



New Hampshire Municipal Association

May 4, 2020

Emergency Order #40: What's Extended

On Friday, May 1, 2020, Governor Sununu issued Emergency Order #40. That Emergency Order specifically references:

- Emergency Order #2 (modified by Emergency Order #16), gatherings of 10 or more;
- Emergency Order #6, restaurant restrictions;
- Emergency Order #16 (gatherings of 10 or more), modifying Emergency Order #2; and
- Emergency Order #27, hotels and rentals restrictions.

and extends those Emergency Orders until May 31, 2020.

We have received a number of questions about Emergency Order #40, its effect on other Emergency Orders, and effective timelines. We hope to clarify the current state of affairs in this memorandum.

May 15, 2020: The State of Emergency is scheduled to end.

RSA 4:45, II(a) causes a declared State of Emergency to automatically expire 21 days after declaration, unless renewed. The current State of Emergency was originally declared on March 13, 2020 in Executive Order #2020-04 and twice extended. The current extension runs through May 15, 2020, according to its terms in Executive Order #2020-08.

Technically, any Emergency Order in effect will expire at the conclusion of the State of Emergency, even if it has an expiration time specified for a date after the State of Emergency ends. It is likely that the State of Emergency will be extended by the Governor prior to May 15, 2020. Any extension would allow any Emergency Orders with post-May 15, 2020 expiration dates to expire on whatever date is specified in those Orders or any Order extending the date.

Any Emergency Order stating it lasts for the “duration of the State of Emergency,” or which does not specify a time when it expires, will expire at the conclusion of the State of Emergency.

May 31, 2020: If Governor Sununu has not modified the timelines for Emergency Orders #2, #6, #16, and #27, those orders will expire.

Post-May 31, 2020: If Governor Sununu extends the State of Emergency past May 31, 2020, any Emergency Order which states that it lasts for the “duration of the State of Emergency,” or which does not specify a time when it expires, will expire at the conclusion of the State of Emergency, whenever that may be. Emergency Orders with specified dates of expiry will expire on those specified dates or the conclusion of the State of Emergency, whichever occurs first.

Municipalities may want to take notice that the remote meeting provisions of Emergency Order #12 are in effect for the “duration of the State of Emergency,” and the various provisions of Emergency Order #23, pertaining to municipalities, are also in effect for the duration of the State of Emergency.