extension of the workplace and develop a Work from Home Policy (which would be separate from employees requesting to work from home as an accommodation or due to medical issues or flex arrangements).
- Work from home policies should address the following, at a minimum:
 - That all other employer policies, procedures, rules and guidelines applicable to their position apply.
 - Require employees to self-assess their home workspace and report any potential health and safety issues or hazards. Is the location safe? Ergonomically suitable? Conducive to working? Tool: <https://www2.gov.bc.ca/gov/content/careers-myhr/all-employees/work-arrangements/flexible-workplaces/safety-inspection>
 - Communication between the employee and their supervisor: advising of problems or complications.
 - How job evaluation will be carried out.

- How to report an inability to work (i.e. if the employee is sick, it should be reported in the usual course).
- If/how time will be tracked and overtime arrangements.
- Working from Home Guide: <https://www.worksafebc.com/en/resources/health-safety/information-sheets/working-from-home-guide-keeping-workers-healthy-safe?lang=en&direct>

6. Human Rights Issues

- Employers continue to have a duty not to discriminate in the workplace.
- Consider how COVID-19 may implicate certain protected grounds under the *Human Rights Code*, such as disability, perceived disability, marital status, family status (i.e. childcare issues above and beyond those that arise outside of a pandemic).
- Employers must continue to accommodate employees on the basis of the prohibited grounds in the *Code* to the point of undue hardship.

7. Mental Health Issues

- The pandemic has been a time of stress and anxiety for everyone. Consider some additional initiatives to provide supports for employees and to provide reassurance for employees returning to the workplace.
- Consider the tone and content of communications to your employees relating to returning to work and working from home. Communicate clearly, calmly, reassuringly and reasonably.
- Be clear and reasonable about your expectations. Be patient, flexible and accommodating in the circumstances. Show empathy and understanding. We are all experiencing the pandemic differently, but together.
- Do you have policies and procedures to deal with the challenges employees may be facing at work or in their personal lives?
- Be ready to refer employees to the resources you have available.

8. Privacy Issues

- Employers may be asking employees to disclose more personal health information during the pandemic, including the diagnosis of COVID-19.

- Ensure health and safety of employees while minimizing the disclosure of personal information to the extent possible.
- Employers must still comply with the *Freedom of Information and Protection of Privacy Act* in collecting, storing and disclosing employee personal information.
- Only those supervisors and managers on a need-to-know basis ought to be privy to employees' personal health information, which information should be kept in a confidential and secured folder separate from the personnel or employee file.
- Any proactive disclosure of personal information should be limited to the purposes for which it was obtained or compiled, or for a use consistent with that purpose, and only to an officer or employee of the public body or to a minister if that information is necessary for performing their duties.

9. COVID-19 related leaves from work

- Amendments to the *Employment Standards Act* added two new COVID-19 related statutory leaves.
 - *COVID-19 Leave* provides unpaid job protected leave of absence related to COVID-19 to employees as long as circumstances apply. Employers are entitled to reasonably sufficient proof of the need for the COVID-19 leave but cannot be obligated to obtain a medical note (s.52.12).
 - *Illness or Injury Leave* provides up to 3 days' unpaid leave per year for personal illness or injury. The employee must be employed for at least 90 consecutive days to be eligible (s. 49.1).
- Employees may have access to other job protected leaves of absence if they qualify:
 - *Family Responsibility Leave* provides up to 5 days' unpaid leave / year related to care, health or education of a child, or member of employee's immediate family (s. 52).
 - *Compassionate Care Leave* provides up to 27 weeks' unpaid leave / year to care for or support a family member who is at significant risk of death within 26 weeks (s. 52.1).
 - *Critical Illness or Injury Leave* provides up to 36 weeks' unpaid leave / year to care for or support a family member under 19 years, or up to 16 weeks' unpaid leave/year for a family member over 19 years (s. 52.11).

REOPENING STRATEGIES & CONSIDERATIONS

Use of Facilities - Provincial Self-Isolation Protocol

Anyone entering or wishing to use facilities and participate in programs may be refused entry or asked to leave the program or facility if:

- they describe or show symptoms of COVID-19 within the last 10 days, including fever, chills, new or worsening cough, shortness of breath, sore throat and new muscle aches or headache;
- are under the direction of the provincial health officer to self-isolate;
- have arrived from outside of Canada, or are a contact of a confirmed COVID-19 case, within the past 14 days.
- If a child in a program develops symptoms, follow Worksafe BC protocols for child care [Appendix s. 1].

Management staff will identify and continue to monitor:

- areas where recommended (2m) social distancing is not possible or practical
- activities that usually involve personal nearness and contact (closer than 2m)
- structures, equipment and surfaces that are often touched
- Worksafe BC guidelines that apply specifically to pool, gym and fitness facilities [Appendix s. 1]

To minimize the risk of COVID-19 infection, management staff will

- establish and post signs or place markers, in prominent view and with clear messaging, for:
 - occupancy and spacing limits
 - restricted areas
 - directional, waiting, or space limiting markers
 - rules for maintaining appropriate distancing
 - rules for hand washing or sanitizing

- rules for cleaning and disinfecting structures, equipment and surfaces
- where masks, gloves, or other personal protective equipment are required
- guide and assist staff and visiting instructors in
- ensure users are aware of and complying with distancing, hygiene, and sanitation rules
- allow ready access to hand washing facilities and sanitizer stations
- acquire and use personal protective equipment, where applicable
- model conduct as recommended by public health personnel.

Personal Information

- During registration in a program or entry into a facility, employer may request that program registrants or facility users declare whether or not they have symptoms or history of COVID-19 and whether the person has arrived from outside Canada or has been in contact with a confirmed case within the past 14 days.
- Any such information that is to be received, recorded or shared should be treated as strictly confidential, and dealt with by the information and privacy officer for the local government. Any further access use or disclosure will be guided by applicable legislation and orders. [Appendix s.3]

Supervision and Enforcement of COVID-19 Prevention Measures

- Provide training for staff in adhering to protocols (Provincial and local government)
- Identify employees who will educate the public or who can intervene if expectations are not met
- Support for employees in dealing with non-compliance, anger, aggression among users
- Establish how expectations will be conveyed or enforced (advice, warnings, request to leave facility)
- Medical emergencies – provide personal protective equipment for staff to use pending ambulance/fire response
 - First aid staff to follow OFAA guidelines (not all PPE)

Occupancy limits

- Establish how many persons can each facility and program accommodate safely at any given time [Provincial limit – see Appendix s. 2]
- Provide signage showing occupancy limits
- Consider managing use through bookings;
- Consider whether to restrict walk-ins;
- Establish conditions for health / protective equipment available for users on request;
- Waiting spaces - provide adequate spacing or encourage timely arrival for appointments
- Locker rooms – some lockers may be blocked off to allow users safe distancing
- Parking spaces – some may be reserved for visits by appointment

Equipment

- Layout and spacing (at least 2 metres apart)
- Greater spacing for aerobic fitness equipment
- Consider the use of barriers (e.g., plexiglass, etc. if 2m distance not possible)
- Set rules for cleaning equipment before / after each use
 - Provide disinfectant spray and paper towels or sanitary wipes
- Keep non-stationary equipment (mats, weights, blocks, balls, resistance bands, etc.) in one place and sanitary wipe-down by staff after each use
- Encourage users to bring own equipment to reduce sharing (helmets, goggles, racquets, mats, blocks, weight belts, etc.)
- Routine disinfection by staff - all commonly touched surfaces and used equipment
- Containers – for disposing wipes, facial tissues, paper towels, masks, gloves after use

Group Classes & Workshops

- Outdoor settings are preferred where practical
- Set a maximum number of attendees for various classes [Provincial limit - Appendix s. 2]

- Dance, martial arts, weight training and other exercise - allow for 2m physical distancing
- Encourage the use of hand sanitizer or washing facilities before and after classes
- Place markers for attendees to ensure 2m distance of each other
- Allow time between classes for cleaning equipment and surfaces
- Instructors and coaches: model conduct, and equipment recommended by provincial health officer

Contact Sports

- Outdoors preferred, where possible
- All participants, instructors and coaches:
 - hand washing or sanitizing before and after each session
- Remind participants (and guardians) of COVID-19 related risks and how to lower risk; use assumption of risk form
- Adhere to Provincial health officer recommendations
- Mark separate storage spots for participants' knapsacks, towels, shoes, etc. while participating, taking care re: distancing
- Events – limit on number who may gather [Provincial limit - Appendix s. 2]

Passageways – Inside Facilities

- Keep doors open (except as required by Fire Department)
- Stairways – directional arrows and floor markers
- Elevators - number of people who may use at same time (with appropriate distancing)
 - Post updated occupancy limits
- Enhanced routine cleaning of commonly touched surfaces

Parks, Playgrounds and Beaches

- Narrow pathways: Consider using barriers / signage restricting access

- Drinking fountains – consider whether to operate
- Playground structures, skate parks, consider cleaning and signage and limiting use
- Benches, shelters – spacing at least 2m apart
- Picnic tables, barbecue facilities – appropriate spacing for expected gatherings
- Waste containers – disposal of masks, gloves, napkins, wipes, paper towels, etc.
- Restrooms - provide soap at sink or hand sanitizer where no sink
- Cleaning and checking to ensure supply of tissue, towels, soap or sanitizer - cleaning frequency as advised by the PHO and local health authority advice
- Post notice / signs advising that park structures are not cleaned frequently (so users should wash or sanitize hands and avoid touching face after use)
- Events - Limit on numbers of people who may gather [Provincial limit - Appendix s. 4]

Signage, Markers and Advisories

- Place signs, notices, advisories in key places e.g., near entrance and exits
- Consider assessing for visibility, readability, use of commonly understood symbols
- Use directional markers to guide traffic
- Use floor / ground markers to guide social distancing

Concession Stands and Cafes

- Limit service as stipulated in public health order [Appendix s. 4] and local health authority approval
- Have available hand sanitizer at the entrance and at washroom doors
- Use plexiglass barriers at payment areas
- Consider placing directional arrows / markers for staff and patrons where physical distancing an issue
- Separate take-out and dine-in areas
- Limit number of persons who may access restrooms at any one time

- Ensure adequate waste containers for disposing of napkins, wipes, gloves, masks, etc.
- Limit number of persons present in kitchen or behind service counter at a time
- Have food preparers and servers wear gloves / masks / both
- Consider limiting service to tables (customers pick up food)
- Have employees wash hands at beginning and end of shift; wash / sanitize hands after handling used dishes, utensils, appliances, cash
- Encourage payment by electronic means
- Sanitize tables and chairs after each use by patron
- Employ frequent routine and end-of-shift cleaning of counters, payment devices, and other frequently touched surfaces and equipment

Museums and Cultural Facilities

- Establish and post occupancy limits [Provincial limit – Appendix s. 2]
 - Limit numbers who may enter as group tours and for private events]
 - Limit access so that visitors can easily distance 2 metres from each other and staff
- Consider limiting access to booked appointments
- Use directional signs and markers to guide traffic and positioning
- Consider alternatives to viewing, e.g. by virtual tours, video displays
- Provide direction or materials to enable self-guided tours
- High-touch displays -
 - Restrict through signage or physical barriers
 - Sanitize frequently
- Provide facial tissues and hand wipes or sanitizer at, and ensure physical distancing between, entrance and exit points
- Establish separate areas and spaces for storing coats, boots, purses and knapsacks

- Encourage circulation of outdoor air by opening windows and doors
- Shops – comply with WorkSafe BC, public health officer and Minister of Public Safety Enactments
- Parking – consider reserving spaces for booked appointment visits

Libraries

- Establish and post occupancy limits [Provincial limit – Appendix 2]
- Limit numbers of persons who may visit at a time
- Use directional signs and markers to guide traffic and standing positions
- Enhance routine sanitization by staff of computers, keyboards, other frequently touched equipment and surfaces
- Ensure seating, desks, and computer terminals are appropriately spaced
- Allow for 2m physical distancing during regular visits, story times and work shops
- Encourage the use of electronic reading services as alternative to physical visits
- Information desks and loan-out counters:
 - Provide physical barriers for staff
 - masks / gloves for where physical barriers not feasible
- Provide tissues and hand wipes or sanitizers at entry and exit points
- Provide sanitary wipes for users to clean research, check-out and other equipment

Meetings and Public Hearings – Attendance in Person

- Establish limit on the number of persons who may attend in person (Appendix s. 2)
- Post an advisory at the external entrance as to restrictions on attendance for persons who have recently arrived from outside Canada, have symptoms of COVID-19, are a contact of a confirmed case, or are subject to an order to self-isolate.
- Hand sanitizer or wipes:

- Make available to members of the public at entrance and at speaker's podium
- Place a tabletop sign encouraging attendees to use them before entering
- Place containers for their disposal
- Create physical space, with instructions on sign in procedure
 - PPE should be determined by a risk assessment as per WSBC
 - Have staff wear masks when registering speakers who appear in person
- Ensure seating is appropriately spaced to allow for appropriate (2m) distancing among individuals and separate parties
- Avoid or restrict queues, place space markers for persons in a queue
- Sanitize surfaces following each meeting

EXPEDITING DEVELOPMENT APPLICATIONS

In the context of the reopening phases, some local governments are experiencing an influx of development applications while dealing with a backlog of applications related to the COVID-19 public health crisis. Expediting development applications can also be used as a tool to support the economy as the province recovers from the COVID-19 crisis. There are available legislative tools and practices that can expedite development applications. Local governments can:

- hold electronic meetings and public hearings (Ministerial Order M192)
- move public engagement efforts online
- create electronic or drop boxes for application submissions
- issue permits electronically
- continue building inspections with procedures respecting public health orders or conducting virtual building inspections when appropriate.

Electronic Meetings and Public Hearings - Minister Order M192

Under the Minister Order M192 municipal councils and regional district boards are permitted to conduct meetings and public hearings electronically. The new order applies despite the requirements set out in the *Local Government Act* (LGA) or whether their procedure bylaws contemplate this process. This is authorized during the provincial state of emergency.

In response to M192, local governments are continuing to hold public hearings and meetings in alternate formats to continue processing applications. Public hearings are being held through streaming platforms, teleconferences and other electronic communication services. This allows local governments to process applications in accordance with the COVID-19 public health orders. It also provides a legislative tool for local governments to streamline applications through an electronic public hearing, which can be particularly useful for non-controversial applications.

Section 3(3) of M192 requires each body state, by resolution, the basis for it holding meetings without public attendance and how it is ensuring openness:

(3) If a council or body does not allow members of the public to attend a meeting, as contemplated in subsection (2) of this section,

(a) the council or body must state the following, by resolution:

(i) the basis for holding the meeting without members of the public in attendance;

(ii) the means by which the council or body is ensuring openness, transparency, accessibility and accountability in respect of the meeting...

M192 therefore requires Council, and each section 93 CC body, to state by resolution the prescribed information. Council cannot adopt a blanket resolution for itself going forward or for each section 93 body under M192.

Here is a sample resolution:

WHEREAS the COVID-19 Pandemic has caused a state of emergency throughout the province;

AND WHEREAS Council has sought to ensure openness, transparency, accessibility and accountability by conducting meetings through an electronic communication platform that is open to the public;

AND WHEREAS Council has determined its Council Chambers is too small to accommodate the public in accordance with the applicable requirements or recommendations under the *Public Health Act*;

AND WHEREAS Council has further determined that it is unable to practically secure an alternative venue where it can hold meetings in accordance with the applicable requirements or recommendations under the *Public Health Act*; and

AND WHEREAS Ministerial Order No. 192 requires Council carry a motion in order to hold public meetings electronically, without members of the public present in person at the meeting;

THEREFORE BE IT RESOLVED THAT Council authorizes the [*Insert name*] to continue holding Council meetings by means of electronic communication facilities, namely the [e.g., Zoom] platform, and without allowing members of the public to attend in person until the earlier of (a) the Province lifts the state of emergency regarding the COVID-19 Pandemic; (b) a change in the circumstances above, such that Council may allow the public to attend meetings at its Council Chambers, or at an alternative venue, while complying with applicable requirements or recommendations under the *Public Health Act*; or (c) Council resolves otherwise.

Public Engagement

Public engagement associated with development applications can also be moved to online formats. However, this would not be appropriate for all applications, particularly OCP or controversial zoning amendments. As an argument can be made that those affected were not provided sufficient consultation, required under section 475 of the *LGA*.

File Submissions and Permit Issuances

During the COVID-19 crisis, local governments have adapted file submission methods. File submissions are continuing online, through carrier or drop boxes set up City Hall. These systems minimize contact to comply with public health orders, allowing local governments to continue file intake amidst the restrictions.

Building Inspections

Local governments can continue building inspections with procedures that respect the public health orders. These can include requiring the building to be vacated prior to inspection, sanitized, unoccupied, or allowing only one person in the home to maintain social distancing requirements.

Some local governments have moved to solely virtual inspections, requiring a virtual tour of the house, photos and measurements that are reviewed for compliance. For occupancy inspections, the building official can issue a conditional occupancy permit, subject to a final inspection. Not all building inspections should be completed virtually. It is not possible to inspect anything that may be covered like framing of foundations, which cannot be inspected later. Local governments will not be able to rely on the COVID-19 crisis and public health orders for negligent inspections that may arise in future lawsuits. Inspections can continue during the social distancing restrictions but must ensure that they still meet the BC Building Code requirements.

Moving Forward

Although restrictions are reducing in accordance with the Restart Plan, local governments should continue to adapt their practices in accordance with social distancing and large group restrictions. This will allow local governments to appropriately prepare for the potential influx of applications, reduce the risk of a backlog and support economic growth.

APPENDIX 1
RESOURCE LINKS

1. Worksafe BC

WorkSafeBC COVID-19 information and resources:

<https://www.worksafebc.com/en/about-us/covid-19-updates>

Child Care:

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation/child-care>

Gym and Fitness Centres:

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation/gyms-and-fitness-centres>

Parks

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation/parks>

Municipalities and COVID-19 Safety:

<https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-industry-information/municipalities>

2. **Mass Gathering Events**, Order of the Provincial Health Officer, May 22, 2020 (Dr. Henry): Limit of 50 persons at an indoor or outdoor event

<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/covid-19-pho-class-order-mass-gatherings.pdf>

3. Personal Information – Collection & Security

Where personal information must be sought and verified to ensure safe use of facilities and participation in programs, that can usually be simply by asking, on a person applying to register or at entry, whether or not they have symptoms of a cold, influenza or respiratory illness. If a person answers yes, they should be advised to wait a certain period (e.g., 10 days) before using the facility or joining the program, meanwhile following rules for self-isolation and reporting as necessary.

Freedom of Information & Protection of Privacy Act: If personal information is to be recorded, as a rule it must be collected directly from the individual whom it is about (or their legal guardian), and they must be told the purpose for its collection; the legal authority for collecting it; and the title,

business address and telephone number of an officer or employee who can answer questions about the collection.

Every public body must establish reasonable measures to secure any recorded personal information about individuals against unauthorized access, collection, disclosure, use, or disposal. The Office of the Information and Privacy Commissioner recommends that electronic records containing personal information be encrypted as well as password-protected. Access, collection, use, disclosure and disposal of recorded personal information about an individual is subject to important restrictions in FIPPA, and health information is considered especially sensitive. There are exceptions in certain circumstances –as “head” under FIPPA, your information and privacy officer is the person to make decisions in this regard. See statement of the Information & Privacy Commissioner: <https://www.oipc.bc.ca/news-releases/2403>

4. **Food Service Establishments**, Order of the Provincial Health Officer, May 22, 2020 (Dr. Henry) is subject to being updated. Currently, the Order limits service to

- half the usual capacity of patrons at one time
- 6 patrons to a table
- 2 metres between patrons at same table or counter, unless in the same party
- 2 metres between patrons at different tables, unless in the same party

<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-nightclubs-food-drink.pdf>

5. **BC Provincial Health Officer orders and notices:**

<https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus>

6. **BC Centre for Disease Control:** <http://www.bccdc.ca/health-info/diseases-conditions/covid-19>

7. **Federal government – COVID-19 Economic Response Plan:**

<https://www.canada.ca/en/department-finance/economic-response-plan.html>

APPENDIX 2

REOPENING FACILITIES AND SERVICES - BEST PRACTICES RESOURCES

- COVID-19 Resources: Local Government Management Association
 - <https://www.lgma.ca/covid-19-resources-for-bc-public-agencies>
- Municipal Best Practices Guidelines: BC Municipal Safety Association

- <https://www.bcmsa.ca/resources/pandemic-exposure-control/>
- Orders and Advisories For Local Government: UBCM
 - <https://www.ubcm.ca/EN/main/resources/covid-19-orders-advisories-for-local-government.html>
- Return to Work Plan: District of Sooke
 - <https://irp-cdn.multiscreensite.com/be9aba85/files/uploaded/AD-009%20-%20Return%20to%20Work%20During%20COVID-19%20Pandemic.pdf>
- Keep community informed as policies are implemented and services are modified to avoid confusion and disappointment among residents regarding access and use of facilities. Keeping information current and readily available enables residents to plan and prepare visits.
 - Many local governments post restrictions, limits, procedures and advisories online and updating it as conditions change, along with links to other resources that may be helpful to residents.
 - City of Burnaby
 - <https://www.burnaby.ca/City-Services/Public-Safety/Novel-Coronavirus--COVID-19-.html>
 - City of Chilliwack <https://www.chilliwack.com/main/page.cfm?id=2885>
 - District of Clearwater <http://www.districtofclearwater.com/covid-19-updates/>
 - Town of Osoyoos <https://www.osoyoos.ca/content/covid-19>
 - Regional District of Nanaimo <https://www.rdn.bc.ca/pandemic>
 - Fraser Valley Regional District
 - <https://www.fvrd.ca/EN/meta/news/news-archives/2020/covid-19-coronavirus-information.html>
- COVID-19 related rules should be clearly stated and modeled by staff and management. A good-humoured approach to advising and enforcement of restrictions in access and use of

facilities is likely to encourage compliance and a culture of co-operation. Those in leadership positions play a key role in flattening the “COVID-19 frustration curve”.

- “Be kind, be calm, be safe”: Dr Bonnie Henry
- <https://www.coastcomms.ca/blogs/covid-19-updates/why-is-dr-bonnie-henry-so-effective-communicating-during-the-covid-19-pandemic>

Note: This document is of a general and summary nature only and is not exhaustive of all possible legal obligations. In addition, laws may change over time and should be interpreted only in the context of particular circumstances such that the information in this document is not intended to be relied upon or taken as legal advice or opinion. Readers should consult a legal professional for specific advice in any particular situation.

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