

COVID-19: APRIL 22ND UPDATE ON THE IMPACTS TO DEVELOPMENT APPLICATIONS AND HEARINGS

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Categories: [Insights](#), [Publications](#)

This is an update to our previous bulletins (March [23](#), [30](#), April [7](#) and [15](#), 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 & Status of 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 to date under the *EMCPA* are made pursuant to s.7.0.2(4) and have been extended until **April 23, 2020** pursuant to O. Reg. 106/20 (presumably to be further extended shortly). By 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)).

Suspension of Timelines under O. Reg. 73/20

As a result of the enactment of O. Reg. 149/20 (discussed below), the applicability of O. Reg. 73/20 to matters under the *Planning Act* has been amended. In our [previous bulletin](#), we discussed our position that appeal periods are not suspended pursuant to s.1 of O. Reg. 73/20 (only limitation periods), and that anyone looking to appeal a decision pursuant to the *Planning Act* should do so within the stated timelines. We further discussed how, pursuant to s.2 of O. Reg. 73/20, the tribunal or other decision-maker responsible for the proceeding who has discretion regarding suspension of “steps in a proceeding” includes a municipality’s Committee of Adjustment, or other equivalent body and, therefore, may exercise its discretion to not suspend the appeal period. Accordingly, for the right case and based on the right facts, the Committee, together with the Local Planning Appeal Tribunal (“**LPAT**”) / Toronto Local Appeal Body could be requested to exercise their discretion. O. Reg. 149/20 now modifies timelines and appeal periods under the *Planning Act* during a declared emergency, as discussed in the next section.

New Planning Act Regulations: Special Rules Relating to Declared Emergency (O. Reg. 149/20)

The provincial legislature passed [Bill 189](#) (the *Coronavirus (COVID-19) Support and Protection Act, 2020*) on April 14, 2020, and passed new regulations under the *Planning Act*: [O. Reg. 149/20](#) (being the Special Rules Relating to Declared Emergency) on April 15, 2020. As discussed in our [previous bulletin](#), this new legislation is intended to provide municipalities with more flexibility relating to *Planning Act* timelines for making decisions during this State of Emergency.

To this end, O. Reg. 149/20 retroactively replaces O. Reg. 73/20 with a new set of rules for municipal decision-making under the *Planning Act* during the state of emergency, allowing municipalities to advance development applications without fear of appeals by Applicants for non-decisions from municipalities. Going forward, while a municipality may proceed to render a decision and issue a notice, O. Reg. 149/20 now provides it with the flexibility to defer such decision until the termination of the COVID-19 state of emergency. If such decision is made, notice must be issued and the appeal timelines will begin. Therefore, as emphasized in our [previous bulletin](#), we strongly recommend continuing to adhere to all appeal timelines, despite the fact that a municipality is not required to forward such appeal to the LPAT until after the state of emergency is terminated, and that the LPAT is not currently scheduling hearings of new appeals.

The new provisions of O. Reg. 149/20 may be summarized at a high-level as follows:

- Where notice of a decision was given on or after February 26, 2020 and before April 15, 2020, such notice is deemed void and must be given again within 15 days of the termination of the COVID-19 (s.4(1)). Such new notice relates to decisions made pursuant to s.17 (official plans), s.22 (official plan amendments), s.34 (zoning by-laws and zoning by-law amendments), s.51 (plans of subdivision), and s.53 (consents) of the *Planning Act*, and ss.10(13) of O. Reg. 173/16.
- With respect to s.45 (minor variances) of the *Planning Act*, where a decision was made on or after February 26, 2020 and before April 15, 2020, notice must be given within 10 days of the termination of the emergency, and an appeal of such decision must be made within 20 days after that giving of notice is completed (s.4(4)).
- Appeals may still be made relating to previously completed notices, even if notice has not yet been completed pursuant to O. Reg. 149/20 (s.4(5)). However, certain appeals filed on or after March 17, 2020 and before April 15, 2020 are deemed not to have been filed (s.5(2.2)).
- Certain motions made on or after March 17, 2020 and before April 15, 2020 are deemed not to have been made (s.5(2.3)).
- Otherwise, time periods for a number of provisions which ended on or after March 17, 2020 and before April 15, 2020, are deemed not to have ended (s.5(2.1)).
- Interim control by-laws which either expire during or after the termination of the COVID-19 emergency are deemed to remain in effect for an additional period equal to (i) the number of days between March

17, 2020 and the original date of expiration, or (ii) the length of the emergency, respectively (s.6).

The Local Planning Appeal Tribunal

We understand that communications continue and efforts remain underway at the LPAT towards recommencing limited operations. Staffing at the LPAT's 655 Bay Street offices remains limited, and the LPAT's focus is still on settlement requests. As noted in our [previous bulletin](#), the LPAT is exercising its discretion under O. Reg. 73/20 to lift the suspension on a case-by-case basis to begin moving outstanding settlement hearings forward (more information [here](#) and [here](#)).

Except as permitted on a case-by-case basis, hearings remain postponed to a future date and a notice of the new hearing date will be provided by the LPAT at a future date. All filing dates related to existing Procedural Orders have been suspended unless and until the LPAT orders otherwise. This past week, the LPAT has begun sending out communications to parties respecting rescheduling postponed matters. In these communications, the LPAT is requesting a status update (i.e., are Procedural Order timelines being maintained, etc.), and advising that it is considering the possibility of proceeding with merit hearings on a case-by-case basis, using alternative formats (e.g., written, videoconference, teleconference). As discussed in previous bulletins, parties who wish for their matters to be rescheduled promptly by the LPAT should endeavour to cooperate with respect to moving matters forward, including adhering to Procedural Orders.

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.
- 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.
 - **Note that the Mayor has called a Special City Council Meeting to be held on April 30th 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); (3) 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.
- **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 has been deemed essential and will proceed for important City water and transportation infrastructure, as well as City facilities including parks and recreation facilities.** This construction is essential to ensure the City's infrastructure and facilities remain safe, in a state of good repair and able to meet Toronto's needs.

[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. 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 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 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 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) 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, and related to building permit inspections, email: 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 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](#).
 - 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: Vaughan 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. Building Permits & Inspections: Accepting submissions, however processes may change without notice. Contact Building Standards Department at buildingstandards@vaughan.ca. For building inspections, email buildinginspections@vaughan.ca.

City of Hamilton

- City facilities closed until at least May 25, 2020, 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; 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.
- Planning Applications: Continuing to process time-sensitive existing applications only.
- Building Permit Applications & Inspections: 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. Conducting inspections of unoccupied buildings for new building construction, and investigations/inspections of unsafe buildings.

- Development Engineering: Work on active town construction projects will continue as scheduled. Final inspections for engineering permits (such as site alteration, pool works, road cuts, etc.). 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). 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 currently 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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