

STATES OF EMERGENCY

Decision-making and
participatory governance in
Canadian municipalities
during **COVID-19**



WINDSOR LAW
Centre for Cities



University
of Windsor

STATES OF EMERGENCY

Decision-making and participatory governance in Canadian municipalities during COVID-19

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Windsor Law Centre for Cities

Report authors Dr. Anneke Smit (Director, Centre for Cities), Hana Syed, Aucha Stewart, Terra Duchene, and Michael Fazzari

About the Windsor Law Centre for Cities

The Windsor Law Centre for Cities supports research, teaching and public engagement on the legal and policy tools related to municipalities and local institutions.

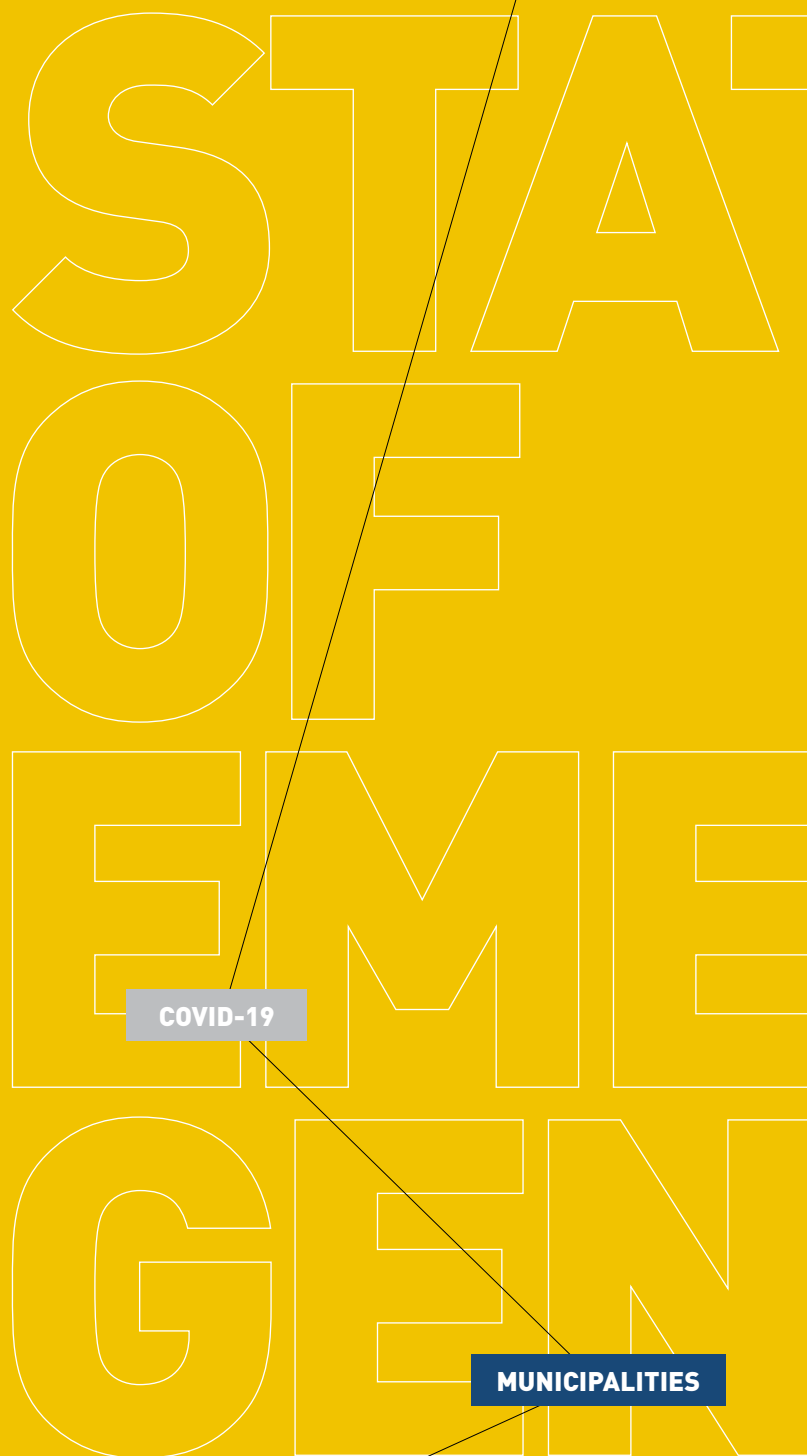
Founded in 2019, the Centre for Cities provides avenues for researchers, students, municipal governments, community organizations and other policy-makers and advocates to learn, exchange ideas and work together toward a common goal of sustainable and inclusive local governance.

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We dedicate this report with gratitude to the front-line essential workers, many of whom are from Black, Indigenous and People of Colour (BIPOC) communities, who have remained on the job during COVID-19.

The views expressed in this report do not represent an official position of Windsor Law or the Windsor Law Centre for Cities.



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PADEMIC

INSTITUTIONAL

FRAMEWORK

Executive Summary and Key Recommendations

Enabled by provincial legislation and emboldened by provincial state of emergency declarations, in the early weeks of the pandemic many Canadian municipalities - including most of the country's largest cities - declared local states of emergency. In many cases this was the first time such a step had been taken. These declarations, along with other provincial and municipal legislative changes, helped to create a situation in which major decisions were being made in Canadian municipalities by mayors and/or city administrators, with limited input from elected councils, standing committees and commissions, or members of the public. The ability of residents to impact the decisions that affected them — participatory governance — was severely limited while important decisions on issues from transit service, to physical distancing fines, to the closure of local businesses were being made.

While such limitations on participatory governance affect all residents, they especially impact the vulnerable communities whose interests already tend to be under-represented in municipal decision-making. These communities — and in particular Black, Indigenous, and People of Colour (BIPOC) — have also been some of the most deeply affected by COVID-19.

What is more, while the pandemic has demanded quick decision-making on measures largely intended to be temporary, many of these decisions will have opportunity costs and potential longer-term impacts for cash-strapped municipalities also at the forefront of addressing other crises such as climate change and affordable housing. The result is that some of the most important decisions to be made by municipalities in recent history have been made with little to no input from the people likely to be the most impacted.

Against a backdrop of the provincial legislative frameworks enabling municipal states of emergency across the country, this study presents a scan of municipal decision-making practice during the early weeks of the 2020 pandemic. While responses were as varied as the underlying governance cultures of Canadian municipalities, some patterns emerged: the exercise of unilateral mayoral powers, the cancellation of council and committee meetings, and deep limitations on public participation in all levels of municipal decision-making.

The study also highlights some encouraging signs, including some municipalities that managed to continue robust public consultation and participatory decision-making even at the beginning of the pandemic, and some new practices which will continue to improve municipal governance when the pandemic recedes. The study concludes with recommendations for reform

of provincial state of emergency legislation as well as changes to municipal governance practice, to ensure that Canada's local governments are better prepared for the next emergency — whether another wave of COVID-19 or something new.

Key recommendations include:

Provinces, through legislative reform, should

- clarify the conditions under which a municipal state of emergency can be declared or extended
- require mayors to consult with municipal council on decision-making whenever possible during states of emergency
- require council, committee and commission meetings to continue, and remain public, whenever possible through state of emergency
- strengthen public consultation and other public participation requirements in municipal decision-making during emergencies

Municipalities should

- continue to adhere to "normal" decision-making frameworks as much as possible during states of emergency
- prioritize public participation in municipal decision-making during states of emergency
- ensure that public consultations continue through states of emergency, evolving as necessary and useful according to changing circumstances
- ensure that communities most impacted by the emergency and emergency measures are meaningfully consulted in decision-making
- continue, post-pandemic, some of the innovations in participatory governance methods that have developed during COVID-19
- consider passing state of emergency by-laws/policies with community-specific provisions on criteria for, and governance during, states of emergency

COVID-19

PUBLIC SPACES

PHYSICAL DISTANCING

SYSTEMIC RACISM

CLIMATE CHANGE

INTRODUCTION

The focus of this study is on Canadian municipal governance under states of emergency in the early months of COVID-19.

Since March 2020, cities and other municipalities across Canada have been at the forefront of responding to the **COVID-19** pandemic. Many of the decisions most directly affecting the daily lives of Canadians have been made by municipalities. These include access to parks and playgrounds, changes to transit service, availability of municipal services including libraries, community centres and recreation facilities, enforcement of **physical distancing** requirements in **public spaces**, closure of shopping malls, land use and transportation policy changes to allow for increased bicycle and pedestrian pathways, and — later in the pandemic response — whether to pass mask bylaws and what, if any, supports were necessary to allow small businesses to stay afloat.

This key role came as municipalities were already at the epicentre of dealing with some of the major crises of our time: **climate change** (and unsustainable patterns of growth), widening socio-economic **inequality** and the dearth of **affordable housing**, to name a few. Race-based violence and police brutality that has been present in North America for centuries was brought to the fore on 25 May 2020 by way of the murder of George Floyd, a Black man, at the hands of a white police officer in Minneapolis, Minnesota. This horrific event highlighted the **systemic racism** and race-based violence experienced by Black, Indigenous, and other People of Colour (BIPOC) in cities across North America, sending millions into the streets in protest and amplifying calls for deep institutional change. Many of these actions have included demands for more, and more diverse, voices to be heard by municipal decision makers, and for more meaningful consultation with those most deeply affected by the decisions being made.

A variety of frameworks has developed to guide municipal approaches to the COVID-19 recovery, with a focus on ensuring that measures are just, equitable, and sustainable. These include the *Just Recovery Principles*, endorsed by hundreds of Canadian organizations,¹ the 2020 *Declaration on Resilience in Canadian Cities*,² signed by over 100 Canadian urban planners, politicians, academics, architects, civil society leaders, real estate developers, and environmental experts; calls for a Canadian Green New Deal;³ and the C-40 Cities Statement of Principles on COVID-19 Recovery, signed by mayors of over 40 of the “world’s great cities.”⁴

These are complex and nuanced conversations, decisions, and policies to implement, requiring multiple areas of expertise and input from many communities.⁵ That municipal finances have been overstretched (with consistent pleas for more stable funding from higher levels of government) during COVID-19 has magnified the challenge facing cities.⁶

Yet at the same time, municipal decision-making in the early months of COVID-19 saw a significant reduction in the number and diversity of voices at the table while many of these important decisions were being made, and directions set that will impact municipalities for years to come.

While the stakes for municipal decision-making have rarely been higher, public participation in these decisions during COVID-19 has been at its weakest in recent history.

2

Parameters of the Study

Enabled by provincial legislation and emboldened by provincial state of emergency declarations all the provinces and territories,⁷ from late March 2020, many Canadian municipalities, including **58 of Canada's 65 largest cities, declared states of emergency**⁸, conferring powers on municipal leaders to make decisions with much less transparency, debate, and public participation than under normal operations. For many of these municipalities, it was the first time that such a state of emergency had been declared.⁹

The parameters of the specific emergency legislation enacted differ from province to province, as will be discussed below, but broadly the emergency powers have been interpreted to allow mayors and heads of council to make decisions either unilaterally or following consultation with, rather than a vote by, the rest of the elected municipal council. Council decisions have in some cases been overridden by mayors. Likewise, emergency declarations have been relied upon to cancel regular municipal council meetings, standing committee and commission meetings, and stand-alone public consultation events. Even when council and committee/commission meetings restarted, the opportunities for public input into decision-making have been far more limited than under usual circumstances. Further, most of these states of emergency have stretched on for months, with many still in place at time of writing (late-September 2020).

Thus, while the stakes for municipal decision-making have never been higher, public participation in these decisions “participatory governance” — has been at its weakest in recent history.

1

Participatory Governance

Participatory governance has been described as: “engag[ing] people who are affected by a problem in the process of solving it”;¹⁰ “promise from government to entrust local communities with greater decision-making power ... [where] residents gain power, in part, from their membership in the valued space of ‘the community’”;¹¹ and “more nuanced consultation practices and methodology [that] seek to account for...inter-and intra-generational dynamics within marginalized, peripheral, and non-dominant groups.”¹²

Participatory governance is seen as particularly important in the context of municipal government because it is defined by decentralized problem-solving specific to local communities, and is part of a process that entrenches local community values in local policy and law.

This study is intended primarily as a snapshot of participatory governance in Canadian municipalities under declared provincial and municipal states of emergency, during the early stages of COVID-19, beginning in mid-March 2020. As the shift back to “regular” municipal functioning has been slow and uneven, there is no hard end date for the study; however the primary goal was to capture limitations on municipal participatory governance at their most restrictive, early in the pandemic.

A second goal was to present some preliminary reflections about best practices and recommendations for municipal governance during states of emergency, in order to plan for future emergency periods, either future waves of COVID-19 or new emergencies.

A third goal was to illustrate the impact of limitations on participatory municipal governance during COVID-19 through the lens of one of the groups most deeply affected by these changes - BIPOC residents who are also suffering from what has been called the “second pandemic” — systemic racism.¹³

Lastly, it has become apparent during COVID-19 that provincial and territorial legislative frameworks on municipal states of emergency are generally lacking sufficient detail to guide many of the challenges the pandemic has presented.¹⁴ There are also questions about the appropriateness of existing legislative frameworks for addressing public health emergencies such as pandemics by contrast with, for example, a terrorist attack or a natural disaster. Although much more study of this topic is needed, several recommendations for provincial legislative reform are made here.



Provincial/Territorial Legislative Frameworks and Oversight

Municipalities are creatures of the province; their powers are framed by, and they are governed according to, provincial legislation.¹⁵ As COVID-19 began to spread, all provinces and territories had pre-existing legislation empowering municipalities to declare states of emergency. Much of Canada's provincial state of emergency legislation was drafted in the 1950s in response to perceived nuclear threats and in the wake of WWII; Ontario is an exception with legislation having been overhauled following the SARS crisis of the early 2000s.¹⁶

All provinces and territories declared emergencies in response to COVID-19, with two distinct legislative paths taken: **states of emergency and public health emergencies**. A main difference between the two is that the former grants powers to the Minister of Health while the latter grants powers to the Premier or governor-in-council.¹⁷ Provincial state of emergency legislation also permits individual municipalities to declare states of emergency. Manitoba, Saskatchewan, Ontario, New Brunswick, and Nova Scotia declared states of emergency.¹⁸ Alberta, Québec, Yukon, Nunavut, Northwest Territories, and Newfoundland and Labrador declared public health emergencies.¹⁹ Prince Edward Island and British Columbia declared both a state of emergency and public health emergency.²⁰

In practice, however, the distinction is muddled; in some provinces the power of the Minister of Health in a public health emergency extends to making orders which bind other Ministers. For example, under the Québec public health emergency declaration, the Minister of Health was authorized to make orders affecting the Minister of Municipal Affairs and therefore municipalities. Québec municipalities must seek the approval of the Minister of Health and Social Services before declaring a state of emergency.²¹ In some municipalities, too, public health and municipal government orders (for example on the wearing of masks in public places) have overlapped, partly as a result of multiple provincial legislative frameworks.²² While not the focus of this report, this interplay is worthy of further study in light of the COVID-19 experience.

There are other **variations between the provincial and territorial emergency frameworks**, leading to differences in the extent to which emergency powers may override “normal” municipal governance. Notably, British Columbia’s emergency powers legislation requires mayors and heads of council to make best efforts to obtain the consent of municipal council before declaring a state of emergency, and to convene a meeting of council as soon as possible following the declaration to “assist in directing response activities.”²³ Nova Scotia’s emergency legislation allows unilateral action by mayor or warden only “if a

HEALTH

CRISIS

MUNICIPALITIES

municipal council is unable to act promptly” and requires that this take place only “after consulting, if it is practical to do so, with a majority of the members of the council’s committee to advise on the development of emergency management plans.”²⁴

Differing provincial legislative provisions, as well as municipal policies enacted during COVID-19, also mean that some municipalities hold more independent power under a state of emergency than others. Many provincial emergency legislative frameworks allow a designated minister (often the Minister of Municipal Affairs) to implement or modify local and municipal emergency response plans. For example, Alberta’s legislation notes that “[t]he Minister may... review and approve or require the modification of... municipal emergency plans and programs.”²⁵ The Newfoundland legislation permits the Minister to implement a municipality’s emergency plan.²⁶ Saskatchewan declared on 22 March 2020 that any policies passed under municipal states of emergency would be void if inconsistent with provincially-set policy;²⁷ the first examples of this were the provincial voiding of by-laws passed by the City of Regina closing all retail stores, and by the Town of Gravelbourg closing all businesses.²⁸ New Brunswick passed legislation on 17 March 2020 postponing the 11 May municipal elections across the province for public health reasons.²⁹

Some provincial restrictions are procedural in nature: for example, on 22 March 2020 as part of its provincial state of emergency declaration, Nova Scotia required all of its municipalities to move to online meetings.³⁰ On 19 March 2020, Ontario enacted the *Municipal Emergency Act, 2020*,³¹ amending the usual quorum requirements contained in the *Municipal Act*,³² and allowing municipal councils under states of emergency to amend their procedure by-laws to permit electronic attendance at council and committees to be counted in quorum.³³ This provision remains in effect for the duration of the municipal emergency.³⁴ Nova Scotia required online meetings for all of the province’s municipal councils from the beginning of COVID-19, which has remained the case throughout the pandemic.³⁵ In Saskatchewan, municipalities may either legislate online meetings through their procedure by-law, or may pass a resolution at the beginning of each meeting permitting the meeting to proceed online.³⁶

Manitoba

March 20, 2020: The Government of Manitoba declared a provincial state of emergency using the Province's *Emergency Measures Act*.

April 15, 2020: The Government of Manitoba announced that it would make additional amendments to *The Emergency Measures Act*, and enable provincial orders that will aid in the response to the COVID-19 pandemic.

The state of emergency has been extended several times, most recently on 10 September 2020.

British Columbia

March 17, 2020: the Provincial Health Officer for British Columbia declared a public health emergency under the Province's *Public Health Act*.

March 18, 2020: BC Minister of Public Safety and Solicitor General declared a provincial state of emergency under the *Emergency Program Act* in response to COVID-19.

The state of emergency has been extended several times, currently set to expire 29 September 2020.

Saskatchewan

March 18, 2020: The Government of Saskatchewan declared a provincial state under the province's *Emergency Planning Act*.

The Premier signed an order pursuant to the provincial State of Emergency directing that all orders of the government and Chief Medical Health Officer must be followed and that law enforcement agencies in Saskatchewan have the full authority to enforce those orders.

The state of emergency has been extended several times, currently set to expire 30 September 2020.



Ontario

March 17, 2020: The Government of Ontario declared a provincial state of emergency under the province's *Emergency Management and Civil Protection Act*.

Emergency orders have been extended several times, to at least 22 October 2020, and emergency legislation largely continues to be in effect under Bill 195, *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*.

ONTARIO



Nova Scotia

March 22, 2020: The Government of Nova Scotia declared a provincial state of emergency under the Province's *Emergency Management Act*.

The state of emergency has been extended several times to at least 4 October 2020.

NOVA SCOTIA

New Brunswick

March 19, 2020: The Government of New Brunswick declared a provincial state of emergency under the Province's *Emergency Measures Act*.

The state of emergency has been renewed several times, most recently on 17 September 2020.



NEW BRUNSWICK

Quebec

March 13, 2020: The Government of Québec declared a provincial public health emergency under the province's *Public Health Act*.

The public health emergency has been extended several times, most recently to 30 September 2020.

Alberta

March 17, 2020: The Government of Alberta declared a provincial public health emergency under the Province's *Public Health Act*.

March 20, 2020: The Government of Alberta amended the *Emergency Management Act* with the result that a provincial state of emergency will no longer nullify a local state of emergency. As a result, a provincial state of emergency can now supplement and reinforce a local authority's state of emergency.

June 15, 2020: The Government of Alberta ended the provincial public health emergency.

Prince Edward Island

March 16, 2020: The Government of Prince Edward Island declared a public health emergency under the Province's *Public Health Act*.

April 16, 2020: The Government of Prince Edward Island declared a state of emergency under the Province's *Emergency Measures Act* and renewed the state of public health emergency for an additional thirty days.

The state of emergency expired on 28 June; however the public health emergency continued into September 2020.

Yukon

March 18, 2020: The Government of Yukon declared a Public health emergency under the Territory's *Public Health and Safety Act*.

April 2, 2020: The Government of Yukon introduced Civil Emergency Measures Health Protection (COVID-19) Orders to ensure that orders given under the *Civil Emergency Measures Act* are enforceable.

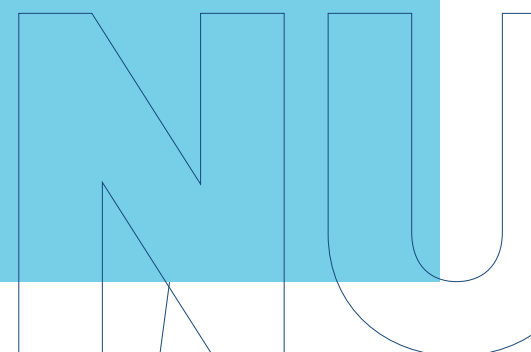
The public health emergency has been extended several times, most recently on 9 September 2020 for a further 90 days.



Nunavut

March 18, 2020: Nunavut declared a public health emergency under the Territory's *Public Health Act* ahead of any COVID-19 cases.

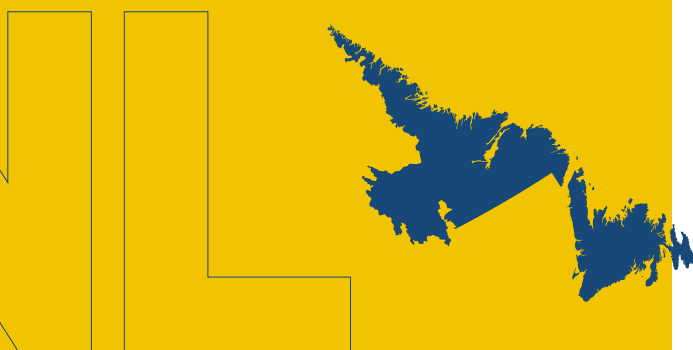
The public health emergency has been extended several times, most recently until 1 October 2020.



Newfoundland and Labrador

March 18, 2020: The Minister of Health and Community Services declared COVID-19 a public health emergency under the *Public Health Protection and Promotion Act*.

The public health emergency has been extended several times, most recently until 30 September 2020.



Northwest Territories

March 19, 2020: Northwest Territories declared a public health emergency under the Territory's *Public Health Act*.

The public health emergency has been renewed 12 times, most recently to 29 September 2020.





COVID-19
BIPPOC
COMMUNITIES
AND

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COVID-19, BIPOC Communities and Participatory Governance

In the early days of COVID-19, the pandemic was referred to in the media as “the great equalizer.”³⁷ However, it quickly became apparent that the opposite is true: the communities most vulnerable prior to COVID-19 have been the ones most deeply affected by the pandemic, from health, economic, and social perspectives.³⁸

As an Amnesty International Canada open letter, signed by more than 300 organizations, academics and former politicians, stated on 15 April 2020:³⁹

Often overlooked is the greater or differential impact of the pandemic itself on First Nations, Métis and Inuit communities, Black and other racialized communities (especially individuals of Asian origin), the elderly, people living with disabilities, women and children at risk of violence in the home, refugees and migrants, people marginalized because of gender identity or sexual orientation, minority official language communities, prisoners, sex workers, people who are homeless or living in inadequate housing, people who use drugs, precariously-employed workers, and other at-risk communities.

While reduced opportunities for meaningful participation in municipal governance during COVID-19 impact all residents, the lack of voices representing these most-affected communities is the most troubling: As the Amnesty letter indicates, there are many vulnerable communities that have been among the hardest-hit by COVID-19. **We focus here on Black, Indigenous and People of Colour (BIPOC) communities** as one particularly grave example of those directly affected by, yet largely excluded from, some of the most important decisions being made by cities during the pandemic. We do so in the context of the ongoing calls for reform in Canadian cities in light of ongoing and systemic anti-Black racism, and the Truth and Reconciliation Commission of Canada’s calls to action for Canadian municipalities with respect to the treatment of Indigenous peoples and colonialism in Canada.⁴⁰

VULNERABLE

IMPACT

COVID-19

COMMUNITIES

SYSTEMIC RACISM

INEQUALITIES

01

BIPOC communities and COVID-19

The differential impact of COVID-19 has led to an intensified focus on the importance of the social determinants of health, shedding new light on the stark inequalities present in Canadian society and the differential pandemic impacts to which these have led.

The World Health Organization classifies social determinants of health as the conditions in which people are born, grow, live, work, and age.⁴¹ These circumstances are shaped by the distribution of money, power, and resources at global, national, and local levels. The social determinants of health are largely responsible for health inequities — the unfair and avoidable differences in health status seen within and between countries.⁴² Put simply, good health is a by-product of access to a multitude of social and economic factors. Poor health is contributed to or exacerbated through structural and systemic inequalities.⁴³

Race has been and continues to be a determining factor of health. The social determinants of health are drastically different for BIPOC communities. This is a direct result of the social structural and systemic inequalities faced on a daily basis. Longstanding inequalities have placed a greater proportion of racialized populations near or below the federal poverty line.⁴⁴

Vulnerable populations, in particular BIPOC communities, are also often overrepresented in a number of areas that contribute to negative health outcomes. It is apparent through the limited race-based data collected that during COVID-19 race continues to be a determining factor of health and that Black communities have been the most deeply affected in Canada. Circumstances such as workplace discrimination, immigration status and, other systemic barriers related to racism place many members of BIPOC communities in the informal work sector, or in the gig economy where employment is characterized by short term contracts or freelance employment, resulting in jobs lacking security and substantial consistent income.

The social determinants of health are also intersectional. For example, work conditions affect and are affected by the type of work and level of income an individual is able to generate. Low income individuals often live in multigenerational households and/or low-income environments that tend to be densely populated. These include what Jay Pitter has termed “forgotten densities,” including “factory dormitories, seniors’ homes, tent cities, Indigenous reserves, prisons, mobile home parks, shelters and public housing.”⁴⁵ As Pitter has noted, these “have common characteristics such as ageing infrastructure, over-policing, predatory enterprises like cheque-cashing businesses and liquor stores, inadequate transportation options, and sick buildings — structures that contribute to illness due to their poor design, materials, and maintenance.”⁴⁶

In these environments, isolation to prevent virus spread is not often possible. Consequently, the nature of work increases an individual’s susceptibility to disease and the living conditions increase the rate of contamination and spread.

COMMUNITIES

ESSENTIAL WORKERS

Indeed, throughout history, pandemics have disproportionately affected vulnerable groups, including racial and ethnic minorities, as they have exacerbated existing health inequities. The 1918 Spanish flu pandemic resulted in a higher mortality rate for racialized minorities in comparison to the general population.⁴⁷ More recently, the 2009 H1N1 influenza pandemic resulted in minority groups having higher rates of “serious infection requiring hospitalizations compared with non-minority groups.”⁴⁸

Members of BIPOC communities are also more likely to work in the service industry doing jobs with little possibility to work from home and generally lacking sick leave provisions.⁴⁹ BIPOC (particularly Black and Asian) women are particularly overrepresented in frontline work, in fields such as nursing and personal support.⁵⁰ These frontline workers have faced challenges such as securing basic necessities such as Personal Protective Equipment (PPE) — gloves and masks — increasing the likelihood of susceptibility and infection of COVID-19.⁵¹ Indeed, as Global News reported in May 2020, “[t]he higher you are on the occupational pecking order, the more control you have of how you do your work and where you do your work. Consequently, [m]any lower-paid jobs come with a higher risk of infection.”⁵²

“[F]orgotten densities...and more egregiously forgotten people, were plagued with ageing infrastructure, poor design and negligible maintenance well before COVID-19.”

— Jay Pitter, MES, Placemaker, Bousfield Fellow in Planning, University of Toronto.⁵³

The social and race-based inequities that were present in Canada’s cities prior to the pandemic are thus aggravated in the presence of COVID-19, making representation of vulnerable communities in municipal decision-making all the more important.⁵⁴

Municipal decision-making and BIPOC communities during COVID-19

Decision-making affecting BIPOC and other vulnerable communities has happened at all levels of Canadian governance. The federal government, for example, has been responsible for controlling borders during the pandemic, and has managed the creation and administration of benefit programmes for Canadians whose livelihoods have been affected by the pandemic. Provincial governments have overseen health care broadly during the pandemic; in collaboration with local public health authorities, they have also been responsible for re-opening strategies for regions and schools. Decisions in all of these spheres risk affecting the social determinants of health and may impact vulnerable communities more than others. As noted above, too, provincial policy has at times overridden municipal decision-making.

However, many variables that have directly impacted BIPOC communities during COVID-19 stem from municipal decision-making. For example, frontline workers during COVID-19, such as grocery store clerks working in lower paying jobs, may be less likely to have a car for work related travel, so are more likely to be impacted by the cuts to or cancellation of transit service. Families and individuals who are more crowded at home with less private outdoor space available to them may benefit more directly from increased access to public space. At the same time, members of BIPOC communities may have different considerations about the use and safety of these spaces than traditional urbanist advocates.⁵⁵

Further, while many of these decisions are being made on an ad-hoc basis, their impacts may be long-lasting, and with municipal budgets limited and overstretched during the pandemic, there is an opportunity cost to every decision.

Even under “normal” governance, BIPOC and other vulnerable communities are less likely to see themselves represented among mayors and heads of council, and indeed on municipal councils, committees, and commissions, than other members of the public. Public consultations, too, are often criticized for failing to be sufficiently inclusive.

Yet COVID-19 has seen a further dramatic decrease in the opportunities for inclusive participatory governance in Canadian municipalities. Throughout the pandemic, but in particular during the early days of the response across Canada, provincial emergency powers legislation, municipal state of emergency declarations and amendments to municipal procedural by-laws have been used to alter radically the “normal” form of municipal decision-making. Coupled with the failure of vast majority of Canadian municipalities to use the powers afforded to them during a state of emergency to undertake significant race-based data collection,⁵⁶ this has hindered cities’ ability to tailor responses to benefit the groups disproportionately affected. Canada’s municipalities have been even less responsive than usual to the needs of vulnerable communities, at a time when their vulnerabilities have been exacerbated by the pandemic.

The following sections illustrate how increased mayoral powers and a reduced role for municipal councils in decision-making; reduction in or cancellation of standing committees and commissions; and procedural changes eliminating or limiting or complicating public input into municipal decision-making have all worked to reduce the levels of participatory governance in Canada’s municipalities during COVID-19.

Municipal state of emergency declarations and procedural changes have allowed cities to bypass processes needed to ensure responses benefit those disproportionately affected by the pandemic.



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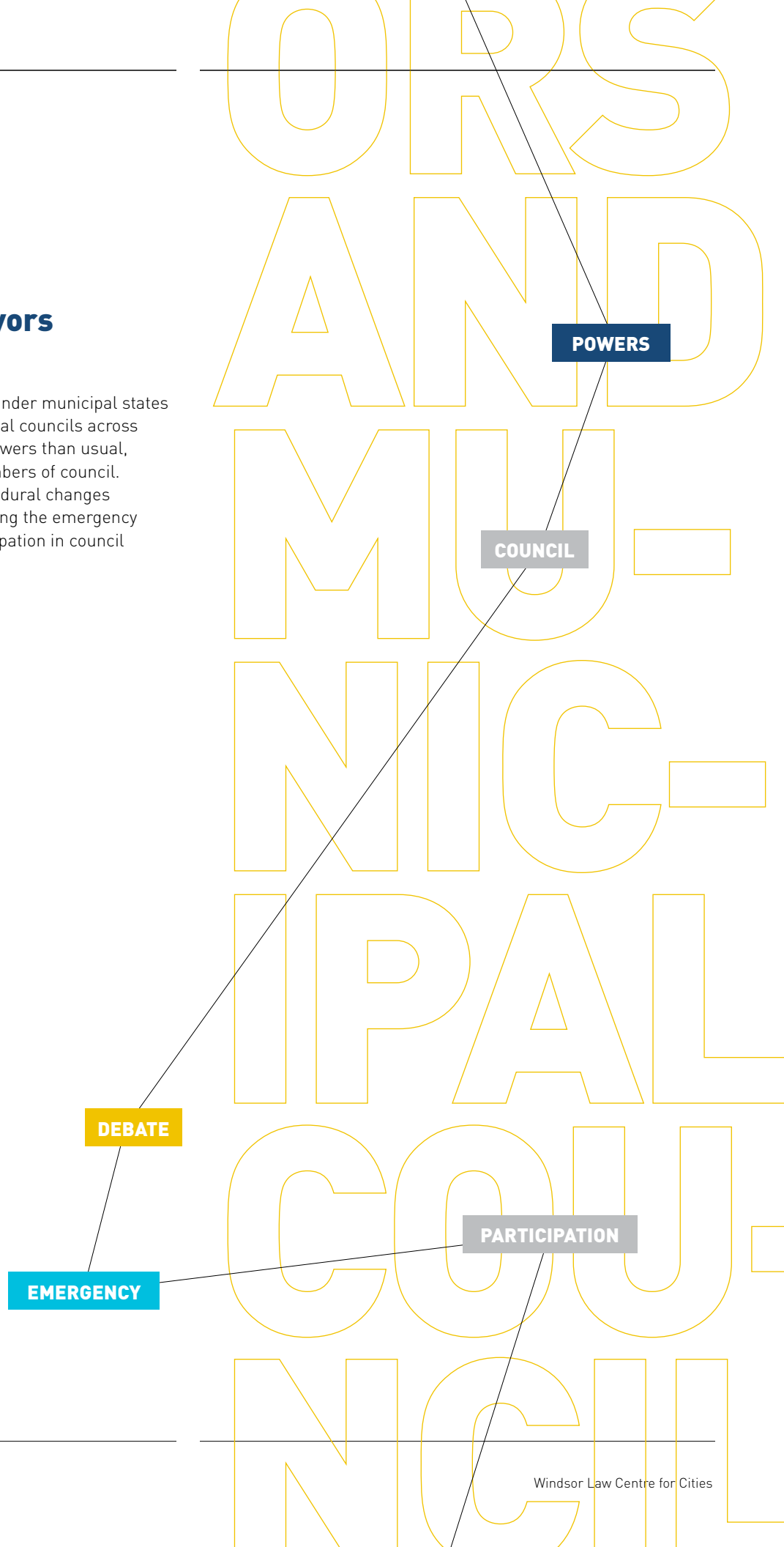
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Decision-Making by Mayors and Municipal Councils

Throughout the early months of COVID-19, under municipal states of emergency, mayors and heads of municipal councils across Canada exercised wider decision-making powers than usual, with or without consultation with other members of council. This has been coupled with significant procedural changes to the functioning of municipal councils during the emergency which have limited debate and public participation in council decision-making.

At least
10
of the largest
65
cities in Canada
cancelled council
meetings altogether
in the early days
of COVID-19

City Watch Canada
(Canadian Urban Institute)⁸



01

Unilateral decision-making by mayors

Canadian municipal governments have often been characterized as “weak mayor” systems.⁵⁷ While many mayors and heads of council hold residual powers (for example the power to set municipal council agendas) most decisions are made through a vote by council as a whole. Under municipal emergency powers during COVID-19, however, Canadian mayors have bypassed standard protocols. Instead, mayors have made some decisions unilaterally, either after only consulting with the other elected members of council, rather than council voting on the issue, or in some cases with no council consultation at all.⁵⁸ (As noted above, British Columbia is an exception, as the province’s emergency legislation requires mayors to consult with council in creating the emergency management plan.⁵⁹)

Oshawa, Ontario; Edmonton; and Winnipeg are among the municipalities in which councillors approved an emergency management by-law giving the mayor and Municipal Chief Administrative Officer (CAO) the sole power to make decisions.⁶⁰

There are numerous examples of unilateral decision-making powers exercised by mayors across Canada under declared municipal states of emergency during the pandemic. The mayor of the Town of Niagara-on-the-Lake, Ontario, overrode a council vote to approve a street closure from July to October.⁶¹ According to businesses and residences, there was no clear health or safety related rationale to justify the mayor overriding the direction set by council.⁶² In Windsor, Ontario, the mayor shut down all transit service in March without consulting members of council and without the recommendation of the local Medical Officer of Health.⁶³ Toronto’s mayor stated that prior to making a decision he “engaged city councillors to better understand their perspectives”;⁶⁴ however, there was no oversight as to whether there was such engagement, or what form it took, and members of the public were not invited to view or participate in these conversations.

02

Cancellation of municipal council meetings

In some municipalities council meetings were cancelled for at least several weeks at the beginning of the state of emergency. According to CUI’s City Watch project, at least ten of the 65 largest Canadian municipalities cancelled council meetings altogether early in the pandemic.⁶⁵ Edmonton City Council suspended all of its meetings through the end of March 2020; Regina City Council cancelled meetings until mid-April 2020.⁶⁶ On 18 March 2020, the mayor of Oakville, Ontario exercised authority under the Town’s Procedure By-law to briefly postpone Council meetings over the continuing COVID-19 emergency.⁶⁷ The City of Toronto cancelled Council meetings for several weeks, holding its first full online council meeting on 30 April 2020.⁶⁸

POWER

MUNICIPAL

EMERGENCY

MEETINGS

CANCELLED

03

Consultation-only council meetings

In municipalities where council meetings continued during the early days of COVID-19, and in others where they restarted after several weeks, states of emergency also saw reduced or altered municipal council functions alongside the broader mayoral powers. In a few municipalities including the City of Toronto, council's role was limited to a consultative one with no voting taking place (and the final decision on many emergency actions being undertaken by the mayor).⁶⁹

On 20 March 2020, Edmonton City Council declared a state of emergency, providing administration with new powers including granting the interim City Manager authority to manage Edmonton's response to COVID-19.⁷⁰ With this change, City Council operated in an advisory capacity when it began to meet again, with the City Manager only providing updates to City Council. In Burlington, Ontario, the City Manager was appointed the chair of the city's Emergency Coordinating Group. The group met twice a day following the City's declaration of a state of emergency on 21 March 2020.⁷¹ The City Manager provided the city councillors with updates once per week on decisions that had been made without them (although at least in early days these reports were not available to the public).⁷² Constituents in Burlington expressed concern with the lack of decision-making authority held by elected councillors since the declared state of emergency.⁷³ While Council did continue to meet, their role was diminished as a result of the powers afforded the City Manager and Emergency Coordinating Group.⁷⁴

04

Reduced regularity and scope of council meetings

Many municipal councils that continued to meet altered their regular scheduling and agendas by meeting less frequently than usual, and focusing agenda items solely on issues related to addressing the pandemic. In Orillia, Ontario, city politicians agreed to a modified council meeting schedule until July 2020.⁷⁵ Council and committee meetings were held back-to-back on the same day rather than spaced out as is the norm,⁷⁶ leading to council making final decisions in one sitting. The City of Langford, BC reduced council meetings to once a month and council chambers were closed to the public.⁷⁷

05

Council meetings held virtually

Across the country, municipal council meetings generally moved online during COVID-19. Municipalities including Winnipeg and Vancouver migrated to virtual council meetings from the outset of the declared emergency without cancelling meetings. In a few municipalities such as Kamloops, BC, a hybrid of in-person and online participation in council meetings was employed to enable proper social distancing in council chambers.⁷⁸ As noted above, in many cases the move to virtual meetings has been mandated or facilitated at the provincial level.

For many municipalities, this shift was facilitated by a growing online presence prior to COVID-19. Council meeting agendas in many municipalities were already posted online prior to the start of the meeting to allow residents and community organizations to follow the issues discussed, and in many municipalities across the country, council meetings have regularly been webcast for some years. Nonetheless, moving meetings onto online platforms has fundamentally changed the meeting format for council members and municipal administrators.

Some smaller municipalities have held their council meetings via telephone conference calls rather than through online platforms. This may make use of more reliable technology, but risks further distancing members of council from each other and their constituents.

06

Not all council meetings public

Many municipal council meetings that have taken place via phone or video conferencing have been open to the public, as they generally would be outside of states of emergency (aside from *in camera* discussions). This has taken place via platforms including Zoom, Facebook Live, and YouTube.

However, some councils — mainly representing smaller communities — have not made meetings public through COVID-19, instead communicating their meeting minutes online once agenda items have already been addressed and decisions made.

The Strathcona Regional District in British Columbia moved its council meetings online due to COVID-19, but the District did not permit public attendance,⁷⁹ citing technological limitations.⁸⁰ The District claimed they were not avoiding transparency, but that smaller local governments simply do not have the technological infrastructure and financial capacity to broadcast meetings.⁸¹ Residents in Langford, BC, have expressed similar concerns that while phone-in participation is possible, Langford is the one of the only jurisdictions in the region that does not allow online public viewing of its council meetings.⁸²

Ontario's Municipal Emergency Act, 2020 explicitly retains the "open meeting" requirement.⁸³ Municipalities must provide notice

of time and place of such meetings and ensure they are viewable by the public, even as they move online. The foundation of the municipal open meeting requirement is the right of citizens to attend public committee meetings, or as defined by the Supreme Court of Canada in its 2007 decision in *London v RSJ*, “the right to observe municipal government in process.”⁸⁴

In addressing a complaint about a special meeting held by the Town of Russell, Ontario during COVID-19, the town’s Ombudsman stated:

[O]pen meeting rules continue to apply to such meetings. The requirement to hold meetings that are open to the public is not suspended in an emergency ... municipalities [should] continue to strive to carry out their business in as transparent and open a manner as possible while protecting public health and safety.”⁸⁵

07

Little or no public participation permitted in council meetings

Lastly, direct public participation in Council meetings in many municipalities was reduced or eliminated at the beginning of COVID-19 through the suspension of live deputations by residents and community groups.

At the heart of the municipal model of participatory governance, deputations (also called “delegations” in some municipalities) allow members of the public to make a brief presentation to their city’s council and/or a committee. Deputations are an opportunity for the public to weigh in on important community decisions while face to face with the city’s elected leaders, representatives, staff, and other stakeholders.⁸⁶ They provide councillors with the public’s view, and bring forth issues that might otherwise be passed over without meaningful discussion or debate. Generally parties wishing to be heard must register by a deadline of a day or two prior to the meeting at which they wish to appear, although rules differ by municipality.⁸⁷ Some municipalities place limits on the number of delegates or deputations per meeting; for example the City of Burnaby, BC allows only two delegations per council meeting.⁸⁸

“I think it’s a right that people have to be able to express their feelings ... If the impression is it’s not an open meeting, then it looks like it’s not transparent, whatever you do. We do not want to have that opinion out in the community.”

— Councillor Jim Morrison,
City of Windsor, quoted in the *Windsor Star*
(28 July 2020)⁹⁴

During COVID-19, written submissions prior to meetings have replaced live participation in many municipalities. In Steinbach, Manitoba, in-person attendance for public hearings was discouraged even as live meetings continued.⁸⁹ Residents were instead requested to raise concerns or questions in writing or via email.⁹⁰ In Orillia, Ontario, a regular open public forum at the end of municipal council was cancelled, with the City instead requesting residents submit their input online to the Deputy Clerk.⁹¹ Westmount, Québec had an online form for questions to be shared during a meeting’s question period; however, submissions could only be made on the day of the meeting.⁹² In Vaughan, Ontario, where delegations were not permitted for several months during the pandemic, residents and community groups were offered the option of submitting comments and deputations electronically prior to Council meetings.⁹³ In Windsor, Ontario, delegations were only allowed to resume after residents petitioned council in late July 2020, following approximately three months of virtual council meetings without delegates.⁹⁴

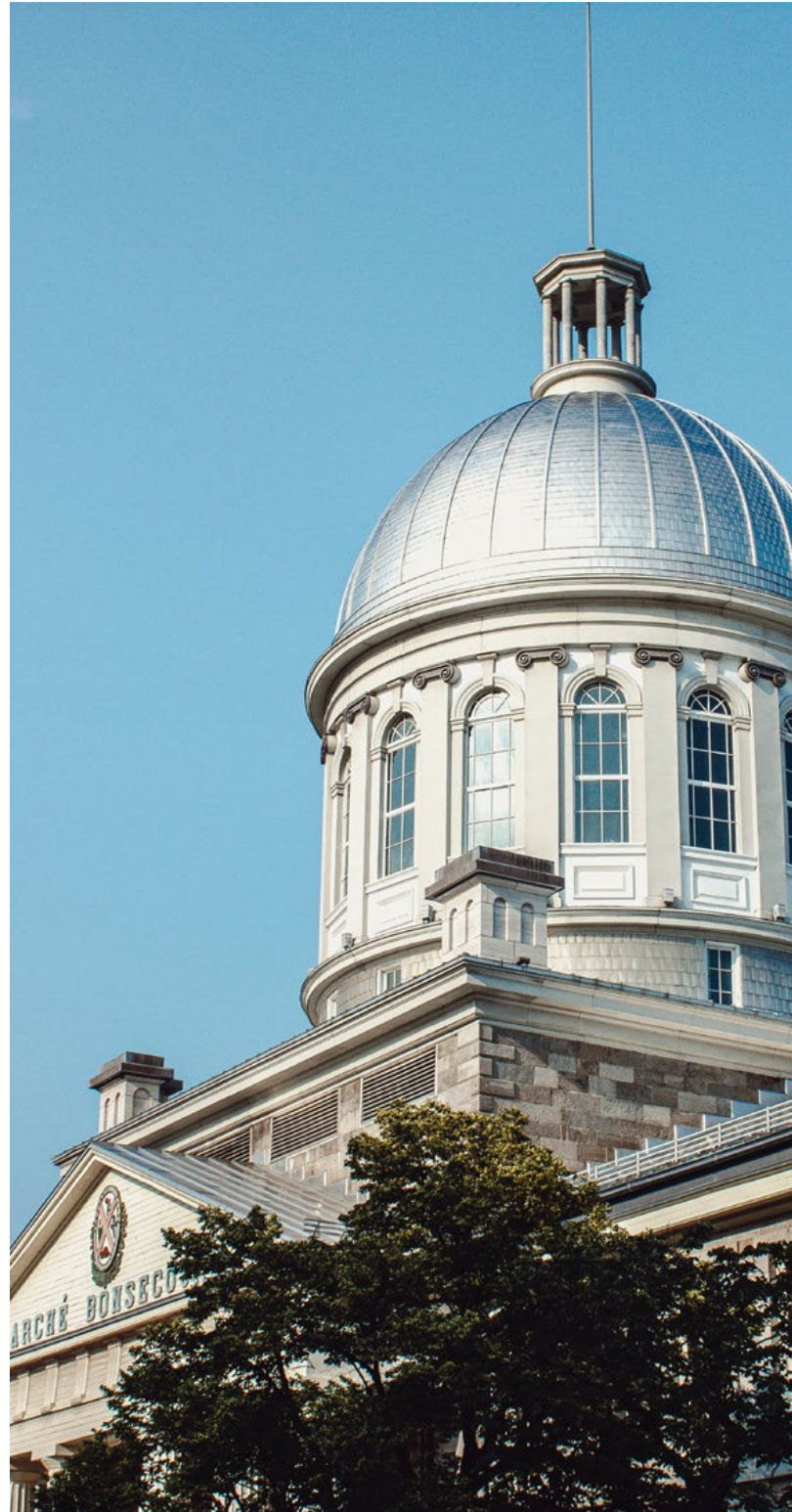
Even when deputations continued or restarted, video conferencing has brought new challenges to public participation. Virtual meetings can be “colder” and less efficient when compared to in-person setups, where visual and verbal cues have an integral role in aiding and adding to discussion. Further, many residents across Canada do not have ready access to the internet in their homes. Internet services are patchy in rural and Indigenous communities. People who relied on public spaces including schools, offices, recreation centres, and libraries for the internet also lost this access following the closures of many of these spaces during COVID-19. Additionally, with the temporary closures of many workplaces and businesses, as well as a number of layoffs, residents may no longer be able to afford the luxury of home internet — a low priority in comparison to rent, groceries, and other daily costs of living.

Best practices

Not all municipalities reduced opportunities for public participation during COVID-19. Some municipalities allowed electronic deputations during meetings throughout the pandemic. The City of Winnipeg encouraged delegates to participate by video or phone from the beginning of its online presence in late April 2020.⁹⁵ Burlington, Ontario began virtual delegations at Standing Committees and Council on 20 April 2020, with delegates submitting an electronic request to appear to the City Clerk by noon on the day before the meeting.⁹⁶ Residents are able to connect to the system via phone or using computer audio, and delegates are requested to submit their speaking notes in advance, in the event that there are technical issues. North Cowichan, BC encouraged civic engagement by receiving input on agenda items up to 30 minutes prior to meetings, with the submissions then read aloud during council meetings.⁹⁷

Some of the new practices that emerged during COVID-19 could improve the accessibility and transparency of council meetings — as well as widening opportunities for public participation — even once the pandemic has passed.⁹⁸ Holding meetings on online platforms has provided opportunities for residents to conveniently access council meetings both live and after the fact. Some have argued that the more intimate online framing of virtual meetings (individual screens for mayor and each councillor) have permitted residents to feel more connected to councillors than previous webcasts that simply showed the full council chambers. Better video capacity would be an improvement even as meetings return to happening in person.

The move to online meeting platforms has also facilitated convenient electronic sharing of council meetings and video clips of statements made by councillors during debates, which has widened the number of residents who can view council proceedings. Online proceedings have also allowed for “watch parties” and online chats where residents can meet together and discuss the proceedings in real time.⁹⁹





D

Standing Committees and Commissions

The functioning of municipal standing committees and commissions, and public participation in such bodies, has also been affected under COVID-19 states of emergency.

Under municipal law frameworks across Canadian provinces, municipalities have discretion to choose how to structure their committees and commissions.¹⁰⁰ Some municipalities have one committee to support all of council, while other municipalities have numerous standing committees with specialized responsibilities (land use planning or transportation, for example). Importantly, committees and commissions may have focused mandates that are particular to a municipality's services and operations. This allows municipalities to create a more tailored democratic process around specific issues facing their own communities.

Standing committees and commissions may be composed only of councillors, or a combination of elected councillors and municipal residents. They consider issues and make recommendations to council, often after having heard submissions from members of the public. Standing committees and commissions may consult experts or others with knowledge of the issue at hand, including other municipalities. Across Canada, committee decisions are not generally binding on council, though monitoring implemented policies is often a mandate of committees, especially where the committee is an executive committee and not a specialized standing committee.¹⁰¹ For example, the executive committee of the City of Winnipeg formulates and presents recommendations to council including on budgets and by-laws, and subsequently oversees the implementation of policies.¹⁰²

Committee and commission meetings are generally subject to the same legal requirements as council meetings with respect to transparency and accountability.¹⁰³ Committee meetings are normally open to the public, and journalists and reporters frequently attend and communicate the proceedings to the public. Some of the issues that committees consider, such as budgets, have traditionally been less conducive to participation by the general public, making the committee's role all the more important.¹⁰⁴

Standing committees in many municipalities consider issues some weeks ahead of council consideration. This allows for media reporting of a debate or recommendation, public discourse around an issue, and time for delegates to prepare submissions, before the council debate and vote takes place.

RESIDENTS

COMMITTEE

MEDIA

In many municipalities, members of the public have the ability to present deputations to both committee and council. As with deputations to council, deputations at the committee level are an opportunity for the public to weigh in on important community decisions, at a point when councillors' positions may still be more malleable. When meetings are held in person, deputations are typically also conducted in person, though an option for written deputations when an interested member of the public is unable to attend in person is the norm in most municipalities.¹⁰⁵

01

Cancellation of standing committees or commissions during COVID-19

During the first weeks of COVID-19, many standing committees and commissions were cancelled or the number of meetings reduced. Public participation in meetings was limited or eliminated. Instead of municipalities seeking out alternative platforms as was done for council meetings, many of the regularly scheduled committee and public participation meetings were cancelled altogether. In a survey of politicians in Canadian municipalities with populations above 9,000, all of the respondents reported that their municipalities had cancelled or moved committee meetings to *in camera* or virtual formats.¹⁰⁶ In some municipalities where council continued to meet in person, committee meetings were cancelled, such as in Abbotsford and Burnaby, BC; Brandon, Manitoba; and St. John's. Many more municipalities changed council meetings to virtual meetings but cancelled committee meetings altogether, including Kelowna, Langley, Saanich, Surrey, and Victoria, BC; Winnipeg; Hamilton, Mississauga, St. Catharines, Toronto and Waterloo in Ontario; Levis, Québec; Charlottetown, PEI; and Moncton, New Brunswick. Those that initially cancelled both levels of meeting include Edmonton and Red Deer in Alberta; and Guelph, Kitchener, Oakville, Oshawa, and Windsor in Ontario.

While municipal emergency powers have been interpreted during COVID-19 to allow for these kinds of limitations to debate and discussion by committee or commission, there are ramifications when municipalities act without input from a knowledge base that typically informs part of the recommendations to council.¹⁰⁷ Committees provide an important function in that they can help narrow and define issues before they come before municipal councils, and may provide a more informed and specialized form of debate. The exercise of committee and commission powers is one set of tools that allows municipalities to respond to specific localized needs in response to COVID-19, and the cancellation of these meetings in many municipalities during the early days of the pandemic is concerning.

02

Best practices

Some municipalities that changed council meetings to virtual meetings also promptly switched their committee meetings to a virtual format to allow committees to continue meeting. This includes Vancouver, Regina, Saskatoon, Halifax; Kingston, London, Markham, Vaughan, and Whitby in Ontario; and Longueuil and Terrebonne in Québec.

Some municipalities that did not allow delegates at council meetings during early COVID-19 did allow delegates to appear before committees. The City of Calgary continued holding committee meetings in person throughout COVID-19 with a hybrid option of participants appearing remotely.¹⁰⁸ Windsor, Ontario also facilitated delegation presentations at its standing committee meetings well before they were permitted to return to full council meetings.

“Making a deputation is a great way to educate members of City Council about your issue and ask for change. Media coverage can help members of council feel pressure to make a positive change. You get your point of view on public record. And, it’s one way of exercising your rights as a citizen and assuming responsibility for creating a city for all. As a resident, you can help to ensure that the diverse voices in our city are heard.”

— “Making Voices Count: A Kit for Engaging Municipal Decision-Makers,” MVC (Ottawa)⁸⁶



PUBLIC CONNECTIONS

E

Public Consultations

In addition to participation in council meetings and committee and commission deliberations as described above, effective participatory governance at the municipal level also requires direct consultation with members of the public on issues relevant to them. In order to reach informed decisions, there is a need for strategies that focus on meaningful citizen participation, including those which focus on communities with traditionally low participation in municipal governance. Meaningful public consultation allows infrastructure and services to be provided for residents in a way that responds to their widely varying needs, and may help to embed directly the views of diverse and vulnerable communities into municipal decision-making.¹⁰⁹

Municipal public consultation processes are challenging at the best of times, sometimes subject to criticism that they are more about showing off an almost finalized plan more about showing off an almost finalized plan, or what has been called “consultation theatre”,¹¹⁰ than facilitating real discussion. Inaccessibility and inconvenience can also be an issue, as the location, public transit options, and time of day can be barriers to participation by many interested parties.¹¹¹ Public engagement in, and awareness of, municipal decision-making is also generally low compared to other levels of government.

During the COVID-19 pandemic, with the stakes of municipal decision-making even higher than usual, public consultation has faced even greater challenges. In many cases were stopped or fundamentally altered.

ACCESSIBLE

RESIDENTS

CREATIVE

PARTICIPATION

INCLUSIVE

Municipal public consultations during COVID-19

Like committee meetings, many planned public consultation events were cancelled altogether during the early weeks of the COVID-19 response. This was especially common for larger municipalities, which regularly hold public consultations on important municipal decisions. This was the case even as the council decision-making they were meant to inform (not all related to COVID-19) continued. Further, municipalities have been slower to reinstate public consultations than regular council and committee meetings.

As noted above, it is now beyond question that the pandemic has disproportionately impacted vulnerable communities. At this time, perhaps like no other, broad consultation with all residents, and with these communities in particular, must be prioritized.

A lack of public consultation processes affects all residents. However, vulnerable (including BIPOC) communities, who already tend to be underrepresented in elected municipal positions and therefore in decision-making, may be the most impacted. Decisions being made during the pandemic have **different impacts for different communities**, and it is very difficult for a mayor, or even an elected council, to fully appreciate these subtleties without the kinds of perspectives that come from public consultations.

As an example, opening more street space traditionally allocated for cars, to pedestrians, cyclists, and even restaurant patios, requires consideration of the impacts on all residents. As Courtney Cobbs, an advocate with *Streetsblog Chicago*, has written, “if open streets are to be rolled out in BIPOC communities, they must be done in a way that responds to the culture, values and needs of the community, with community engagement to ask residents what they feel makes sense for their street or neighborhood.” Ren Thomas of Dalhousie University’s School of Planning writes: “[B]lack people are clearly unsafe in urban spaces, invisible in areas like planning for bike lanes, targetted during COVID-19 lockdowns and not considered in the redesign of post-COVID spaces.”¹¹²

**Municipalities
have been slower
to reinstate public
consultations
than council and
committee meetings.**



02

Best practices

Online consultations during COVID-19 have been received positively in a number of municipalities. Some have experimented with or expanded the use of online consultation formats, including webinar sessions and websites for receiving feedback, both for ongoing planning matters and COVID-19 related decisions. In the early stages of the pandemic, Red Deer, Alberta shifted public participation and consultation activities online.¹¹³ The County of Kings in Nova Scotia continued public hearings by switching to online virtual platforms.¹¹⁴ In Kitchener-Waterloo, Ontario, the decision to expand bike lane infrastructure came after an overwhelming response on the region's online engagement platform.¹¹⁵ In adding an online video presentation and feedback option to planned consultations on a new bike path in June 2020, the City of Penticton's Public Engagement Coordinator noted, "Bike lanes are inherently difficult discussions. Through this additional step in the engagement process downtown, we want to ensure that council has a good understanding of all perspectives in order to make their decision." Edmonton, too, has begun using "digital engagement" to inform its decision-making, including relaunching of previously-planned city projects.¹¹⁶

Municipalities have also created new forms of consultation. For example, Cowichan, BC has begun using an app called PlaceSpeak to allow residents to input feedback directly onto an online map.¹¹⁷

Online formats being used for public consultations in some municipalities during COVID-19 have the potential to facilitate more and different discussions than may take place in person. They also encourage and allow people who may otherwise have barriers related to mobility, working hours, or family responsibilities to participate. Additionally, online availability allows people to review a past presentation and offer feedback at their convenience. This added flexibility may be important in encouraging members of vulnerable communities to participate in public consultations.

Some municipalities even consulted residents on how they wanted to be consulted during the pandemic. This too is commendable. The City of St. John's made an early open call to the public, surveying residents on how they should continue upholding civic engagement during COVID-19.¹¹⁸ The survey took place online, allowing community members to weigh in on methods that would be most accessible and preferable to them. The City of Vancouver also asked residents early in the pandemic for input on civic engagement.¹¹⁹ This direct communication with residents about the preferred form of public consultation is a welcome step and one that may also give rise to long-term improvements.

Some municipalities even consulted residents on how they wished to be consulted during the pandemic.



COVID-19
COMMISSIONS
AND
COM-



F

COVID-19 Commissions and Committees

A note should also be made here about special municipal commissions and committees established to address decision-making related to COVID-19.

In some cases, special committees have been formed to respond to the immediate local issues arising from the pandemic. In Edmonton, an Emergency Advisory Committee was formed on 20 March 2020 comprised of the Mayor (Chair), City Manager (Director), Clerk, Edmonton Police services, and Deputy Fire Chiefs.¹²⁰ The Committee met to consider municipal plans for dealing with COVID-19 cases and potential escalation.¹²¹

Brampton, Ontario's City Council established four task forces to coordinate recommendations and measures to support various communities and pressing causes.¹²² These task forces targetted economic support, social support, seniors support, and youth support. City councillors co-chaired and established membership for these groups, met and directly work with city stakeholders, local business boards, social support groups, and residents to collectively coordinate recommendations and action items. Such task forces can help respond to issues arising from an emergency that are anticipated to be urgent, localized and requiring input from local communities, including municipal budget deficits.¹²³

Some municipalities opted for special one-time or a limited series of meetings. In Vancouver, councillors and City Advisory Committees have held "special working sessions."¹²⁴ At these meetings, councillors heard from committee members representing a broad range of communities on the City's response to COVID-19, and what actions should be taken going forward.¹²⁵

As time went on, some of the COVID-19 entities shifted their focus toward recovery. For example, in July 2020, London, Ontario's Mayor's Economic and Social Impact and Recovery Task Forces began studying 11 recovery ideas in addition to their original 42 relief measures.¹²⁶

These models of specialized COVID-19 governance require more study, but they hold promise as part of the innovation and flexibility that is possible at the local level. Here, too, ensuring wide and diverse representation on these committees, with targeted efforts to engage BIPOC and other vulnerable communities, will be critical.

COVID-19

RECOVERY

RESIDENTS

GOVERNANCE

INCLUSION

SUPPORT



COVID-19 News and Updates



Reopening and Recovery



Mandatory Mask By-law



Economic Support Task Force



Economic Recovery Strategy



Frequently Asked Questions



Seniors Support Task Force



Social Support Task Force



Community Resources



Youth Support Task Force



Enforcement Updates



Register for Tele Town Halls

City of Brampton website, letsconnect.brampton.ca

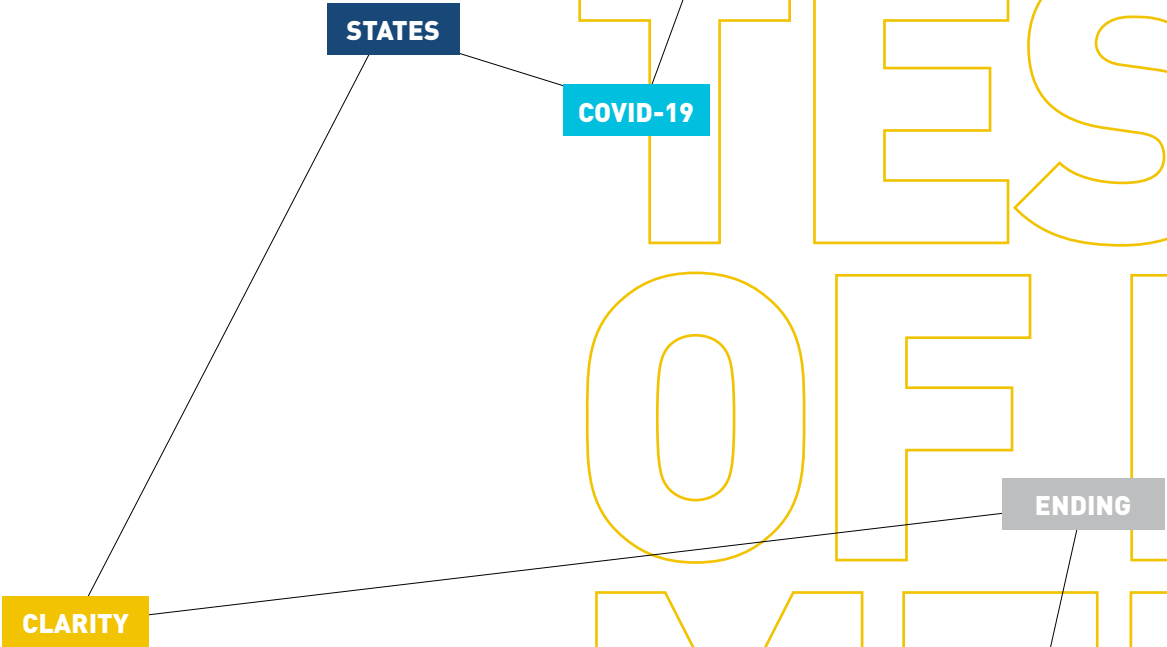


LENGTH
AND
POWER
OF MU.

G

Length and Termination of Municipal States of Emergency

Lastly, as the months have passed, difference practices have also emerged as to the length and termination of municipal states of emergency. In late September 2020 (6 months into the pandemic response in Canada), most provinces remain under a state of emergency or public health emergency, and more than a third of the 65 cities being tracked by CUI’s City Watch project remain under a municipal state of emergency. How and when a municipal state of emergency can be extended or comes to an end presents one more area where COVID-19 has highlighted a need for both greater legislative clarity and more accountable municipal practice.



01

Length and extensions of state of emergency

Municipalities or a designated minister under provincial/territorial emergency legislation have the power to end or “terminate” a local state of emergency. Much of the provincial/territorial emergency legislation contains an automatic termination provision that will operate unless the state of emergency is officially extended.

At 48 hours, Yukon has the shortest automatic termination period (when declared by a mayor and not extended by a commissioner).¹²⁷ Québec’s emergency legislation has an automatic termination period of five days.¹²⁸ Importantly, Québec’s legislation specifies that when council cannot meet, a mayor may only make an emergency declaration for a period of 48 hours.¹²⁹ Seven days is the most common automatic (extendable) termination period — this is the time period for BC,¹³⁰ New Brunswick,¹³¹ Nova Scotia,¹³² PEI,¹³³ NWT,¹³⁴ and Nunavut.¹³⁵ Manitoba has a period of 30 days.¹³⁶ Alberta recently altered its legislation so that in cases of pandemic, the termination period extends beyond the typical seven days to 90 days.¹³⁷ Newfoundland has no automatic termination: “[a]n emergency which has been declared by a municipality shall remain in force until it is rescinded by the municipality”;¹³⁸ Ontario’s legislation likewise does not automatically terminate, simply stating that the Solicitor General must be notified “forthwith” of municipal termination of a state of emergency.¹³⁹

02

Notice of termination

Most of the provincial legislation does not require a specific form of notice to the public upon termination of a municipal state of emergency. Therefore, residents of a given municipality may not be aware that a state of emergency has ended. In many cases there is no clear statement on the city’s website of whether a state of emergency continues to be in effect. This is a lost **opportunity for the municipality to signal publicly a return to “normal” governance.**

Even if unilateral decision-making is required early in an emergency, communities may not be best served by continuing crisis-style governance.

03

Grounds for extending or terminating states of emergency

Lastly, there is limited language in provincial legislation regarding the bases on which an ongoing state of emergency should be terminated or extended. As noted above, even if unilateral decision-making is required early in an emergency, in a crisis such as a pandemic which can last for weeks or even months, communities may not be best served by continuing crisis-style decision-making. As the city-level advocacy organization Progress Toronto wrote in a communication to Toronto City Council on 29 April 2020¹⁴⁰:

“While we recognize that the City is operating in emergency mode, which has temporarily altered decision-making procedures, it’s important to start meaningful public discourse on future decision-making. Residents of Toronto have stepped up as community members, workers and business owners to support their neighbours and communities during the COVID-19 crisis and they have a strong interest in participating in the City’s response to and recovery from COVID-19. Our city’s successful recovery will depend on broad and deep participation that is community-led.”

Similar sentiments have been expressed across the country. As of late-September 2020, few cities had made public statements when ending their states of emergency (those that had include Edmonton and Calgary).¹⁴¹

Greater clarity is therefore needed on how and when municipal states of emergency should end.

REGULATING PHYSICAL DISTANCING

CASE STUDY 1

REGULATING

PHYSICAL

DISTANCING





Case Study 01

Regulating Physical Distancing

Researchers warned early in the pandemic that the combination of over-policing and surveillance during COVID-19, coupled with too-limited race-related health data, discriminated against Black lives.¹⁴² Early efforts to ensure social distancing were enforced with fines. Many physical distancing provisions were enacted at the provincial level (\$880 fine in Ontario, \$1,500 in Quebec, and \$2,000 in Saskatchewan).¹⁴³ However — in particular in the early weeks before provincial distancing measures were passed — several cities, including Vancouver, Hamilton, and Toronto, passed their own physical distancing by-laws with fines ranging from \$500 to \$50,000 if convicted.¹⁴⁴ The Canadian Civil Liberties Association (CCLA) has argued that many of these provisions were “overly broad, vague, and confusing.”¹⁴⁵ It has been reported that between 1 April and 15 June 2020 approximately 10,000 tickets were issued across the country, totaling roughly \$13 million in fines.¹⁴⁶

In Ontario municipalities including Toronto, people being charged with failing to physically distance are also required to identify themselves. Failure to comply with self-identification requirements carries a fine of \$750 and results in a punishment of up to one year in prison.¹⁴⁷ Forced compliance with self-identification has resonance with “carding” — also known as street checks, a “practice [that] has been widely condemned for years as unjustly targeting Black, Indigenous, and other people of colour, people with mental health [disabilities], and people living in homelessness.”¹⁴⁸

Police interactions with Black and Indigenous people are too often problematic and traumatizing. Longstanding racial prejudice reinforces systematic abuse. An independent investigation by Ontario’s Special Investigations Unit (SIU) found that although

Blacks make up only 3.6 percent of the population, they account for 16 percent of cases involving the use of physical force.¹⁴⁹ The SIU also found that “Blacks represent 27 percent of all deaths caused by police use of force and 34.5 percent of all deaths caused by police shootings.”¹⁵⁰ The hardships faced by Black and Indigenous communities are further aggravated through criminalization at disproportionate rates as these communities are over represented in the criminal justice system, face harsher and increased sentencing, and are over represented in the prison system.¹⁵¹

Against this backdrop, under COVID-19, physical distancing by-laws and provincial regulations handed more power to police and by-law officers, often with little clarity about the measures being policed. Yet rather than being debated in a process in which those likely to be most affected could have their say, at least some municipal distancing by-laws were enacted by mayors acting under their emergency powers. For example, Toronto’s mayor unilaterally enacted the Toronto physical distancing by-law on 3 April 2020, almost four weeks before city council meetings resumed. The mayor of Oakville, Ontario implemented a physical distancing by-law on the same day, two weeks after cancelling all council and committee meetings. A council debate, and/or brief consultation process with residents or at least community leaders, focused on eliciting input from BIPOC and other communities likely to be affected by the by-laws, would have allowed for a more robust consideration of these specific concerns before municipalities enacted physical distancing and sanctions.

GOV- ERN- ING PUB LIC TRAN SIT

CASE STUDY 2

GOVERNING

PUBLIC

TRANSIT



TRANSIT

Case Study 02

Governing Public Transit

Public transit services are essential for many living in Canada's cities. On a daily basis, hundreds of thousands of Canadians use public transit to get to work, school, health care facilities, and access government services. Demographic trends show that ridership is influenced by a number of characteristics including ethnicity, recent immigration, household composition, disposable and average income, and employment.¹⁵² For many users, public transit is their only means of travel between their place of residence and their intended destination. Without reliable public transportation, many residents — including essential workers during the pandemic — find their lives, livelihoods, and relationships moved out of reach.¹⁵³ Public transit is also a key element of many municipalities' climate action plans, as a necessary part of reducing vehicle emissions.

During COVID-19, municipalities have struggled with how to manage public transit. There were a number of factors to consider, including public safety and the reduction of COVID-19 transmission amongst the general public, the safety of staff who operate public transit, the financial hardships associated with operating public transit with significantly reduced ridership, the alternatives available to riders in the event of service reduction, and implications for the ongoing viability and improvement of transit systems.

Ridership for GO Transit and the Toronto Transit Commission (TTC) declined 90 and 80 percent respectively during the early months of the pandemic,¹⁵⁴ resulting in a drop of 8 million daily riders.¹⁵⁵ Transit system revenue across the country has seen a steep decline.¹⁵⁶ Yet many riders do not have alternatives should transit cease to operate during a pandemic: the majority of the riders of Toronto's public transit system polled in mid-May 2020 stated that they did not have alternates to transit to reach their destinations.¹⁵⁷ A recent survey found that young BIPOC Canadians are likely to have been the hardest hit financially as a result of COVID-19.¹⁵⁸ Reductions in transit service can therefore be expected to affect this group disproportionately.

The transit decisions facing municipalities during COVID-19 are therefore complex. Good decision-making requires robust debate and communication with public health officials or other experts,

transportation unions, city administrative staff, and transit users, among others. Yet there have been numerous examples of transit service decisions taken by Canadian municipalities during COVID-19 with little or no discussion or consultation.

Exercising emergency powers, on 29 March 2020 the mayor of Windsor, Ontario implemented a two-week suspension of transit service in the City. The decision was made abruptly and reportedly without consultation with the transit union, City of Windsor councillors, or members of the public who would be directly affected by this decision.¹⁵⁹ While the stated justification for transit suspension was to combat the spread of COVID-19, no scientific evidence on this point was presented.¹⁶⁰ The decision gave transit users 72 hours of notice before the cancellation took effect, leaving limited time to find alternative transportation. The initial transit suspension was extended on 9 April 2020, with the mayor again exercising unilateral emergency powers. Despite the fact that council meetings had restarted by that point, there was again no consultation with councillors.¹⁶¹

In Edmonton, the mayor and city manager announced on 16 March that transit service would be reduced as part of its COVID-19 response. While this was prior to the city declaring a state of emergency, it followed Edmonton City Council's decision to cancel meetings until the end of March 2020 and hand decision-making power to an emergency task team.¹⁶² The cancellations reportedly led to even more crowded conditions on buses, and the service reduction was quickly reversed. Calgary likewise announced reductions to transit service shortly after the declaration of emergency, with the decision taken by the City Manager on behalf of the Calgary Emergency Management Agency (CEMA).¹⁶³

Some of the most important city-level decisions during COVID-19 have been made by the fewest people.



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REC-
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Recommendations

During the very earliest phases of the COVID-19 pandemic, permitting mayors, heads of council and/or city managers holding emergency powers to make quick decisions on behalf of their municipalities was arguably necessary and productive. However, given the breadth and importance of decisions being made by municipalities during the pandemic, and their potential lasting impacts, exercise of this power should be extremely limited. Retaining — or returning as quickly as possible to — normal modes of participatory local governance should be prioritized, and new best practices developed in response to COVID-19 should be retained. This responsibility lies both with the provinces to ensure the legislative structure is in place, and with municipalities themselves. The following are some specific recommendations for reform.

01

Provinces and Territories

Most of the provincial and territorial state of emergency and public health emergency frameworks need further development.

Specific recommendations:

- **Conditions** under which a state of emergency may be declared should be clarified in provincial and territorial emergency legislation.
- Legislation should also include more **specific guidelines for the exercise of municipal authority** and decision-making under a municipal state of emergency. At a minimum, mayors should be required to consult with the other members of council before making decisions using state of emergency authority. A presumption of council vote on matters which would normally come before it should be included in the legislation, to be bypassed only in the most pressing of circumstances.
- Legislation should require municipalities to **facilitate resident participation** in council, committee, and commission meetings whenever possible, during a state of emergency. Likewise, it is critical for provinces and territories to add provisions to their emergency legislation that ensure municipal councils prioritize public consultation in municipal decision-making whenever possible, using alternative methods as necessary.
- Lastly, provincial legislation must provide more **clarity on when a municipal state of emergency can be extended**, when it should come to an end, and how this should be signalled to residents.



02

Municipalities

Even under amended forms of governance during states of emergency, it is imperative that municipalities maintain the fundamental principles of good governance that have strengthened municipal governments for more than a century. These principles include accountability, transparency, and integrity in local decision-making.¹⁶⁴ Future states of emergency, including new waves of COVID-19, should not provide a renewed excuse for unilateral decision-making and limited public participation.

Specific recommendations:

- Municipalities should **continue to hold regular council meetings** (in person or online as appropriate) whenever possible during emergencies, with a presumption of full agendas containing both “regular business” and emergency-related items.
- Municipalities should ensure that **decision-making by council vote is the default**, and limit unilateral decision-making or decision-making by management committee (excluding elected councillors) to the most extreme and pressing of circumstances.
- If a full council vote is not possible during a state of emergency, mayors should at a minimum **consult with members of council** whenever possible before taking emergency decisions.
- Municipalities should **avoid cancelling committees and commissions** whenever possible during states of emergency, and should reinstate any cancelled meetings as soon as possible.

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- Municipalities should prioritize **public participation in meetings**. If in-person deputations/delegations are impossible during a municipal state of emergency (and perhaps even when they do resume), a mechanism for hearing online or telephone deputations should be put in place. **Maximum flexibility for resident participation** should be afforded during states of emergency even if procedural requirements, such as registering by a particular time and date, are not met.
 - Where impossible to hold/reinstate meetings or public participation, municipalities should **solicit questions and feedback** from residents and other interested entities through other, including online, means.
 - All previously planned municipal **public consultations should be reinstated** as quickly as possible during the state of emergency, online as necessary and in person when it is safe to do so.
 - Municipalities should ensure that all ongoing and new major projects that would normally include public consultation continue to do so during a state of emergency.
 - Municipal decision makers must continually **rethink best practices on public consultation** to ensure that consultations are truly participatory.
 - **Online consultations** should remain part of the consultation tool box moving forward. This tool box should also include **accessibility** accommodations, and special consideration for the time of day and location of meetings, to ensure more people — especially members of vulnerable, and historically under-represented, communities — can participate.
 - Within the municipal framework there is **space to be creative**. There is room for creating new ways to engage with the public, while continuing to uphold health and safety measures. Aside from online tools, during COVID-19 this could include **pop-up public consultations** or meetings with municipal leaders, as physical distancing requirements allow.
 - Municipalities should develop **new methods of consultation with members of vulnerable communities**. This could include holding consultations focussed specifically on the needs of such communities. This should include establishing and strengthening dialogues with organizations providing aid to and representing the interests of vulnerable and marginalized groups. Municipalities may consider compensating members of vulnerable communities for their time to encourage participation.
 - Municipalities should create — or where they exist, strengthen — **advisory committees** with representation from vulnerable communities, ensuring that participation in, and the reporting structure of, these committees allows for meaningful outcomes.
 - Municipalities should work with **organizations focussed on collaborative and innovative local government practice** to share their successes and learn from others. These include provincial associations of municipalities and the Federation of Canadian Municipalities (FCM);¹⁶⁵ the Canadian Urban Institute;¹⁶⁶ Municipal World;¹⁶⁷ non-governmental organizations such as C-40 Cities, 8 80 Cities, Maximum City, and Park People;¹⁶⁸ and a growing number of university-affiliated urban policy centres.¹⁶⁹ Such organizations have provided important leadership to municipalities during COVID-19 by supporting municipal responses, minimizing competition for resources, and providing a platform for sharing creative and collaborative municipal responses.¹⁷⁰ Many have also conducted public surveys during COVID-19, meaning they are an important source of data on what residents want.¹⁷¹
 - Lastly, when COVID-19 has passed and the current states of emergency have ended, **municipalities may consider passing their own emergency by-laws** outlining both the criteria for declaring a local state of emergency and the governance framework which is to operate in such a circumstance.
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“While the City’s response and recovery should be done fast, it should also be done right.”

— Progress Toronto, Letter to Mayor John Tory and City Council for a bold, green, and just recovery” (29 April 2020)¹⁴⁰

Conclusion

The COVID-19 pandemic of 2020 has presented unprecedented challenges for all levels of government. With decision-making so deeply affecting the daily lives of residents, municipal governments have in many ways been the most affected by limitations on day-to-day functioning and governance practices. The gaping holes in many provincial legislative structures governing municipalities during states of emergency have been exposed, as has the wide disparity in municipal governance cultures across the country. The inequities which have been highlighted and deepened by the pandemic have been exacerbated by a municipal emergency governance framework which has allowed the interests of many to be overlooked.

Although for many municipalities this was the first time a state of emergency has been declared, it is unlikely to be the last, and states of emergency have dragged on for months in many municipalities across Canada. COVID-19 has also highlighted that

not all emergencies are equal and may require differing types and levels of emergency measures. Reform is needed at both provincial and municipal levels, to ensure that cities' emergency powers are limited in scope and time to what is truly necessary in a particular emergency. Participatory governance must continue to be the norm.

At the same time, the pandemic — coming at a time when municipalities face so many other challenges — has pushed municipal governments to innovate in both substance and process. Many practices begun during COVID-19 will improve municipal governance even once the pandemic has receded. Encouraging creativity and responsiveness in city initiatives and planning for future crises should continue even after COVID-19. This will ensure that municipalities fulfill their potential to be the level of government most able to respond quickly and meaningfully to local needs, while leaving no-one behind.



Endnotes

1. Just Recovery for All, "We're Building a Movement for a Just Recovery," online: <https://justrecoveryforall.ca/>.
2. "2020 Declaration for Resilience in Canadian Cities," online: *2020 Declaration* <https://www.2020declaration.ca/>.
3. Mike Layton, "Layton: Why we Need a Green New Deal in the COVID-19 Recovery," *The Star* [21 April 2020], online: *The Star* <https://www.thestar.com/opinion/contributors/2020/04/21/why-we-need-a-green-new-deal-in-the-covid-19-recovery.html>; Sködt McNalty, "A Green New Deal for Canada: What it Means," *CBC News* [10 May 2019], online: *CBC News* <https://www.cbc.ca/news/technology/what-on-earth-newsletter-green-new-deal-canada-1.5129864>; CD Howe Institute, "Build Back Better? Cities in a Post-Pandemic World", online: *CD Howe* <https://www.cdhowe.org/essential-public-policy-events/build-back-better-%E2%80%93-cities-post-pandemic-world>.
4. "'No Return to Business as Usual': Mayors Pledge on COVID-19 Economic Recovery," *C40 Cities* [7 May 2020], online: *C40* https://www.c40.org/press_releases/taskforce-principles#principles.
5. See e.g. Elizabeth Sawin, "Why We Can't Ignore the Link Between COVID-19, Climate Change and Inequity," *US News* [1 April 2020], online: *US News* <https://www.usnews.com/news/healthiest-communities/articles/2020-04-01/why-we-cant-ignore-the-link-between-coronavirus-climate-change-and-inequity>; Carl Meyer, "The Link Between Viruses, Habitat Destruction and Climate Change," *Canada's National Observer* [13 April 2020], online: *National Observer* <https://www.nationalobserver.com/2020/04/13/features/link-between-viruses-habitat-destruction-and-climate-change>; Vijay Kolinjivadi, "The Coronavirus Outbreak is Part of the Climate Change Crisis," *Al Jazeera* [30 March 2020], online: *Al Jazeera* <https://www.aljazeera.com/indepth/opinion/coronavirus-outbreak-part-climate-change-emergency-200325135058077.html>; Sarah Kaplan, "Climate Change Affects Everything—Even the Coronavirus," *Washington Post* [15 April 2020], online: *Washington Post* <https://www.washingtonpost.com/climate-solutions/2020/04/15/climate-change-affects-everything-even-coronavirus/?arc404=true>.
6. Rob Gillezeau, Lindsay Tedds & Gillian Petit, "Here's How Municipalities Should Respond to COVID-19," *Policy Options* [23 April 2020], online: *Policy Options* <https://policyoptions.irpp.org/magazines/april-2020/heres-how-municipalities-should-respond-to-covid-19/>.
7. See e.g. Bradley Zander, "Will The Federal Government Declare A State Of Emergency?," *Mondaq* [7 July 2020], online: *Mondaq* <https://www.mondaq.com/canada/government-measures/962458/will-the-federal-government-declare-a-state-of-emergency>; Tyler Dawson, "As the COVID-19 Pandemic Hit, Provinces Declared States of Emergency: Now Many Are Up for Renewal," *National Post* [15 April 2020], online: *National Post* <https://nationalpost.com/news/provincial-states-of-emergencies-were-issued-a-month-ago-most-are-coming-up-for-renewal>.
8. CityWatch Canada, online: <https://citywatchcanada.ca/>.
9. On states of emergency generally in Canada see Mark Gollom, "COVID-19: What You Need to Know About States of Emergency," *CBC News* [17 March 2020], online: *CBC News* <https://www.cbc.ca/news/canada/toronto/coronavirus-state-of-emergency-1.5500054>.
10. Jaime Alison Lee, "'Can You Hear Me Now?': Making Participatory Governance Work for the Poor" [2013] 7:2 *Harv L Rev* 405 at 405.
11. Jeremy R Levine, "The Paradox of Community Power: Cultural Processes and Elite Authority in Participatory Governance" [2017] 95:3 *Social Forces* 1155 at 1155–56 [Levine problematizes the common use of the term "community" in that it can be used as a cultural abstract moral cue that allows decision makers to use the term in place of actually allowing members to participate].
12. Sara Ross, "Strategies for More Inclusive Municipal Participatory Governance and Implementing Un-habitat's New Urban Agenda: Improving Consultation and Participation in Urban Planning Decision-Making Processes Through Rapid Ethnographic Assessment Procedures" [2018] 96:2 *Can Bar Rev* 294 at 298.
13. Albert Jiang, "'A Second Pandemic': Panelists Discuss Systemic Racism, COVID-19," *Daily Princetonian* [12 June 2020], online: *Daily Princetonian* <https://www.dailyprincetonian.com/article/2020/06/princeton-race-in-the-covid-era-what-americas-history-of-racism-and-xenophobia-means-for-today>.
14. Alberta has already amended its emergency legislation to provide further clarity and detail: Government of Alberta, "Emergency Management Act Amended for Further Clarity," online: <https://www.alberta.ca/release.cfm?xID=7002256005242-A108-6EFE-9619C7C4A8EB8FAC> [Government of Alberta, "Emergency Management Act Amended for Further Clarity"].
15. See e.g. Michael M Atkinson et al, *Governance and Public Policy in Canada: A View from the Provinces* (Toronto: University of Toronto Press, 2013) at 20.
16. Victoria Gibson, "Analysis: States of Emergency Across Canada, What's Been Done Before, and What can be Done Now," *ipolitics* [18 March 2020], online: *ipolitics* <https://ipolitics.ca/2020/03/18/analysis-states-of-emergency-across-canada-whats-been-done-before-and-what-can-be-done-now/>.
17. Canadian Civil Liberties Association, "CCLA Live COVID: Liberty Updates," online: *CCLA* <https://ccla.org/coronavirus-update-emergency-updates/#:~:text=While%20the%20laws%20vary%20between,or%20the%20chief%20medical%20officer>.
18. *Ibid.*
19. Adam Goldenberg et al, "COVID-19: Emergency Measures Tracker," *McCarthy Tetrault* [12 August 2020] online: *McCarthy Tetrault* <https://www.mccarthy.ca/sites/default/files/2020-08/COVID-19-Emergency%20Measures%20Tracker%20%28BLOG%29%20%28New%20Doc%20July%202020%29%20-%20COVID-19-Emergency%20Measures%20Tracker%20%28BLOG%29%20%28New%20Doc%20July%202020%29.pdf>.
20. *Ibid.*
21. Government of Québec, "The Specific Framework Applicable to the Municipalities Stemming from the Health Emergency," online: *Government of Québec* <https://www.quebec.ca/en/health/health-issues/a-z/2019-coronavirus/answers-questions-coronavirus-covid19/questions-answers-municipalities-covid-19/#c52660>.
22. See e.g. Trevor Wilhelm, "Mayor Drew Dilkens Issues Strict New Order for Wearing Masks Inside Public Spaces," *Windsor Star* [13 August 2020], online: *Windsor Star* <https://windsorstar.com/news/local-news/mayor-drew-dilkens-issues-strict-new-order-for-wearing-masks-inside-public-spaces>.
23. Emergency Management BC, "Declaring a State of Emergency in British Columbia" (February 2020), online: *Government of British Columbia* https://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/emergency-preparedness-response-recovery/embc/policies/guidelines-declaring_a_state_of_local_emergency_in_bc.pdf at 9.
24. Eco Log, "Occupational Health & Safety, Nova Scotia," online: *ecolog* <http://www.ecolog.com/water/issues/verify.asp>.
25. *Emergency Management Act*, RSA 2000, c E-6.8, s 9(a) [AB *Emergency Management Act*]. See also *Emergency Program Act*, RSBC 1996, c 111, s 5(b) [BC *Emergency Program Act*]; *The Emergency Measures Act*, CCSM c E80, s 8(4)&(5) [includes a proviso requiring consultation with the local authority] [MN *The Emergency Measures Act*]; *Emergency Measures Act*, RSNB 2011, c 147, ss 8(1), 10(1), 12 [NB *Emergency Measures Act*]; *Emergency Services Act*, SNL 2008, c E-9.1, s 9(1) [NL *Emergency Services Act*]; *Emergency Management Act*, SNS 1990, c 8, s 12(1) [NS *Emergency Management Act*]; *Emergency Management and Civil Protection Act*, RSO 1990, c E9, ss 4(1), 7.0.3(2) [powers given to Premier] [ON *Emergency Management and Civil Protection Act*]; *Emergency Measures Act*, RSPEI 1988, c E-6.1, s 7 [PEI *Emergency Measures Act*]; *Civil Protection Act*, SQ 2001, c 76, s 64 [QB *Civil Protection Act*]; *Emergency Planning Act*, SS 1989, c E-8.1, s 18 [SK *Emergency Planning Act*]; *Emergency Management Act*, SNWT 2018, c 17, s 3(1) [NWT *Emergency Management Act*]; *Civil Emergency Measures Act*, RSY 2002, c 34, s 9(1) [YT *Civil Emergency Measures Act*]; *Emergency Measures Act*, SNU 2007, c 10, s 4(1) [NU *Emergency Measures Act*]. Some provinces have passed legislation for reopening that extends emergency orders: see e.g. News Release, Government of Ontario, "Bill 195, Reopening Ontario [A Flexible Response to COVID-19] Act, 2020", online: <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-195>.
26. NL *Emergency Services Act*, *ibid.*
27. Mickey Djuric, "Saskatchewan Municipalities Can't Make Up Their Own Coronavirus Regulations: Province," *Global News* [22 March 2020], online: *Global News* <https://globalnews.ca/news/6716266/coronavirus-saskatchewan-municipalities-regulations/>.

28. Mickey Djuric, "Coronavirus: Gravelbourg, Sask. Declares Local State of Emergency, Closes Businesses," *Global News* [22 March 2020], online: *Global News* <https://globalnews.ca/news/6715344/coronavirus-gravelbourg-sask-state-of-emergency/>.
29. News Release, Government of New Brunswick, "New Brunswick Municipal Elections Postponed Due to COVID-19," online: https://www2.gnb.ca/content/gnb/en/news/news_release.2020.03.0134.html.
30. Alicia Draus, "Nova Scotia Municipalities Remain Limited to Virtual Meetings," *Global News* (15 July 2020), online: *Global News* <https://globalnews.ca/news/7180651/nova-scotia-municipalities-virtual-meetings/>.
31. Bill 187, *An Act to amend the Municipal Act, 2001 and the City of Toronto Act, 2006*, 1st Sess, 42nd Leg, Ontario, 2020, [assented to 19 March 2020]. See also Nigel Bellchamber & Fred Dean, "Meeting Guidance for Heads of Council COVID-19" (21 March 2020), online: *Association of Municipalities Ontario* http://www.amo.on.ca/AMO-PDFs/COVID19/AMO_MeetingGuidance_Mar21.aspx.
32. SO 2001, c 25 [Municipal Act].
33. Bill 187, *supra* note 31.
34. *Ibid.*
35. Alicia Draus, "Nova Scotia Municipalities Remain Limited to Virtual Meetings," *Global News* (15 July 2020), online: *Global News* <https://globalnews.ca/news/7180651/nova-scotia-municipalities-virtual-meetings/>.
36. Municipalities of Saskatchewan, "COVID-19 Resources for Municipalities," (6 August 2020), online: *SUMA* <https://suma.org/news/covid-19-resources-for-municipalities>.
37. See e.g. Dan Mangan & Kevin Breuninger, "CNN Host Chris Cuomo, Brother of NY Gov. Andrew Cuomo, Has Coronavirus," *CNBC* (31 March 2020), online: *CNBC* <https://www.cnn.com/2020/03/31/chris-cuomo-has-coronavirus-cnn-anchor-brother-of-andrew-cuomo.html>.
38. See e.g. The African American Policy Forum, "Under the Blacklight: The Intersectional Vulnerabilities that COVID Lays Bare," online: *AAPF* <https://aapf.org/aapfcovid>.
39. Amnesty International Canada, "A call for human rights oversight of government responses to the COVID-19 pandemic" (15 April 2020), online: https://www.amnesty.ca/sites/default/files/COVID%20and%20human%20rights%20oversight%20public%20statement%20FINAL_0.pdf
40. Alberta Human Rights Commission, "Truth and Reconciliation Commission Calls to Action Related to Municipalities", online: <https://www.albertahumanrights.ab.ca/Documents/Truth%20and%20Reconciliation%20Calls%20to%20Action.pdf>
41. WHO, "About Social Determinants of Health," online: WHO https://www.who.int/social_determinants/sdh_definition/en/; Shweta Pathak et al, "A Review of Canadian Policy on Social Determinants of Health" (2012) 4:4 *Review of European Studies* 8.
42. *Ibid.*
43. Alliance for Healthier Communities, "Statement from Black Health Leaders on COVID-19's Impact on Black Communities in Ontario" (2 April 2020), online: *Allianceon* <https://www.allianceon.org/news/Statement-Black-Health-Leaders-COVID-19s-impact-Black-Communities-Ontario>.
44. Stephen A Mein, "COVID-19 and Health Disparities: The Reality of 'the Great Equalizer'" (2020) *J Gen Intern Med*, online: NCBI https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7224347/pdf/11606_2020_Article_5880.pdf.
45. Jay Pitter, "Urban Density: Confronting the Distance Between Desire and Disparity," *Azure* (17 April 2020), online: *Azure* <https://www.azuremagazine.com/article/urban-density-confronting-the-distance-between-desire-and-disparity/>.
46. *Ibid.*
47. Mein, *supra* note 44.
48. *Ibid.*
49. *Ibid.*
50. Alliance for Healthier Communities, *supra* note 43.
51. World Health Organization, "Shortage of Personal Protective Equipment Endangering Health Workers Worldwide," *WHO* (3 March 2020), online: WHO <https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide>.
52. Patrick Cain, "Across the World, Coronavirus Hits Poor Neighbourhoods Harder: Here's Why," *Global News* (20 May 2020), online: *Global News* <https://globalnews.ca/news/6958322/coronavirus-poor-neighbourhoods/>.
53. Pitter, *supra* note 45.
54. The African American Policy Forum, *supra* note 38; Jude Mary Cénat et al, "Social Inequalities and Collateral Damages of the COVID-19 Pandemic: When Basic Needs Challenge Mental Health Care" (2020) *Int J Public Health* 1, online: NCBI <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7348102/>; United Nations, "COVID-19 Pandemic Exposes Global 'Fracilities and Inequalities': UN Deputy Chief," *UN News* (3 May 2020) online: *UN News* <https://news.un.org/en/story/2020/05/1063022>.
55. See e.g. Jennifer Valentino-DeVries, Denise Lu & Gabriel JX Dance, "Location Data Says It All: Staying at Home During Coronavirus Is a Luxury," *New York Times* (3 April 2020), online: *NY Times* <https://www.nytimes.com/interactive/2020/04/03/us/coronavirus-stay-home-rich-poor.html>; Paola Loriggio, "Essential Workers Talk About How COVID-19 Affects Them," *Canadian Press* (5 April 2020), online: *CTV News* <https://www.ctvnews.ca/health/coronavirus/essential-workers-talk-about-how-covid-19-affects-them-1.4883241>; Canadian Union of Public Employees, "National President's Report: June 2020," (30 June 2020), online: *CUPE* <https://cupe.ca/national-presidents-report-june-2020>.
56. CityWatch Canada, *supra* note 8.
57. Kate Graham, *Leading Canada's Cities? A Study of Urban Mayors* (PhD Dissertation, The University of Western Ontario, 2018), online: <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=7704&context=etd> at 24.
58. Anneke Smit & Alexandra Flynn, "Use of Municipal Emergency Powers has Gone Too Far," *The Star* (27 April 2020) online: *The Star* <https://www.thestar.com/opinion/contributors/2020/04/27/use-of-municipal-emergency-powers-has-gone-too-far.html>.
59. *BC Emergency Program Act*, *supra* note 25.
60. Chris Jones, "Mayor and CAO Receive Extension to Delegated Powers," *Oshawa Express* (22 April 2020), online: *Oshawa Express* <https://oshawexpress.ca/mayor-and-cao-receive-extension-to-delegated-powers/>.
61. Richard Harley, "Mayor, CAO 'Fix' Council's Decision on Queen Street Closure," *Niagara Narrow* (2 July 2020), online: *Niagara Narrow* <https://www.niagaranow.com/news.phtml/4091-mayor-cao-fix-councils-decision-on-queen-street-closure->.
62. *Ibid.*
63. Brian Cross, "COVID-19 Concerns Force Shutdowns of Transit Windsor, Playgrounds," *Windsor Star* (27 May 2020), online: *Windsor Star* <https://windsorstar.com/news/local-news/covid-19-concerns-force-shutdowns-of-transit-windsor-playgrounds/> [Cross, "COVID-19 Concerns"].
64. City of Toronto, "Special Committee on Governance Consultations," online: <https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/city-managers-office/key-initiatives/special-committee-on-governance-consultations/> [emphasis added].
65. CityWatch Canada, *supra* note 8.
66. "Edmonton City Council Suspends Meetings, Keeps Rec Centres Open After Emergency COVID-19 Meeting," *CTV News* (13 March 2020) online: *CTV News* <https://edmonton.ctvnews.ca/edmonton-city-council-suspends-meetings-keeps-rec-centres-open-after-emergency-covid-19-meeting-1.4852200>.
67. Louise Rosella, "COVID-19 Emergency: Oakville Mayor Rob Burton Cancels Council and Committee Meetings Over Coronavirus," *Inside Halton* (18 March 2020) online: *Inside Halton* <https://www.insidehalton.com/news-story/9910568--covid-19-emergency-oakville-mayor-rob-burton-cancels-council-and-committee-meetings-over-coronavirus/>.
68. Chris Fox, "Provincial Legislation Will Permit Council to Meet Electronically During COVID-19," *CP24* (19 March 2020) online: *CP24* <https://www.cp24.com/news/provincial-legislation-will-permit-council-to-meet-electronically-during-covid-19-1.4859812?cache=yes%3Fclipld%3D64268>.

69. Katherine DeClerq, "Toronto City Council Approves Extending Mayor's Emergency Powers," *CTV News* [30 April 2020], online: *CTV News* <https://toronto.ctvnews.ca/toronto-city-council-approves-extending-mayor-s-emergency-powers-1.4918622?cache=yes%3Fclpid%3D104056%C2%A0>.
70. Dustin Cook, "COVID-19: Edmonton Declares State of Local Emergency, Free Transit and Property Tax Relief," *Edmonton Journal* [21 March 2020], online: *Edmonton Journal* <https://edmontonjournal.com/news/local-news/covid-19-edmonton-expo-centre-to-be-used-as-overflow-homeless-shelter>.
71. Pepper Parr, "We Have Unaccountable Local Decision-Making Being Done by the Emergency Coordinating Group: Time for Some Accountability and Some Transparency," *Burlington Gazette* [29 April 2020], online: *Burlington Gazette* <http://www.burlingtongazette.ca/we-have-unaccountable-local-decision-making-being-done-by-the-emergency-coordinating-group-time-for-some-accountability-and-some-transparency/>.
72. *Ibid.*
73. *Ibid.*
74. *Ibid.*
75. Dave Dawson, "City Council Modifies its Meeting Schedule in Wake of Pandemic," *Orillia Matters* [13 April 2020], online: *Orillia Matters* <https://www.orilliamatters.com/coronavirus-covid-19-local-news/city-council-modifies-its-meeting-schedule-in-wake-of-pandemic-2248982>.
76. *Ibid.*
77. Shalu Mehta "Westshore municipal councils move online, limit meetings in light of covid-19," *Victoria News* [12 April 2020], online: *Victoria News* <https://www.vicnews.com/news/west-shore-municipal-councils-move-online-limit-meetings-in-light-of-covid-19/>.
78. Kamloops This Week, "City of Kamloops Can Now Hold Virtual Meetings," *Kamloops This Week* [26 March 2020], online: *Kamloops This Week* <https://www.kamloopsthisweek.com/news/city-of-kamloops-can-now-hold-virtual-council-meetings-1.24106793>.
79. Rochelle Baker, "Public Excluded as Strathcona Regional District Moves Meetings Online Due to COVID-19," *Canada's National Observer* [15 April 2020] online: *Canada's National Observer* <https://www.nationalobserver.com/2020/04/15/news/public-excluded-strathcona-regional-district-moves-meetings-online-due-covid-19>.
80. *Ibid.*
81. *Ibid.*
82. Victoria News, "LETTERS: It's 2020, Time for Livestreaming of Council Meetings in Langford," *Victoria News* [7 August 2020] online: *Victoria News* <https://www.vicnews.com/opinion/letters-its-2020-time-for-livestreaming-of-council-meetings-in-langford/>.
83. Bill 187, *supra* note 31.
84. *London (City) v RSJ Holdings Inc*, 2007 SCC 29 at para 32.
85. *Russell (Town of) (Re)*, 2020 ONOMBUD 1 at para 49.
86. Making Voices Count, "1.5.1 What is a Deputation?," online: <http://www.makingvoicescount.ca/kit/what-deputation>.
87. See e.g. City of Thunder Bay, by-law No. 128, *Procedural By-law of Council and its Committees*, [26 November 2012], s 5.08 [requests for deputations must be made four days in advance of the meetings and submitted in writing]; Town of Parry Sound, "Delegations and Deputations," online: *Parry Sound* <https://www.parrysound.ca/en/inside-town-hall/delegations-and-deputations.asp> [requests must be submitted on the Tuesday prior to the meeting].
88. City of Burnaby, "How to Appear as a Delegation Before Council," online: *City of Burnaby* <https://www.burnaby.ca/Our-City-Hall/Mayor---Council/Appear-as-a-Delegation/How-to-appear-as-a-Delegation-before-Council.html>.
89. Josh Greschner, "Online Meetings Temporarily the Norm for Municipalities," *The Carillon* [8 April 2020], online: *The Carillon* <https://www.winnipegfreepress.com/the-carillon/local/Online-meetings-temporarily-the-norm-for-municipalities--569472551.html>.
90. *Ibid.*
91. Dave Dawson, "City Council Modifies its Meeting Schedule in Wake of Pandemic" [13 April 2020] *Orillia Matters*, online: *Orillia Matters* <https://www.orilliamatters.com/coronavirus-covid-19-local-news/city-council-modifies-its-meeting-schedule-in-wake-of-pandemic-2248982>.
92. The City of Westmount "Questions for the Council Meeting," online: *The City of Westmount* <https://westmount.org/en/questions-for-the-council-meeting/>.
93. Dina Al-Shibeeb, "After Hiatus Due to COVID-19, Vaughan Plans 2 Public Hearings This June," *York Region* [5 June 2020], online: *York Region* <https://www.yorkregion.com/news-story/10002747-after-hiatus-due-to-covid-19-vaughan-plans-2-public-hearings-this-june/>.
94. Brian Cross, "Delegations Allowed Back to City Council Meetings Starting Tuesday," *Windsor Star* [28 July 2020], online: *Windsor Star* <https://www.windsorstar.com/news/local-news/delegations-allowed-back-to-city-council-meetings-starting-tuesday>.
95. City of Winnipeg, "City Hall Meetings Go Remote," online: <https://winnipeg.ca/ourstories/2020/200422.stm>.
96. John Bkila, "Burlington Council Approves Virtual Public Delegations at Meetings," *Marianne Meed Ward* [21 April 2020] online: *Marianne Meed Ward*, <https://marianneeedward.ca/covid-19/burlington-council-approves-virtual-public-delegations-at-meetings/>.
97. Municipality of North Cowichan, "Engage!," online: *North Cowichan* <https://www.northcowichan.ca/EN/main/community/Engage.html?media=contrast>.
98. Justin Chandler, "Are Online Meetings Good for Democracy?," *TVO* [13 August 2020], online: *TVO* <https://www.tvo.org/article/are-online-council-meetings-good-for-democracy>.
99. See e.g. Progress Toronto, "Summer Training Series: City Council Online Watch Party & Discussion," online: *Progress Toronto* <https://www.progresstoronto.ca/summer-training-series-june-29-2020>; Windsor Law Centre for Cities, "Online Windsor City Council Watch Party: Climate Emergency Acceleration Plan," online: *Windsor Law Centre for Cities* <https://windsorlawcities.ca/event/online-windsor-city-council-watch-party-climate-emergency-acceleration-plan-4-may-1-p-m/>.
100. *Municipal Act*, *supra* note 32, s 23.6(2) [and concordant provincial legislation]. See also Mark Sproule-Jones & Chris Becker, "The Organization of Municipal Councils in Ontario: A Research Note" (2005) 14:2 *Can J Urban Research* 384 at 386 [a survey of Ontario municipalities with populations above 10,000 indicated that municipalities were varied in their committee organization forms, with 34% of standing committees reporting to council, and 94% having the CAO and manager].
101. Stan Drabek, "Comparative Accountability Structures in Canadian Municipal Governments" (2003) *City of Toronto*, online: *City of Toronto* https://www.toronto.ca/ext/digital_comm/inquiry/inquiry_site/cd/gg/add_pdf/77/Governance/Electronic_Documents/Other_CDN_Jurisdictions/Comparative_Cdn_Study.pdf.
102. *Ibid* at 9.
103. *Municipal Act*, *supra* note 32, s 23.1(3)[3].
104. James Milway & Jen Nelles, "Opportunities for Improving Municipal Governance in Ontario" (2003) *Institute for Competitiveness & Prosperity*, online: https://www.competeprosper.ca/uploads/ReportOnMunicipalGovernment_190603.pdf at 16.
105. Making Voices Count, *supra* note 86.
106. David A Armstrong & Jack Lucas online, "Measuring and Comparing Municipal Policy Responses to COVID-19" [2020] *Can J Polit Sci* 1, online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7251256/#en1>.
107. The federal government of Canada has released guiding principles for responding to COVID-19. The "collaboration" guiding principles indicates a multi jurisdictional approach in which "all levels of government and stakeholders need to work in partnership to produce an effective and coordinated response": OECD, "The Territorial Impact of COVID-19: Managing the Crisis Across Levels of Government" (updated 16 June 2020), online: *OECD* <https://www.oecd.org/coronavirus/policy-responses/the-territorial-impact-of-covid-19-managing-the-crisis-across-levels-of-government-d3e314e1/>.
108. City of Calgary, "Council and Committee Agendas, Minutes and Video," online: *City of Calgary* <https://www.calgary.ca/ca/city-clerks/legislative-services/agenda-minutes.html>.

109. *Ibid* at 195.
110. Catherine Knaus, "Public Engagement Conundrum: Canadians' Views on Municipal Public Consultations," *Municipal World* (July 2017), online <https://www.ipsos.com/sites/default/files/2017-07/IpsosPA-Canadians-views-on-municipal-consultations-article-2017-7-31.pdf>; Michael Geist, "What open government hides" *Toronto Star* (28 November 2014), online https://www.thestar.com/business/tech_news/2014/11/28/what_open_government_hides_geist.html; J. Pitter, "Facing the Future" OPPI Keynote address (23 September 2020).
111. Mariana Valverde, "A Tale of Two—or Three—Cities: Gentrification and Community Consultations" in Jay Pitter & John Lorinc, eds, *Subdivided: City-Building in an Age of Hyper-Diversity* (Toronto: Coach House Books, 2016) 199.
112. Courtney Cobbs, "How do we ensure open streets are truly open for everyone?" (20 May 2020) *StreetsBlog Chicago*, online: <https://chi.streetsblog.org/2020/05/20/how-do-we-make-sure-that-open-streets-are-truly-open-for-everyone/>; R. Thomas, "Experiencing Racism in Daily Life" (blogpost) (8 June 2020), <https://renthomas.ca/experiencing-racism-in-daily-life/> see also: Roberto Rocha, Benjamin Shingler & Jonathan Montpetit, "Montreal's Poorest and Most Racially Diverse Neighbourhoods Hit Hardest By Covid-19, Data Analysis Shows," *CBC News* (11 June 2020), online: *CBC News* <https://www.cbc.ca/news/canada/montreal/race-covid-19-montreal-data-census-1.5607123>.
113. Josh Hall, "City Temporarily Cancels All Rec and Culture Programming, Enacts Other Measures," *RD News Now* (13 March 2020), online: *RD News Now* <https://rdnewsnow.com/2020/03/13/city-temporarily-cancels-all-rec-and-culture-programming-enacts-other-measures/>.
114. Municipality of the County of Kings, "Coronavirus (COVID-19) Information," online: *County of Kings*: <https://www.countyofkings.ca/Covid19>.
115. *Ibid*.
116. City of Edmonton, "Public Engagement," online: https://www.edmonton.ca/programs_services/public-engagement.aspx [this includes engagement in virtual meetings with the emergency advisory committee and city council, online comment cards, and surveys]. "News release: Lake-to-lake cycling route engagement resumes downtown" (18 June 2020) *City of Penticton*, online: <https://www.penticton.ca/city-hall/news-alerts/lake-lake-cycling-route-engagement-resumes-downtown>.
117. Desmond Brown, "New Options For Pedestrians and Cyclists During COVID-19 Pandemic," *CBC News* (28 June 2020), online: *CBC News* <https://www.cbc.ca/news/canada/kitchener-waterloo/new-options-pedestrians-cyclists-covid-19-pandemic-1.5626781>.
118. Juanita Mercer, "Constraints on Civic Engagement During the COVID-19 Pandemic," *Saltwire Network* (14 April 2020), online: *Saltwire Network* <https://www.saltwire.com/news/local/constraints-on-civic-engagement-during-covid-19-pandemic-437530/>.
119. City of Vancouver, "Today is the Last Day to Share Your Thoughts & Help Inform the Look of Engagement" (12 May 2020 at 18:00), online: *Twitter* <https://twitter.com/CityofVancouver/status/1260329142568071169>.
120. Natasha Riebe, "'This Isn't a Sprint,' City Manager Tells Edmonton Committee on COVID-19 'Reparations'," *CBC News* (10 March 2020), online: *CBC News* <https://www.cbc.ca/news/canada/edmonton/edmonton-city-council-covid-19-1.5492428>.
121. *Ibid*.
122. Graeme Frisque, "Brampton Launching Coronavirus Task Forces to Support Local Economy, City's Most Vulnerable," *Brampton Guardian* (18 March 2020), online: <https://www.bramptonguardian.com/news-story/9909825-brampton-launching-coronavirus-task-forces-to-support-local-economy-city-s-most-vulnerable/>.
123. Note that the Federation of Canadian Municipalities suggests that municipalities could lose between \$10 billion and \$15 billion CAD over the next six months: OECD, *supra* note 107. See also Alexandra Flynn, "Chapter A-8: Municipal Power and Democratic Legitimacy in the Time of COVID-19" in Colleen M Flood et al, eds, *Vulnerable: The Law, Policy and Ethics of COVID-19* (Ottawa: University of Ottawa Press, 2020) 127 at 138, Table A8.1 (for data on which municipalities anticipate budget deficits), online: *CanLII* https://commentary.canlii.org/w/canlii/2020CanLIIDocs1866#!fragment/zoupio-_Tocpdf_bk_3/BQCwhgziBcwMYgK4DsDWszlQewE4UBTADwBdoAvbRABwEtsBaAfX2zhoBMAzZgl1TMAzAEoAnMmylCEAlqCuA7QA5KrERCYXAnmKV6zdt0gAynlAhFQCUAogBl7ANQCCAOQDC?saTB80KtSliJAA.
124. City of Vancouver, "City Councillors and Advisory Committees Working Together on COVID-19 Response," (27 March 2020), online: *City of Vancouver* <https://vancouver.ca/news-calendar/city-councillors-and-advisory-committees-working-together-on-covid-19-response.aspx>.
125. *Ibid*.
126. Sawyer Bogdan, "London, Ont., Mayor's Task Forces Move Towards Post-Coronavirus Recovery Plans," *Global News* (8 July 2020), online: <https://globalnews.ca/news/7155110/london-ont-mayors-task-forces-coronavirus-recovery/>.
127. Y.T. *Civil Emergency Measures Act*, *supra* note 25, s 7(3).
128. Q.B. *Civil Protection Act*, *supra* note 25, s 43.
129. *Ibid*, s 43.
130. B.C. *Emergency Program Act*, *supra* note 25, s 14.
131. N.B. *Emergency Measures Act*, *supra* note 25, s 18.
132. N.S. *Emergency Management Act*, *supra* note 25, s 20.
133. P.E.I. *Emergency Measures Act*, *supra* note 25, s 16.
134. N.W.T. *Emergency Management Act*, *supra* note 25, s 18.
135. N.U. *Emergency Measures Act*, *supra* note 25, s 16.
136. M.N. *The Emergency Measures Act*, *supra* note 25, s 15(1).
137. A.B. *Emergency Management Act*, *supra* note 25, s 22(4). See also Government of Alberta, "Emergency Management Act Amended for Further Clarity," *supra* note 14.
138. N.L. *Emergency Services Act*, *supra* note 25, s 6(2).
139. O.N. *Emergency Management and Civil Protection Act*, *supra* note 25, s 4(3).
140. Notice provisions for ending municipal states of emergency vary between provinces. For examples, see "How does a municipality signal an end to the emergency?" at <https://windsorlawcities.ca/how-does-a-municipality-signal-an-end-to-the-emergency/>.
141. Letter to Mayor Tory for a bold, green, and just recovery" (29 April 2020) *Progress Toronto*, online: <https://www.progresstoronto.ca/letter-bold-green-just-recovery>.
142. Beverly Bain, OmiSoore Dryden & Rinaldo Walcott, "Coronavirus Discriminates Against Through Surveillance, Policing and the Absence of Health Data," *Dal News* (23 April 2020), online: *Dal News* <https://www.dal.ca/news/2020/04/23/coronavirus-discriminates-against-black-lives-through-surveillance.html>. Re: CC20.2 City of Toronto Response and the Ongoing Management of Emergency City Business during the COVID-19 Pandemic and CC20.3 Mayor's Report on the COVID-19 Emergency" (29 April 2020) *Progress Toronto*, online: <https://www.toronto.ca/legdocs/mmis/2020/cc/comm/communicationfile-101772.pdf>. Caley Ramsay, "Coronavirus: Edmonton Votes to Lift State of Local Emergency," *Global News* (4 June 2020), online: <https://globalnews.ca/news/7027538/edmonton-covid-19-state-of-local-emergency-lifted/>.
143. Canadian Civil Liberties Association, "Stay Off the Grass: COVID-19 and Law Enforcement in Canada" (24 June 2020), online: *CCLA* <https://ccla.org/fines-report/>.
144. Kendra Mandrione, "Vancouver Can Now Enforce Physical Distancing with Fines up to \$50K," *CTV News* (23 March 2020), online: *CTV News* <https://bc.ctvnews.ca/vancouver-can-now-enforce-physical-distancing-with-fines-up-to-50k-1.4864402>.
145. Canadian Civil Liberties Association, *supra* note 143.
146. Robert Benzie, "Civil Liberties Watchdog Warns of 'Ugly Ticketing Pandemic' During COVID-19 Outbreak," *The Star* (24 June 2020), online: *The Star* <https://www.thestar.com/politics/provincial/2020/06/24/civil-liberties-watchdog-warns-of-ugly-ticketing-pandemic-during-covid-19-outbreak.html>.
147. Minister of the Solicitor General, "Public Required to Identify Themselves if Charged with Breaching an Emergency Order During the COVID-19 Outbreak," online: <https://news.ontario.ca/mccscs/en/2020/03/public-required-to-identify-themselves-if-charged-with-breaching-an-emergency-order-during-the-covid.html>.

148. Jillian Kestler-D'Amours, "Officers Targeted Racialized Canadians When Enforcing COVID-19 Rules: Report," *Vice* [24 June 2020], online: *Vice* https://www.vice.com/en_ca/article/m7j7aa/officers-targeted-racialized-canadians-when-enforcing-covid-19-rules-report.
149. Akwasi Owusu-Bempah & Scot Wortley, "Race, Crime, and Criminal Justice in Canada" in Sandra Bucerius and Michael Tonry, eds, *The Oxford Handbook of Ethnicity, Crime, and Immigration* (2014), online: *Oxford Handbooks Online* www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199859016.001.0001/oxfordhb-9780199859016-e-020?rskey=5EjwS4&result=1 14/27.
150. *Ibid.*
151. *Ibid.* at 17.
152. Eric Miller et al, "Canadian Transit Ridership Trends Study: Final Report," Canadian Urban Transit Association (October 2018), online: *CUTA* https://cutaactu.ca/sites/default/files/cuta_ridership_report_final_october_2018_en.pdf at 14.
153. Ontario Human Rights Commission, "Human Rights and Public Transit Services in Ontario: Consultation Report," (27 March 2002) online: *OHRC* http://www.ohrc.on.ca/sites/default/files/attachments/Consultation_report%3A_Human_rights_and_public_transit_services_in_Ontario.pdf.
154. Shawn Jeffords, "Ridership on GO Transit Down 90 Per Cent Amid COVID-19 Pandemic," *CTV News* (13 April 2020), online: *CTV News* <https://toronto.ctvnews.ca/ridership-on-go-transit-down-90-per-cent-amid-covid-19-pandemic-1.4894216>.
155. *Ibid.*
156. *Ibid.*
157. "Giving Up Public Transit During the Coronavirus is a Luxury Many Canadians Can't Afford," *The Conversation* (31 March 2020), online: *The Conversation* <https://theconversation.com/giving-up-public-transit-during-the-coronavirus-is-a-luxury-many-canadians-cant-afford-138875>.
158. "Young, BIPOC Canadians Face Biggest Financial Setbacks from COVID-19: Poll," *Canadian Press* (25 May 2020), online: *BNN Bloomberg* <https://www.bnnbloomberg.ca/young-bipoc-canadians-face-biggest-financial-setbacks-from-covid-19-poll-1.1462985>.
159. Tahmina Aziz, "Call for Mayor to Reverse Decision on Transit Windsor Suspension," *CBC News* (27 March 2020), online: *CBC* <https://www.cbc.ca/news/canada/windsor/calls-for-mayor-to-reverse-decision-on-transit-windsor-suspension-1.5513164>.
160. *Ibid.*
161. CityWatch Canada, *supra* note 8 (interview with Windsor Mayor, 10 July 2020).
162. Emily Mertz, "Edmonton Rec Centres to Remain Open for Now: Large Events Cancelled and COVID-19 Task Team Created," *Global News* (13 March 2020), online: *Global News* <https://globalnews.ca/news/6673036/edmonton-rec-centres-covid-19-task-team/>.
163. "Calgary Transit Service Will be Reduced Starting April 6," *CBC News* (1 April 2020), online: *CBC* <https://www.cbc.ca/news/canada/calgary/calgary-city-response-covid-19-april-1-1.5517803>.
164. Principles of accountability and transparency are provided in the empowering legislation for municipalities; see e.g. *Municipal Act*, *supra* note 32, Part V.1. See also e.g. Zack Taylor, "Good Governance at the Local Level: Meaning and Measurement" (Toronto: Institute on Municipal Finance & Governance, November 2016), online: *Monk School of Global Affairs* https://munkschool.utoronto.ca/imfg/uploads/346/imfgpaper_no26_goodgovernance_zacktaylor_june_16_2016.pdf.
165. Federation of Canadian Municipalities, online: *FCM* <https://fcm.ca/en>.
166. Canadian Urban Institute, online: *CanUrb* <https://canurb.org/>.
167. Municipal World, online: *Municipal World* <https://www.municipalworld.com/>.
168. C-40 Cities, online: *c40* <https://www.c40.org/>; 8 80 Cities: Creating Cities for All, online: *880Cities* <https://www.880cities.org/>; *Park People*, online: *Park People* <https://www.parkpeople.ca/>; *Maximum City*, online: *Maximum City* <https://www.maximumcity.ca/>.
169. See e.g. Windsor Law Centre for Cities, online: *Windsor Law Cities* <https://windsorlawcities.ca/>; School of Cities: University of Toronto, online: *School of Cities* <https://www.schoolofcities.utoronto.ca/>; Ryerson City Building Institute, online: *City Building Institute* <https://www.citybuildinginstitute.ca/>; The City Institute at York University, online: *York University* <https://city.apps01.yorku.ca/>; Urban Policy Lab, online: *Urban Policy Lab* <https://urbanpolicylab.ca/>. Calls for a new urban policy think tank have been growing during COVID-19: see G. Eidelman and N. Bradford, "The Case for a Canadian Urban Policy Observatory," online: *CanUrb* <https://canurb.org/publications/the-case-for-a-canadian-urban-policy-observatory/>.
170. See e.g. Municipal World, "Coronavirus News Update: A Supplement to the Municipal World Daily," online: <https://www.municipalworld.com/coronavirus-news-update/>.
171. See for example: "COVID-19 Child and Youth Study" (June 2020) *Maximum City*, online: <https://maximumcity.ca/wellbeing>.

ABOUT THE

About the Authors

Anneke Smit is Associate Professor at Windsor Law, and the founder and inaugural Director of the Windsor Law Centre for Cities. She leads its Cities and Climate Action Forum. Prior to joining Windsor Law, Dr. Smit held a Lectureship at the School of Law, University of Reading (UK), where she also completed her PhD. She holds an LLB from McGill University's Faculty of Law and an undergraduate degree from the University of Alberta. Dr. Smit's research, teaching, and community engagement focus on municipal law and policy, urban planning and property law, and refugee law and policy. She has worked with or acted as consultant to government, intergovernmental and non-governmental organisations in Canada, the Balkans, and the former Soviet Union.

Hana Syed is a second-year law student at Windsor Law, and Research Assistant with the Windsor Law Centre for Cities. She holds an HBS in Neuroscience and Psychology from the University of Toronto. Hana advises and advocates for the City of Toronto's best interests through research, public consultations, and deputations, specializing in transit, housing, mental health and youth engagement. In 2018 she was invited by the Toronto City Manager and TTC CEO to serve on the City's Expert Advisory Panel to inform the Ontario-Toronto Realignment of Transit Responsibilities Review. Hana is the co-founder of Global Youth Impact (GYI), a non-profit organization and platform for youth to develop leadership, public speaking, and academic/career skills through workshops, community engagement, and campaigns. She is a featured TEDx speaker and is regularly invited to share her expertise, deliver speeches, and host workshops for schools, community initiatives, international conferences, and news media.

Aucha Stewart is a second-year law student at Windsor Law, and a Research Assistant with the Windsor Law Centre for Cities. Prior to attending law school, Aucha completed a BA in Law and Society at York University. After graduating, he continued to establish his dry-wall taping company while simultaneously volunteering in various youth mentoring programs. In these roles, Aucha gained business experience as well as perspectives from varying groups and cultures throughout the Greater Toronto Area. At Windsor Law, Aucha has established his presence through advocacy in Pro Bono Students Canada, and his role in the formation of the first annual Lloyd Dean Moot for undergraduate students. In the 2020-21 academic year, Aucha intends on sparking change through advocacy in his roles as Vice-President of the Black Law Students' Association and Co-Chair of their Moot Committee.

Terra Duchene is currently pursuing an LLM (Master of Laws) at the University of California, Los Angeles with a specialization in public interest law. Terra is a Windsor Law graduate (JD 2019). At Windsor Law, Terra held positions including Editor-in-Chief of the Windsor Review of Legal and Social Issues, Senior Editor of the Canadian Bar Review, president of the Environmental Law Society and Cycling Association of Windsor Law, and board member of the Campus Community Garden. Terra holds a BA from the University of Western Ontario with an Honours in Psychology and Minor in Women's Studies.

Michael Fazzari is a second-year Windsor Law student and a 2020-2021 Research Associate with the Windsor Law Centre for Cities. He completed a Master of Public Policy at the University of Toronto where he studied urban policy and governance. After graduating, he proceeded to work as a Policy Analyst with a municipality in the Greater Toronto Area. In this role, Michael gained invaluable experience in undertaking community consultations to develop and implement policies. Michael has a demonstrated interest in municipal law and governance, and is interested in the role municipalities play on important legal and policy issues such as climate change and sustainability.

Windsor Law Centre for Cities

windsorlawcities.ca

Anneke Smit, Director and Associate Professor
asmit@uwindsor.ca



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