

OHBA COVID-19 FAQ

Version 3 – May 5, 2020



Ontario
Home Builders'
Association

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On March 11, 2020, the World Health Organization declared the COVID-19 virus a worldwide pandemic. Governments in Canada and its provinces, and across the world are declaring States of Emergency and implementing dramatic health and safety measures and significant public policy changes daily.

The Ontario Home Builders' Association has prepared a third edition of our "Frequently Asked Questions" document designed to cover a broad range of issues impacting OHBA members as they and their businesses navigate a rapidly changing public policy environment through this health crisis. Ontario was the second province to declare "a State of Emergency" and has been releasing a steady stream of emergency orders under that declaration to restrict or close most non-essential facilities, businesses and economic activities. **This is NOT a business as usual situation – the health and safety of our members and their employees is our number one priority.**

Please note the updated version of this document was prepared for May 5, 2020 and this "State of Emergency" is rapidly evolving, thus the information in this document is accurate as of the date of publication but may change on a daily basis going forward.

Ministry of Labour Jobsite Enhanced Health & Safety Guidelines

- Premier Doug Ford made it clear, **the construction industry has been put on notice regarding health and safety standards on jobsites during the COVID-19 State of Emergency** with residential construction being included as an essential workplace under that order. The Ministry of Labour is actively inspecting sites and will shut them down for not taking enhanced health and safety precautions. Job sites which have not implemented these guidelines already, should do so immediately https://www.ontario.ca/page/construction-site-health-and-safety-during-covid-19?_ga=2.140520880.322033982.1585416389-1240600393.1578322798

Jobsite Signage and Intake Information Sheets

- OHBA has developed [a template document](#) for members to use on their sites. The signage document provides key health/safety and reporting information. The employer information sheet lays out enhanced obligations and responsibilities of employers, specifically around reporting requirements to both MOL and Public Health Authorities. The intake information sheet will help employers track who is coming onto sites and provide critical information if requested by MOL or Public Health Authorities.
- These are not legal documents, and members will need to customize them to their sites and consult with their own health and safety people - that is why they are in word documents - but it lays out all the key information based on the MOL March 29, Guidelines.
- As a best practice, members are encouraged to have all personnel entering the site sign – including MOL Inspectors – fill out the intake information sheet. This will help ensure accurate record keeping, should information be requested by MOL or Public Health Ontario.

O. Reg. 149/20 – Special Rules Relating to Emergency

- On April 15th, the government passed [Ontario Regulation 149/20](#) which clarifies that O. Reg. 73/20 under EMCPA does not apply to land use planning timelines. As such, the regulation provides for those notices of municipal decisions and related appeal periods that may have been interrupted by

the issuance of O. Reg. 73/20 to be restarted so that those decisions may be finalized. Ontario Regulation 149/20 under the Planning Act identifies those specified planning timelines that are effectively suspended in order to support municipal emergency response activities. OHBA advises members to consult their legal counsel regarding how this may or may not affect your specific applications or appeals.

- The Ministry of Municipal Affairs and Housing has released plain language guidance materials on Ontario Regulation 149/20: <https://ero.ontario.ca/notice/019-1653>

Bill 189, Coronavirus (COVID-19) Support and Protection Act

- On April 14th the provincial government passed [Bill 189, Coronavirus \(COVID-19\) Support and Protection Act, 2020](#). OHBA notes that these are temporary measures to resolve an issue with expiring DCs and to provide clarity and guidance to ensure that municipalities that choose to do so, can continue to process, hold virtual public meetings and ultimately approve planning applications; while also suspending Planning Act timelines.

Legislative & Regulatory Highlights:

- **Planning Act** - Amending the *Planning Act* will provide municipalities with the time they need to focus on local public health priorities by making it possible to suspend certain planning decision timelines during a declared state of emergency. These changes will temporarily pause the need for municipalities and planning boards to make planning decisions within specified timelines without the risk of appeal. If municipalities choose to process planning applications, they may still do so by holding virtual/electronic public meetings and making decisions on planning matters during the COVID-19 outbreak.
- **Education Act** - Amending the *Education Act* will allow school boards with an expiring education development charge (EDC) by-law to use their existing by-law for an additional six months after the end of the COVID-19 outbreak, so they can continue to charge the EDC on new construction. This change ensures school boards can retain a vital source of revenue that helps support new school projects. This amendment aligns with the Ministry of Municipal Affairs and Housing's approach to development charges that are expiring during the COVID-19 outbreak.
- **Development Charges Act** - Amending the *Development Charges Act* will ensure municipalities can continue to count on a vital source of revenue that helps pay for local growth-related infrastructures such as roads, water and sewers as well as fire and police services. This change allows municipalities with an expiring development charge by-law to use their existing by-law during the current emergency and for six months following the end of the emergency declaration so they can continue to collect DCs on new construction.

Agricultural Construction

- On April 10th, the Minister of Agriculture, Food & Rural Affairs added [an amendment](#) to the essential workplaces list to include agricultural construction as section 29.1.

- The amendment allows for construction projects to continue where:
 - The projects are due to be completed before October 4, 2020.
 - that would provide additional capacity in the production, processing, manufacturing or distribution of food, beverages or agricultural products.

Hours of Essential Construction Work & Construction Noise

- On April 8, the Province announced [new measures](#) to accelerate essential construction during COVID-19. These measures extend the hours of work for essential construction to 6a.m. – 10p.m. and suspend municipal noise bylaws during such a time that this regulation is in place.
- Through Ontario Regulation 131/20, temporary changes were made to the *Municipal Act, 2001*, which impose limitations under section 451.1 of the Act – Noise By-Laws in Connection with Construction.
- For the purposes of section 451.1 of the Act, a municipality does not have power to prohibit and regulate with respect to noise made in connection with the following:
 - Construction projects and services in a municipality associated with the healthcare sector, including new facilities, expansions, renovations and conversion of spaces that could be repurposed for health care space, at any time of the day or night.
 - Any other construction activity in a municipality between the hours of 6 a.m. and 10 p.m.

Business Cash Flow Relief and Tax Deferrals

- Beginning April 1st, 2020, the Province is providing flexibility to about 100,000 businesses in Ontario to help manage their cash flows.
- This will continue for a period of five months, up until August 31st, 2020, and is expected to make available \$6 billion to improve the cash flows of Ontario businesses.
- For this period, the Province will not apply any penalty or interest on any late-filed returns or incomplete or late tax payments under select provincially administered taxes, such as the Employer Health Tax, Tobacco Tax and Gas Tax.
- The initiative and relief period complement the relief from interest and penalties from not remitting Corporate Income Tax owing that was announced by the federal government.

Property Tax Deferral

- Deferring the upcoming June 30th quarterly municipal remittance of education property tax to school boards by 90 days. This measure provides municipalities approximately \$1.8 billion of liquidity to fund property tax deferrals to residents and businesses, while ensuring school boards continue to receive their funding
- Postponing the planned property tax reassessment for 2021, meaning that property tax assessments for the 2021 tax year will be based on the same valuations that were in place for the 2020 tax year

Residential Construction & Essential Workplaces

- On March 23rd, the provincial government released a list of essential workplaces in response to COVID-19 in which residential construction was listed as an essential service. On April 3rd, the provincial government released updates to the [essential workplaces](#) list where residential construction is still listed as essential with certain limitations. The relevant sections that members should be aware of are Sc. 20, Sc 27-31. and Sc. 5.1. On May 1st, the provincial government released a second updated list for workplaces that are allowed to resume such as lawn-care and landscaping services, as well as construction to prepare a site for institutional, commercial, industrial, or residential development. This includes any necessary excavation, grading, roads or utilities infrastructure. Please note that this is a dynamic list in a rapidly evolving situation and the list of essential workplaces can change at any time.
- Members should always keep in mind that health, safety and sanitation is the critical factor in how the list is interpreted and make business decisions accordingly. If members are unsure of whether the work they are doing, or intend on doing is essential, they should take the following actions,
 1. Contact the Stop the Spread Business Information Line at 1-888-444-3659. This will provide provincial clarification on what the province is deeming as an essential workplace.
 2. Contact the municipal CBO. This will provide local context for the member to understand how the municipality is interpreting the list.
 3. Contact their local HBA. This will connect you to the building community regarding how others may or may not be proceeding.
 4. Contact and consult with legal counsel and/or engineering professionals to determine the legal and or public safety aspects of the project that would qualify under the provincial government work list.
 5. If you decide to proceed with the construction work, document the reasons for proceeding, all related advice or direction you have received by officials, any legal or engineering supporting documents, so that you can justify decision if required.
- Do keep in mind the following if members choose to proceed where it is unclear if the construction is permitted, the local CBO is a provincial offences officer and they can stop you or charge you – so you need to know where they stand on the issue. Having a legal opinion that connects the interpretation of the construction activity to the essential construction list – the closing of the home or building – and be prepared to use that if you are stopped or charged by a provincial offences officer.

OHBA Drive to Donate N95 Masks

- Health care professionals are working hard to protect our communities from the COVID-19 crisis – and OHBA members across Ontario can support their efforts and protect them and their families from COVID-19. Many hospitals, clinics and medical centres are in **immediate need** of N95 masks that you may have in inventory. You can help in the fight against the spread of COVID-19 by donating these N95 masks to protect our health care professionals. If you have a supply of N95 masks you can donate please contact your local HBA EO or email jvaccaro@ohba.ca. You can also

visit the [PPE Drive Website](#) for more information on how to donate supplies, which hospitals are most in need, as well as how you can do your part to help fight COVID-19.

Ontario Together: Help Fight COVID-19

- The provincial government has put out a call to businesses and organizations who can supply emergency products and innovative solutions to support our response to COVID-19.
 - If any OHBA members can help provides supplies and/or service, or have an idea of how our industry can assist the province during the state of emergency – visit: <https://www.ontario.ca/page/how-your-organization-can-help-fight-coronavirus>

Tarion's Response to COVID-19

- It is not “business as usual” at the Tarion Warranty Corporation. Tarion has released advisories on the provincial COVID-19 Emergency Order. Tarion has posted important info related to warranty services and unavoidable delay process as a result of COVID-19, OHBA recommends members to review documents and determine the appropriate process to notify home purchasers. OHBA strongly advises members to review immediately:
 - <https://www.tarion.com/news/64045/tarions-response-covid-19>

O. Reg. 141/20 – Temporary Health or Residential Facilities

(Applied retroactively as of March 17, 2020)

- This order exempts facilities from obtaining a permit under section 8 or 10 of the *Building Code Act* and complying with specific regulations and parts of the *Planning Act*. This work is not limited to long term care facilities and hospitals, as it would also include a health care facility associated with them to provide long term care.
- These regulations list several conditions for these structures including:
 - An Engineer and Architect must take responsibility for design. Both are required as they provide expertise on things like exit, egress and fire safety
 - Design documents need to be submitted to municipality
 - The Chief Building Official (CBO) must attest to receiving the reports described
 - A monthly inspection is required by the CBO to ensure safety and may rely on reports provided by designated professionals (Architect or Engineer) to complete this work. If the facility is found to be unsafe, the CBO can make an order under 15.9 or 15.10 of the Act

Municipal Procedure By-Law

- The *Municipal Emergency Act, 2020* amends section 238 of the *Municipal Act, 2001* to provide that during a period when an emergency has been declared under section 4 or 7.01 of the *Emergency Management and Civil Protection Act*, the applicable procedure by-law may provide that members of councils, local boards and committees may participate electronically in open and closed meetings.
- The purpose of these amendments is to ensure that municipalities can continue to function even when in-person meetings cannot be held, and council decisions need to be made. For members who

have applications in the planning pipeline, if municipalities pass the requisite amendment to their procedure by-laws, they will be able to continue with municipal business, including the processing of development applications via electronic methods.

Suspension of Limitation Periods and Other Deadlines

- In light of the COVID-19 pandemic, the Ontario government has activated its powers under the *Emergency Management and Civil Protection Act*, and this has had a significant impact on limitation periods in Ontario.
- In accordance with the Act, on Friday, March 20, 2020, the government made an Order suspending *any limitation period* for the duration of the emergency. This suspends any time-limiting provision in any statute, regulation, rule, bylaw or Order of the Ontario government for all proceedings in Ontario. The Order is retroactive to Monday, March 16, 2020.
 - The order: <https://www.ontario.ca/laws/regulation/200073>

Ontario Heritage Act

- The March 17th, 2020 Declaration of Emergency and subsequent Emergency Orders under the Emergency Management and Civil Protection Act impact the Ontario Heritage Act. Of interest is O. Reg. 73/20, which states that: “Any provision of any statute, regulation, rule, by-law or order of the Government of Ontario establishing any period of time within which any step must be taken in any proceeding in Ontario, including any intended proceeding, shall, subject to the discretion of the court, tribunal or other decision-maker responsible for the proceeding, be suspended for the duration of the emergency, and the suspension shall be retroactive to Monday, March 16, 2020.”
- It is the position of the Ministry of Heritage, Sport, Tourism and Culture Industries that this regulation applies to the timeframes under subsections 32(2), 33(4), 34(2), and 42(4) of the Ontario Heritage Act.

Local Planning Appeals Tribunal (LPAT)

- The [Emergency Order](#) made under the *Emergency Management and Civil Protection Act* retroactive to March 16th, 2020, will affect proceedings before the Local Planning Appeal Tribunal.
- At the time, all timelines within which any step must be taken in a proceeding before the Tribunal, including timelines established in the Tribunal’s procedural orders (for example, timelines for the exchange of witness statements, meeting of the experts, or similar directions) were to be suspended for the duration of the emergency.
- The Tribunal will not schedule any hearing events, including in person, written, or teleconference hearings, while the Emergency Order is in effect. All hearing events scheduled in the Tribunal’s hearing calendar between the effective date of the Emergency Order and June 30, 2020 will be adjourned to a future date.

- At the time, OHBA engaged with the Ministry of Municipal Affairs and Housing and the Attorney General with respect to opportunities for limited LPAT services to proceed, respecting that it would not be business as usual.
- On April 2nd, the LPAT issued a **Notice to Stakeholders** and **Settlement Hearings Request Form** announcing LPAT's resumption of certain processes and procedures starting April 6th, 2020.
- Associate Chair, Marie Hubbard will exercise her discretion and consider, on a case by case basis, lifting the suspension to schedule settlement hearings via teleconference or written submission.
- LPAT will continue to assess lifting the suspension of the provincial Order so that they are in a position to conduct other hearing events via teleconference or in writing, and any updates of that nature will be posted on their website <https://elto.gov.on.ca>

Conservation Authorities

- Conservation authorities (CA) are continuing to monitor the latest COVID-19 developments and are taking precautions to keep our workplaces safe for staff, visitors and partners across our watersheds. All CA Planning and Regulations programs are operational and can assist clients with pre-consultation and submissions through email, phone or video conference. Digital submissions are preferred at this time. During this emergency period, conservation authority staff may not be available for site meetings and site inspections, but staff will work with the applicant to identify appropriate next steps for their application. For further information, please contact your [local conservation authority](#).

Statutory Public Meetings

- The *Municipal Emergency Act, 2020* amendments to section 238 of the *Municipal Act, 2001* provide for the ability for municipalities to participate electronically in open and closed meetings. This provides the ability for temporary options for a virtual forum for statutory public meetings.
- Municipalities have the discretion to determine if they wish to continue to review and make decisions on all or certain planning applications. However, municipal councils need to decide whether they can adequately review and process planning applications and hold statutory public meetings, where required, while following the advice of Ontario's Chief Medical Officer of Health (i.e., physical distancing) and any other relevant orders under the Emergency Management and Civil Protection Act during the COVID-19 outbreak.
- Municipalities can consider how to meet the Planning Act's requirements using electronic and virtual channels to engage and solicit feedback from the public on land use planning matters while maintaining physical distancing. This may include a mixture of technologies to meet local public needs (e.g., WebEx with instant messenger, Adobe Connect, Skype, Zoom, moderated teleconference lines, voicemail systems, etc.) in combination with traditional forms, like written submissions (email or paper copy) and posting documents online.

Construction Liens

- In accordance with the Construction Act, 10% of the value of their contracts and subcontracts must be withheld from the contractors, trades and suppliers as holdback until all the liens that might be preserved against it have expired.
- If the order extending limitation periods applies to lien preservation (as many interpret it to do), tens of millions of dollars will be withheld from those who need it most during these difficult times.
- On April 9th, the Attorney General for Ontario exempted the Construction Act from previous O. Reg. 73/20 which allowed to holdback timelines to be suspended, causing cashflow issues for many members.
- The exemption will allow for the release of holdback payments to contractors and subcontractors. The previous suspension of timelines will be lifted on April 16.

Municipal Building Official Inspections

- Every municipality has different capacity and will be handling inspections differently.
- Members are encouraged to keep in close contact with municipal building departments to inquire on how best to schedule upcoming inspections, or to find out how they are receiving files for plans reviews (some have moved to electronic submissions, others not, some utilizing tech like zoom to do reviews, most are prioritizing new construction/closings).
- OHBA is engaged with the Ministry of Municipal Affairs and Housing to provide more consistent guidance with respect to inspections during the COVID-19 state of emergency.

Renting in Ontario / Evictions

- In response to the evolving COVID-19 outbreak, temporary changes to residential rental rules and processes, and where landlords and tenants can get more help.
- No new eviction orders will be issued until further notice and sheriff's offices will postpone any scheduled enforcement of current eviction orders. Tenants must continue to pay rent while an eviction order is not being enforced.
- Landlords can still give eviction notices; however, landlords are encouraged by the province to work with tenants to establish fair arrangements to keep tenants in their homes, including deferring rent or other payment arrangements.
- All hearings related to eviction applications are suspended until further notice, except for urgent disputes such as those involving illegal acts or serious safety concerns.
 - <https://www.ontario.ca/page/renting-changes-during-covid-19>

WSIB Deferred Payments

- The Ontario Government is enabling \$1.9 billion in relief through WSIB by allowing employers to defer payments for up to six months. All employers covered by the WSIB's workplace insurance are

automatically eligible for the provisions of the relief package and can defer premium reporting and payments until August 31, 2020. They will not be required to opt in to receive this benefit.

- Release: <https://news.ontario.ca/mol/en/2020/03/ontario-enabling-financial-relief-for-businesses-1.html>
- Info: <https://www.wsib.ca/en/financialrelief>

WSIB Operations

- The WSIB has closed its offices to the public. All account-related inquiries will be delayed as resources are being prioritized to deal with inquiries on health care and wage loss benefits. Any meetings employers have scheduled with WSIB staff will not be held in person. The WSIB internal appeals branch will not be holding in-person appeal hearings – these hearings will be held in writing, by teleconference, or postponed. The WSIB is not processing any hard copy mail they receive so the Board is suggesting documents be uploaded online (where applicable) or faxed.

Electricity Relief for Small Businesses

- Provincial Government is setting electricity prices for residential, farm and small business time-of-use customers at the lowest rate, known as the off-peak price (10.1 cents/kWh), 24-hours a day for 45 days to support ratepayers in their increased daytime electricity usage as they respond to the COVID-19 outbreak

Employer Health Tax Relief

- Cutting taxes by \$355 million for about 57,000 employers through a proposed temporary increase to the Employer Health Tax (EHT) exemption.
- With this plan, more than 90 percent of private sector employers would not pay EHT in 2020.
- Eligible private sector employers with annual payrolls up to \$5 million would be exempt from EHT on the first \$1 million of total Ontario remuneration in 2020.
- The maximum EHT relief from the exemption would increase by \$9,945 to \$19,500 for 2020 for eligible employers.
- The exemption would return to its current level of \$490,000 on January 1, 2021.

Gas Connections

- Enbridge Gas can now confirm that homes with closings requiring occupancy by the homeowners up to May 8th will be now be considered a priority.
- Due to the requirement to be classified as an emergency service we ask that builders provide their regional territory representative, a list of civic/lot addresses that fall into this category. Please prioritize your natural gas service requirements to focus only on those homes with an immediate need. Together we will work to provide continued services.

- Please find a series of questions and answers to assist you with providing clarity. As the situation continues to evolve, we will update you as new information becomes available.

Question and Answers:

Q: To install natural gas we are dependent on obtaining required locates. Is the locate service still in operation?

A: Yes, locate services are still operating. We recommend that you monitor the Ontario One Call website for daily updates on service availability: [www.ontarioonecall](http://www.ontarioonecall.com)

Q: Are all the regular gas service attachment requests still being processed?

A: Yes, our Builder Attachment Centers will be working remotely and are available to provide you with assistance. Your Residential New Construction representative is also working remotely and available to help with any issues that may arise. A listing of key contacts is attached

Q: Are there new protocols that Enbridge Gas requires when on site and installing the gas services?

A: Yes, Enbridge Gas asks that we all continue to follow the following safety protocols: employ social distancing, limit all meetings to a minimum and critical number of key required personnel and have any staff that are feeling unwell self-isolate. We also ask that if your construction site trailers are not available for our employees who may be on site, but rather that you supply hygienic portable washroom facilities with hand sanitizer for their use. With restaurants providing no public access, our staff have limited access to washroom facilities. During the time that Enbridge personnel are on site they will comply with safety protocols and will place a sign on the front door of the home that they are working in requesting that there be no entry by others until the work is completed.

Q: What if we fail a final inspection and Enbridge must return after the home changes possession?

A: If a homeowner will not allow access to the home once they have taken possession due to concerns with virus transmission, Enbridge Gas will work with the builder on an individual basis to ensure the highest level of safety is maintained.

Q: What can I do as a builder to assist in making sure that my homes are ready to receive service when Enbridge Gas arrives?

A: Please ensure that the sites pathways are clear, safe and accessible. Check that no scaffolding is in place over the attachment work area. Have all the gas appliances that require connection on site and available. It is in everyone's best interest to have the service call done once and completed without call-backs. Please monitor your homes prior to our arrival to ensure that they are "gas ready."

Q: If the municipality where I am building is not providing inspections for occupancy permits, how should I manage my requests for final gas service inspections?

A: If the Municipality is no longer offering occupancy permit inspections, please advise your Enbridge Gas regional representative. We will work with you to prioritize and schedule home closings that have the highest opportunity to move to a final close. If occupancy permits are no longer available at your site location, we will work with you to determine scheduling.

Q: I am in the building stage for new homes and use natural gas for construction heat. Is construction heat still available or do I need to find an alternate?

A: At this time construction heat is not considered an emergency service and will be suspended until further notice.

Q: If our company has determined that we will close our construction sites for a specific time or until further notice, how should we inform Enbridge Gas?

A: Please contact your Enbridge Gas regional representative (contact listing attached) and advise that the site is no longer accessible.