

COVID – 19 – Gathering Size Restrictions

ISSUE

This report addresses the status of various provinces in Canada pertaining to gathering size restrictions and responds to the Governance and Priorities Committee's ("GPC") direction to investigate and report back on the impacts of developing a City bylaw to restrict gathering size restrictions.

BACKGROUND

At its meeting held on [December 14, 2020](#), GPC considered a report from the City Solicitor entitled "COVID-19: Role of the City" and received it as information.

At its meeting held on [September 27, 2021](#), City Council considered a report from the Director of Emergency Management and the Chief Public Policy and Government Relations Officer entitled "Framework for measures to mitigate the transmission of COVID-19 in Saskatoon" and resolved:

That the COVID-19 Mitigation Framework as proposed in Appendix 2 to the report of the Administration dated September 20, 2021 be approved.

At its meeting held on [October 18, 2021](#), GPC considered a report from the Director of Emergency Management entitled "COVID-19 Update" and resolved:

That the Administration be directed to investigate and report back on the implications of developing a City Bylaw to restrict gathering sizes in Saskatoon as per the requests of SHA Medical Health Officers.

CURRENT STATUS

Throughout the COVID-19 pandemic a variety of measures have been put in place to mitigate the risk of transmission of COVID-19. To date, any gathering size restrictions have been put in place by the Province of Saskatchewan through the use of public health orders.

Currently, most provinces have gathering size restrictions. In all cases, gathering size restrictions have been imposed at the provincial level. They are as follows:

British Columbia:	<ul style="list-style-type: none">• No restrictions on indoor or outdoor personal gatherings• Indoor organized gatherings can have a capacity of 50 people or 50% capacity, whichever is greater• Venues where proof of vaccination is required can return to full capacity from October 25 unless additional regional restrictions are in place• Dancing is not permitted
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	<ul style="list-style-type: none">• Outdoor organized seated gatherings can have a capacity of 5,000 people or 50% capacity, whichever is greater
Alberta	<ul style="list-style-type: none">• Indoor social gatherings:<ul style="list-style-type: none">○ Vaccinated – limited to 2 households (yours plus one other) up to a maximum of 10 vaccine-eligible, vaccinated people and no restrictions on children under 12 years of age○ Unvaccinated – indoor social gatherings are not permitted for vaccine eligible people• Outdoor social gatherings:<ul style="list-style-type: none">○ Outdoor private social gatherings limited to a maximum of 20 people with 2 metre physical distancing between households at all times
Manitoba	<ul style="list-style-type: none">• No person may attend a gathering at a private residence or on the property on which a residence is located with the following exceptions:<ul style="list-style-type: none">○ A gathering may be held at a residence that involves occupants of that residence and occupants from no more than one other residence if one or more of the persons at the gathering is an unvaccinated eligible person○ An outdoor gathering may be held on the property on which a private residence is located that involves occupants of that residence and no more than 10 other persons if one or more of the persons at the gathering is an unvaccinated eligible person○ There is no restriction on the number of persons who may attend a gathering in a private residence or on the property on which a residence is located if all persons can produce proof of vaccination, are under 12 years of age or can produce proof from the Government of Manitoba that there is medical reason to be exempted from receiving the vaccine• Except as otherwise permitted, all persons are prohibited from assembling in a gathering involving more than 25 persons or 25% of the usual capacity, whichever is lower, in the case of a gathering not at a private residence or 50 persons in an outdoor space. These do not apply to children under 12 years of age, vaccinated individuals or those with government proof of medical exception

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Ontario	<ul style="list-style-type: none">• Indoor organized public events and social gatherings are permitted up to 25 people• Outdoor organized public events and social gatherings are permitted up to 100 people with limited exceptions
Quebec	<ul style="list-style-type: none">• Indoor private events and social activities:<ul style="list-style-type: none">○ Maximum of 25 people permitted, physical distancing must be respected, wearing of face coverings mandatory, vaccine passport may be required depending upon venue• Outdoor private events and social activities:<ul style="list-style-type: none">○ Maximum of 50 people, regardless of the outdoor space. Physical distancing must be respected
Nova Scotia	<ul style="list-style-type: none">• Informal social gatherings not hosted by a business or organization up to 25 people permitted indoors and up to 50 people outdoors without social distancing or masks
New Brunswick	<ul style="list-style-type: none">• Indoor gatherings with your own household plus 20 consistent contacts permitted• No limits for outdoor gatherings with physical distancing
Prince Edward Island	<ul style="list-style-type: none">• Personal gatherings of family and friends are permitted up to a maximum of 20 people – this applies to a home or outdoor public area
Newfoundland	<ul style="list-style-type: none">• Currently at “step 2”• Personal gatherings limited to the number of people that can fit in the space while allowing 6 feet of physical distancing on all sides between individuals or household bubbles

DISCUSSION/ANALYSIS

Updated Information from the University of Saskatchewan and Saskatoon’s Local Saskatchewan Medical Health Officer

Following the Framework, Administration again consulted this week with the local Saskatchewan Medical Health Officer and with the University of Saskatchewan Computational Epidemiology and Public Health Informatics Laboratory (CEPHIL).

The University of Saskatchewan CEPHIL scientific modelling shows that currently COVID-19 spread due to various types of gatherings is probably the single largest driver of the COVID-19 spread that has driven our health system to its current situation. The

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long-term goal of far higher rates of vaccination, which is not where we are at today, will have the most impact on slowing the spread of COVID-19 in our community.

The COVID-19 models shared with Administration have indicated that in the current situation limitations on gathering size are arguably the single most important and actionable lever for lowering the spread of COVID-19 in our province. The scientific modelling from the University of Saskatchewan CEPHIL and the local Medical Health Officer agree that if Saskatoon gathering restrictions had been implemented at the beginning of October or earlier, when Saskatoon was trending upwards, there would have been a more meaningful impact on lowering the transmission of COVID-19 in Saskatoon, but implementation still has value as it will drive down transmission faster in the community.

Dr. Hasselback states that:

Both existing population public health science and recent disease transmission modelling is demonstrating that local restrictions, at this time, would result in a decrease in local transmission, but the scale of that impact would be limited without the same being in place across most, if not all, the province.

Saskatoon is the largest city in our province and so the impact of a local gathering restriction would be proportionally profound and will make a difference, but the ability to drive down hospital and ICU admissions to the point where the rest of Saskatoon and area citizens can re-access the healthcare services they have put on hold will need everybody in the province reducing their interactions with others, notably those who are not fully vaccinated.

Bylaw Making Powers

At the December 14, 2020 meeting of GPC, the City Solicitor's Office presented the report "COVID-19: Role of the City". As outlined in this report, the powers of levels of government in Canada come from the Canadian Constitution. Municipal institutions fall under provincial jurisdiction.

As noted in that report:

In Saskatchewan, that means municipalities are created by provincial statute. In the case of the City of Saskatoon, our legislation is *The Cities Act*. Section 8 of this Act does provide the City with wide bylaw-making powers but, as we are creatures of statute, Saskatoon's powers are subject to other provincial legislation. We cannot legislate matters that fall under either provincial or federal jurisdiction or that conflicts with legislation passed by upper levels of government. Our powers are also subject to change by the province.

The Constitution provides that provinces are responsible for health care. In Saskatchewan, public health matters are regulated by *The Public Health Act, 1994*.” This Act has specific provisions relating to the control of communicable diseases and epidemics. The provincial restrictions put in place to date for the COVID-19 pandemic have been done by public health order pursuant to this legislation. The province and the provincial medical health officers have the power under this legislation to issue relevant public health orders.

COVID-19 is clearly recognized globally as a public health emergency. Provinces are the level of government with authority for health matters; however, the province has provided cities with the ability to pass bylaws that address the, “safety, health and welfare of people and the protection of people and property”. To do so, evidence of the effectiveness of any bylaw in addressing the health concern would need to be convincing. Unlike the province, Saskatoon does not currently have the necessary expert medical advice to make informed decisions about the actions needed to deal with the public health emergency.

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Considering all factors including but not limited to expertise, responsibility, and legal authority, the jurisdiction best positioned to put in place all orders and guidelines pertaining to public health is the province.

Our advice has not changed. While the City does have wide bylaw making powers, we are not the level of government responsible for public health.

To be clear, the City can only impose bylaws within our city limits. The City does not have the jurisdiction to impose bylaws outside our city limits.

Possible Content of Bylaw

As you may recall, the letter requesting gathering restrictions was based on the advice from the local MHO to simply make the request to the province and let them use their expertise to determine the details of where and how any gathering restrictions would apply. If a bylaw is desired, we will need some direction as to what to include in the bylaw. The letter clearly outlined that that any event or facility requiring proof of vaccination or negative COVID-19 test within 72 hours prior to the event would be exempt from the gathering restrictions.

Currently, there are provincial health orders in place that require proof of vaccination or negative test at the following locations;

- Seated dining in restaurants, including cafeterias, fast food restaurants, and restaurants in hotels or other lodgings (but not food courts);
- Nightclubs, bars, taverns, manufacturer hospitality suites, buses, and other establishments and transportation licensed by the Saskatchewan Liquor and Gaming Authority for the sale and service of alcohol;

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- Liquor stores that have been issued standalone retail store permits by the Saskatchewan Liquor and Gaming Authority;
- Liquor stores that have been issued integrated retail store permits by the Saskatchewan Liquor and Gaming Authority and that also hold a tavern or restaurant permit issued by the Saskatchewan Liquor and Gaming Authority;
- Cannabis stores that have been issued standalone retail store permits by the Saskatchewan Liquor and Gaming Authority;
- Liquor manufacturers conducting retail liquor sales;
- Event and entertainment venues, including:
 - Conference centres, meeting rooms and banquet facilities (but not when being used for the purposes of a court or tribunal proceeding);
 - Casinos, bingo halls and other gaming establishments;
 - Theatres;
 - Cinemas;
 - Concert venues;
 - Live-music venues;
 - Facilities hosting ticketed sporting events where:
 - A physical or electronic ticket is required to gain entrance into the event; and
 - GST is charged on the ticket; and
 - Fitness centres and gyms.

Given this requirement, we would suggest these entities not be included in any potential bylaw. They would be exempt under the bylaw anyway. It would be confusing to the public to add them to our bylaw and then exempt them. Instead, it is preferable to allow the province to enforce the existing public health orders regarding these entities.

The following entities are not currently covered by provincial health order and thus, do not require proof of vaccination or proof of negative test;

- Food courts;
- Conference centres, meeting rooms and banquet facilities when being used for the purposes of a court or tribunal proceeding;
- Retail businesses, including grocery stores;
- Places of worship;
- Businesses holding an integrated liquor retail store permit that do not also hold a tavern or restaurant permit issued by the Saskatchewan Liquor and Gaming Authority;
- Businesses holding an integrated cannabis retail store permit issued by the Saskatchewan Liquor and Gaming Authority;
- Health care services, professional services, or personal services;
- Public libraries;
- Hotels or other lodging, including self-serve food options located within the hotel or other lodging;

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- Facilities hosting amateur sporting events, including youth athletics and recreational leagues;
- Private gatherings held at public venues, such as weddings and funerals; and
- Private gatherings at private residences.

The last advice from our MHO as of October 22, 2021 is that the following gatherings should be targeted if a bylaw is put in place by the City:

- The unvaccinated and partially vaccinated should not gather beyond their own household.
- Vaccinated groups can socialize with up to one other household, up to 10 people in total (including children under 12 who are not yet eligible for immunization).
- Venues (for weddings, funerals etc): reduce to 25% capacity, with no indoor dining if they are only requiring mandatory masks but not a proof of immunization for the event. If they require proof of immunization these restrictions would not apply.
- Places of worship that do not require proof of immunization should still require mask wearing and reduce in-person attendance to 25% capacity (or 150 maximum, whichever is less).
- No further restrictions are required for other venues previously mentioned in the re-open strategy phase one, as proof of immunization is required in those places (Gyms, restaurants, bars, etc).

Given this advice, we would suggest any bylaw drafted by the City focus on private gatherings in private residences, private events at public venues and places of worship as outlined above.

Enforcement

Current and past public health orders have been enforced by public health inspectors and the Province of Saskatchewan COVID Enforcement Team (CET). If gathering size restrictions were limited through municipal bylaw, the City would be solely responsible to enforce any gathering size restriction bylaw and any enforcement would have to be done on a complaint basis. As such, an enforcement strategy would need to be developed with additional staff and funding.

The SPS does not enforce any COVID public health orders – but respond if there is a public safety issue that develops when someone is refusing to comply and either becomes violent, refuses to leave an establishment etc. So – they technically aren't responding to a COVID order contravention – but to a public safety issue.

NEXT STEPS

If directed to do so, the City Solicitor's Office will draft a gathering restrictions bylaw and bring it back for the consideration of City Council.

APPENDICES

1. Solicitor-Client Privilege

Report Approval

Written & Approved by: Cindy Yelland, City Solicitor

Reviewed by: Pamela Goulden-McLeod, Director of Emergency Planning

Jeff Jorgenson, City Manager

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