

7 Things You Need to Know About Massachusetts Municipality Act Gov. Baker Signed Today

The Governor signed into law today Chapter 53 of the Acts of 2020, which includes multiple provisions aimed at reducing burdens on municipalities and state agencies caused by the ongoing response to the COVID-19 outbreak. In addition to extending the state tax return deadline to July 15, the bill has a number of provisions directed at municipal government. The section numbers listed in brackets below correspond to the sections in the final bill.

1. Town Meeting Can Be Extended Past June 30. [Sections 1–4][1]

These sections expand the authority of Towns to continue Town Meeting under G.L. c. 39, §§ 9 and 10A. Towns can now postpone their Annual Town Meeting past June 30, 2020 (the deadline previously set by statute). Where the Governor has declared a state of emergency, the Moderator may continue a Town Meeting for not more than 30 days, and may renew the continuance for additional 30-day periods up to a date 30 days after the state of emergency is lifted. Within 10 days of continuing Town Meeting under this provision, a public safety or public health official designated by the Select Board must submit a report to the Attorney General providing the justification for the continuance.

2. Towns Have Added Flexibility for Passing Annual Budgets After June 30. [Sections 5–8]

In the event that a Town is unable to adopt an annual budget prior to June 30, the Town now has a few options. It can:

- seek an authorization from the Department of Revenue for appropriations “sufficient for the operation of the town” on a monthly basis, and in an amount not less than 1/12th of the total budget for the previous fiscal year; or
- seek approval from the Department of Revenue to appropriate money from Free Cash, including undesignated funds in an enterprise fund or special revenue account; and
- amortize any deficit in FY 2020 over a period between FY 2021 to 2023, as long as the amortization schedule is set before the Town sets a new tax rate for FY2021; and
- expend money from revolving funds established under G.L. c. 44, § 53E½, pending adoption of a new annual budget, in an amount not to exceed the amount authorized for FY2020.

3. Deadlines for Towns to Act on Options to Purchase Property are Tolled. [Section 9]

During the current state of emergency and for 90 days thereafter, all time periods during which a municipality is required to act, respond, effectuate, or exercise an option to purchase property under G.L. c. 61, 61A or 61B are suspended.

4. Deadlines for Taxes May Be Extended and Fees and Penalties For Late Payments May Be Waived. [Sections 10 and 11]

Select Boards may extend deadlines related to the assessment and collection of local taxes, including applications for abatements, until to June 1. These local tax-related deadlines are not automatically extended, and remain in place unless the Select Board acts to extend them, even if Town offices are closed because of the state of emergency on the date that a payment or application for abatement or exemption is due.

The Select Board may also waive interest, late fees, or other penalties for failure to pay taxes or fees (including, for example, betterment assessments or water rate charges), provided that those taxes or fees are paid before June 30, 2020. Regardless of whether the Select Board chooses to waive late fees, a Town shall not terminate services, including but not limited to water, electricity, or trash collection, to any resident for late payment of taxes or fees where the current state of emergency has caused financial hardship such as loss of employment or serious illness, as long as payment is made by June 30.

5. Restaurants with Liquor License Can Sell Alcohol for Pick-up/Delivery. [Section 13]

During the state of emergency, those establishments with an on-premises license may sell wine and malt beverages only for consumption off-premises, provided they comply with the following conditions:

- sales only to those verified as over 21 years old;
- wine shall be sold in its original, sealed container and beer in a sealed container;
- wine or beer must be purchased with food, and no later than the restaurant is licensed to sell or midnight, whichever is earlier; and
- there is a limit of 1.5 gallons of beer and 1.5 liters of wine per transaction.

6. Restrictions on Hours of and Payment to Pensioners have been Loosened. [Section 14]

The limits on the hours and earnings of retired or terminated public employees who are receiving pensions under G.L. c. 32, § 91(b)-(c) shall not apply to hours worked or earnings received during the state of emergency by the two categories of employees:

- Any person who has been retired and is receiving a pension or retirement allowance under c. 32 or any other general or special law from the state, town, or other public body; and
- Any person whose employment with the state, a town, or other public body has been terminated because they reached a mandatory retirement age without being entitled to a pension or retirement allowance.

This section does not apply to individuals retired under a general or special law on disability.

7. Timelines in Permits and for Permit-Granting Authorities Are All Tolded, Unless the Authority Wants to Proceed. [Section 17]

This section enacts special provisions for the permit^[2] application and review process at the local level. Those provisions include:

- Permit applications may be filed electronically, including by attaching application materials to an email to the permit-granting authority, with the application deemed filed on the date that receipt is confirmed by the authority;
- All time periods for review of applications or hearings by authorities are suspended during the state of emergency and for 45 days after it is lifted (for instance, if a local board had five days left to act on an application as of March 10, then it must act on that application within 50 days after the state of emergency is lifted);
- A pending hearing continued as of March 10 is automatically tolled to the first hearing date after the state of emergency is lifted, which must be within 45 days;
- Expiration dates for any issued permit, or dates for meeting a deadline or satisfying a condition of the permit, are tolled during the state of emergency;
- There are no constructive grants, approvals, or denials of permit applications during the state of emergency, provided the authority acts on the application within 45 days of the state of emergency being lifted;
- Hearings or deadlines on applications may be scheduled or rescheduled by the chair of a permit-granting authority, with or without a quorum of the board, for a date not later than 45 days after the state of emergency;
- Recording requirements for permits are suspended while public access for recording is restricted, and failure to record a permit shall not preclude a permit holder from commencing construction or obtaining other required approvals, such as a building permit;
- A permit-granting authority may still revoke or modify a permit as allowed by law, except, for 60 days after the state of emergency is lifted, it may not do so because of the permit-holder's failure to exercise their rights under the permit due to the state of emergency;
- Permit-granting authorities may conduct meetings and hearings remotely, consistent with the Governor's March 12 Order on OML; and
- Nothing the bill precludes a permit-granting authority from holding hearings and issuing permits during the state of emergency if they are able and choose to do so.

[1] Sections 2 through 4, relating to postponing Annual Town Meeting, take effect as of March 10, 2020, ratifying any previous postponements made by Towns after the state of emergency was declared. The remainder of the bill took effect upon passage today.

[2] The bill defines a “permit” broadly as: “a permit, variance, special permit, license, amendment, extension or other approval issued by a permit granting authority pursuant to a statute, ordinance, bylaw, rule or regulation, whether ministerial or discretionary.”