

May 6, 2020

## COVID-19: May 6th Update on the Impacts to Development Applications and Hearings

This is an update to our previous bulletins (March [23, 30](#), April [7, 15](#), and [22](#), 2020) detailing the impacts of COVID-19 on development applications and hearings in Ontario. An updated list reflecting the status of a number of GTA municipalities may be found at the end of this update.

### Provincial State of Emergency & Emergency Orders

The Provincial State of Emergency as declared pursuant to the *Emergency Management and Civil Protection Act*, RSO 1990, c. E.9 (the "**EMCPA**") was [extended on April 14, 2020](#) for 28 days, until **May 12, 2020**. Almost all Emergency Orders made under the *EMCPA* are made pursuant to s.7.0.2(4) and have been [further extended](#) until **May 19, 2020** pursuant to [O. Reg. 106/20](#). In contrast, [O. Reg. 73/20](#) (made under s.7.1(2)) is effective for the "duration of the emergency" to a maximum of 90 days, subject to further renewals of up to 90 days (s.7.1(4) and (5)).

On April 27, 2020, the Province [announced](#) its "[Framework for Reopening Our Province](#)" careful not to commit to any firm dates and calling it a "roadmap, not a calendar." The framework is organized into three phases: 1) "Protect and Support", 2) "Restart", and 3) "Recover". The second phase, "Restart," involves three stages: 1) open businesses and select workplaces that can meet health and safety requirements, and some outdoor spaces such as parks; 2) open more workplaces and outdoor spaces, and allow some larger public gatherings; 3) open remaining workplaces and further relax

public gathering restrictions. Each stage will be evaluated on a 2-4 week timeframe, with constant reassessment of new daily COVID-19 cases. The evaluation of each stage will be based on 4 key factors: virus spread and containment, health system capacity, public health system capacity, and incidence tracking capacity. The Province has provided [sector-specific guidelines](#) to employers on how to open safely and protect their employees and customers, focusing on 5 key economic sectors: [construction](#), [food processing](#), [restaurant and food services](#), [agriculture](#), and [manufacturing](#).

On Friday, May 1, 2020, the [Premier announced](#) that certain businesses and workplaces (including seasonal businesses and some essential construction projects) would be permitted to begin reopening as of May 4, 2020, subject to their compliance with strict public health and safety guidelines. The Province has developed more than 60 guidelines, and the sector-specific measures are intended to help employers prepare for workplaces to be reopened safely. The Province cautioned, however, that it remains “critical” that people “continue to practise physical distancing and good hygiene habits.” The announcement confirmed that, while the Province is still in Phase One – Protect and Support, the move to permit “certain businesses and workplaces to open under strict guidelines demonstrates the government’s commitment to balance the needs of the economy with the health and safety of the people of Ontario.”

### [New \*Planning Act\* Regulations: Special Rules Relating to Declared Emergency \(O. Reg. 149/20\)](#)

In our [previous bulletin](#), we discussed the new regulation made under the *Planning Act*: [O. Reg. 149/20](#), being the Special Rules Relating to Declared Emergency. This new regulation modifies application of O. Reg. 73/20 to *Planning Act* matters in order to provide municipalities with more flexibility relating to *Planning Act* timelines for making decisions during this State of Emergency. While some timelines remain suspended (albeit now pursuant to O. Reg. 149/20), others no longer are. As a result, interested parties will once again begin to receive notices of decision from municipalities, upon which notice appeal timelines will begin to run. As emphasized previously, we strongly recommend continuing to adhere to all

appeal timelines, despite the fact that the Local Planning Appeal Tribunal (“**LPAT**”) is not currently scheduling hearings of new appeals. Note that O. Reg. 149/20 relates only to *Planning Act* matters; as such, it does not impact the *Local Planning Appeal Tribunal Act*.

## The Local Planning Appeal Tribunal

It is our understanding that the LPAT continues to operate with minimal staff on site at its offices, and that the mailroom remains closed. The LPAT is continuing to consider electronic options.

As [previously](#) noted, all hearings until June 30, 2020 have been adjourned, though the LPAT is exercising its discretion under O. Reg. 73/20 to lift the suspension of timelines on a case-by-case basis in order to begin moving outstanding settlement and other merit hearings forward. We have been advised that, within the last 2-3 weeks, there have been at least four settlement hearings conducted by telephone conference call (“**TCC**”), and a number have also proceeded in writing. The LPAT recently sent out 2 types of form emails to interested parties: 1) where hearings had been cancelled, to set up status update calls; and 2) where hearings are set for July or August 2020, to inquire whether parties have been proceeding in accordance with the Procedural Orders on consent (as these timelines have continued to be suspended) in order to be in a position to proceed as scheduled. The LPAT has not yet made a policy decision to address the circumstance where parties have not adhered to the Procedural Order dates. We also understand that, as a result of such communications, the LPAT is currently scheduling approximately 50 hearing events by TCC for the weeks of May 4<sup>th</sup> and May 11<sup>th</sup>, being a mix of settlement hearings and status updates or case management conferences. Additionally, the LPAT continues to be open to the potential to schedule virtual mediations, and interested parties should reach out to Sandra Chan at the LPAT.

## The Status of GTA Municipalities

The below represents a list of those municipalities in which we experience the most volume of development applications and appeals. The information has been obtained from the municipalities’

websites or from direct communication from the municipalities and, as such, is subject to confirmation. Please also note that the status of the matters contained herein are evolving rapidly and may not be the most current. If you have a question relating to a specific municipality not included in the list below, please do not hesitate to contact us.

### *City of Toronto*

- **Declared a State of Emergency** as of March 23, 2020.
- All City buildings, including City Hall, Metro Hall and all civic centres are closed to public. All non-essential services are cancelled.
- **Meetings:** All regular Council and Committee meetings cancelled until May 4, 2020. The Mayor can call a special meeting of City Council to discuss urgent business if required. Design Review Panel meetings have also been cancelled. Meetings may be viewed live on meeting day at [www.toronto.ca/council](http://www.toronto.ca/council).
  - Note that the Mayor recently called a Special City Council Meeting, held on April 30<sup>th</sup> by videoconference, for reasons including to consider amendments to Council Procedures to permit electronic participation in meetings, and to authorize local boards to amend their own procedures to permit electronic participation in meetings during emergencies.
- **Planning Applications & Appeals:** New planning applications will not be received. Limited reviews of planning applications and heritage planning applications received on or before March 16. City is prioritizing: (1) review of applications that have cleared any Council-related approval and are proceeding through final technical clearances (e.g. site plan approval); (2) Development projects close to occupancy (e.g. draft plans of condominium clearances and registrations). The City is working with applicants' solicitors to register agreements where the agreements can be finalized. Appeals of Committee of Adjustment decisions will be accepted electronically.

- Provincial Offences courtrooms, public counters, email and call centre services are closed. Applications and payments can be submitted by regular mail. All online services remain available to the public. Matters scheduled until May 29, 2020 will be rescheduled.
- Building Permits & Inspections: Still issuing building permits that were ready to be issued prior to March 16; processing building permit applications: for projects that are underway in order to allow them to proceed to next phase of construction; for affordable housing units; to address immediate life safety issues; and to support the City's response to COVID-19. Building permit inspection reports can now be conducted by a qualified professional in lieu of a progress inspection by a city inspector. 24/7 emergency building inspections services will continue. Permit fees, development charges and other permit related fees are only accepted by credit card payments through website and telephone, or electronic fund transfer.
- Inspection requests, other than in occupied homes, can only be booked online [here](#). Inspection requests through telephone or email will not be accepted. Progress reports prepared by qualified professionals will only be accepted for occupied homes.
- Suspended services include: building applications, other than as noted above, Sign Permit and Zoning intake, review and issuance; Applications for minor alterations to existing buildings, new decks, carports, or detached garages; all information requests, complaints and reports. Click [here](#) for more information.
- City-led infrastructure construction will proceed for important City water and transportation infrastructure, as well as City facilities including parks and recreation facilities.

#### *City of Brampton*

- [Declared a State of Emergency](#) as of March 24, 2020; all City facilities closed until further notice, including City Hall.

- **Meetings:** Effective March 16, all City Council meetings are occurring virtually with in-person attendance limited to Members of Council and essential City staff only. Committee and Committee of Adjustment meetings are cancelled until further notice.
- **Planning Applications & Appeals:** Existing applications are continuing to be processed. New applications can be submitted digitally using the City's FTP Server (click [here](#) for more information). Reports are still being completed, external agencies are still providing comments, and meetings are being held via Skype as necessary. All appeals will be accepted digitally.
- **Buildings Division closed until further notice.** No applications for permits or registrations will be accepted. In addition to continuing inspections of unoccupied buildings, effective April 6, the City of Brampton Building Division will be accepting requests for remote video inspections of occupied residential buildings until the onsite operations resume. Click [here](#) for more information.
- **Provincial Offences courtrooms, public counters, email and call centre services are closed until further notice.** A drop box is available at the main entrance to the facility for the public to drop off request for early resolution and for enforcement agencies to drop off Certificate(s) of the offence. Matters scheduled until May 29, 2020 will be rescheduled. Applications to be submitted through the City drop box. Payments can be submitted by regular mail, telephone or online.

#### *City of Mississauga*

- **Declared a State of Emergency** as of March 23, 2020.
- **Meetings:** The City is holding Council meetings via online video conference. Committee meetings have been cancelled until further notice.
- **All public service counters closed until further notice, including City Hall and the Provincial Offences Courthouse.** All general inquiries can be processed via 3-1-1 Contact Centre (905-615-4311 outside city limits).

- **Planning Applications & Appeals:** Committee of Adjustment is accepting applications and general enquiries via email to [committee.adjustment@mississauga.ca](mailto:committee.adjustment@mississauga.ca). Can apply, update and complete application-related tasks via **ePLANS**. For resubmissions, new Official Plan and/or Zoning By-law applications, call 3-1-1 or email [eplans.devdes@mississauga.ca](mailto:eplans.devdes@mississauga.ca) to communicate with a member of the Planning Services Centre Team. Meetings are being conducted remotely through WebEx, emails or by phone. Planning reports are still being written. Commissioners now have delegated authority to sign agreements. Appeals (including fees) to be filed by registered mail or courier to the attention of Clerks Office, 2nd Floor, 300 City Centre Drive, Mississauga, Ontario L5B 3C1.
- **Building Permits & Inspections:** All online application functionality will continue at this time. Can apply, update and complete application-related tasks via **ePLANS**. Services at the Inspection Services counter suspended until further notice. Inspections can be scheduled online at **Building Permit Inspections**; however, inspection requests will be prioritized, delayed and/or deferred where possible. Only online payments are currently being accepted.

#### *City of Markham*

- All City facilities are closed to the public until further notice.
- **Meetings:** The City is holding Council and Committee Meetings electronically. Other public meetings have been cancelled until further notice. The Mayor can call a special meeting of Council, if required. Contact [clerkspublic@markham.ca](mailto:clerkspublic@markham.ca) for additional information.
- **Planning & Urban Design Department:** Closed to the public with staff working remotely to support City projects. Most planning applications (Pre-consultation, Site Plan, Official Plan, Subdivision, Zoning, Minor Variance, Consent and Condominium) can be submitted through **ePLAN** (email inquiries to [dsc@markham.ca](mailto:dsc@markham.ca) or 905.475.4861). Re-submissions related to existing (pre-ePLAN) applications must be submitted through

consultant's FTP site/Dropbox, and notify the Development Services Front Counter ([dsc@markham.ca](mailto:dsc@markham.ca)) by email and copy the project planner. Payments can be made by cheque using the drop box which is located outside the Markham Civic Centre. Additional information respecting planning submissions may be found on the City's recent adopted platform, "ePLAN".

- Building Permits & Inspections: Questions related to building permit applications and zoning inquiries can be emailed to: [buildingstandards@markham.ca](mailto:buildingstandards@markham.ca), and related to building permit inspections, email: [bins@markham.ca](mailto:bins@markham.ca).
  - Applications: Building Permit applications can be submitted [online](#). All on-line permit application functionality including payments of permit fees less than \$60K will continue to operate (contact [buildingstandards@markham.ca](mailto:buildingstandards@markham.ca) for permit status). Plan review and permit issuance will continue and plan review staff will be available by email. Permit processing of all permit types will continue via ePLAN. Please refer to the online [Guide to Building Permits](#) for a list of forms, drawings and documents required to be uploaded for building permit applications.
  - Inspections: Make inspection requests through [ePLAN](#) or by calling 905 475-4850. Inspections of all new construction, including occupancy permits for new and unoccupied buildings, will continue with enhanced procedures for inspector health and safety. Permit holders are required to book all required inspections as per the Ontario Building Code. Inspections for occupied buildings will be suspended until further notice.
- Construction Investigation Requests: Unsafe building reports will be investigated immediately.
- Engineering Department is closed to the public with staff working remotely to support City projects.

#### *City of Vaughan*

- [Declared a State of Emergency](#) on March 17, 2020.

- Public closures until further notice, including City Hall.
- **Meetings:** Council and Committee of the Whole meetings are being held electronically and can be viewed [here](#) (all other committee and task force meetings cancelled). Written communications can be emailed to the Office of the City Clerk at [clerks@vaughan.ca](mailto:clerks@vaughan.ca). All other Council Committees and task force meetings are cancelled until further notice.
- **Building Permits & Inspections:** Accepting submissions, however processes may change without notice. Contact Building Standards Department at [buildingstandards@vaughan.ca](mailto:buildingstandards@vaughan.ca). For building inspections, email [buildinginspections@vaughan.ca](mailto:buildinginspections@vaughan.ca) or call 905-832-8511.

#### *City of Hamilton*

- Declared a State of Emergency on March 17, 2020.
- City facilities closed until at least May 25, 2020 (tentatively), including municipal service centres, public counters and City Hall.
- **Meetings:** City Council will take place virtually every Wednesday morning. **Other meetings** are cancelled until at least May 25, 2020.
- Provincial Offences courtrooms closed; appearances scheduled until May 29, 2020 will be adjourned and rescheduled.
- **Planning Applications and Appeals:** May be filed by regular mail (e.g., USB with digitals) with certified cheque. Recommend sending email to advise that application is being submitted by mail. Expect processing delays.
- **Building Permit Applications & Inspections:** Applications may be made [online](#); questions can be sent to [eplans@hamilton.ca](mailto:eplans@hamilton.ca); status of Building Permits can be searched for [here](#); for inspections, call: 905-546-2424 ext. 7777. City is still completing the following inspections: (i) Construction without a permit (proactive/reactive) visible from the street (but not interior at this time), (ii) unsafe conditions, (iii) new houses/semis/towns, (iv)

new small Part 3 and 9 buildings, (v) Interior Part 3 renovation work (case-by-case basis), (vi) sign, septic, and solar collector permits, (vii) pools – new and unsafe. City Building Inspection team has final say, and may refuse an inspection. The City is contemplating use of virtual inspections.

- City-led infrastructure construction has been deemed essential and will proceed for important City water and transportation infrastructure, as well as City facilities including parks and recreation facilities.

#### *Town of Oakville*

- [Declared State of Emergency](#) on March 24, 2020.
- [Meetings](#): Committee meetings have been cancelled to the end of June, 2020. Council and Special Council meetings still being scheduled and held by videoconference. You can watch live meetings [here](#).
- [Planning Applications, Building Permit Applications & Inspections](#): Starting May 4, planning, building, engineering and development applications and permits can be submitted online. This includes plans of subdivision, rezoning and site plans among others. Larger Industrial Commercial and Institutional application submissions will continue by appointment only. Information on how to submit application forms online can be found [here](#) Electronic payments for various permit applications are now accepted via e-transfer of electronic funds transfer.. Review of existing permits only; new building permit applications are not being accepted at this time. Staff are currently working on reviews of active permit applications submitted before March 18. Beginning April 6, inspections will be restricted to unoccupied buildings for new building construction listed by the Ontario government as essential only, until further notice. The Town is not conducting inspections on occupied or previously occupied buildings or home renovations.
- Further information available on the Town's [website](#).

### *City of Ottawa*

- [Declared State of Emergency](#) on March 25, 2020.
- Facilities and services closed or cancelled until further notice, including City Hall and Building Code Services Counters.
- Provincial Offences Courthouse closed until May 29, 2020.
- **Meetings:** City Council or Committee meetings, as warranted, will be held electronically until further notice and can be viewed live on the [Ottawa City Council Youtube Channel](#). Upcoming meetings of the Committee of Adjustment and other Boards can be found [here](#). Comments may be provided to Committee or Council on any agenda items by submitting such comments in writing, by emailing or calling the Committee Council Coordinator.
- **Building Permits & Inspections:** Building Code Services (“BCS”) building permit delivery service: via courier (with cheque) to City of Ottawa – Building Code Services, 100 Constellation Drive, Ottawa, ON K2G 6J8; smaller residential applications can be submitted online email ([buildingpermits@ottawa.ca](mailto:buildingpermits@ottawa.ca)). BCS Inspections staff will not enter occupied areas of the certain building types for the purposes of carrying out their duties (personal dwellings, long-term care facilities, seniors’ residences and retirement homes, hospitals, and daycare facilities).

### *Region of Peel*

- Development Services staff are available to participate in one-on-one phone calls, conference calls, or virtual meetings.
- Submissions via courier or mail will not be accepted as counters are currently closed to the public. Contact the Peel employee assigned to your application directly to arrange for electronic submissions. Payments cannot be processed by cheque, visa or debit at this time. Development Services is currently investigating electronic fund transfer methods, while working with the local municipalities on alternative payment options. Approvals, clearances or correspondence will be issued electronically via email.

- Building Permit Application & Inspections: Applications are administered at the local municipality; Region provides Servicing Approval for Water and Waste/Storm Water connection approval. Servicing staff are still reviewing applications and taking them to the approval stage. Payments cannot be processed by cheque, visa or debit at this time. Region is working with accounts receivable to receive payments in the form of Electronic Fund Transfers so that they can provide their final Site Servicing clearance to the applicant. Meanwhile, Region is working with the local municipalities on alternative payment options.
- Issuing for Construction (IFC) process is being evaluated case-by-case based on criticality of the site and availability of Water Operators (this is under review as resources are very limited, therefore field services may be temporarily delayed or deferred).

#### *Region of York*

- Declared State of Emergency on March 23, 2020.
- York Region facilities are closed to the public.
- Building Permits: Administered at the local municipality.

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#### *a cautionary note*

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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