



MUNICIPALITY OF **West Elgin**

Staff Report

Report To: Council
From: Heather James, Planner
Date: 2020-04-23
Report: 2020-12
Subject: Exemption of Planning Act from Ontario Regulation 73/20

Recommendation:

That West Elgin Council hereby receives the report from Heather James regarding the exemption of the Planning Act from Ontario Regulation 73/20; and,

That West Elgin Council provides direction to staff to _____.

Purpose:

The purpose of this report is to provide Council with information regarding the exemption of the Planning Act from Ontario Regulation 73/20.

Background:

On April 15, 2020 the provincial government changed the suspension of timelines for land use planning. The changes occurred through the enactment of Bill 189 (titled the Coronavirus (COVID 19) Support and Protection Act, 2020) and the passage of new Ontario Regulation 149/20 (O. Reg. 149/20). Through these enactments, the Province has (a) retroactively exempted the Planning Act from O. Reg. 73/20 and (b) created a new set of rules to govern the timelines for decision making and appeals under the Planning Act.

The timeline changes are intended to apply for the duration of the current state of emergency. The changes are retroactive to the start of the emergency (March 17, 2020) and are relatively consistent amongst the various decisions capable of being made under the Planning Act, including official plans and official plan amendments (ss. 17 and 22), zoning by-laws and zoning by-law amendments (s. 34), site plan approvals (s. 41 and s. 114 under the City of Toronto Act, 2006), minor variances (s. 45), plans of subdivision (s. 51) and consents (s. 53). The new rules provided by O. Reg. 149/20 can be summarized in the attached document. The new rules that would apply to West Elgin are as follows:

1. If a decision on a pending application was not made prior to April 15, 2020, a decision does not need to be rendered for the duration of the state of emergency. All timelines required by the *Planning Act* for the processing of an application and the rendering of a decision are suspended until the emergency is over, after which the relevant timeline will resume. The effect of this suspension is that there can be no appeals from non-decisions until after the emergency has ended.

2. Where a Council or Committee does proceed to render a decision during the state of emergency, the usual *Planning Act* notice obligations and appeal timelines will apply to the decision. However, the timeline for the municipality to prepare a record and forward the appeal to the Local Planning Appeal Tribunal is suspended until the end of the state of emergency.

West Elgin Council has not made any decisions on any planning applications from February 26 to present. No notice of decisions for any planning applications were given from February 26 to present.

The result is that municipal council and committee of adjustment have the ability for the duration of the state of emergency to effectively control the decision-making and appeals process under the Planning Act:

- After April 15, where a municipal authority wishes to provide a decision and issue notice on a Planning Act matter during the state of emergency, it may do so.
- Where a municipal authority is unable, or chooses not, to provide a decision on a Planning Act matter during the state of emergency, a decision need not be required until after the state of emergency is over. No appeal rights from a non-decision will accrue.
- If a decision is given during the state of emergency, it will be subject to the usual notice requirements of the Planning Act and will create rights of appeal. If no appeal is filed, the decision is final. If an appeal is filed, the municipal authority is not obligated to forward the appeal record to the Local Planning Appeal Tribunal until after the state of emergency has ended.

Financial Implications:

None.

Policies/Legislation:

Planning Act R.S.O. 1990, c. P.13; Ontario Regulation 73/20; Coronavirus (COVID 19) Support and Protection Act, 2020; and, Ontario Regulation 149/20.