

**Municipal Alert**  
**April 7, 2020**

**Omnibus Municipal Relief Law – Part II: Permits, Applications,  
and Public Hearings**

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On Friday, April 3, 2020, Governor Baker signed into law An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19, which was codified at Chapter 53 of the Acts of 2020 (the “Act”). The Act addresses a number of issues faced by municipalities resulting from the ongoing coronavirus pandemic, including the implications for town meetings, town budgets, taxes, sale of alcoholic beverages, and multi-member body permits.

This client alert highlights the law’s provisions addressing permits, permit applications, and public hearings. The law defines “permit” broadly to include permits, variances, special permits, licenses, amendments, extensions, and other approvals by a permit granting authority. A “permit granting authority” is also defined broadly to include any local, district, county, or regional official or multi-member body authorized to issue a permit.

**Filing of an Application**

The law provides that permit applications may be filed electronically. There are two means for electronic filing: (1) a website established by the permit granting authority, or (2) an email to the clerk, secretary, or official. If an application is submitted electronically, certification of receipt of the application must also be provided electronically. If an application is not submitted electronically, certification of receipt may still be provided electronically to the applicant.

An application is deemed duly filed and accepted as of the date of filing by the applicant. However, a permit granting authority may still contest the completeness of the application at the time of filing if the application is ultimately denied by the permit granting authority or the permit is appealed by the applicant.

**Public Hearings**

The law reiterates the Governor’s executive order of March 12, 2020, which allows meetings and public hearings to be held remotely. Permit granting authorities that wish to hold public meetings and hearings may do so pursuant to the Governor’s order. A description of the Governor’s previous order can be found [here](#).

Though a permit granting authority may hold public meetings or public hearings remotely, the law suspends requirements that a public hearing be held within a specific time after the filing of

**Municipal Alert**  
**April 7, 2020**

a permit application. Such time periods are suspended retroactively as of March 10, 2020, and will not resume until 45 days after the termination of the Governor's state of emergency.

The chair of a permit granting authority also has the power to schedule or reschedule a hearing or decision deadline on a permit application, whether or not a quorum is present to vote. The date or deadline must be rescheduled within 45 days after the termination of the state of emergency. Written notice of the rescheduling must be provided to the applicant at their address and to the general public through electronic posting on the municipality's website.

Lastly, any public hearing that had commenced before March 10, 2020 is automatically tolled and continued to the first hearing date of the permit granting authority following the termination of the state of emergency. Such hearing date must be within 45 days of the termination of the state of emergency.

**Constructive Grant**

The law states that during the state of emergency no permit will be constructively granted, approved, or denied if the permit granting authority does not act within a time period established by statute, ordinance, bylaw, rule or regulation. However, the permit granting authority must act within 45 days of the termination of the state of emergency or a date otherwise agreed upon in writing by the applicant and the authority.

**Provisions Regarding Existing Permits**

Permits which were in effect as of March 10, 2020 will not lapse or expire during the Governor's state of emergency. The expiration date of the permit, or the time period for meeting a deadline or performing a condition of the permit, is tolled during the state of emergency.

The law also restricts the permit granting authority's ability to revoke a permit for failure to commence work. A permit may not be revoked if the permit holder fails to commence work due to the state of emergency or stops work as a result of the state of emergency, and up to 60 days after the state of emergency terminates. The chair of a permit granting authority must grant further reasonable extensions to exercise or commence work if good cause is shown. A quorum is not necessary to grant such an extension. Though a permit granting authority may not penalize a permit holder for failing to commence or continue work, a permit granting authority retains the authority, subject to notice and hearing requirements, to revoke or modify an existing permit on other grounds.

**Recording Permits at the Registry of Deeds**

A requirement that a permit be recorded with the registry of deeds or the land court is suspended during the time that the registry or the land court is closed or subject to rules restricting public, in-person access. The failure to record the permit does not prevent a permit holder from applying

**Municipal Alert**  
**April 7, 2020**

for, obtaining and commencing construction activities pursuant to other required permits and approvals, including building permits.

This Act provides municipalities with greater flexibility in responding to land use issues that arise during the course of the coronavirus pandemic and the Governor's state of emergency. While municipalities may continue to conduct meetings and consider applications through remote means, the Act eliminates many of the penalties which would have otherwise resulted from a permit granting authority's failure to act. Municipalities should continue to consult with legal counsel to consider their options regarding land use issues and the impact of this new bill on ongoing and considered actions.

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*This Client Alert was prepared by Rachel Mills and reviewed with Karis North, Cindy Amara, and Sarah Spatafore. If you have any questions, please contact Karis North, Cindy Amara or the attorney assigned to your account, or call (617) 479-5000.*

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